

LEGISLATIVE BILL 209

Approved by the Governor May 29, 2003

Introduced by Bromm, 23; Baker, 44; Connealy, 16

AN ACT relating to motor vehicles; to amend sections 60-498, 60-4,110, 60-4,129, 60-6,208, 60-6,211.04, 60-1513, 83-1,129, 84-205, and 84-913.03, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-479, 60-4,118.06, 60-6,196, 60-6,197, 60-6,205 to 60-6,207, 60-6,209, and 60-6,211.05, Revised Statutes Supplement, 2002; to change, transfer, and eliminate provisions relating to administrative license revocation proceedings; to provide for a transfer of funds; to provide a duty for the Attorney General; to create a fund; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-462, Revised Statutes Supplement, 2002, is amended to read:

60-462. Sections 60-462 to 60-4,188 and sections 4 to 7 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 2. Section 60-479, Revised Statutes Supplement, 2002, is amended to read:

60-479. Sections 60-480 to 60-4,111.01 and 60-4,182 to 60-4,188 and sections 4 to 7 of this act shall apply to any operator's license subject to the Motor Vehicle Operator's License Act.

Sec. 3. Section 60-498, Reissue Revised Statutes of Nebraska, is amended to read:

60-498. The director shall immediately revoke the operator's license of any person upon receiving a copy of judgment of such person's conviction of any of the following offenses when such conviction becomes final:

- (1) Manslaughter resulting from the operation of a motor vehicle;
- (2) Driving a motor vehicle while under the influence of alcoholic liquor or any drug as provided in city or village ordinances or in section 60-6,196. The period of revocation shall, in each case except for revocations pursuant to sections ~~60-6,205 to 60-6,208~~ 4 to 7 of this act and offenses specified in section 60-4,168, correspond with the period that is determined by the court;
- (3) Any felony in the commission of which a motor vehicle is used;
- (4) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
- (5) Perjury or making of a false affidavit or statement under oath to the director, examining officer, or other officer under the Motor Vehicle Operator's License Act or under any law relating to the ownership or operation of motor vehicles;
- (6) Conviction or forfeiture of bail, not vacated, upon three charges of reckless driving committed within a period of twelve months; or
- (7) Willful reckless driving as provided in city or village ordinances or as described in section 60-6,214.

Sec. 4. Section 60-6,205, Revised Statutes Supplement, 2002, is amended to read:

~~60-6,205.~~ (1) Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol.

(2) If a person arrested pursuant to section 60-6,197 refuses to submit to the chemical test of blood, breath, or urine required by that section, the test shall not be given except as provided in section 60-6,210 for the purpose of medical treatment and the arresting peace officer, as agent for the Director of Motor Vehicles, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic thirty days after the date of arrest unless a petition for hearing is filed within ten days after the date of arrest as provided in subsection (6) of this section. The arresting peace officer shall within ten days forward to the

director a sworn report stating (a) that the person was ~~validly~~ arrested pursuant to section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person refused to submit to the required test.

(3) If a person arrested pursuant to section 60-6,197 submits to the chemical test of blood or breath required by that section, the test discloses the presence of alcohol in any of the concentrations specified in section 60-6,196, and the test results are available to the arresting peace officer while the arrested person is still in custody, the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic thirty days after the date of arrest unless a petition for hearing is filed within ten days after the date of arrest as provided in subsection (6) of this section. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was ~~validly~~ arrested pursuant to section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person submitted to a test, the type of test to which he or she submitted, and that such test revealed the presence of alcohol in a concentration specified in section 60-6,196.

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective thirty days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative revocation procedure. The peace officer shall also provide to the arrested person an addressed envelope and a petition form which the arrested person may use to request a hearing before the director to contest the revocation. The petition form shall clearly state on its face that the petition must be completed and delivered to the Department of Motor Vehicles or postmarked within ten days after receipt or the person's right to a hearing to contest the revocation will be foreclosed. The director shall prepare and approve the form for the petition, the addressed envelope, and the notice of revocation and shall provide them to law enforcement agencies.

If the person has an operator's license, the arresting peace officer shall take possession of the license and issue a temporary operator's license valid for thirty days. The arresting peace officer shall forward the operator's license to the department along with the sworn report made under subsection (2) or (3) of this section.

