

E AND R AMENDMENTS TO LB 1094

Introduced by Hansen, 26, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 27-1101, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           27-1101 (1) The Nebraska Evidence Rules apply to the following  
6 courts in the State of Nebraska: Supreme Court, Court of Appeals,  
7 district courts, county courts, and juvenile courts. The word judge when  
8 used in the rules shall mean any judge of any court to which the rules  
9 apply or other officer who is authorized by statute to hold any hearing  
10 to which the rules apply.

11           (2) The rules apply generally to all civil and criminal proceedings,  
12 including contempt proceedings except those in which the judge may act  
13 summarily.

14           (3) The rules with respect to privileges apply at all stages of all  
15 actions, cases, and proceedings.

16           (4) The rules, other than those with respect to privileges, do not  
17 apply in the following situations:

18           (a) Proceedings before grand juries;

19           (b) Proceedings for extradition or rendition; preliminary  
20 examinations or hearings in criminal cases; sentencing, ~~or~~ granting or  
21 revoking probation, or imposing custodial sanctions; issuance of warrants  
22 for arrest, criminal summonses, and search warrants; and proceedings with  
23 respect to release on bail or otherwise;

24           (c) Contested cases before an administrative agency under the  
25 Administrative Procedure Act unless a party to the case requests that the  
26 agency be bound by the rules of evidence applicable in the district  
27 court; or

1 (d) Proceedings before the Nebraska Workers' Compensation Court or  
2 the Small Claims Court.

3 Sec. 2. Section 28-105, Revised Statutes Cumulative Supplement,  
4 2014, as amended by Laws 2015, LB605, section 6, is amended to read:

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

- |    |                   |   |
|----|-------------------|---|
| 9  | Class I felony    | Death   |
| 10 | Class IA felony   | Life imprisonment                                   |
| 11 | Class IB felony   | Maximum – life imprisonment                         |
| 12 |                   | Minimum – twenty years imprisonment                 |
| 13 | Class IC felony   | Maximum – fifty years imprisonment                  |
| 14 |                   | Mandatory minimum – five years imprisonment         |
| 15 | Class ID felony   | Maximum – fifty years imprisonment                  |
| 16 |                   | Mandatory minimum – three years imprisonment        |
| 17 | Class II felony   | Maximum – fifty years imprisonment                  |
| 18 |                   | Minimum – one year imprisonment                     |
| 19 | Class IIA felony  | Maximum – twenty years imprisonment                 |
| 20 |                   | Minimum – none                                      |
| 21 | Class III felony  | Maximum – four years imprisonment and two years     |
| 22 |                   | post-release supervision or                         |
| 23 |                   | twenty-five thousand dollars fine, or both          |
| 24 |                   | Minimum – none for imprisonment and nine months     |
| 25 |                   | post-release supervision if imprisonment is imposed |
| 26 | Class IIIA felony | Maximum – three years imprisonment                  |
| 27 |                   | and eighteen months post-release supervision or     |
| 28 |                   | ten thousand dollars fine, or both                  |
| 29 |                   | Minimum – none for imprisonment and nine months     |

1 post-release supervision if imprisonment is imposed  
2 Class IV felony Maximum – two years imprisonment and twelve  
3 months post-release supervision or  
4 ten thousand dollars fine, or both  
5 Minimum – none for imprisonment and nine months  
6 post-release supervision if imprisonment is imposed

7 (2) All sentences for maximum terms of imprisonment for one year or  
8 more for felonies shall be served in institutions under the jurisdiction  
9 of the Department of Correctional Services. All sentences for maximum  
10 terms of imprisonment of less than one year shall be served in the county  
11 jail.

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

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

17 (5) All sentences of post-release supervision shall be served under  
18 the jurisdiction of the Office of Probation Administration and shall be  
19 subject to conditions imposed pursuant to section 29-2262 and subject to  
20 sanctions authorized pursuant to section 22 of this act ~~29-2266~~.

21 (6) Any person who is sentenced to imprisonment for a Class I, IA,  
22 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively  
23 to imprisonment for a Class III, IIIA, or IV felony shall not be subject  
24 to post-release supervision pursuant to subsection (1) of this section.

25 (7) Any person who is sentenced to imprisonment for a Class III,  
26 IIIA, or IV felony committed prior to August 30, 2015, and sentenced  
27 concurrently or consecutively to imprisonment for a Class III, IIIA, or  
28 IV felony committed on or after August 30, 2015, shall not be subject to  
29 post-release supervision pursuant to subsection (1) of this section.

30 (~~8~~ 7) The changes made to the penalties for Class III, IIIA, and IV

1 felonies by Laws 2015, LB605, do not apply to any offense committed prior  
2 to August 30, 2015, as provided in section 28-116.

3 Sec. 3. Section 28-106, Revised Statutes Supplement, 2015, is  
4 amended to read:

5 28-106 (1) For purposes of the Nebraska Criminal Code and any  
6 statute passed by the Legislature after the date of passage of the code,  
7 misdemeanors are divided into seven classes which are distinguished from  
8 one another by the following penalties which are authorized upon  
9 conviction:

- 10 Class I misdemeanor..... Maximum – not more than one year  
11 imprisonment, or one thousand dollars  
12 fine, or both  
13 Minimum – none
- 14 Class II misdemeanor..... Maximum – six months imprisonment, or  
15 one thousand dollars fine, or both  
16 Minimum – none
- 17 Class III misdemeanor..... Maximum – three months imprisonment,  
18 or five hundred dollars fine, or both  
19 Minimum – none
- 20 Class IIIA misdemeanor..... Maximum – seven days imprisonment, five  
21 hundred dollars fine, or both  
22 Minimum – none
- 23 Class IV misdemeanor..... Maximum – no imprisonment, five  
24 hundred dollars fine  
25 Minimum – none
- 26 Class V misdemeanor..... Maximum – no imprisonment, one  
27 hundred dollars fine  
28 Minimum – none
- 29 Class W misdemeanor..... Driving under the influence or implied  
30 consent

1 First conviction  
2 Maximum – sixty days imprisonment and  
3 five hundred dollars fine  
4 Mandatory minimum – seven days  
5 imprisonment and five hundred dollars  
6 fine  
7 Second conviction  
8 Maximum – six months imprisonment and  
9 five hundred dollars fine  
10 Mandatory minimum – thirty days  
11 imprisonment and five hundred dollars  
12 fine  
13 Third conviction  
14 Maximum – one year imprisonment and  
15 one thousand dollars fine  
16 Mandatory minimum – ninety days  
17 imprisonment  
18 and one thousand dollars fine

19 (2) Sentences of imprisonment in misdemeanor cases shall be served  
20 in the county jail, except that such sentences may be served in  
21 institutions under the jurisdiction of the Department of Correctional  
22 Services if the sentence is to be served concurrently or consecutively  
23 with a term for conviction of a felony and the combined sentences total a  
24 term of one year or more. A determinate sentence shall be imposed for a  
25 misdemeanor if the sentence is to be served concurrently or consecutively  
26 with a determinate sentence for a Class III, IIIA, or IV felony.

27 Sec. 4. Section 28-115, Revised Statutes Cumulative Supplement,  
28 2014, is amended to read:

29 28-115 (1) Except as provided in subsection (2) of this section, any  
30 Any person who commits any of the following criminal offenses against a

1 pregnant woman shall be punished by the imposition of the next higher  
2 penalty classification than the penalty classification prescribed for the  
3 criminal offense, ~~unless such criminal offense is already punishable as a~~  
4 ~~Class IB felony or higher classification:~~

5 (a) Assault in the first degree, section 28-308;

6 (b) Assault ~~assault~~ in the second degree, section 28-309;

7 (c) Assault ~~assault~~ in the third degree, section 28-310;

8 (d) Sexual ~~sexual~~ assault in the first degree, section 28-319;

9 (e) Sexual ~~sexual~~ assault in the second or third degree, section  
10 28-320;

11 (f) Sexual assault of a child in the first degree, section  
12 28-319.01;

13 (g) Sexual ~~sexual~~ assault of a child in the second or third degree,  
14 section 28-320.01;

15 (h) Sexual ~~sexual~~ abuse of an inmate or parolee in the first degree,  
16 section 28-322.02;

17 (i) Sexual ~~sexual~~ abuse of an inmate or parolee in the second  
18 degree, section 28-322.03;

19 (j) Sexual ~~sexual~~ abuse of a protected individual in the first or  
20 second degree, section 28-322.04;

21 (k) Domestic ~~domestic~~ assault in the first, second, or third degree,  
22 section 28-323;

23 (l) Assault ~~assault~~ on an officer, an emergency responder, a state  
24 correctional employee, a Department of Health and Human Services  
25 employee, or a health care professional in the first degree, section  
26 28-929;

27 (m) Assault ~~assault~~ on an officer, an emergency responder, a state  
28 correctional employee, a Department of Health and Human Services  
29 employee, or a health care professional in the second degree, section  
30 28-930;

31 (n) Assault ~~assault~~ on an officer, an emergency responder, a state

1 correctional employee, a Department of Health and Human Services  
2 employee, or a health care professional in the third degree, section  
3 28-931;

4 ~~(o) Assault~~ assault on an officer, an emergency responder, a state  
5 correctional employee, a Department of Health and Human Services  
6 employee, or a health care professional using a motor vehicle, section  
7 28-931.01;

8 ~~(p) Assault~~ assault by a confined person, section 28-932;

9 ~~(q) Confined~~ confined person committing offenses against another  
10 person, section 28-933; ~~and~~

11 ~~(r) Proximately~~ proximately causing serious bodily injury while  
12 operating a motor vehicle, section 60-6,198. ~~;~~ ~~and~~

13 ~~sexual assault of a child in the first degree, section 28-319.01.~~

14 (2) The enhancement in subsection (1) of this section does not apply  
15 to any criminal offense listed in subsection (1) of this section that is  
16 already punishable as a Class I, IA, or IB felony. If any criminal  
17 offense listed in subsection (1) of this section is punishable as a Class  
18 I misdemeanor, the penalty under this section is a Class IIIA felony.

19 (3 2) The prosecution shall allege and prove beyond a reasonable  
20 doubt that the victim was pregnant at the time of the offense.

21 Sec. 5. Section 28-116, Revised Statutes Supplement, 2015, is  
22 amended to read:

23 28-116 (1) The changes made to the sections listed in this section  
24 by Laws 2015, LB605, shall not apply to any offense committed prior to  
25 August 30, 2015. Any such offense shall be construed and punished  
26 according to the provisions of law existing at the time the offense was  
27 committed.

28 For purposes of this section, an offense shall be deemed to have  
29 been committed prior to August 30, 2015, if any element of the offense  
30 occurred prior to such date. The following sections are subject to this  
31 provision: Sections 9-262, 9-352, 9-434, 9-652, 23-135.01, 28-105,

1 28-106, 28-201, 28-204, 28-305, 28-306, 28-309, 28-310.01, 28-311,  
2 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02, 28-322.03, 28-322.04,  
3 28-323, 28-393, 28-394, 28-397, 28-416, 28-504, 28-507, 28-514, 28-518,  
4 28-519, 28-603, 28-604, 28-611, 28-611.01, 28-620, 28-621, 28-622,  
5 28-627, 28-631, 28-638, 28-639, 28-703, 28-707, 28-813.01, 28-912,  
6 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104, 28-1212.03, 28-1222,  
7 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816, 29-2204, 29-2260,  
8 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017, 68-1017.01, 71-2228,  
9 and 71-2229.

10 (2) The changes made to the sections listed in this section by this  
11 legislative bill shall not apply to any offense committed prior to the  
12 effective date of this act. Any such offense shall be construed and  
13 punished according to the provisions of law existing at the time the  
14 offense was committed. An offense shall be deemed to have been committed  
15 prior to the effective date of this act if any element of the offense  
16 occurred prior to such date. The following sections are subject to this  
17 provision: Sections 28-115, 28-204, 28-394, 60-6,197.03, and 71-2482.

18 Sec. 6. Section 28-204, Revised Statutes Supplement, 2015, is  
19 amended to read:

20 28-204 (1) A person is guilty of being an accessory to felony if  
21 with intent to interfere with, hinder, delay, or prevent the discovery,  
22 apprehension, prosecution, conviction, or punishment of another for an  
23 offense, he or she:

24 (a) Harbors or conceals the other;

25 (b) Provides or aids in providing a weapon, transportation,  
26 disguise, or other means of effecting escape or avoiding discovery or  
27 apprehension;

28 (c) Conceals or destroys evidence of the crime or tampers with a  
29 witness, informant, document, or other source of information, regardless  
30 of its admissibility in evidence;

31 (d) Warns the other of impending discovery or apprehension other

1 than in connection with an effort to bring another into compliance with  
2 the law;

3 (e) Volunteers false information to a peace officer; or

4 (f) By force, intimidation, or deception, obstructs anyone in the  
5 performance of any act which might aid in the discovery, detection,  
6 apprehension, prosecution, conviction, or punishment of such person.

7 (2)(a) Accessory to felony is a Class ~~IIA~~ ~~III~~ felony if the actor  
8 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor  
9 knows of the conduct of the other, and the conduct of the other  
10 constitutes a Class I, IA, IB, IC, or ID felony.

11 (b) Accessory to felony is a Class IIIA felony if the actor violates  
12 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of  
13 the conduct of the other, and the conduct of the other constitutes a  
14 Class II or IIA felony.

15 (c) Accessory to felony is a Class IV felony if the actor violates  
16 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of  
17 the conduct of the other, and the conduct of the other constitutes a  
18 Class III or Class IIIA felony.

19 (d) Accessory to felony is a Class I misdemeanor if the actor  
20 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor  
21 knows of the conduct of the other, and the conduct of the other  
22 constitutes a Class IV felony.

23 (e) Accessory to felony is a Class IV felony if the actor violates  
24 subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor knows of  
25 the conduct of the other, and the conduct of the other constitutes a  
26 felony of any class other than a Class IV felony.