(5)(a) If the results of a chemical test indicate the presence of alcohol in a concentration specified in section 60-6,196, the results are not available to the arresting peace officer while the arrested person is in custody, and the notice of revocation has not been served as required by subsection (4) of this section, the peace officer shall forward to the director a sworn report containing the information prescribed by subsection (3) of this section within ten days after receipt of the results of the chemical test. If the sworn report is not received within ten days, the revocation shall not take effect.

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by certified or registered mail to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The notice of revocation shall contain a statement explaining the operation of the administrative revocation procedure. The director shall also provide to the arrested person an addressed envelope and a petition form which the arrested person may use to request a hearing before the director to contest the revocation. The petition form shall clearly state on its face that the petition must be completed and delivered to the department or postmarked within ten days after receipt or the person's right to a hearing to contest the revocation will be foreclosed. The director shall prepare and approve the form for the petition, the addressed envelope, and the notice of revocation. The revocation shall be effective thirty days after the date of mailing.

(c) If the records of the director indicate that the arrested person possesses an operator's license, the director shall include with the notice of revocation a temporary operator's license which expires thirty days after the date of mailing. Any arrested person who desires a hearing and has been served a notice of revocation pursuant to this subsection shall return his or her operator's license with the petition requesting the hearing. If the operator's license is not included with the petition requesting the hearing, the director shall deny the petition.

(6)(a) An arrested person's operator's license confiscated pursuant

to subsection (4) of this section shall be automatically revoked upon the expiration of thirty days after the date of arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of thirty days after the date of mailing of the notice of revocation by the director. The arrested person shall postmark or return to the director a petition within ten days after the receipt of the notice of revocation if the arrested person desires a hearing. The petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing shall and any prehearing conference may be conducted in the county in which the arrest occurred or in any other county agreed to by the parties person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

(b) The director shall conduct the hearing within twenty days after a petition is filed. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by certified or registered mail postmarked at least seven days prior to the hearing date. The filing of the petition shall not prevent the automatic revocation of the petitioner's operator's license at the expiration of the thirty-day period. A continuance of the hearing to a date beyond the expiration of the temporary operator's license shall stay the expiration of the temporary license when the request for continuance is made by the director.

(c) At hearing the issues under dispute shall be limited to:

(i) In the case of a refusal to submit to a chemical test of blood, breath, or urine:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section; and

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

(ii) If the chemical test discloses the presence of alcohol in a concentration specified in section 60-6,196:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section; and

(B) Was the person operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of subsection (1) of section 60-6,196.

(7) The director shall adopt and promulgate rules and regulations to govern the conduct of the hearing and insure that the hearing will proceed in an orderly manner. The director may appoint a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. All proceedings before the hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section ~~60-6,208~~ 7 of this act.

Sec. 5. Section 60-6,206, Revised Statutes Supplement, 2002, is amended to read:

~~60-6,206.~~ (1) At the expiration of thirty days after the date of arrest pursuant to section 60-6,197 or if after a hearing pursuant to section ~~60-6,205~~ 4 of this act the Director of Motor Vehicles finds that the operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) revoke the operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196 for a period of ninety days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding twelve-year period at the time the order of revocation is issued, in which case the period of revocation shall be one year. Except as otherwise provided in section 60-6,211.05, a new operator's license shall not be issued to such person until the period of revocation has elapsed. If

the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the order of revocation to the person's state of residence.

(2) At the expiration of thirty days after an order of revocation is entered under subsection (1) of this section, (a) any person whose operator's license has been administratively revoked for a period of ninety days for submitting to a chemical test pursuant to section 60-6,197 which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 may make application to the director for issuance of an employment driving permit pursuant to section 60-4,130 and (b) any person who submitted to a chemical test pursuant to section 60-6,197 and has his or her operator's license revoked for ninety days pursuant to subsection (1) of this section is eligible for an order pursuant to section 60-6,211.05 to operate a motor vehicle equipped with an ignition interlock device upon presentation of sufficient evidence to the Department of Motor Vehicles that such a device is installed.

This subsection shall not apply to nor shall any person be eligible for the benefit of this subsection during any period of time during which his or her operator's license is subject to an administrative revocation order for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 or is subject to a one-year revocation under subdivision (1)(b) of this section.

(3) A person may have his or her eligibility for a license reinstated upon payment of a reinstatement fee as required by section 60-694.01.

(4) (a) A person whose operator's license is subject to revocation pursuant to subsection (3) of section ~~60-6,205~~ 4 of this act shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee upon receipt of suitable evidence by the director that:

(i) Within (a) within the thirty-day period following the date of arrest, the prosecuting attorney responsible for the matter declined to file a complaint alleging a violation of section 60-6,196, (b) the charge was dismissed, or (c) the defendant, at and notified the director by first-class mail or facsimile transmission of such decision and the director received such notice within such period or the notice was postmarked within such period; or

(ii) The defendant, after trial, was found not guilty of violating such section 60-6,196 or such charge was dismissed on the merits by the court.

(b) The director shall adopt and promulgate rules and regulations establishing standards for the presentation of suitable evidence of compliance with subdivision (a), (b), or (c) of this subsection.

(c) If a charge is filed for a violation of section 60-6,196 pursuant to an arrest for which all proceedings were dismissed under this subsection, the prosecuting attorney shall notify the director by first-class mail or facsimile transmission of the filing of such charge and the director may reinstate an administrative license revocation under this section as of the date that the director receives notification of the filing of the charge, except that a revocation shall not be reinstated if it was dismissed pursuant to section 4 of this act.

Sec. 6. Section 60-6,207, Revised Statutes Supplement, 2002, is amended to read:

~~60-6,207.~~ (1) The Director of Motor Vehicles shall reduce the decision revoking an operator's license under sections ~~60-6,205 to 60-6,208~~ 4 to 7 of this act to writing, and the director shall notify the person in writing of the revocation. The notice shall set forth the period of revocation and be served by mailing it to such person by certified or registered mail to the address provided to the director at the hearing or, if the person does not appear at the hearing, to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses.

(2) If the director does not revoke the operator's license, the director shall immediately notify the person in writing of the decision. The notice shall set forth the time and place the person may obtain his or her license. The notice shall be mailed by certified or registered mail as provided in subsection (1) of this section. No reinstatement fee shall be charged for return of the confiscated operator's license pursuant to this subsection.

Sec. 7. Section 60-6,208, Reissue Revised Statutes of Nebraska, is amended to read:

~~60-6,208.~~ Any person who feels himself or herself aggrieved because

of such the revocation of his or her operator's license under sections 4 to 7 of this act may appeal therefrom to the district court of the county where the alleged events occurred for which he or she was arrested in accordance with the Administrative Procedure Act. The district court shall allow any party to an appeal to appear by telephone at any proceeding before the court for purposes of the appeal. Such appeal shall suspend the order of revocation until the final judgment of a court finds against the person so appealing. The court shall provide notice of the final judgment to the Department of Motor Vehicles. The period of revocation shall commence at the time of final judgment of the court for the full period of the time of revocation.

Sec. 8. Section 60-4,110, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,110. (1) Every motor vehicle, regardless of the registered owner of the motor vehicle, being operated by a person whose operator's license has been suspended, revoked, or impounded pursuant to a conviction or convictions for violation of section 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any court or an administrative order of the director is hereby declared a public nuisance. The motor vehicle may be seized upon the arrest of the operator of the motor vehicle and impounded at the expense of the owner of the motor vehicle. If such operator's license is suspended, revoked, or impounded pursuant to section 60-6,196, 60-6,197, ~~60-6,205, 60-6,206,~~ 60-6,211.01, or 60-6,211.02 or section 4 or 5 of this act, the motor vehicle shall be impounded for not less than ten days nor more than thirty days. No motor vehicle impounded under this section shall be impounded for a period of time exceeding thirty days except as provided in subsection (3) of this section.

(2) Any motor vehicle impounded shall be released:

(a) To the holder of a bona fide lien on the motor vehicle executed prior to such impoundment when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying his or her lien on the motor vehicle;

(b) To the titled owner of the motor vehicle when the titled owner is a lessor. Upon learning the address or telephone number of the rental or leasing company which owns the motor vehicle, the impounding law enforcement agency shall immediately contact the company and inform it that the motor vehicle is available for the company to take possession; or

(c) To the registered owner, a registered co-owner, or a spouse of the owner upon good cause shown by an affidavit or otherwise to the court before which the complaint is pending against the operator that the impounded motor vehicle is essential to the livelihood of the owner, co-owner, or spouse or the dependents of such owner, co-owner, or spouse.