27 (f) Accessory to felony is a Class I misdemeanor if the actor  
28 violates subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor  
29 knows of the conduct of the other, and the conduct of the other  
30 constitutes a Class IV felony.

31 Sec. 7. Section 28-394, Revised Statutes Supplement, 2015, is

1 amended to read:

2 28-394 (1) A person who causes the death of an unborn child  
3 unintentionally while engaged in the operation of a motor vehicle in  
4 violation of the law of the State of Nebraska or in violation of any city  
5 or village ordinance commits motor vehicle homicide of an unborn child.

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

8 (3)(a) If the proximate cause of the death of an unborn child is the  
9 operation of a motor vehicle in violation of section 60-6,213 or  
10 60-6,214, motor vehicle homicide of an unborn child is a Class IIIA ~~IV~~  
11 felony.

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

22 (c) If the proximate cause of the death of an unborn child is the  
23 operation of a motor vehicle in violation of section 60-6,196 or  
24 60-6,197.06 and the defendant has a prior conviction for a violation of  
25 section 60-6,196 or a city or village ordinance enacted in conformance  
26 with section 60-6,196, motor vehicle homicide of an unborn child is a  
27 Class IIA felony and the court shall, as part of the judgment of  
28 conviction, order the person not to drive any motor vehicle for any  
29 purpose for a period of at least sixty days and not more than fifteen  
30 years after the date ordered by the court and shall order that the  
31 operator's license of such person be revoked for the same period. The

1 revocation shall not run concurrently with any jail term imposed.

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

6 Sec. 8. Section 28-514, Revised Statutes Supplement, 2015, is  
7 amended to read:

8 28-514 (1) A person who comes into control of property of another  
9 that he or she knows to have been lost, mislaid, or delivered under a  
10 mistake as to the nature or amount of the property or the identity of the  
11 recipient commits theft if, with intent to deprive the owner thereof, he  
12 or she fails to take reasonable measures to restore the property to a  
13 person entitled to have it.

14 (2) Any person convicted of violating subsection (1) ~~the provisions~~  
15 ~~of this section shall, upon conviction thereof,~~ be punished by the  
16 penalty prescribed in the next lower classification below the value of  
17 the item lost, mislaid, or delivered under a mistake pursuant to section  
18 28-518.

19 (3) Any person convicted of violating subsection (1) ~~pursuant to~~  
20 this section when the value of the property is five hundred dollars or  
21 less shall be guilty of a Class III misdemeanor for the first conviction,  
22 a Class II misdemeanor for the second conviction, and a Class I  
23 misdemeanor for the third or subsequent conviction.

24 Sec. 9. Section 28-605, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 28-605 (1) A person commits criminal possession of written  
27 instrument forgery devices when:

28 (a) He or she makes or possesses with knowledge of its character any  
29 plate, die, or other device, apparatus, equipment, or article  
30 specifically designed for use in counterfeiting, unlawfully simulating,  
31 or otherwise forging written instruments; or

1 (b) He or she makes or possesses any device, apparatus, equipment,  
2 or article capable of or adaptable to a use specified in subdivision (1)  
3 (a) of this section, with intent to use it himself or herself, or to aid  
4 or permit another to use it, for purposes of forgery; or

5 (c) Illegally possesses a genuine plate, die, or other device used  
6 in the production of written instruments, with intent to deceive or harm.

7 (2) Criminal possession of written instrument forgery devices is a  
8 Class IV felony.

9 Sec. 10. Section 28-626, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 28-626 (1) A person commits the offense of criminal possession of a  
12 financial transaction forgery device if (a) such person possesses any  
13 tool, photographic equipment, printing equipment, or any other device or  
14 group or combination of devices adapted, designed, or commonly used for  
15 committing or facilitating the commission of an offense involving the  
16 unauthorized manufacturing, printing, embossing, or magnetic encoding of  
17 a financial transaction device or the altering or addition of any service  
18 marks or holographic images to a financial transaction device and (b)  
19 intends to use the device or devices possessed or knows that some person  
20 intends to use the device or devices possessed in the commission of such  
21 an offense.

22 (2) Any person committing the offense of criminal possession of a  
23 financial transaction forgery device shall be guilty of a Class IV  
24 felony.

25 Sec. 11. Section 28-1354, Revised Statutes Cumulative Supplement,  
26 2014, is amended to read:

27 28-1354 For purposes of the Public Protection Act:

28 (1) Enterprise means any individual, sole proprietorship,  
29 partnership, corporation, trust, association, or any legal entity, union,  
30 or group of individuals associated in fact although not a legal entity,  
31 and shall include illicit as well as licit enterprises as well as other

1 entities;

2 (2) Pattern of racketeering activity means a cumulative loss for one  
3 or more victims or gains for the enterprise of not less than one thousand  
4 five hundred dollars resulting from at least two acts of racketeering  
5 activity, one of which occurred after August 30, 2009, and the last of  
6 which occurred within ten years, excluding any period of imprisonment,  
7 after the commission of a prior act of racketeering activity;

8 (3) Person means any individual or entity, as defined in section  
9 21-2014 ~~21-214~~, holding or capable of holding a legal, equitable, or  
10 beneficial interest in property. Beginning January 1, 2017, person means  
11 any individual or entity, as defined in section 21-214, holding or  
12 capable of holding a legal, equitable, or beneficial interest in  
13 property;

14 (4) Prosecutor includes the Attorney General of the State of  
15 Nebraska, the deputy attorney general, assistant attorneys general, a  
16 county attorney, a deputy county attorney, or any person so designated by  
17 the Attorney General, a county attorney, or a court of the state to carry  
18 out the powers conferred by the act;

19 (5) Racketeering activity includes the commission of, criminal  
20 attempt to commit, conspiracy to commit, aiding and abetting in the  
21 commission of, aiding in the consummation of, acting as an accessory to  
22 the commission of, or the solicitation, coercion, or intimidation of  
23 another to commit or aid in the commission of any of the following:

24 (a) Offenses against the person which include: Murder in the first  
25 degree under section 28-303; murder in the second degree under section  
26 28-304; manslaughter under section 28-305; assault in the first degree  
27 under section 28-308; assault in the second degree under section 28-309;  
28 assault in the third degree under section 28-310; terroristic threats  
29 under section 28-311.01; kidnapping under section 28-313; false  
30 imprisonment in the first degree under section 28-314; false imprisonment  
31 in the second degree under section 28-315; sexual assault in the first

1 degree under section 28-319; and robbery under section 28-324;

2 (b) Offenses relating to controlled substances which include: To  
3 unlawfully manufacture, distribute, deliver, dispense, or possess with  
4 intent to manufacture, distribute, deliver, or dispense a controlled  
5 substance under subsection (1) of section 28-416; possession of marijuana  
6 weighing more than one pound under subsection (12) of section 28-416;  
7 possession of money used or intended to be used to facilitate a violation  
8 of subsection (1) of section 28-416 prohibited under subsection (17) of  
9 section 28-416; any violation of section 28-418; to unlawfully  
10 manufacture, distribute, deliver, or possess with intent to distribute or  
11 deliver an imitation controlled substance under section 28-445;  
12 possession of anhydrous ammonia with the intent to manufacture  
13 methamphetamine under section 28-451; and possession of ephedrine,  
14 pseudoephedrine, or phenylpropanolamine with the intent to manufacture  
15 methamphetamine under section 28-452;

16 (c) Offenses against property which include: Arson in the first  
17 degree under section 28-502; arson in the second degree under section  
18 28-503; arson in the third degree under section 28-504; burglary under  
19 section 28-507; theft by unlawful taking or disposition under section  
20 28-511; theft by shoplifting under section 28-511.01; theft by deception  
21 under section 28-512; theft by extortion under section 28-513; theft of  
22 services under section 28-515; theft by receiving stolen property under  
23 section 28-517; criminal mischief under section 28-519; and unlawfully  
24 depriving or obtaining property or services using a computer under  
25 section 28-1344;

26 (d) Offenses involving fraud which include: Burning to defraud an  
27 insurer under section 28-505; forgery in the first degree under section  
28 28-602; forgery in the second degree under section 28-603; criminal  
29 possession of a forged instrument under section 28-604; criminal  
30 possession of written instrument forgery devices under section 28-605;  
31 criminal impersonation under section 28-638; identity theft under section

1 28-639; identity fraud under section 28-640; false statement or book  
2 entry under section 28-612; tampering with a publicly exhibited contest  
3 under section 28-614; issuing a false financial statement for purposes of  
4 obtaining a financial transaction device under section 28-619;  
5 unauthorized use of a financial transaction device under section 28-620;  
6 criminal possession of a financial transaction device under section  
7 28-621; unlawful circulation of a financial transaction device in the  
8 first degree under section 28-622; unlawful circulation of a financial  
9 transaction device in the second degree under section 28-623; criminal  
10 possession of a blank financial transaction device under section 28-624;  
11 criminal sale of a blank financial transaction device under section  
12 28-625; criminal possession of a financial transaction forgery device  
13 under section 28-626; unlawful manufacture of a financial transaction  
14 device under section 28-627; laundering of sales forms under section  
15 28-628; unlawful acquisition of sales form processing services under  
16 section 28-629; unlawful factoring of a financial transaction device  
17 under section 28-630; and fraudulent insurance acts under section 28-631;  
18 (e) Offenses involving governmental operations which include: Abuse  
19 of public records under section 28-911; perjury or subornation of perjury  
20 under section 28-915; bribery under section 28-917; bribery of a witness  
21 under section 28-918; tampering with a witness or informant or jury  
22 tampering under section 28-919; bribery of a juror under section 28-920;  
23 assault on an officer, an emergency responder, a state correctional  
24 employee, a Department of Health and Human Services employee, or a health  
25 care professional in the first degree under section 28-929; assault on an  
26 officer, an emergency responder, a state correctional employee, a  
27 Department of Health and Human Services employee, or a health care  
28 professional in the second degree under section 28-930; assault on an  
29 officer, an emergency responder, a state correctional employee, a  
30 Department of Health and Human Services employee, or a health care  
31 professional in the third degree under section 28-931; and assault on an

1 officer, an emergency responder, a state correctional employee, a  
2 Department of Health and Human Services employee, or a health care  
3 professional using a motor vehicle under section 28-931.01;

4 (f) Offenses involving gambling which include: Promoting gambling in  
5 the first degree under section 28-1102; possession of gambling records  
6 under section 28-1105; gambling debt collection under section 28-1105.01;  
7 and possession of a gambling device under section 28-1107;

8 (g) Offenses relating to firearms, weapons, and explosives which  
9 include: Carrying a concealed weapon under section 28-1202;  
10 transportation or possession of machine guns, short rifles, or short  
11 shotguns under section 28-1203; unlawful possession of a handgun under  
12 section 28-1204; unlawful transfer of a firearm to a juvenile under  
13 section 28-1204.01; using a deadly weapon to commit a felony or  
14 possession of a deadly weapon during the commission of a felony under  
15 section 28-1205; possession of a deadly weapon by a prohibited person  
16 under section 28-1206; possession of a defaced firearm under section  
17 28-1207; defacing a firearm under section 28-1208; unlawful discharge of  
18 a firearm under section 28-1212.02; possession, receipt, retention, or  
19 disposition of a stolen firearm under section 28-1212.03; unlawful  
20 possession of explosive materials in the first degree under section  
21 28-1215; unlawful possession of explosive materials in the second degree  
22 under section 28-1216; unlawful sale of explosives under section 28-1217;  
23 use of explosives without a permit under section 28-1218; obtaining an  
24 explosives permit through false representations under section 28-1219;  
25 possession of a destructive device under section 28-1220; threatening the  
26 use of explosives or placing a false bomb under section 28-1221; using  
27 explosives to commit a felony under section 28-1222; using explosives to  
28 damage or destroy property under section 28-1223; and using explosives to  
29 kill or injure any person under section 28-1224;

30 (h) Any violation of the Securities Act of Nebraska pursuant to  
31 section 8-1117;

1 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to  
2 section 77-2713;

3 (j) Offenses relating to public health and morals which include:  
4 Prostitution under section 28-801; pandering under section 28-802;  
5 keeping a place of prostitution under section 28-804; labor trafficking,  
6 sex trafficking, labor trafficking of a minor, or sex trafficking of a  
7 minor under section 28-831; a violation of section 28-1005; and any act  
8 relating to the visual depiction of sexually explicit conduct prohibited  
9 in the Child Pornography Prevention Act; and

10 (k) A violation of the Computer Crimes Act;

11 (6) State means the State of Nebraska or any political subdivision  
12 or any department, agency, or instrumentality thereof; and

13 (7) Unlawful debt means a debt of at least one thousand five hundred  
14 dollars:

15 (a) Incurred or contracted in gambling activity which was in  
16 violation of federal law or the law of the state or which is  
17 unenforceable under state or federal law in whole or in part as to  
18 principal or interest because of the laws relating to usury; or

19 (b) Which was incurred in connection with the business of gambling  
20 in violation of federal law or the law of the state or the business of  
21 lending money or a thing of value at a rate usurious under state law if  
22 the usurious rate is at least twice the enforceable rate.

23 Sec. 12. Section 29-2204.02, Revised Statutes Supplement, 2015, is  
24 amended to read:

25 29-2204.02 (1) Except when a term of probation is required by law as  
26 provided in subsection (2) of this section, or as otherwise provided in  
27 subsection (4) of this section, in imposing a sentence upon an offender  
28 for a Class III, IIIA, or IV felony, the court shall:

29 (a) Impose a determinate sentence of imprisonment within the  
30 applicable range in section 28-105; and

31 (b) Impose a sentence of post-release supervision, under the

1 jurisdiction of the Office of Probation Administration, within the  
2 applicable range in section 28-105.

3 (2) If the criminal offense is a Class IV felony, the court shall  
4 impose a sentence of probation unless:

5 (a) The defendant is concurrently or consecutively sentenced to  
6 imprisonment for any felony other than another Class IV felony;

7 (b) The defendant has been deemed a habitual criminal pursuant to  
8 section 29-2221; or

9 (c) There are substantial and compelling reasons why the defendant  
10 cannot effectively and safely be supervised in the community, including,  
11 but not limited to, the criteria in subsections (2) and (3) of section  
12 29-2260. Unless other reasons are found to be present, that the offender  
13 has not previously succeeded on probation is not, standing alone, a  
14 substantial and compelling reason.

15 (3) If a sentence of probation is not imposed, the court shall state  
16 its reasoning on the record, advise the defendant of his or her right to  
17 appeal the sentence, and impose a sentence as provided in subsection (1)  
18 of this section.

19 (4) For any sentence of imprisonment for a Class III, IIIA, or IV  
20 felony for an offense committed on or after August 30, 2015, imposed  
21 consecutively or concurrently with (a) a sentence for a Class III, IIIA,  
22 or IV felony for an offense committed prior to August 30, 2015, or (b) a  
23 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA  
24 felony, the court shall impose an indeterminate sentence within the  
25 applicable range in section 28-105 that does not include a period of  
26 post-release supervision, in accordance with the process set forth in  
27 section 29-2204.

28 (5) For any sentence of imprisonment for a misdemeanor imposed  
29 consecutively or concurrently with a sentence of imprisonment for a Class  
30 III, IIIA, or IV felony for an offense committed on or after August 30,  
31 2015, the court shall impose a determinate sentence within the applicable

1 range in section 28-106 unless the person is also committed to the  
2 Department of Correctional Services in accordance with section 29-2204  
3 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony  
4 committed prior to August 30, 2015, or (b) a sentence of imprisonment for  
5 a Class I, IA, IB, IC, ID, II, or IIA felony.

6 (6 4) If the defendant was under eighteen years of age at the time  
7 he or she committed the crime for which he or she was convicted, the  
8 court may, in its discretion, instead of imposing the penalty provided  
9 for the crime, make such disposition of the defendant as the court deems  
10 proper under the Nebraska Juvenile Code.

11 ~~(7)(a) (5)(a)~~ When imposing a determinate sentence upon an offender  
12 under this section, the court shall:

13 (i) Advise the offender on the record the time the offender will  
14 serve on his or her term of imprisonment before his or her term of post-  
15 release supervision assuming that no good time for which the offender  
16 will be eligible is lost;~~and~~

17 (ii) Advise the offender on the record the time the offender will  
18 serve on his or her term of post-release supervision; and before  
19 ~~attaining mandatory release assuming that no good time for which the~~  
20 ~~offender will be eligible is lost.~~

21 (iii) When imposing a sentence following revocation of post-release  
22 supervision, advise the offender on the record the time the offender will  
23 serve on his or her term of imprisonment, including credit for time  
24 served, assuming that no good time for which the offender will be  
25 eligible is lost.

26 (b) If a period of post-release supervision is required but not  
27 imposed by the sentencing court, the term of post-release supervision  
28 shall be the minimum provided by law.

29 (c) If the court imposes more than one sentence upon an offender or  
30 imposes a sentence upon an offender who is at that time serving another  
31 sentence, the court shall state whether the sentences are to be

1 concurrent or consecutive.

2 (d) If the offender has been sentenced to two or more determinate  
3 sentences and one or more terms of post-release supervision, the offender  
4 shall serve all determinate sentences before being released on post-  
5 release supervision.

6 Sec. 13. Section 29-2252, Revised Statutes Supplement, 2015, is  
7 amended to read:

8 29-2252 The administrator shall:

9 (1) Supervise and administer the office;

10 (2) Establish and maintain policies, standards, and procedures for  
11 the system, with the concurrence of the Supreme Court;

12 (3) Prescribe and furnish such forms for records and reports for the  
13 system as shall be deemed necessary for uniformity, efficiency, and  
14 statistical accuracy;

15 (4) Establish minimum qualifications for employment as a probation  
16 officer in this state and establish and maintain such additional  
17 qualifications as he or she deems appropriate for appointment to the  
18 system. Qualifications for probation officers shall be established in  
19 accordance with subsection (4) of section 29-2253. An ex-offender  
20 released from a penal complex or a county jail may be appointed to a  
21 position of deputy probation or parole officer. Such ex-offender shall  
22 maintain a record free of arrests, except for minor traffic violations,  
23 for one year immediately preceding his or her appointment;

24 (5) Establish and maintain advanced periodic inservice training  
25 requirements for the system;

26 (6) Cooperate with all agencies, public or private, which are  
27 concerned with treatment or welfare of persons on probation;

28 (7) Organize and conduct training programs for probation officers.  
29 Training shall include the proper use of a risk and needs assessment,  
30 risk-based supervision strategies, relationship skills, cognitive  
31 behavioral interventions, community-based resources, criminal risk

1 factors, and targeting criminal risk factors to reduce recidivism and the  
2 proper use of a matrix of administrative sanctions, custodial sanctions,  
3 and rewards developed pursuant to subdivision (18) of this section. All  
4 probation officers employed on or after August 30, 2015, shall complete  
5 the training requirements set forth in this subdivision;

6 (8) Collect, develop, and maintain statistical information  
7 concerning probationers, probation practices, and the operation of the  
8 system and provide the Community Corrections Division of the Nebraska  
9 Commission on Law Enforcement and Criminal Justice with the information  
10 needed to compile the report required in section 47-624;

11 (9) Interpret the probation program to the public with a view toward  
12 developing a broad base of public support;

13 (10) Conduct research for the purpose of evaluating and improving  
14 the effectiveness of the system. Subject to the availability of funding,  
15 the administrator shall contract with an independent contractor or  
16 academic institution for evaluation of existing community corrections  
17 facilities and programs operated by the office;

18 (11) Adopt and promulgate such rules and regulations as may be  
19 necessary or proper for the operation of the office or system. The  
20 administrator shall adopt and promulgate rules and regulations for  
21 transitioning individuals on probation across levels of supervision and  
22 discharging them from supervision consistent with evidence-based  
23 practices. The rules and regulations shall ensure supervision resources  
24 are prioritized for individuals who are high risk to reoffend, require  
25 transitioning individuals down levels of supervision intensity based on  
26 assessed risk and months of supervision without a reported major  
27 violation, and establish incentives for earning discharge from  
28 supervision based on compliance;

29 (12) Transmit a report during each even-numbered year to the Supreme  
30 Court on the operation of the office for the preceding two calendar years  
31 which shall include a historical analysis of probation officer workload,

1 including participation in non-probation-based programs and services. The  
2 report shall be transmitted by the Supreme Court to the Governor and the  
3 Clerk of the Legislature. The report submitted to the Clerk of the  
4 Legislature shall be submitted electronically;

5 (13) Administer the payment by the state of all salaries, travel,  
6 and actual and necessary expenses incident to the conduct and maintenance  
7 of the office;

8 (14) Use the funds provided under section 29-2262.07 to augment  
9 operational or personnel costs associated with the development,  
10 implementation, and evaluation of enhanced probation-based programs and  
11 non-probation-based programs and services in which probation personnel or  
12 probation resources are utilized pursuant to an interlocal agreement  
13 authorized by subdivision (16) of this section and to purchase services  
14 to provide such programs aimed at enhancing adult probationer or non-  
15 probation-based program participant supervision in the community and  
16 treatment needs of probationers and non-probation-based program  
17 participants. Enhanced probation-based programs include, but are not  
18 limited to, specialized units of supervision, related equipment purchases  
19 and training, and programs that address a probationer's vocational,  
20 educational, mental health, behavioral, or substance abuse treatment  
21 needs;

22 (15) Ensure that any risk or needs assessment instrument utilized by  
23 the system be periodically validated;

24 (16) Have the authority to enter into interlocal agreements in which  
25 probation resources or probation personnel may be utilized in conjunction  
26 with or as part of non-probation-based programs and services. Any such  
27 interlocal agreement shall comply with section 29-2255;

28 (17) Collaborate with the Community Corrections Division of the  
29 Nebraska Commission on Law Enforcement and Criminal Justice and the  
30 Office of Parole Administration to develop rules governing the  
31 participation of parolees in community corrections programs operated by

1 the Office of Probation Administration;

2 (18) Develop a matrix of rewards for compliance and positive  
3 behaviors and graduated administrative sanctions and custodial sanctions  
4 for use in responding to and deterring substance abuse violations and  
5 technical violations. As applicable under sections 21 and 22 of this act  
6 ~~section 29-2266~~, custodial sanctions of up to thirty days in jail shall  
7 be designated as the most severe response to a violation in lieu of  
8 revocation and custodial sanctions of up to three days in jail shall be  
9 designated as the second most severe response;

10 (19) Adopt and promulgate rules and regulations for the creation of  
11 individualized post-release supervision plans, collaboratively with the  
12 Department of Correctional Services and county jails, for probationers  
13 sentenced to post-release supervision; and

14 (20) Exercise all powers and perform all duties necessary and proper  
15 to carry out his or her responsibilities.

16 Each member of the Legislature shall receive an electronic copy of  
17 the report required by subdivision (12) of this section by making a  
18 request for it to the administrator.

19 Sec. 14. Section 29-2252.01, Revised Statutes Supplement, 2015, is  
20 amended to read:

21 29-2252.01 On January 15 and July 15 ~~December 31 and June 30~~ of each  
22 fiscal year, the administrator shall provide a report to the budget  
23 division of the Department of Administrative Services, the Legislative  
24 Fiscal Analyst, and the Supreme Court which shall include, but not be  
25 limited to:

26 (1) The total number of felony cases supervised by the office in the  
27 previous six months for both regular and intensive supervision probation;

28 (2) The total number of misdemeanor cases supervised by the office  
29 in the previous six months for both regular and intensive supervision  
30 probation;

31 (3) The felony caseload per officer for both regular and intensive

1 supervision probation on the last day of the reporting period;

2 (4) The misdemeanor caseload per officer for both regular and  
3 intensive supervision probation on the last day of the reporting period;

4 (5) The total number of juvenile cases supervised by the office in  
5 the previous six months for both regular and intensive supervision  
6 probation;

7 (6) The total number of predisposition investigations completed by  
8 the office in the previous six months;

9 (7) The total number of presentence investigations completed by the  
10 office in the previous six months;

11 (8) The total number of juvenile intake screening interviews  
12 conducted and detentions authorized by the office in the previous six  
13 months, using the detention screening instrument described in section  
14 43-260.01; and

15 (9) The total number of probationers with restitution judgments, the  
16 number of restitution payments made to clerks of the court, the average  
17 amount of payments, and the total amount of restitution collected.

18 The report submitted to the Legislative Fiscal Analyst shall be  
19 submitted electronically.

20 Sec. 15. Section 29-2256, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 29-2256 Nothing in the Nebraska Probation Administration Act  
23 ~~sections 29-2246 to 29-2268~~ shall be construed to prohibit any court or  
24 probation office from utilizing volunteers from the community for  
25 probation supervision. ~~The ; Provided,~~ the volunteer program shall be is  
26 supervised by a full-time probation officer who meets the minimum  
27 qualifications established by the office.

28 Sec. 16. Section 29-2258, Revised Statutes Cumulative Supplement,  
29 2014, is amended to read:

30 29-2258 A district probation officer shall:

31 (1) Conduct juvenile intake interviews and investigations in

1 accordance with sections 43-253 and 43-260.01 and, beginning October 1,  
2 2013, supervise delivery of preadjudication juvenile services under  
3 subdivision (6) of section 43-254;

4 (2) Make presentence and other investigations, as may be required by  
5 law or directed by a court in which he or she is serving;

6 (3) Supervise probationers in accordance with the rules and  
7 regulations of the office and the directions of the sentencing court;

8 (4) Advise the sentencing court, in accordance with the Nebraska  
9 Probation Administration Act and such rules and regulations of the  
10 office, of violations of the conditions of probation by individual  
11 probationers;

12 (5) Advise the sentencing court, in accordance with the rules and  
13 regulations of the office and the direction of the court, when the  
14 situation of a probationer may require a modification of the conditions  
15 of probation or when a probationer's adjustment is such as to warrant  
16 termination of probation;

17 (6) Provide each probationer with a statement of the period and  
18 conditions of his or her probation;

19 (7) Whenever necessary, exercise the power of arrest or temporary  
20 custody as provided in section ~~29-2266~~ or 43-286.01 and sections 21 and  
21 22 of this act;

22 (8) Establish procedures for the direction and guidance of deputy  
23 probation officers under his or her jurisdiction and advise such officers  
24 in regard to the most effective performance of their duties;

25 (9) Supervise and evaluate deputy probation officers under his or  
26 her jurisdiction;

27 (10) Delegate such duties and responsibilities to a deputy probation  
28 officer as he or she deems appropriate;

29 (11) Make such reports as required by the administrator, the judges  
30 of the probation district in which he or she serves, or the Supreme  
31 Court;

1 (12) Keep accurate and complete accounts of all money or property  
2 collected or received from probationers and give receipts therefor;

3 (13) Cooperate fully with and render all reasonable assistance to  
4 other probation officers;

5 (14) In counties with a population of less than twenty-five thousand  
6 people, participate in pretrial diversion programs established pursuant  
7 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs  
8 established pursuant to sections 43-260.02 to 43-260.07 as requested by  
9 judges of the probation district in which he or she serves or as  
10 requested by a county attorney and approved by the judges of the  
11 probation district in which he or she serves, except that participation  
12 in such programs shall not require appointment of additional personnel  
13 and shall be consistent with the probation officer's current caseload;

14 (15) Participate, at the direction of the probation administrator  
15 pursuant to an interlocal agreement which meets the requirements of  
16 section 29-2255, in non-probation-based programs and services;

17 (16) Perform such other duties not inconsistent with the Nebraska  
18 Probation Administration Act or the rules and regulations of the office  
19 as a court may from time to time direct; and

20 (17) Exercise all powers and perform all duties necessary and proper  
21 to carry out his or her responsibilities.