(3) Any person who, at the direction of a peace officer, tows and stores a motor vehicle pursuant to this section shall have a lien upon such motor vehicle while in his or her possession for reasonable towing and storage charges and shall have a right to retain such motor vehicle until such charges are paid.

(4) If the registered owner of a motor vehicle was not the operator of the motor vehicle whose actions caused the motor vehicle to be impounded, the registered owner of the motor vehicle may recover civilly from the operator of the motor vehicle all expenses incurred by reason of the impoundment. In the case of a criminal action, the court may order such operator of the motor vehicle to pay restitution to the registered owner in an amount equal to any expenses incurred with respect to impoundment.

Sec. 9. Section 60-4,118.06, Revised Statutes Supplement, 2002, is amended to read:

60-4,118.06. (1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, (b) sufficient evidence that the person has surrendered his or her operator's license to the Department of Motor Vehicles and installed an approved ignition interlock device in accordance with such court order, and (c) payment of the fee provided in section 60-4,115, such person may apply for reinstatement of his or her eligibility for an operator's license following the passage of thirty days of the ninety-day revocation period under section ~~60-6,206~~ 5 of this act and the director shall issue to such person a Class O license restricted to the operation of a motor vehicle equipped with an ignition interlock device. The department shall not issue such a license to any person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 until at least one year of the operator's license revocation has elapsed.

(2) Upon expiration of the court order issued pursuant to section 60-6,211.05 or an order issued by the Board of Pardons pursuant to section 83-1,127.02, a person may apply to the department in writing for issuance of an operator's license which does not contain such restriction. Regardless of

whether the license surrendered by such person under subsection (1) of this section has expired, the person shall apply for a new operator's license pursuant to the Motor Vehicle Operator's License Act.

Sec. 10. Section 60-4,129, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,129. (1) Any individual whose operator's license is revoked under section 60-4,183, or 60-4,186, ~~or 60-6,206~~ or section 5 of this act or suspended under section 43-3318 shall be eligible to operate any motor vehicle, except a commercial motor vehicle, in this state under an employment driving permit. An employment driving permit issued due to a revocation under section 60-4,183, or 60-4,186, ~~or 60-6,206~~ or section 5 of this act is valid for the period of revocation. An employment driving permit issued due to a suspension of an operator's license under section 43-3318 is valid for no more than three months and cannot be renewed.

(2) Any person whose operator's license has been suspended or revoked pursuant to any law of this state, except such sections, shall not be eligible to receive an employment driving permit during the period of such suspension or revocation.

(3) An individual who is issued an employment driving permit may operate any motor vehicle, except a commercial motor vehicle, (a) from his or her residence to his or her place of employment and return and (b) during the normal course of employment if the use of a motor vehicle is necessary in the course of such employment. Such permit shall indicate for which purposes the permit may be used. All permits issued pursuant to this section shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(4) The operation of a motor vehicle by the holder of an employment driving permit, except as provided in this section, shall be unlawful. Any person who violates this section shall be guilty of a Class IV misdemeanor.

(5) The director shall revoke the employment driving permit for an individual upon receipt of an abstract of conviction, other than a conviction which is based upon actions which resulted in the application for such employment driving permit, indicating that the individual committed an offense for which points are assessed pursuant to section 60-4,182. If the permit is revoked in this manner, the individual shall not be eligible to receive an employment driving permit for the remainder of the period of suspension or revocation of his or her operator's license.