22 Sec. 17. Section 29-2260, Revised Statutes Supplement, 2015, is  
23 amended to read:

24 29-2260 (1) Whenever a person is adjudicated to be as described in  
25 subdivision (1), (2), (3)(b), or (4) of section 43-247, his or her  
26 disposition shall be governed by the Nebraska Juvenile Code.

27 (2) Whenever a court considers sentence for an offender convicted of  
28 either a misdemeanor or a felony for which mandatory or mandatory minimum  
29 imprisonment is not specifically required, the court may withhold  
30 sentence of imprisonment unless, having regard to the nature and  
31 circumstances of the crime and the history, character, and condition of

1 the offender, the court finds that imprisonment of the offender is  
2 necessary for protection of the public because:

3 (a) The risk is substantial that during the period of probation the  
4 offender will engage in additional criminal conduct;

5 (b) The offender is in need of correctional treatment that can be  
6 provided most effectively by commitment to a correctional facility; or

7 (c) A lesser sentence will depreciate the seriousness of the  
8 offender's crime or promote disrespect for law.

9 (3) The following grounds, while not controlling the discretion of  
10 the court, shall be accorded weight in favor of withholding sentence of  
11 imprisonment:

12 (a) The crime neither caused nor threatened serious harm;

13 (b) The offender did not contemplate that his or her crime would  
14 cause or threaten serious harm;

15 (c) The offender acted under strong provocation;

16 (d) Substantial grounds were present tending to excuse or justify  
17 the crime, though failing to establish a defense;

18 (e) The victim of the crime induced or facilitated commission of the  
19 crime;

20 (f) The offender has compensated or will compensate the victim of  
21 his or her crime for the damage or injury the victim sustained;

22 (g) The offender has no history of prior delinquency or criminal  
23 activity and has led a law-abiding life for a substantial period of time  
24 before the commission of the crime;

25 (h) The crime was the result of circumstances unlikely to recur;

26 (i) The character and attitudes of the offender indicate that he or  
27 she is unlikely to commit another crime;

28 (j) The offender is likely to respond affirmatively to probationary  
29 treatment; and

30 (k) Imprisonment of the offender would entail excessive hardship to  
31 his or her dependents.

1 (4) When an offender who has been convicted of a crime is not  
2 sentenced to imprisonment, the court may sentence him or her to  
3 probation.

4 ~~(5) For all sentences of imprisonment for Class III, IIIA, or IV~~  
5 ~~felonies, other than those imposed consecutively or concurrently with a~~  
6 ~~sentence to imprisonment for a Class I, IA, IB, IC, ID, II, or IIA~~  
7 ~~felony, the court shall impose a determinate sentence within the~~  
8 ~~applicable range in section 28-105, including a period of post-release~~  
9 ~~supervision.~~

10 Sec. 18. Section 29-2262, Revised Statutes Supplement, 2015, is  
11 amended to read:

12 29-2262 (1) When a court sentences an offender to probation, it  
13 shall attach such reasonable conditions as it deems necessary or likely  
14 to insure that the offender will lead a law-abiding life. No offender  
15 shall be sentenced to probation if he or she is deemed to be a habitual  
16 criminal pursuant to section 29-2221.

17 (2) The court may, as a condition of a sentence of probation,  
18 require the offender:

19 (a) To refrain from unlawful conduct;

20 (b) ~~To~~ For misdemeanors, to be confined periodically in the county  
21 jail or to return to custody after specified hours but not to exceed the  
22 lesser of ninety days or the maximum jail term provided by law for the  
23 offense;

24 (c) To meet his or her family responsibilities;

25 (d) To devote himself or herself to a specific employment or  
26 occupation;

27 (e) To undergo medical or psychiatric treatment and to enter and  
28 remain in a specified institution for such purpose;

29 (f) To pursue a prescribed secular course of study or vocational  
30 training;

31 (g) To attend or reside in a facility established for the

1 instruction, recreation, or residence of persons on probation;

2 (h) To refrain from frequenting unlawful or disreputable places or  
3 consorting with disreputable persons;

4 (i) To possess no firearm or other dangerous weapon if convicted of  
5 a felony, or if convicted of any other offense, to possess no firearm or  
6 other dangerous weapon unless granted written permission by the court;

7 (j) To remain within the jurisdiction of the court and to notify the  
8 court or the probation officer of any change in his or her address or his  
9 or her employment and to agree to waive extradition if found in another  
10 jurisdiction;

11 (k) To report as directed to the court or a probation officer and to  
12 permit the officer to visit his or her home;

13 (l) To pay a fine in one or more payments as ordered;

14 (m) To pay for tests to determine the presence of drugs or alcohol,  
15 psychological evaluations, offender assessment screens, and  
16 rehabilitative services required in the identification, evaluation, and  
17 treatment of offenders if such offender has the financial ability to pay  
18 for such services;

19 (n) To perform community service as outlined in sections 29-2277 to  
20 29-2279 under the direction of his or her probation officer;

21 (o) To be monitored by an electronic surveillance device or system  
22 and to pay the cost of such device or system if the offender has the  
23 financial ability;

24 (p) To participate in a community correctional facility or program  
25 as provided in the Community Corrections Act;

26 (q) To successfully complete an incarceration work camp program as  
27 determined by the Department of Correctional Services;

28 (r) To satisfy any other conditions reasonably related to the  
29 rehabilitation of the offender;

30 (s) To make restitution as described in sections 29-2280 and  
31 29-2281; or

1 (t) To pay for all costs imposed by the court, including court costs  
2 and the fees imposed pursuant to section 29-2262.06.

3 (3) When jail time is imposed as a condition of probation under  
4 subdivision (2)(b) of this section, the court shall advise the offender  
5 on the record the time the offender will serve in jail assuming no good  
6 time for which the offender will be eligible under section 47-502 is lost  
7 and none of the jail time imposed as a condition of probation is waived  
8 by the court.

9 (4) Jail time may only be imposed as a condition of probation under  
10 subdivision (2)(b) of this section if:

11 (a) The court would otherwise sentence the defendant to a term of  
12 incarceration instead of probation; and

13 (b) The court makes a finding on the record that, while probation is  
14 appropriate, periodic confinement in the county jail as a condition of  
15 probation is necessary because a sentence of probation without a period  
16 of confinement would depreciate the seriousness of the offender's crime  
17 or promote disrespect for law.

18 (5 3) In all cases in which the offender is guilty of violating  
19 section 28-416, a condition of probation shall be mandatory treatment and  
20 counseling as provided by such section.

21 (6 4) In all cases in which the offender is guilty of a crime  
22 covered by the DNA Identification Information Act, a condition of  
23 probation shall be the collecting of a DNA sample pursuant to the act and  
24 the paying of all costs associated with the collection of the DNA sample  
25 prior to release from probation.

26 Sec. 19. Section 29-2263, Revised Statutes Supplement, 2015, is  
27 amended to read:

28 29-2263 (1) Except as provided in subsection (2) of this section,  
29 when a court has sentenced an offender to probation, the court shall  
30 specify the term of such probation which shall be not more than five  
31 years upon conviction of a felony or second offense misdemeanor and two

1 years upon conviction of a first offense misdemeanor. The court, on  
2 application of a probation officer or of the probationer or on its own  
3 motion, may discharge a probationer at any time.

4 (2) When a court has sentenced an offender to post-release  
5 supervision, the court shall specify the term of such post-release  
6 supervision as provided in section 28-105. The court, on application of a  
7 probation officer or of the probationer or on its own motion, may  
8 discharge a probationer at any time.

9 (3) During the term of probation, the court on application of a  
10 probation officer or of the probationer, or its own motion, may modify or  
11 eliminate any of the conditions imposed on the probationer or add further  
12 conditions authorized by section 29-2262. This subsection does not  
13 preclude a probation officer from imposing administrative sanctions with  
14 the probationer's full knowledge and consent as authorized by sections 21  
15 and 22 of this act subsection (2) or (9) of section 29-2266.

16 (4) Upon completion of the term of probation, or the earlier  
17 discharge of the probationer, the probationer shall be relieved of any  
18 obligations imposed by the order of the court and shall have satisfied  
19 the sentence for his or her crime.

20 (5) Whenever a probationer disappears or leaves the jurisdiction of  
21 the court without permission, the time during which he or she keeps his  
22 or her whereabouts hidden or remains away from the jurisdiction of the  
23 court shall be added to the original term of probation.

24 Sec. 20. Section 29-2266, Revised Statutes Supplement, 2015, is  
25 amended to read:

26 29-2266 ~~(1)~~ For purposes of sections 21 to 23 of this act this  
27 section:

28 (1) Absconding supervision means a probationer has purposely avoided  
29 supervision for a period of at least two weeks and reasonable efforts by  
30 probation officers and staff to locate the probationer in person have  
31 proven unsuccessful;

1           (2 a) Administrative sanction means an additional probation  
2 requirement ~~requirements~~ imposed upon a probationer by his or her  
3 probation officer, with the full knowledge and consent of the  
4 probationer, designed to hold the probationer accountable for violations  
5 of conditions of probation, including, but not limited to:

6           (a ~~i~~) Counseling or reprimand by his or her probation officer;

7           (b ~~ii~~) Increased supervision contact requirements;

8           (c ~~iii~~) Increased substance abuse testing;

9           (d ~~iv~~) Referral for substance abuse or mental health evaluation or  
10 other specialized assessment, counseling, or treatment;

11           (e ~~v~~) Imposition of a designated curfew for a period not to exceed  
12 thirty days;

13           (f ~~vi~~) Community service for a specified number of hours pursuant to  
14 sections 29-2277 to 29-2279;

15           (g ~~vii~~) Travel restrictions to stay within his or her county of  
16 residence or employment unless otherwise permitted by the supervising  
17 probation officer; and

18           (h ~~viii~~) Restructuring court-imposed financial obligations to  
19 mitigate their effect on the probationer;

20           (3) Custodial sanction means an additional probation requirement,  
21 imposed upon a probationer by his or her probation officer or the court,  
22 designed to hold the probationer accountable for violations of conditions  
23 of probation. A custodial sanction of up to thirty days in jail shall be  
24 designated as the most severe response to a violation and a custodial  
25 sanction of up to three days in jail shall be designated as the second  
26 most severe response;

27           (4)(a) ~~(b)~~ Noncriminal violation means a probationer's activities or  
28 behaviors which create the opportunity for re-offending or diminish the  
29 effectiveness of probation supervision resulting in a violation of an  
30 original condition of probation, including:

31           (i) Moving traffic violations;

- 1 (ii) Failure to report to his or her probation officer;
- 2 (iii) Leaving the jurisdiction of the court or leaving the state
- 3 without the permission of the court or his or her probation officer;
- 4 (iv) Failure to work regularly or attend training or school;
- 5 (v) Failure to notify his or her probation officer of change of
- 6 address or employment;
- 7 (vi) Frequenting places where controlled substances are illegally
- 8 sold, used, distributed, or administered;
- 9 (vii) Failure to perform community service as directed; and
- 10 (viii) Failure to pay fines, court costs, restitution, or any fees
- 11 imposed pursuant to section 29-2262.06 as directed; and
- 12 (b) Noncriminal violation does not include absconding supervision;

13 and

14 (5 e) Substance abuse violation means a probationer's activities or

15 behaviors associated with the use of chemical substances or related

16 treatment services resulting in a violation of an original condition of

17 probation, including:

18 (a i) Positive breath test for the consumption of alcohol if the

19 offender is required to refrain from alcohol consumption;

20 (b ii) Positive urinalysis for the illegal use of drugs;

21 (c iii) Failure to report for alcohol testing or drug testing; and

22 (d iv) Failure to appear for or complete substance abuse or mental

23 health treatment evaluations or inpatient or outpatient treatment.

24 ~~(2) Whenever a probation officer has reasonable cause to believe~~

25 ~~that a probationer sentenced for a misdemeanor has committed or is about~~

26 ~~to commit a substance abuse violation or noncriminal violation while on~~

27 ~~probation, but that the probationer will not attempt to leave the~~

28 ~~jurisdiction and will not place lives or property in danger, the~~

29 ~~probation officer shall either:~~

30 ~~(a) Impose one or more administrative sanctions with the approval of~~

31 ~~his or her chief probation officer or such chief's designee. The decision~~

1 to impose administrative sanctions in lieu of formal revocation  
2 proceedings rests with the probation officer and his or her chief  
3 probation officer or such chief's designee and shall be based upon the  
4 probationer's risk level, the severity of the violation, and the  
5 probationer's response to the violation. If administrative sanctions are  
6 to be imposed, the probationer shall acknowledge in writing the nature of  
7 the violation and agree upon the administrative sanction. The probationer  
8 has the right to decline to acknowledge the violation; and if he or she  
9 declines to acknowledge the violation, the probation officer shall take  
10 action pursuant to subdivision (2)(b) of this section. A copy of the  
11 report shall be submitted to the county attorney of the county where  
12 probation was imposed; or

13 (b) Submit a written report to the sentencing court, with a copy to  
14 the county attorney of the county where probation was imposed, outlining  
15 the nature of the probation violation and request that formal revocation  
16 proceedings be instituted against the probationer.

17 (3) Whenever a probation officer has reasonable cause to believe  
18 that a probationer sentenced for a misdemeanor has violated or is about  
19 to violate a condition of probation other than a substance abuse  
20 violation or noncriminal violation and that the probationer will not  
21 attempt to leave the jurisdiction and will not place lives or property in  
22 danger, the probation officer shall submit a written report to the  
23 sentencing court, with a copy to the county attorney of the county where  
24 probation was imposed, outlining the nature of the probation violation.

25 (4) Whenever a probation officer has a reasonable cause to believe  
26 that a probationer sentenced for a misdemeanor has violated or is about  
27 to violate a condition of his or her probation and that the probationer  
28 will attempt to leave the jurisdiction or will place lives or property in  
29 danger, the probation officer shall arrest the probationer without a  
30 warrant and may call on any peace officer for assistance. Whenever a  
31 probationer is arrested, with or without a warrant, he or she shall be

1 ~~detained in a jail or other detention facility.~~

2 ~~(5) Immediately after arrest and detention pursuant to subsection~~  
3 ~~(4) of this section, the probation officer shall notify the county~~  
4 ~~attorney of the county where probation was imposed and submit a written~~  
5 ~~report of the reason for such arrest and of any violation of probation.~~  
6 ~~After prompt consideration of such written report, the county attorney~~  
7 ~~shall:~~

8 ~~(a) Order the probationer's release from confinement; or~~

9 ~~(b) File with the sentencing court a motion or information to revoke~~  
10 ~~the probation.~~

11 ~~(6) Whenever a county attorney receives a report from a probation~~  
12 ~~officer that a probationer sentenced for a misdemeanor has violated a~~  
13 ~~condition of probation, the county attorney may file a motion or~~  
14 ~~information to revoke probation.~~

15 ~~(7) Whenever a probation officer has reasonable cause to believe~~  
16 ~~that a probationer sentenced for a felony has committed or is about to~~  
17 ~~commit a violation while on probation, the probation officer shall~~  
18 ~~consider:~~

19 ~~(a) Whether the probation officer is required to arrest the~~  
20 ~~probationer pursuant to subsection (10) of this section;~~

21 ~~(b) The probationer's risk level, the severity of the violation, and~~  
22 ~~the probationer's response to the violation; and~~

23 ~~(c) Whether to impose administrative sanctions or seek custodial~~  
24 ~~sanctions or revocation pursuant to subsection (8) of this section.~~

25 ~~(8) The following sanctions may be imposed or sought by the~~  
26 ~~probation officer, with approval from his or her chief probation officer~~  
27 ~~or such chief's designee, for felony probationers:~~

28 ~~(a) One or more administrative sanctions;~~

29 ~~(b) A custodial sanction of up to three days in jail or up to thirty~~  
30 ~~days in jail, to be imposed by the court. Custodial sanctions may be~~  
31 ~~combined with one or more administrative sanctions; or~~

1           ~~(c) Formal revocation proceedings, however formal revocations may~~  
2 ~~only be instituted against the probationer for a substance abuse or~~  
3 ~~noncriminal violation if the probationer has served ninety days of~~  
4 ~~cumulative custodial sanctions during the current probation term.~~

5           ~~(9) If administrative sanctions are to be imposed by the probation~~  
6 ~~officer pursuant to subsection (8) of this section, the probationer must~~  
7 ~~acknowledge in writing the nature of the violation and agree upon the~~  
8 ~~sanction. Prior to acknowledging the violation and agreeing upon the~~  
9 ~~sanction, the probationer must be presented with a violation report and~~  
10 ~~advised of the right to a hearing before the court on the alleged~~  
11 ~~violation. The probationer has the right to decline to acknowledge the~~  
12 ~~violation and request a court hearing. If the probationer declines to~~  
13 ~~acknowledge the violation, the probation officer shall submit a written~~  
14 ~~report to the sentencing court, with a copy to the county attorney of the~~  
15 ~~county where probation was imposed, describing the alleged violation or~~  
16 ~~violations and requesting that administrative sanctions or a custodial~~  
17 ~~sanction of up to thirty days in jail be imposed.~~

18           ~~(10) Whenever a probation officer has reasonable cause to believe~~  
19 ~~that a probationer sentenced for a felony has violated or is about to~~  
20 ~~violate a condition of his or her probation and that the probationer will~~  
21 ~~attempt to leave the jurisdiction or will place lives or property in~~  
22 ~~danger, the probation officer shall arrest the probationer without a~~  
23 ~~warrant and may call on any peace officer for assistance. Whenever a~~  
24 ~~probationer is arrested, with or without a warrant, he or she shall be~~  
25 ~~detained in a jail or other detention facility. The probation officer~~  
26 ~~shall notify the county attorney of the county where probation was~~  
27 ~~imposed and submit a written report of the reason for such arrest and of~~  
28 ~~any violation of probation. After prompt consideration of such written~~  
29 ~~report, the county attorney shall:~~

30           ~~(a) Order the probationer's release from confinement; or~~

31           ~~(b) File with the sentencing court a motion or information to impose~~

1 ~~administrative or custodial sanctions, or both, or revoke the probation.~~

2 ~~(11) The administrator shall adopt and promulgate rules and~~  
3 ~~regulations at the direction of the Supreme Court to ensure prompt court~~  
4 ~~review of requests for the imposition of custodial sanctions.~~

5 ~~(12) The administrator shall adopt and promulgate rules and~~  
6 ~~regulations to carry out this section.~~

7 Sec. 21. (1) Whenever a probation officer has reasonable cause to  
8 believe that a probationer sentenced for a misdemeanor has committed or  
9 is about to commit a violation of a condition of probation, the probation  
10 officer shall either:

11 (a) Impose one or more administrative sanctions with the approval of  
12 his or her chief probation officer or such chief's designee. The decision  
13 to impose an administrative sanction in lieu of formal revocation  
14 proceedings rests with the probation officer and his or her chief  
15 probation officer or such chief's designee and shall be based upon the  
16 probationer's risk level, the severity of the violation, and the  
17 probationer's response to the violation. If an administrative sanction is  
18 to be imposed, the probationer shall acknowledge in writing the nature of  
19 the violation and agree upon the administrative sanction. The probationer  
20 has the right to decline to acknowledge the violation; and if he or she  
21 declines to acknowledge the violation, the probation officer shall take  
22 action pursuant to subdivision (2)(b) of this section. The probation  
23 officer shall submit a written report to the county attorney of the  
24 county where probation was imposed, outlining the nature of the probation  
25 violation and the sanction imposed; or

26 (b) Submit a written report to the sentencing court, with a copy to  
27 the county attorney of the county where probation was imposed, outlining  
28 the nature of the probation violation and request that formal revocation  
29 proceedings be initiated against the probationer in accordance with  
30 sections 29-2267 and 29-2268.

31 (2) Whenever a probation officer has reasonable cause to believe

1 that a probationer sentenced for a misdemeanor has violated or is about  
2 to violate a condition of his or her probation and that the probationer  
3 will attempt to leave the jurisdiction or will place lives or property in  
4 danger, the probation officer shall arrest the probationer without a  
5 warrant and may call on any peace officer for assistance. Whenever a  
6 probationer is arrested, with or without a warrant, he or she shall be  
7 detained in a jail or other detention facility.

8 (3) Immediately after arrest and detention pursuant to subsection  
9 (1) of this section, the probation officer shall notify the county  
10 attorney of the county where probation was imposed and submit a written  
11 report of the reason for such arrest and of any violation of probation.  
12 After prompt consideration of such written report, the county attorney  
13 shall:

14 (a) Notify the probation officer and the jail or detention facility,  
15 in writing, that he or she does not intend to file a motion to revoke  
16 probation and authorize the release of the probationer from confinement;  
17 or

18 (b) File with the sentencing court a motion or information to revoke  
19 probation in accordance with sections 29-2267 and 29-2268.

20 (4) Whenever a county attorney receives a report from a probation  
21 officer that a probationer sentenced for a misdemeanor has violated a  
22 condition of probation, the county attorney may file a motion or  
23 information to revoke probation in accordance with sections 29-2267 and  
24 29-2268.

25 (5) The administrator shall adopt and promulgate rules and  
26 regulations to carry out this section.

27 Sec. 22. (1) Whenever a probation officer has reasonable cause to  
28 believe that a probationer sentenced for a felony has committed or is  
29 about to commit a violation while on probation, the probation officer  
30 shall consider:

31 (a) Whether the probation officer is required to arrest the

1 probationer pursuant to subsection (2) of this section;

2 (b) The probationer's risk level, the severity of the violation, and  
3 the probationer's response to the violation;

4 (c) Whether to impose administrative sanctions or seek custodial  
5 sanctions; or

6 (d) Whether to seek revocation of probation.

7 (2) Whenever a probation officer has reasonable cause to believe  
8 that a probationer sentenced for a felony has violated or is about to  
9 violate a condition of his or her probation and that the probationer will  
10 attempt to leave the jurisdiction or will place lives or property in  
11 danger, the probation officer shall arrest the probationer without a  
12 warrant and may call on any peace officer for assistance. Whenever a  
13 probationer is arrested, with or without a warrant, he or she shall be  
14 detained in a jail or other detention facility.

15 (3) Whenever a probation officer has reasonable cause to believe  
16 that a probationer sentenced for a felony has committed or is about to  
17 commit a violation of a condition of probation, the probation officer  
18 shall:

19 (a) Impose one or more administrative sanctions with the approval of  
20 his or her chief probation officer or such chief's designee. The decision  
21 to impose an administrative sanction rests with the probation officer and  
22 his or her chief probation officer or such chief's designee and shall be  
23 based upon the probationer's risk level, the severity of the violation,  
24 and the probationer's response to the violation. If an administrative  
25 sanction is to be imposed, the probationer shall acknowledge in writing  
26 the nature of the violation and agree upon the administrative sanction.  
27 The probationer has the right to decline to acknowledge the violation;  
28 and if he or she declines to acknowledge the violation, the probation  
29 officer shall take action pursuant to subdivision (3)(b) or (c) of this  
30 section. The probation officer shall submit a written report to the  
31 county attorney of the county where probation was imposed, outlining the

1 nature of the probation violation and the sanction imposed;

2 (b) Seek the imposition of a custodial sanction with the approval of  
3 his or her chief probation officer or such chief's designee. The decision  
4 to impose a custodial sanction shall be based upon the probationer's risk  
5 level, the severity of the violation, and the probationer's response to  
6 the violation. If a custodial sanction is to be imposed, the probationer  
7 shall acknowledge in writing the nature of the violation and agree upon  
8 the custodial sanction. The probationer has the right to decline to  
9 acknowledge the violation; and if he or she declines to acknowledge the  
10 violation, the probation officer shall take action in accordance with  
11 section 23 of this act. If the probationer acknowledges the violation and  
12 agrees upon the custodial sanction, the probation officer shall take  
13 action in accordance with subsection (1) of section 22 of this act and  
14 shall submit a written report to the county attorney of the county where  
15 probation was imposed, outlining the nature of the probation violation  
16 and the sanction to be imposed; or

17 (c) Submit a written report to the sentencing court, with a copy to  
18 the county attorney of the county where probation was imposed, outlining  
19 the nature of the probation violation and request that formal revocation  
20 proceedings be initiated against the probationer in accordance with  
21 sections 29-2267 and 29-2268.

22 (4) Immediately after arrest and detention pursuant to subsection  
23 (2) of this section, the probation officer shall notify the county  
24 attorney of the county where probation was imposed and submit a written  
25 report of the reason for such arrest and of any violation of probation.  
26 After prompt consideration of such written report, the county attorney  
27 shall:

28 (a) Notify the probation officer and the jail or detention facility,  
29 in writing, that he or she does not intend to file a motion to revoke  
30 probation, and authorize the release of the probationer from confinement;  
31 or

1           (b) File with the sentencing court a motion or information to revoke  
2 probation in accordance with sections 29-2267 and 29-2268.

3           (5) Whenever a county attorney receives a report from a probation  
4 officer that a probationer sentenced for a felony has violated a  
5 condition of probation, the county attorney may file a motion or  
6 information to revoke probation in accordance with sections 29-2267 and  
7 29-2268.

8           (6) The administrator shall adopt and promulgate rules and  
9 regulations to carry out this section, including, but not limited to,  
10 rules and regulations to ensure prompt court review of requests for the  
11 imposition of custodial sanctions.

12           Sec. 23. (1) Whenever a probation officer seeks to impose a  
13 custodial sanction and the probationer acknowledges the violation, agrees  
14 to the custodial sanction, and waives the hearing, the probation officer  
15 shall submit a written report to the sentencing court outlining the  
16 nature of the violation and the sanction to be imposed. Upon receiving  
17 the probation officer's report, the court shall issue a commitment  
18 accordingly.

19           (2) Whenever a probation officer seeks to impose a custodial  
20 sanction and the probationer declines to acknowledge the violation, the  
21 probation officer shall submit a written report to the sentencing court  
22 outlining the nature of the violation and the sanction to be imposed. The  
23 probationer shall be entitled to a prompt consideration of such charge by  
24 the sentencing court. Except as provided in subsection (1) of this  
25 section, the court shall not impose a custodial sanction on a probationer  
26 unless the violation of probation is established at a hearing by a  
27 preponderance of the evidence.

28           (3) Prior to the custodial sanction hearing, the probation officer  
29 shall provide the probationer written notice of the grounds on which the  
30 request to impose a custodial sanction is based. The probationer has the  
31 right to hear and controvert the evidence against him or her, to offer

1 evidence in his or her defense, and to be represented by counsel. The  
2 right to hear and controvert the evidence does not include a right to  
3 confront witnesses. The right to offer evidence includes, but is not  
4 limited to, the right to submit affidavits and reports for consideration  
5 by the court and the right to testify and call witnesses.

6 (4) The county attorney of the county where probation was imposed  
7 may appear at and participate in a custodial sanction hearing to offer  
8 evidence, call witnesses, and cross examine witnesses. The court shall  
9 receive the affidavit and report of the probation officer as evidence and  
10 may receive additional affidavits and reports related to the requested  
11 sanction or sanctions.

12 (5) After a custodial sanction hearing, if the court determines that  
13 a custodial sanction should be imposed, the court shall issue a  
14 commitment accordingly. The decision to impose a custodial sanction shall  
15 be based upon the probationer's risk level, the severity of the  
16 violation, and the probationer's response to the violation, in accordance  
17 with the procedure in this section, relevant court rules, and the matrix  
18 of rewards and graduated sanctions developed by the probation  
19 administrator. A custodial sanction may be combined with one or more  
20 administrative sanctions.