Sec. 11. Section 60-6,196, Revised Statutes Supplement, 2002, is amended to read:

60-6,196. (1) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(a) While under the influence of alcoholic liquor or of any drug;

(b) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in subsection (1) of this section shall be guilty of a crime and upon conviction punished as follows:

(a) If such person has not had a conviction in the twelve years prior to the date of the current conviction (i) under this section or section 60-6,198, (ii) under a city or village ordinance enacted pursuant to this section, or (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of six months from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of sixty days from the date of the order unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(b) If such person has had one conviction in the twelve years prior

to the date of the current conviction (i) under this section or section 60-6,198, (ii) under a city or village ordinance enacted pursuant to this section, or (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year from the date of the order unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for five days or the imposition of not less than two hundred forty hours of community service;

(c) If such person has had two convictions in the twelve years prior to the date of the current conviction (i) under this section or section 60-6,198, (ii) under a city or village ordinance enacted pursuant to this section, (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, or (iv) as described in subdivisions (i) through (iii) of this subdivision, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year and shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a six-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than four hundred eighty hours of community service; and

(d) If such person has had three or more convictions in the twelve years prior to the date of the current conviction (i) under this section or section 60-6,198, (ii) under a city or village ordinance enacted pursuant to this section, (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, or (iv) as described in subdivisions (i) through (iii) of this subdivision, such person shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ten days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year and

shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a one-thousand-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than four hundred eighty hours of community service.

(3) For each conviction under this section, the court shall as part of the judgment of conviction make a finding on the record as to the number of the defendant's prior convictions in the twelve years prior to the date of the current conviction (a) under this section or section 60-6,198, (b) under a city or village ordinance enacted pursuant to this section, or (c) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which the defendant was convicted would have been a violation under this section. In any case charging a violation under this section, the prosecutor or investigating agency shall use due diligence to obtain the defendant's driving record from the Department of Motor Vehicles and the defendant's driving record from other states where he or she is known to have resided within the last twelve years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement under this section an authenticated copy of a prior conviction in another state. The authenticated copy shall be prima facie evidence of such prior conviction. The defendant shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

(4) For purposes of this section, the twelve-year period shall be computed from the date of the prior offense to the date of the offense which resulted in the current conviction and the terms conviction under this section and prior conviction shall include any conviction (a) under this section or section 60-6,198 as it existed at the time of such conviction regardless of subsequent amendments to either section, (b) under a city or village ordinance enacted pursuant to this section regardless of subsequent amendments to this section, or (c) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation under this section regardless of subsequent amendments to this section.

(5) Any period of revocation or order not to drive imposed under this section shall be reduced by any period imposed under section ~~60-6,206~~ 5 of this act. Any period of revocation or order not to drive imposed under subdivision (2)(a) of this section shall not prohibit the operation of a motor vehicle under the terms and conditions of an employment driving permit issued pursuant to subsection (2) of section ~~60-6,206~~ 5 of this act.

(6) Any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to subdivision (2)(c) or (2)(d) of this section shall be guilty of a Class IV felony. If such person has had a conviction under this subsection prior to the date of the current conviction under this subsection, such person shall be guilty of a Class III felony.

(7) Any city or village may enact ordinances in conformance with this section and section 60-6,197. Upon conviction of any person of a violation of such a city or village ordinance, the provisions of this section with respect to the operator's license of such person shall be applicable the same as though it were a violation of this section.

(8) Any person who has been convicted of driving while intoxicated shall, during a presentence evaluation, submit to and participate in an alcohol assessment. The alcohol assessment shall be paid for by the person convicted of driving while intoxicated. At the time of sentencing, the judge, having reviewed the assessment results, may then order the convicted person to follow through on the alcohol assessment results at the convicted person's expense in addition to any penalties deemed necessary.

Sec. 12. Section 60-6,197, Revised Statutes Supplement, 2002, is amended to read:

60-6,197. (1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or

village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of this state or ordinances of any city or village may require any person who operates or has in his or her actual physical control a motor vehicle in this state to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of section 60-6,196 shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class V misdemeanor.