21 Sec. 24. Section 29-2267, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 29-2267 (1) Whenever a motion or information to revoke probation is  
24 filed, the probationer shall be entitled to a prompt consideration of  
25 such charge by the sentencing court. The court shall not revoke probation  
26 or increase the probation requirements imposed ~~thereby~~ on the  
27 probationer, except after a hearing upon proper notice where the  
28 violation of probation is established by clear and convincing evidence.

29 (2) The probationer shall have the right to receive, prior to the  
30 hearing, a copy of the information or written notice of the grounds on  
31 which the information is based. The probationer shall have the right to

1 hear and controvert the evidence against him or her, to offer evidence in  
2 his or her defense, and to be represented by counsel.

3 (3) For a probationer convicted of a felony, revocation proceedings  
4 may only be instituted in response to a substance abuse or noncriminal  
5 violation if the probationer has served ninety days of cumulative  
6 custodial sanctions during the current probation term.

7 Sec. 25. Section 29-2268, Revised Statutes Supplement, 2015, is  
8 amended to read:

9 29-2268 (1) If the court finds that the probationer, other than a  
10 probationer serving a term of post-release supervision, did violate a  
11 condition of his or her probation, it may revoke the probation and impose  
12 on the offender such new sentence as might have been imposed originally  
13 for the crime of which he or she was convicted.

14 (2) If the court finds that a probationer serving a term of post-  
15 release supervision did violate a condition of his or her post-release  
16 supervision, it may revoke the post-release supervision and impose on the  
17 offender a term of imprisonment up to the remaining period of post-  
18 release supervision. The term shall be served in an institution under the  
19 jurisdiction of the Department of Correctional Services or in county jail  
20 subject to subsection (2) of section 28-105.

21 (3) If the court finds that the probationer did violate a condition  
22 of his or her probation, but is of the opinion that revocation is not  
23 appropriate, the court may order that:

24 (a) The probationer receive a reprimand and warning;

25 (b) Probation supervision and reporting be intensified;

26 (c) The probationer be required to conform to one or more additional  
27 conditions of probation which may be imposed in accordance with the  
28 Nebraska Probation Administration Act provisions of sections 29-2246 to  
29 29-2268; and

30 (d) For a probationer convicted of a felony, impose a custodial  
31 sanction, subject to the provisions of section 23 of this act; and

1           (e d) The probationer's term of probation be extended, subject to  
2 the provisions of section 29-2263.

3           Sec. 26. Section 29-2269, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5           29-2269 Sections 29-2246 to 29-2269 and sections 21 to 23 of this  
6 act shall be known and may be cited as the Nebraska Probation  
7 Administration Act.

8           Sec. 27. Section 47-401, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10           47-401 (1) Any person sentenced to or confined in a city or county  
11 jail upon conviction for a misdemeanor, a felony, contempt, or nonpayment  
12 of any fine or forfeiture or as the result of a custodial sanction  
13 imposed in response to a parole or probation violation may be granted the  
14 privilege of leaving the jail during necessary and reasonable hours for  
15 any of the following purposes:

16           (a) Seeking employment;

17           (b) Working at his or her employment;

18           (c) Conducting such person's own business or other self-employed  
19 occupation, including housekeeping and attending to the needs of such  
20 person's family;

21           (d) Attending any high school, college, university, or other  
22 educational or vocational training program or institution;

23           (e) Serious illness or death of a member of such person's immediate  
24 family;

25           (f) Medical treatment;~~or~~

26           (g) Outpatient or inpatient treatment for alcohol or substance  
27 abuse; or -

28           (h) Engaging in other rehabilitative activities, including, but not  
29 limited to, attending a program or service provided at a reporting  
30 center.

31           (2) Any person sentenced to or confined in a city or county jail

1 upon conviction for a misdemeanor or nonpayment of any fine or forfeiture  
2 or as the result of a custodial sanction imposed in response to a parole  
3 or probation violation may be granted the privilege of serving the  
4 sentence or a part of the sentence at a house of correction, community  
5 residential center, work release center, halfway house, or other place of  
6 confinement properly designated as a jail facility in accordance with  
7 this section and sections 15-259, 47-117, 47-207, and 47-409.

8 (3) Any person sentenced to or confined in a city or county jail  
9 upon conviction for a misdemeanor, a felony, contempt, or nonpayment of  
10 any fine or forfeiture or as the result of a custodial sanction imposed  
11 in response to a parole or probation violation may be granted the  
12 privilege of serving all or part of the sentence under house arrest. For  
13 purposes of this subsection, house arrest means restricting an offender  
14 to a specific residence except for authorized periods of absence for  
15 employment or for medical, educational, or other reasons approved by the  
16 court. House arrest may be monitored by electronic surveillance devices  
17 or systems.

18 Sec. 28. Section 47-502, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 47-502 Any person sentenced to or confined in a city or county jail,  
21 including any person serving a custodial sanction imposed in response to  
22 a parole or probation violation, shall, after the fifteenth day of his or  
23 her confinement, have his or her remaining term reduced one day for each  
24 day of his or her sentence or sanction during which he or she has not  
25 committed any breach of discipline or other violation of jail  
26 regulations.

27 Sec. 29. Section 47-901, Revised Statutes Supplement, 2015, is  
28 amended to read:

29 47-901 Sections 47-901 to 47-918 and section 32 of this act shall be  
30 known and may be cited as the Office of Inspector General of the Nebraska  
31 Correctional System Act.

1           Sec. 30. Section 47-903, Revised Statutes Supplement, 2015, is  
2 amended to read:

3           47-903 For purposes of the Office of Inspector General of the  
4 Nebraska Correctional System Act, the following definitions apply:

5           (1) Administrator means a person charged with administration of a  
6 program, an office, or a division of the department or administration of  
7 a private agency;

8           (2) Department means the Department of Correctional Services;

9           (3) Director means the Director of Correctional Services;

10           (4) Inspector General means the Inspector General of the Nebraska  
11 Correctional System appointed under section 47-904;

12           (5) Malfeasance means a wrongful act that the actor has no legal  
13 right to do or any wrongful conduct that affects, interrupts, or  
14 interferes with performance of an official duty;

15           (6) Management means supervision of subordinate employees;

16           (7) Misfeasance means the improper performance of some act that a  
17 person may lawfully do;

18           (8) Obstruction means hindering an investigation, preventing an  
19 investigation from progressing, stopping or delaying the progress of an  
20 investigation, or making the progress of an investigation difficult or  
21 slow;

22           (9) Office means the office of Inspector General of the Nebraska  
23 Correctional System and includes the Inspector General and other  
24 employees of the office;

25           (10) Office of Parole Administration means the office created  
26 pursuant to section 83-1,100;

27           (11) ~~(10)~~ Private agency means an entity that contracts with the  
28 department or contracts to provide services to another entity that  
29 contracts with the department; and

30           (12) ~~(11)~~ Record means any recording in written, audio, electronic  
31 transmission, or computer storage form, including, but not limited to, a

1 draft, memorandum, note, report, computer printout, notation, or message,  
2 and includes, but is not limited to, medical records, mental health  
3 records, case files, clinical records, financial records, and  
4 administrative records.

5 Sec. 31. Section 47-908, Revised Statutes Supplement, 2015, is  
6 amended to read:

7 47-908 All employees of the department, all employees of the Office  
8 of Parole Administration, and all owners, operators, managers,  
9 supervisors, and employees of private agencies shall cooperate with the  
10 office. Cooperation includes, but is not limited to, the following:

11 (1) Provision of full access to and production of records and  
12 information. Providing access to and producing records and information  
13 for the office is not a violation of confidentiality provisions under any  
14 statute, rule, or regulation if done in good faith for purposes of an  
15 investigation under the Office of Inspector General of the Nebraska  
16 Correctional System Act;

17 (2) Fair and honest disclosure of records and information reasonably  
18 requested by the office in the course of an investigation under the act;

19 (3) Encouraging employees to fully comply with reasonable requests  
20 of the office in the course of an investigation under the act;

21 (4) Prohibition of retaliation by owners, operators, or managers  
22 against employees for providing records or information or filing or  
23 otherwise making a complaint to the office;

24 (5) Not requiring employees to gain supervisory approval prior to  
25 filing a complaint with or providing records or information to the  
26 office;

27 (6) Provision of complete and truthful answers to questions posed by  
28 the office in the course of an investigation; and

29 (7) Not willfully interfering with or obstructing the investigation.

30 Sec. 32. The Office of Parole Administration shall provide the  
31 Public Counsel and the Inspector General with direct computer access to

1 all computerized records, reports, and documents maintained by the office  
2 in connection with administration of the Nebraska parole system, except  
3 that access for the Public Counsel and the Inspector General to a  
4 parolee's medical or mental health records shall be subject to the  
5 parolee's consent.

6 Sec. 33. Section 60-6,197.03, Revised Statutes Supplement, 2015, is  
7 amended to read:

8 60-6,197.03 Any person convicted of a violation of section 60-6,196  
9 or 60-6,197 shall be punished as follows:

10 (1) Except as provided in subdivision (2) of this section, if such  
11 person has not had a prior conviction, such person shall be guilty of a  
12 Class W misdemeanor, and the court shall, as part of the judgment of  
13 conviction, order that the operator's license of such person be revoked  
14 for a period of six months from the date ordered by the court. The  
15 revocation order shall require that the person apply for an ignition  
16 interlock permit pursuant to section 60-6,211.05 for the revocation  
17 period and have an ignition interlock device installed on any motor  
18 vehicle he or she operates during the revocation period. Such revocation  
19 shall be administered upon sentencing, upon final judgment of any appeal  
20 or review, or upon the date that any probation is revoked.

21 If the court places such person on probation or suspends the  
22 sentence for any reason, the court shall, as one of the conditions of  
23 probation or sentence suspension, order that the operator's license of  
24 such person be revoked for a period of sixty days from the date ordered  
25 by the court. The court shall order that during the period of revocation  
26 the person apply for an ignition interlock permit pursuant to section  
27 60-6,211.05. Such order of probation or sentence suspension shall also  
28 include, as one of its conditions, the payment of a five-hundred-dollar  
29 fine;

30 (2) If such person has not had a prior conviction and, as part of  
31 the current violation, had a concentration of fifteen-hundredths of one

1 gram or more by weight of alcohol per one hundred milliliters of his or  
2 her blood or fifteen-hundredths of one gram or more by weight of alcohol  
3 per two hundred ten liters of his or her breath, such person shall be  
4 guilty of a Class W misdemeanor, and the court shall, as part of the  
5 judgment of conviction, revoke the operator's license of such person for  
6 a period of one year from the date ordered by the court. The revocation  
7 order shall require that the person apply for an ignition interlock  
8 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the  
9 revocation period and have an ignition interlock device installed on any  
10 motor vehicle he or she operates during the revocation period. Such  
11 revocation shall be administered upon sentencing, upon final judgment of  
12 any appeal or review, or upon the date that any probation is revoked.

13 If the court places such person on probation or suspends the  
14 sentence for any reason, the court shall, as one of the conditions of  
15 probation or sentence suspension, order that the operator's license of  
16 such person be revoked for a period of one year from the date ordered by  
17 the court. The revocation order shall require that the person apply for  
18 an ignition interlock permit pursuant to subdivision (1)(b) of section  
19 60-6,197.01 for the revocation period and have an ignition interlock  
20 device installed on any motor vehicle he or she operates during the  
21 revocation period. Such revocation shall be administered upon sentencing,  
22 upon final judgment of any appeal or review, or upon the date that any  
23 probation is revoked. Such order of probation or sentence suspension  
24 shall also include, as conditions, the payment of a five-hundred-dollar  
25 fine and either confinement in the city or county jail for two days or  
26 the imposition of not less than one hundred twenty hours of community  
27 service;

28 (3) Except as provided in subdivision (5) of this section, if such  
29 person has had one prior conviction, such person shall be guilty of a  
30 Class W misdemeanor, and the court shall, as part of the judgment of  
31 conviction, order that the operator's license of such person be revoked

1 for a period of eighteen months from the date ordered by the court. The  
2 revocation order shall require that the person not drive for a period of  
3 forty-five days and that the person apply for an ignition interlock  
4 permit and have an ignition interlock device installed on any motor  
5 vehicle he or she owns or operates for at least one year. The court shall  
6 also issue an order pursuant to subdivision (1)(b) of section  
7 60-6,197.01. If the person has an ignition interlock device installed as  
8 required under this subdivision, the person shall not be eligible for  
9 reinstatement of his or her operator's license until he or she has had  
10 the ignition interlock device installed for the period ordered by the  
11 court. The revocation shall be administered upon sentencing, upon final  
12 judgment of any appeal or review, or upon the date that any probation is  
13 revoked.

14 If the court places such person on probation or suspends the  
15 sentence for any reason, the court shall, as one of the conditions of  
16 probation or sentence suspension, order that the operator's license of  
17 such person be revoked for a period of eighteen months from the date  
18 ordered by the court. The revocation order shall require that the person  
19 not drive for a period of forty-five days and that the person apply for  
20 an ignition interlock permit and installation of an ignition interlock  
21 device for not less than a one-year period pursuant to section  
22 60-6,211.05. The court shall also issue an order pursuant to subdivision  
23 (1)(b) of section 60-6,197.01. If the person has an ignition interlock  
24 device installed as required under this subdivision, the person shall not  
25 be eligible for reinstatement of his or her operator's license until he  
26 or she has had the ignition interlock device installed for the period  
27 ordered by the court. The order of probation or sentence suspension shall  
28 also include, as conditions, the payment of a five-hundred-dollar fine  
29 and either confinement in the city or county jail for ten days or the  
30 imposition of not less than two hundred forty hours of community service;

31 (4) Except as provided in subdivision (6) of this section, if such

1 person has had two prior convictions, such person shall be guilty of a  
2 Class W misdemeanor, and the court shall, as part of the judgment of  
3 conviction, order that the operator's license of such person be revoked  
4 for a period of fifteen years from the date ordered by the court and  
5 shall issue an order pursuant to section 60-6,197.01. Such orders shall  
6 be administered upon sentencing, upon final judgment of any appeal or  
7 review, or upon the date that any probation is revoked.

8 If the court places such person on probation or suspends the  
9 sentence for any reason, the court shall, as one of the conditions of  
10 probation or sentence suspension, order that the operator's license of  
11 such person be revoked for a period of at least two years but not more  
12 than fifteen years from the date ordered by the court. The revocation  
13 order shall require that the person not drive for a period of forty-five  
14 days, after which the court may order that during the period of  
15 revocation the person apply for an ignition interlock permit and  
16 installation of an ignition interlock device issued pursuant to section  
17 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of  
18 section 60-6,197.01. Such order of probation or sentence suspension shall  
19 also include, as conditions, the payment of a one-thousand-dollar fine  
20 and confinement in the city or county jail for thirty days;

21 (5) If such person has had one prior conviction and, as part of the  
22 current violation, had a concentration of fifteen-hundredths of one gram  
23 or more by weight of alcohol per one hundred milliliters of his or her  
24 blood or fifteen-hundredths of one gram or more by weight of alcohol per  
25 two hundred ten liters of his or her breath or refused to submit to a  
26 test as required under section 60-6,197, such person shall be guilty of a  
27 Class I misdemeanor, and the court shall, as part of the judgment of  
28 conviction, order payment of a one-thousand-dollar fine and revoke the  
29 operator's license of such person for a period of at least eighteen  
30 months but not more than fifteen years from the date ordered by the court  
31 and shall issue an order pursuant to section 60-6,197.01. Such revocation

1 and order shall be administered upon sentencing, upon final judgment of  
2 any appeal or review, or upon the date that any probation is revoked. The  
3 court shall also sentence such person to serve at least ninety days'  
4 imprisonment in the city or county jail or an adult correctional  
5 facility.

6 If the court places such person on probation or suspends the  
7 sentence for any reason, the court shall, as one of the conditions of  
8 probation or sentence suspension, order that the operator's license of  
9 such person be revoked for a period of at least eighteen months but not  
10 more than fifteen years from the date ordered by the court. The  
11 revocation order shall require that the person not drive for a period of  
12 forty-five days and that during the period of revocation the person apply  
13 for an ignition interlock permit and installation of an ignition  
14 interlock device for not less than a one-year period issued pursuant to  
15 section 60-6,211.05. The court shall also issue an order pursuant to  
16 subdivision (1)(b) of section 60-6,197.01. If the person has an ignition  
17 interlock device installed as required under this subdivision, the person  
18 shall not be eligible for reinstatement of his or her operator's license  
19 until he or she has had the ignition interlock device installed for the  
20 period ordered by the court. The order of probation or sentence  
21 suspension shall also include, as conditions, the payment of a one-  
22 thousand-dollar fine and confinement in the city or county jail for  
23 thirty days;

24 (6) If such person has had two prior convictions and, as part of the  
25 current violation, had a concentration of fifteen-hundredths of one gram  
26 or more by weight of alcohol per one hundred milliliters of his or her  
27 blood or fifteen-hundredths of one gram or more by weight of alcohol per  
28 two hundred ten liters of his or her breath or refused to submit to a  
29 test as required under section 60-6,197, such person shall be guilty of a  
30 Class IIIA felony, and the court shall, as part of the judgment of  
31 conviction, revoke the operator's license of such person for a period of

1 fifteen years from the date ordered by the court and shall issue an order  
2 pursuant to section 60-6,197.01. Such revocation and order shall be  
3 administered upon sentencing, upon final judgment of any appeal or  
4 review, or upon the date that any probation is revoked. The court shall  
5 also sentence such person to serve at least one hundred eighty days'  
6 imprisonment in the city or county jail or an adult correctional  
7 facility.

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

23 (7) Except as provided in subdivision (8) of this section, if such  
24 person has had three prior convictions, such person shall be guilty of a  
25 Class IIIA felony, and the court shall, as part of the judgment of  
26 conviction, order that the operator's license of such person be revoked  
27 for a period of fifteen years from the date ordered by the court and  
28 shall issue an order pursuant to section 60-6,197.01. Such orders shall  
29 be administered upon sentencing, upon final judgment of any appeal or  
30 review, or upon the date that any probation is revoked. The court shall  
31 also sentence such person to serve at least one hundred eighty days'

1 imprisonment in the city or county jail or an adult correctional  
2 facility.

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

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

31 If the court places such person on probation or suspends the

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

16 (9) Except as provided in subdivision (10) of this section, if such  
17 person has had four or more prior convictions, such person shall be  
18 guilty of a Class IIA felony with a minimum sentence of two years'  
19 imprisonment, and the court shall, as part of the judgment of conviction,  
20 order that the operator's license of such person be revoked for a period  
21 of fifteen years from the date ordered by the court and shall issue an  
22 order pursuant to section 60-6,197.01. Such orders shall be administered  
23 upon sentencing, upon final judgment of any appeal or review, or upon the  
24 date that any probation is revoked.

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

1 ignition interlock permit and installation of an ignition interlock  
2 device issued pursuant to section 60-6,211.05 and shall issue an order  
3 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of  
4 probation or sentence suspension shall also include, as conditions, the  
5 payment of a two-thousand-dollar fine, confinement in the city or county  
6 jail for one hundred eighty days, and, upon release from such  
7 confinement, the use of a continuous alcohol monitoring device and  
8 abstention from alcohol use at all times for no less than one hundred  
9 eighty days; and

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

23 If the court places such person on probation or suspends the  
24 sentence for any reason, the court shall, as one of the conditions of  
25 probation or sentence suspension, order that the operator's license of  
26 such person be revoked for a period of fifteen years from the date  
27 ordered by the court. The revocation order shall require that the person  
28 not drive for a period of forty-five days, after which the court may  
29 order that during the period of revocation the person apply for an  
30 ignition interlock permit and installation of an ignition interlock  
31 device issued pursuant to section 60-6,211.05 and shall issue an order

1 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of  
2 probation or sentence suspension shall also include, as conditions, the  
3 payment of a two-thousand-dollar fine, confinement in the city or county  
4 jail for one hundred eighty days, and, upon release from such  
5 confinement, the use of a continuous alcohol monitoring device and  
6 abstention from alcohol use at all times for no less than one hundred  
7 eighty days.

8 Sec. 34. Section 71-2482, Revised Statutes Supplement, 2015, is  
9 amended to read:

10 71-2482 Any person violating any of the provisions of section  
11 71-2478, 71-2480, or 71-2481 is guilty of a Class III misdemeanor. Any  
12 person, for a second or subsequent violation of any of the provisions of  
13 section 71-2480 or 71-2481, is guilty of a Class II misdemeanor.

14 Sec. 35. Section 83-187, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 83-187 (1) When a person committed to the department is released  
17 from a facility,~~either on parole,~~ on post-release supervision, or upon  
18 final discharge, the person shall be returned any personal possessions  
19 taken upon confinement, and the chief executive officer of the facility  
20 shall furnish the person with a written notice as required in section  
21 83-1,118, clothing appropriate for the season of the year, a  
22 transportation ticket to the place where he or she will reside, if within  
23 the continental limits of the United States or if not, the state may  
24 purchase transportation to the nearest United States border en route to  
25 such residence, and such sum of money as may be prescribed by the  
26 regulations of the department to enable the person to meet his or her  
27 immediate needs. If at the time of release the person is too ill or  
28 feeble or otherwise unable to use public means of transportation, the  
29 chief executive officer may make special arrangements for transportation  
30 to the place where the person will reside.

31 (2) At the time of release, the person shall also be paid his or her

1 earnings and any accrued interest thereon set aside in the wage fund.  
2 Such earnings and interest shall be paid either in a lump sum or  
3 otherwise as determined by the chief executive officer to be in the best  
4 interest of the person. No less than one-third of such fund shall be paid  
5 upon release, and the entire fund shall be paid within six months of the  
6 person's release.

7 (3) The department shall send a copy of the release or discharge to  
8 the court which committed the person and also to the sheriff of the  
9 county in which the court is located and, when such county contains a  
10 city of the metropolitan class, to the police department of such city.

11 Sec. 36. Section 83-1,100.02, Revised Statutes Supplement, 2015, is  
12 amended to read:

13 83-1,100.02 (1) For purposes of this section:

14 (a) Levels of supervision means the determination of the following  
15 for each person on parole:

16 (i) Supervision contact requirements, including the frequency,  
17 location, methods, and nature of contact with the parole officer;

18 (ii) Substance abuse testing requirements and frequency;

19 (iii) Contact restrictions;

20 (iv) Curfew restrictions;

21 (v) Access to available programs and treatment, with priority given  
22 to moderate-risk and high-risk parolees; and

23 (vi) Severity of graduated responses to violations of supervision  
24 conditions; and

25 (b) Risk and needs assessment means an actuarial tool that has been  
26 validated in Nebraska to determine the likelihood of the parolee engaging  
27 in future criminal behavior.

28 (2) The Office of Parole Administration shall establish an evidence-  
29 based process that utilizes a risk and needs assessment to measure  
30 criminal risk factors and specific individual needs.

31 (3) The risk and needs assessment shall be performed at the

1 commencement of the parole term and every six months thereafter by office  
2 staff trained and certified in the use of the risk and needs assessment.

3 (4) The office shall test the validity of the risk and needs  
4 assessment at least every five years.

5 (5) Based on the results of the risk and needs assessment, the  
6 office shall determine levels of supervision to target parolee criminal  
7 risk and need factors by focusing sanction, program, and treatment  
8 resources on moderate-risk and high-risk parolees.

9 (6) The office shall provide training to its parole officers on use  
10 of a risk and needs assessment, risk-based supervision strategies,  
11 relationship skills, cognitive behavioral interventions, community-based  
12 resources, criminal risk factors, targeting criminal risk factors to  
13 reduce recidivism, and proper use of a matrix of administrative  
14 sanctions, custodial sanctions, and rewards developed pursuant to section  
15 83-1,119. All parole officers employed on August 30, 2015, shall complete  
16 the training requirements set forth in this subsection on or before  
17 January 1, 2017 ~~July 1, 2016~~. Each parole officer hired on or after  
18 August 30, 2015, shall complete the training requirements set forth in  
19 this subsection within one year after his or her hire date.

20 (7) The office shall provide training for chief parole officers to  
21 become trainers so as to ensure long-term and self-sufficient training  
22 capacity in the state.

23 Sec. 37. Section 83-1,101, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 83-1,101 ~~The Director of Correctional Services with the consent of~~  
26 ~~the~~ Board of Parole shall appoint a Parole Administrator. The Parole  
27 Administrator ~~, who~~ shall be a person with appropriate experience and  
28 training, including, but not limited to, familiarity with the  
29 implementation of evidence-based processes for utilizing risk and needs  
30 assessments to measure criminal risk factors and specific individual  
31 needs in the field of corrections, or with training in relevant

1 ~~disciplines at a recognized university.~~

2       Sec. 38. Section 83-1,119, Revised Statutes Supplement, 2015, is  
3 amended to read:

4       83-1,119 (1) For purposes of this section:

5       (a) Absconding parole supervision means a parolee has purposely  
6 avoided supervision for a period of at least two weeks and reasonable  
7 efforts by a parole officer and staff to locate the parolee in person  
8 have proven unsuccessful;

9       **(b a)** Administrative sanction means additional parole requirements  
10 imposed upon a parolee by his or her parole officer, with the full  
11 knowledge and consent of the parolee, designed to hold the parolee  
12 accountable for substance abuse or technical violations of conditions of  
13 parole, including, but not limited to:

14       (i) Counseling or reprimand by the adult parole administration of  
15 the department;

16       (ii) Increased supervision contact requirements;

17       (iii) Increased substance abuse testing;

18       (iv) Referral for substance abuse or mental health evaluation or  
19 other specialized assessment, counseling, or treatment;

20       (v) Imposition of a designated curfew for a period to be determined  
21 by the adult parole administration; and

22       (vi) Travel restrictions to stay within his or her county of  
23 residence or employment unless otherwise permitted by the adult parole  
24 administration;

25       **(c b)** Contract facility means a county jail that contracts with the  
26 department to house parolees or other offenders under the jurisdiction of  
27 the department;

28       **(d e)** Substance abuse violation means a parolee's activities or  
29 behaviors associated with the use of chemical substances or related  
30 treatment services resulting in a violation of an original condition of  
31 parole, including:

1 (i) Positive breath test for the consumption of alcohol if the  
2 parolee is required to refrain from alcohol consumption;

3 (ii) Positive urinalysis for the illegal use of drugs;

4 (iii) Failure to report for alcohol testing or drug testing; and

5 (iv) Failure to appear for or complete substance abuse or mental  
6 health treatment evaluations or inpatient or outpatient treatment; and

7 (e) Technical violation means a parolee's activities or behaviors  
8 which create the opportunity for re-offending or diminish the  
9 effectiveness of parole supervision resulting in a violation of an  
10 original condition of parole and includes ~~, including, but not limited~~  
11 ~~to:~~

12 (i) Moving traffic violations;

13 (ii) Failure to report to his or her parole officer;

14 (iii) Leaving the state without the permission of the Board of  
15 Parole;

16 (iv) Failure to work regularly or attend training or school;

17 (v) Failure to notify his or her parole officer of change of address  
18 or employment;

19 (vi) Frequenting places where controlled substances are illegally  
20 sold, used, distributed, or administered; and

21 (vii) Failure to pay fines, court costs, restitution, or any fees  
22 imposed pursuant to section 83-1,107.01 as directed.