(4) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of subsection (1) of section 60-6,196, the person shall be subject to the administrative revocation procedures provided in sections ~~60-6,205 to 60-6,208~~ 4 to 7 of this act and upon conviction shall be punished as provided in section 60-6,196. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative revocation procedures provided in sections ~~60-6,205 to 60-6,208~~ 4 to 7 of this act and shall be guilty of a crime and upon conviction punished as follows:

(a) If such person has not had a conviction in the twelve years prior to the date of the current conviction (i) under this section for refusal to submit to a chemical blood, breath, or urine test, (ii) under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196, or (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of six months from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of sixty days unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(b) If such person has had one conviction in the twelve years prior to the date of the current conviction (i) under this section for refusal to submit to a chemical blood, breath, or urine test, (ii) under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196, or (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor

vehicle in the State of Nebraska for any purpose for a period of one year from the date of the order unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for five days or the imposition of not less than two hundred forty hours of community service;

(c) If such person has had two convictions in the twelve years prior to the date of the current conviction (i) under this section for refusal to submit to a chemical blood, breath, or urine test, (ii) under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196, (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, or (iv) as described in subdivisions (i) through (iii) of this subdivision, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year and shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a six-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than four hundred eighty hours of community service; and

(d) If such person has had three or more convictions in the twelve years prior to the date of the current conviction (i) under this section for refusal to submit to a chemical blood, breath, or urine test, (ii) under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196, (iii) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which such person was convicted would have been a violation under this section, or (iv) as described in subdivisions (i) through (iii) of this subdivision, such person shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ten days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year and shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01 with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a one-thousand-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than four hundred eighty hours of community service.

(5) For each conviction under this section, the court shall, as part of the judgment of conviction, make a finding on the record as to the number of the defendant's prior convictions in the twelve years prior to the date of the current conviction (a) under this section, (b) under a city or village ordinance enacted pursuant to this section, or (c) under a law of another state, if at the time of the conviction under the law of such other state, the

offense for which the defendant was convicted would have been a violation under this section. In any case charging a violation under this section, the prosecutor or investigating agency shall use due diligence to obtain the defendant's driving record from the Department of Motor Vehicles and the defendant's driving record from other states where he or she is known to have resided within the last twelve years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement under this section an authenticated copy of a prior conviction in another state. The authenticated copy shall be prima facie evidence of such prior conviction. The defendant shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

(6) For purposes of this section, the twelve-year period shall be computed from the date of the prior offense to the date of the offense which resulted in the current conviction and the terms conviction under this section and prior conviction shall include any conviction (a) under this section as it existed at the time of such conviction regardless of subsequent amendments to this section, (b) under a city or village ordinance enacted pursuant to this section regardless of subsequent amendments to this section, or (c) under a law of another state, if at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation under this section regardless of subsequent amendments to this section.

(7) Any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to subdivision (4)(c) or (4)(d) of this section shall be guilty of a Class IV felony. If such person has had a conviction under this subsection prior to the date of the current conviction under this subsection, such person shall be guilty of a Class III felony.

(8) Any city or village may enact ordinances in conformance with this section. Upon conviction of any person of a violation of such city or village ordinance, the provisions of this section with respect to the operator's license of such person shall be applicable the same as though it were a violation of this section.

(9) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (4) of this section and section ~~60-6,206~~ 5 of this act upon return.

(10) Any person who is required to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be advised that refusal to submit to such test or tests is a separate crime for which the person may be charged.

(11) Refusal to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section.

Sec. 13. Section 60-6,209, Revised Statutes Supplement, 2002, is amended to read:

60-6,209. (1) Any person whose operator's license has been revoked pursuant to sections 60-6,196, 60-6,197, and 60-6,199 to ~~60-6,208~~ 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application, the Director of Motor Vehicles shall review the application if such person has served at least seven years of such revocation and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the

revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription; and

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license, such reinstatement may be conditioned for the duration of the original revocation period on such person's continued recovery. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license, the board shall notify the Department of Motor Vehicles of the reinstatement. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Sec. 14. Section 60-6,211.04, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,211.04. Sections 60-6,211.01 to 60-6,211.03 shall not operate to prevent any person, regardless of age, from being prosecuted or having any action taken pursuant to section 60-6,196 or 60-6,197 or having his or her operator's license revoked pursuant to sections ~~60-6,205 to 60-6,208~~ 4 to 7 of this act for violation of section 60-6,196 or 60-6,197 or from being prosecuted or having any action taken under any other provision of law. If such person is believed to be under the influence of alcoholic liquor pursuant to section 60-6,196 or 60-6,197, sections 60-6,211.01 to 60-6,211.03 shall not operate to prevent prosecution of such person under section 60-6,196 or 60-6,197 even if sections 60-6,211.01 to 60-6,211.03 apply.