23 Technical violation does not include absconding parole supervision.

24 (2) The Office of Parole Administration shall develop a matrix of  
25 rewards for compliance and positive behaviors and graduated  
26 administrative sanctions and custodial sanctions for use in responding to  
27 and deterring substance abuse violations and technical violations. A  
28 custodial sanction of thirty days in a correctional facility or a  
29 contract facility shall be designated as the most severe response to a  
30 violation in lieu of revocation.

31 (3) Whenever a parole officer has reasonable cause to believe that a

1 parolee has committed or is about to commit a substance abuse violation  
2 or technical violation while on parole, but that the parolee will not  
3 attempt to leave the jurisdiction and will not place lives or property in  
4 danger, the parole officer shall either:

5 (a) Impose one or more administrative sanctions based upon the  
6 parolee's risk level, the severity of the violation, and the parolee's  
7 response to the violation. If administrative sanctions are to be imposed,  
8 the parolee shall acknowledge in writing the nature of the violation and  
9 agree upon the administrative sanction. The parolee has the right to  
10 decline to acknowledge the violation. If he or she declines to  
11 acknowledge the violation, the parole officer shall take action pursuant  
12 to subdivision (3)(b) of this section. A copy of the report shall be  
13 submitted to the Board of Parole; or

14 (b) Submit a written report to the Board of Parole, outlining the  
15 nature of the parole violation, and request the imposition of a custodial  
16 sanction of up to thirty days in a correctional facility or a contract  
17 facility. On the basis of the report and such further investigation as  
18 the board may deem appropriate, the board shall determine whether and how  
19 the parolee violated the conditions of parole and may:

20 (i) Dismiss the charge of violation; or

21 (ii) If the board finds a violation justifying a custodial sanction,  
22 issue a warrant if necessary and impose a custodial sanction of up to  
23 thirty days in a correctional facility or a contract facility.

24 (4) Whenever a parole officer has reasonable cause to believe that a  
25 parolee has violated or is about to violate a condition of parole by a  
26 violation other than a substance abuse violation or a technical violation  
27 and the parole officer has reasonable cause to believe that the parolee  
28 will not attempt to leave the jurisdiction and will not place lives or  
29 property in danger, the parole officer shall submit a written report to  
30 the Board of Parole which may, on the basis of such report and such  
31 further investigation as it may deem appropriate:

1 (a) Dismiss the charge of violation;

2 (b) Determine whether the parolee violated the conditions of his or  
3 her parole;

4 (c) Impose a custodial sanction of up to thirty days in a  
5 correctional facility or a contract facility;

6 (d) Revoke his or her parole in accordance with the Nebraska  
7 Treatment and Corrections Act; or

8 (e) Issue a warrant for the arrest of the parolee.

9 (5) Whenever a parole officer has reasonable cause to believe that a  
10 parolee has violated or is about to violate a condition of parole and  
11 that the parolee will attempt to leave the jurisdiction or will place  
12 lives or property in danger, the parole officer shall arrest the parolee  
13 without a warrant and call on any peace officer to assist him or her in  
14 doing so.

15 (6) Whenever a parolee is arrested with or without a warrant, he or  
16 she shall be detained in a local jail or other detention facility.  
17 Immediately after such arrest and detention, the parole officer shall  
18 notify the Board of Parole and submit a written report of the reason for  
19 such arrest. A complete investigation shall be made by the parole  
20 administration and submitted to the board. After prompt consideration of  
21 such written report, the board shall order the parolee's release from  
22 detention or continued confinement to await a final decision on  
23 imposition of a custodial sanction or the revocation of parole.

24 (7) The Board of Parole shall adopt and promulgate rules and  
25 regulations necessary to carry out this section.

26 Sec. 39. Section 83-1,122, Revised Statutes Supplement, 2015, is  
27 amended to read:

28 83-1,122 (1) If the board finds that the parolee has engaged in  
29 criminal conduct, the board may order revocation of the parolee's parole.

30 (2) If the board finds that the parolee did violate a condition of  
31 parole but is of the opinion that revocation of parole is not

1 appropriate, the board may order that:

2 (a) The parolee receive a reprimand and warning;

3 (b) Parole supervision and reporting be intensified;

4 (c) Good time granted pursuant to section 83-1,108 be forfeited or  
5 withheld;

6 (d) The parolee serve a custodial sanction of up to thirty days in a  
7 correctional facility or a contract facility as defined in section  
8 83-1,119; or

9 (e) The parolee be required to conform to one or more additional  
10 conditions of parole which may be imposed in accordance with the Nebraska  
11 Treatment and Corrections Act.

12 (3) Cumulative custodial sanctions ~~of thirty days~~ in a correctional  
13 facility or a contract facility under this section and section 83-1,119  
14 shall not exceed sixty days. If a parolee has previously received sixty  
15 days of cumulative two thirty-day custodial sanctions before the current  
16 violation, the board shall either order revocation of the parolee's  
17 parole or one or more of the other sanctions described in subsection (2)  
18 of this section.

19 (4) Time spent in custodial sanctions under this section and section  
20 83-1,119 shall be credited to the parolee's sentence.

21 Sec. 40. A parolee serving a custodial sanction in a correctional  
22 facility or contract facility may be granted the privilege of leaving the  
23 facility during necessary and reasonable hours for any of the following  
24 purposes:

25 (1) Seeking employment;

26 (2) Working at his or her employment;

27 (3) Conducting such person's own business or other self-employed  
28 occupation, including housekeeping and attending to the needs of such  
29 person's family;

30 (4) Attending any high school, college, university, or other  
31 educational or vocational training program or institution;

- 1       (5) Serious illness or death of a member of such person's immediate
- 2 family;
- 3       (6) Medical treatment;
- 4       (7) Outpatient or inpatient treatment for alcohol or substance
- 5 abuse; or
- 6       (8) Engaging in other rehabilitative activities.

7       Sec. 41. Section 83-1,122.01, Revised Statutes Supplement, 2015, is  
8 amended to read:

9       83-1,122.01 (1) The board does not have jurisdiction over a person  
10 who is committed to the department in accordance with section 29-2204.02  
11 for a Class III, IIIA, or IV felony committed on or after August 30,  
12 2015, unless the person is also committed to the department in accordance  
13 with section 29-2204 for (a) a sentence of imprisonment for a Class III,  
14 IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence  
15 of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony The  
16 ~~board shall not have jurisdiction over persons who are committed to the~~  
17 ~~department in accordance with section 29-2204.02 unless the defendant is~~  
18 ~~also sentenced for an offense in accordance with section 29-2204.~~

19       (2) The board does not have jurisdiction over a person committed to  
20 the department for a misdemeanor sentence imposed consecutively or  
21 concurrently with a Class III, IIIA, or IV felony sentence for an offense  
22 committed on or after August 30, 2015, unless the person is also  
23 committed to the department in accordance with section 29-2204 for (a) a  
24 sentence of imprisonment for a Class III, IIIA, or IV felony committed  
25 prior to August 30, 2015, or (b) a sentence of imprisonment for a Class  
26 I, IA, IB, IC, ID, II, or IIA felony.

27       Sec. 42. Section 83-1,135, Revised Statutes Supplement, 2015, is  
28 amended to read:

29       83-1,135 Sections 83-170 to 83-1,135.02 and section 40 of this act  
30 shall be known and may be cited as the Nebraska Treatment and Corrections  
31 Act.

1           Sec. 43. Section 83-1,135.02, Revised Statutes Supplement, 2015, is  
2 amended to read:

3           83-1,135.02 (1) It is the intent of the Legislature that the changes  
4 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,  
5 with respect to parole eligibility apply to all committed offenders under  
6 sentence and not on parole on May 24, 2003, and to all persons sentenced  
7 on and after such date.

8           (2) It is the intent of the Legislature that the changes made to  
9 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,  
10 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,  
11 83-1,100.02, and 83-1,100.03 apply to all committed offenders under  
12 sentence, on parole, or on probation on August 30, 2015, and to all  
13 persons sentenced on and after such date.

14           (3) It is the intent of the Legislature that the changes made to  
15 sections 29-2260, 29-2262, 29-2266, 83-187, 83-1,119, and 83-1,122 by  
16 this legislative bill and sections 21, 22, and 23 of this act apply to  
17 all committed offenders under sentence, on parole, or on probation on or  
18 after the effective date of this act and to all persons sentenced on and  
19 after such date.

20           Sec. 44. Section 83-4,114, Revised Statutes Supplement, 2015, is  
21 amended to read:

22           83-4,114 (1) There shall be no corporal punishment or disciplinary  
23 restrictions on diet.

24           (2) Disciplinary restrictions on clothing, bedding, mail,  
25 visitations, use of toilets, washbowls, or scheduled showers shall be  
26 imposed only for abuse of such privilege or facility and only as  
27 authorized by written directives, guidance documents, and operational  
28 manuals.

29           (3) No person shall be placed in solitary confinement.

30           (4) The director shall issue an annual report on or before September  
31 15 to the Governor and the Clerk of the Legislature. The report to the

1 Clerk of the Legislature shall be issued electronically. For all inmates  
2 who were held in restrictive housing during the prior year, the report  
3 shall contain the race, gender, age, and length of time each inmate has  
4 continuously been held in restrictive housing. The report shall also  
5 contain:

6 (a) The number of inmates held in restrictive housing;

7 (b) The reason or reasons each inmate was held in restrictive  
8 housing;

9 (c) The number of inmates held in restrictive housing who have been  
10 diagnosed with a mental illness or behavioral disorder ~~as defined in~~  
11 ~~section 71-907~~ and the type of mental illness or behavioral disorder by  
12 inmate;

13 (d) The number of inmates who were released from restrictive housing  
14 directly to parole or into the general public and the reason for such  
15 release;

16 (e) The number of inmates who were placed in restrictive housing for  
17 his or her own safety and the underlying circumstances for each  
18 placement;

19 (f) To the extent reasonably ascertainable, comparable statistics  
20 for the nation and each of the states that border Nebraska pertaining to  
21 subdivisions (4)(a) through (e) of this section; and

22 (g) The mean and median length of time for all inmates held in  
23 restrictive housing.

24 (5)(a) There is hereby established within the department a long-term  
25 restrictive housing work group. The work group shall consist of:

26 (i) The director and all deputy directors. The director shall serve  
27 as the chairperson of the work group;

28 ~~(ii) The director of health services within the department;~~

29 ~~(ii iii)~~ (ii) The behavioral health administrator within the department;

30 ~~(iii iv)~~ (iii) Two employees of the department who currently work with  
31 inmates held in restrictive housing;

1           (iv ~~v~~) Additional department staff as designated by the director;  
2    and

3           (v ~~vi~~) Four members as follows appointed by the Governor:

4           (A) Two representatives from a nonprofit prisoners' rights advocacy  
5    group, including at least one former inmate; and

6           (B) Two mental health professionals independent from the department  
7    with particular knowledge of prisons and conditions of confinement.

8           (b) The work group shall advise the department on policies and  
9    procedures related to the proper treatment and care of offenders in long-  
10   term restrictive housing.

11          (c) The director shall convene the work group's first meeting no  
12   later than September 15, 2015, and the work group shall meet at least  
13   semiannually thereafter. The chairperson shall schedule and convene the  
14   work group's meetings.

15          (d) The director shall provide the work group with quarterly updates  
16   on the department's policies related to the work group's subject matter.

17          Sec. 45.   Original sections 27-1101, 28-605, 28-626, 29-2256,  
18   29-2267, 47-401, 47-502, 83-187, and 83-1,101, Reissue Revised Statutes  
19   of Nebraska, sections 28-115, 28-1354, 29-2258, and 29-2269, Revised  
20   Statutes Cumulative Supplement, 2014, sections 28-106, 28-116, 28-204,  
21   28-394, 28-514, 29-2204.02, 29-2252, 29-2252.01, 29-2260, 29-2262,  
22   29-2263, 29-2266, 29-2268, 47-901, 47-903, 47-908, 60-6,197.03, 71-2482,  
23   83-1,100.02, 83-1,119, 83-1,122, 83-1,122.01, 83-1,135, 83-1,135.02, and  
24   83-4,114, Revised Statutes Supplement, 2015, and section 28-105, Revised  
25   Statutes Cumulative Supplement, 2014, as amended by Laws 2015, LB605,  
26   section 6, are repealed.

27          Sec. 46. Since an emergency exists, this act takes effect when  
28   passed and approved according to law.

29          2. On page 1, strike beginning with "and" in line 2 through line 13  
30   and insert "83-187, and 83-1,101, Reissue Revised Statutes of Nebraska,  
31   sections 28-115, 28-1354, 29-2258, and 29-2269, Revised Statutes

1 Cumulative Supplement, 2014, sections 28-106, 28-116, 28-204, 28-394,  
2 28-514, 29-2204.02, 29-2252, 29-2252.01, 29-2260, 29-2262, 29-2263,  
3 29-2266, 29-2268, 47-901, 47-903, 47-908, 60-6,197.03, 71-2482,  
4 83-1,100.02, 83-1,119, 83-1,122, 83-1,122.01, 83-1,135, 83-1,135.02, and  
5 83-4,114, Revised Statutes Supplement, 2015, and section 28-105, Revised  
6 Statutes Cumulative Supplement, 2014, as amended by Laws 2015, LB605,  
7 section 6; to exempt certain proceedings from the Nebraska Evidence  
8 Rules; to change sentencing provisions; to provide and change penalties  
9 for certain offenses; to provide for applicability of certain changes; to  
10 change provisions relating to certain offenses; to change provisions  
11 relating to post-release supervision, probation, and parole; to change  
12 reporting requirements regarding probation and restrictive housing; to  
13 require cooperation by and access to information from the Office of  
14 Parole Administration; to provide a minimum sentence of imprisonment for  
15 certain offenses; to change provisions relating to the Office of  
16 Inspector General of the Nebraska Correctional System Act; to change  
17 training requirements for certain parole officers; to change appointment  
18 and qualification provisions for the Parole Administrator; to change  
19 membership of a restrictive housing work group; to harmonize provisions;  
20 to repeal the original sections; and to declare an emergency."