Sec. 15. Section 60-6,211.05, Revised Statutes Supplement, 2002, is amended to read:

60-6,211.05. (1) If an order of probation is granted under section 60-6,196 or 60-6,197, the court may order the defendant to install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant. Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (2) of section ~~60-6,206~~ 5 of this act. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than the levels prescribed in section 60-6,196.

(2) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the Department of Motor Vehicles to

issue to the defendant a restricted Class O license as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device. Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation. Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(3) A person who tampers with or circumvents an ignition interlock device installed under a court order while the order is in effect or who operates a motor vehicle which is not equipped with an ignition interlock device in violation of a court order made pursuant to this section shall be guilty of a Class II misdemeanor.

(4) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without an ignition interlock device, or who operates a motor vehicle equipped with an ignition interlock device which has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(5) The director shall adopt and promulgate rules and regulations to approve ignition interlock devices and the means of installation of the devices.

Sec. 16. Section 60-1513, Reissue Revised Statutes of Nebraska, is amended to read:

60-1513. The Department of Motor Vehicles Cash Fund is hereby created. The fund shall be administered by the Director of Motor Vehicles. The fund shall be used by the Department of Motor Vehicles to carry out its duties as deemed necessary by the Director of Motor Vehicles, except that transfers from the fund to the General Fund may be made at the direction of the Legislature. The State Treasurer shall transfer forty thousand dollars from the Department of Motor Vehicles Cash Fund to the Administrative License Revocation Cash Fund as soon as possible on or after July 1, 2003. Any money in the Department of Motor Vehicles Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 17. Section 83-1,129, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,129. (1) Any person desiring the Board of Pardons to exercise its pardon authority shall request an application from its secretary. The application shall be returned to the secretary and shall state the specific relief requested and such other information as is prescribed by the board.

(2) Any person whose operator's license has been revoked pursuant to sections 60-6,196, 60-6,197, and 60-6,199 to ~~60-6,208~~ 60-6,204 for a third or subsequent time for a period of fifteen years and who desires the Board of Pardons to exercise its pardon authority shall make application pursuant to section 60-6,209.

(3) Any application filed pursuant to subsection (1) or (2) of this section shall be considered with or without a hearing by the board at its next regular scheduled meeting. If a hearing is held, it shall be conducted in an informal manner and a record of the proceedings shall be made and preserved according to the guidelines of the board.

Sec. 18. Section 84-205, Reissue Revised Statutes of Nebraska, is amended to read:

84-205. The duties of the Attorney General shall be:

(1) To appear and defend actions and claims against the state;

(2) To investigate, commence, and prosecute any and all actions resulting from violations of sections 32-1401 to 32-1417;

(3) To consult with and advise the county attorneys, when requested by them, in all criminal matters and in matters relating to the public revenue. He or she shall have authority to require aid and assistance of the county attorney in all matters pertaining to the duties of the Attorney General in the county of such county attorney and may, in any case brought to the Court of Appeals or Supreme Court from any county, demand and receive the assistance of the county attorney from whose county such case is brought;

(4) To give, when required, without fee, his or her opinion in writing upon all questions of law submitted to him or her by the Governor, head of any executive department, Secretary of State, State Treasurer, Auditor of Public Accounts, Board of Educational Lands and Funds, State Department of Education, Public Service Commission, or Legislature;

(5) At the request of the Governor, head of any executive department, Secretary of State, State Treasurer, Auditor of Public Accounts,

Board of Educational Lands and Funds, State Department of Education, or Public Service Commission, to prosecute any official bond or any contract in which the state is interested which is deposited with any of them and to prosecute or defend for the state all civil or criminal actions and proceedings relating to any matter connected with any of such officers' departments if, after investigation, he or she is convinced there is sufficient legal merit to justify the proceeding. Such officers shall not pay or contract to pay from the funds of the state any money for special attorneys or counselors-at-law unless the employment of such special counsel is made upon the written authorization of the Governor or the Attorney General;

(6) To enforce the proper application of money appropriated by the Legislature to the various funds of the state and prosecute breaches of trust in the administration of such funds;

(7) To prepare, when requested by the Governor, Secretary of State, State Treasurer, or Auditor of Public Accounts or any other executive department, proper drafts for contracts, forms, or other writings which may be wanted for the use of the state and report to the Legislature, whenever requested, upon any business pertaining to the duties of his or her office;

(8) To pay all money received, belonging to the people of the state, immediately upon receipt thereof, into the state treasury;

(9) To keep a record in proper books provided for that purpose at the expense of the state, a register of all actions and demands prosecuted or defended by him or her in behalf of the state and all proceedings had in relation thereto, and deliver the same to his or her successor in office;

(10) To appear for the state and prosecute and defend all civil or criminal actions and proceedings in the Court of Appeals or Supreme Court in which the state is interested or a party. When requested by the Governor or the Legislature, the Attorney General shall appear for the state and prosecute or defend any action or conduct any investigation in which the state is interested or a party before any court, officer, board, tribunal, or commission;

(11) To prepare and promulgate model rules of procedure appropriate for use by as many agencies as possible. The Attorney General shall add to, amend, or revise the model rules as necessary for the proper guidance of agencies; ~~and~~

(12) To include within the budget of the office sufficient funding to assure oversight and representation of the State of Nebraska for district court appeals of administrative license revocation proceedings under section 7 of this act; and

(13) To create a Child Protection Division to be staffed by at least three assistant attorneys general who each have five or more years of experience in the prosecution or defense of felonies or misdemeanors, including two years in the prosecution or defense of crimes against children. Upon the written request of a county attorney, the division shall provide consultation and advise and assist in the preparation of the trial of any case involving a crime against a child, including, but not limited to, the following offenses:

- (a) Murder as defined in sections 28-303 and 28-304;
- (b) Manslaughter as defined in section 28-305;
- (c) Kidnapping as defined in section 28-313;
- (d) False imprisonment as defined in sections 28-314 and 28-315;
- (e) Child abuse as defined in section 28-707;
- (f) Pandering as defined in section 28-802;
- (g) Debauching a minor as defined in section 28-805; and
- (h) Offenses listed in sections 28-813, 28-813.01, and 28-1463.03.

Any offense listed in subdivisions (a) through (h) of this subdivision shall include all inchoate offenses pursuant to the Nebraska Criminal Code and compounding a felony pursuant to section 28-301. Such crimes shall not include matters involving dependent and neglected children, infraction violations, custody or visitation matters, or child support. If the county attorney declines in writing to prosecute a case involving a crime against a child because of an ethical consideration, including the presence or appearance of a conflict of interest, or for any other reason, the division shall, upon the receipt of a written request of the county attorney, the Department of Health and Human Services, the minor child, the parents of the minor child, or any other interested party, investigate the matter and either decline to prosecute the matter or initiate the appropriate criminal proceedings in a court of proper jurisdiction.

For purposes of this subdivision, child or children shall mean an individual or individuals sixteen years of age or younger.

Sec. 19. The Administrative License Revocation Cash Fund is created. The fund shall be maintained by the Department of Justice and

administered by the Attorney General. The fund shall consist of any transfers made from the Department of Motor Vehicles Cash Fund as authorized by the Legislature and eligible federal cost reimbursements received from the Department of Motor Vehicles. The Administrative License Revocation Cash Fund shall be used to pay any administrative license revocation costs approved by the Attorney General as authorized by law. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 20. Section 84-913.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-913.03. The hearing officer may conduct all or part of the prehearing conference and the hearing by telephone, television, or other electronic means if each participant in the conference or hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place. This section does not apply to a prehearing conference or a hearing held under sections 4 to 7 of this act.

Sec. 21. Sections 1 to 15, 17, 18, 20, and 22 of this act become operative on October 1, 2003. The other sections of this act become operative on their effective date.

Sec. 22. Original sections 60-498, 60-4,110, 60-4,129, 60-6,208, 60-6,211.04, 83-1,129, 84-205, and 84-913.03, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-479, 60-4,118.06, 60-6,196, 60-6,197, 60-6,205 to 60-6,207, 60-6,209, and 60-6,211.05, Revised Statutes Supplement, 2002, are repealed.

Sec. 23. Section 60-1513, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 24. Since an emergency exists, this act takes effect when passed and approved according to law.