

## LEGISLATIVE BILL 519

Approved by the Governor May 30, 2019

Introduced by Slama, 1; Linehan, 39; Pansing Brooks, 28; Bostelman, 23.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 25-21,299, 27-404, 27-413, 28-115, 28-318, 28-322.01, 28-707, 28-710, 28-713, 29-110, 29-4003, and 86-291, Reissue Revised Statutes of Nebraska, and sections 28-101, 43-4406, and 83-4,143, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to a civil action under the Human Trafficking Victims Civil Remedy Act, evidence of sexual assault under the Nebraska Evidence Rules, and enhanced penalties for certain crimes against pregnant women; to define and redefine terms; to change provisions relating to sexual abuse of an inmate or parolee; to prohibit sexual abuse of detainees by employees and agents of law enforcement agencies; to provide penalties; to change provisions relating to child abuse; to redefine terms, change provisions relating to human trafficking and child welfare services, and provide duties for the Department of Health and Human Services under the Child Protection and Family Safety Act; to change statutes of limitations for labor and sex trafficking, labor and sex trafficking of a minor, and offenses involving visual depictions of sexually explicit conduct and sexually explicit acts; to add registrable offenses under the Sex Offender Registration Act; to require reporting regarding victims of sex and labor trafficking of a minor as prescribed; to change provisions relating to eligibility for participation in incarceration work camp and interception of communications; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 25-21,299, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,299 (1) Any trafficking victim, ~~or~~ his or her parent or legal guardian, or personal representative in the event of such victim's death, who suffered or continues to suffer personal or mental psychological injury, death, or any other damages proximately caused by as a result of such human trafficking may bring a civil action against any person who knowingly (a) engaged in human trafficking of such victim within this state or (b) aided or assisted ~~in with~~ the human trafficking of such victim within this state.

(2) A plaintiff who prevails in a civil action brought pursuant to the Human Trafficking Victims Civil Remedy Act may recover his or her actual damages proximately caused by the actions of the defendant plus any and all attorney's fees and costs reasonably associated with the civil action. ~~In addition to all other remedies available under the act, the court may also award temporary, preliminary, and permanent injunctive relief as the court deems necessary and appropriate.~~

(3) Damages recoverable pursuant to subsection (2) of this section include all damages otherwise recoverable under the law and include, but are not limited to:

(a) The physical pain and mental suffering the plaintiff has experienced and is reasonably certain to experience in the future;

(b) The reasonable value of the medical, hospital, nursing, and care and supplies reasonably needed by and actually provided to the plaintiff and reasonably certain to be needed and provided in the future;

(c) The reasonable value of transportation, housing, and child care reasonably needed and actually incurred by the plaintiff;

(d) The reasonable value of the plaintiff's labor and services the plaintiff has lost because he or she was a trafficking victim;

(e) The reasonable monetary value of the harm caused by the documentation and circulation of the human trafficking;

(f) The reasonable costs incurred by the plaintiff to relocate away from the defendant or the defendant's associates;

(g) In the event of death, damages available as in other actions for wrongful death; and

(h) The reasonable costs incurred by the plaintiff to participate in the criminal investigation or prosecution or attend criminal proceedings related to trafficking the plaintiff.

(4) In addition to all remedies available under this section, the court may enter an order of attachment pursuant to sections 25-1001 to 25-1010.

Sec. 2. Section 27-404, Reissue Revised Statutes of Nebraska, is amended to read:

27-404 (1) Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that he or she acted in conformity therewith on a particular occasion, except:

(a) Evidence of a pertinent trait of his or her character offered by an accused, or by the prosecution to rebut the same;

(b) Evidence of a pertinent trait of character of the victim of the crime offered by an accused or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a

homicide case to rebut evidence that the victim was the first aggressor. In a sexual assault case, reputation, opinion, or other evidence of past sexual behavior of the victim is governed by section 27-412; or

(c) Evidence of the character of a witness as provided in sections 27-607 to 27-609.

(2) Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

(3) When such evidence is admissible pursuant to this section, in criminal cases evidence of other crimes, wrongs, or acts of the accused may be offered in evidence by the prosecution if the prosecution proves to the court by clear and convincing evidence that the accused committed the crime, wrong, or act. Such proof shall first be made outside the presence of any jury.

(4) Regarding the admissibility in a civil or criminal action of evidence of a person's commission of another offense or offenses of sexual assault under sections 28-319 to 28-322.04 and section 8 of this act, see sections 27-413 to 27-415.

Sec. 3. Section 27-413, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 4. Section 28-101, Revised Statutes Cumulative Supplement, 2018, is amended to read:

28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and sections 8 and 12 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 5. Section 28-115, Reissue Revised Statutes of Nebraska, is amended to read:

28-115 (1) Except as provided in subsection (2) of this section, any person who commits any of the following criminal offenses against a pregnant woman shall be punished by the imposition of the next higher penalty classification than the penalty classification prescribed for the criminal offense:

- (a) Assault in the first degree, section 28-308;
- (b) Assault in the second degree, section 28-309;
- (c) Assault in the third degree, section 28-310;
- (d) Sexual assault in the first degree, section 28-319;
- (e) Sexual assault in the second or third degree, section 28-320;
- (f) Sexual assault of a child in the first degree, section 28-319.01;
- (g) Sexual assault of a child in the second or third degree, section 28-320.01;
- (h) Sexual abuse of an inmate or parolee in the first degree, section 28-322.02;
- (i) Sexual abuse of an inmate or parolee in the second degree, section 28-322.03;
- (j) Sexual abuse of a protected individual in the first or second degree, section 28-322.04;
- (k) Sexual abuse of a detainee under section 8 of this act;
- (l) ~~(k)~~ Domestic assault in the first, second, or third degree, section 28-323;
- (m) ~~(l)~~ Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree, section 28-929;
- (n) ~~(m)~~ Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree, section 28-930;
- (o) ~~(n)~~ Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree, section 28-931;
- (p) ~~(o)~~ Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle, section 28-931.01;
- (q) ~~(p)~~ Assault by a confined person, section 28-932;
- (r) ~~(q)~~ Confined person committing offenses against another person, section 28-933; and
- (s) ~~(r)~~ Proximately causing serious bodily injury while operating a motor vehicle, section 60-6,198.

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

(3) The prosecution shall allege and prove beyond a reasonable doubt that

the victim was pregnant at the time of the offense.

Sec. 6. Section 28-318, Reissue Revised Statutes of Nebraska, is amended to read:

28-318 As used in sections 28-317 to 28-322.04 and section 8 of this act, unless the context otherwise requires:

- (1) Actor means a person accused of sexual assault;
- (2) Intimate parts means the genital area, groin, inner thighs, buttocks, or breasts;
- (3) Past sexual behavior means sexual behavior other than the sexual behavior upon which the sexual assault is alleged;
- (4) Serious personal injury means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ;
- (5) Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact ~~shall~~ also means ~~mean~~ the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor. Sexual contact includes ~~shall include~~ only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Sexual contact ~~shall~~ also includes ~~include~~ the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual assault of a child under sections 28-319.01 and 28-320.01;
- (6) Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical, ~~or nonhealth, or nonlaw enforcement~~ purposes. Sexual penetration shall not require emission of semen;
- (7) Victim means the person alleging to have been sexually assaulted;
- (8) Without consent means:
  - (a)(i) The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;
  - (b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and
  - (c) A victim need not resist verbally or physically where it would be useless or futile to do so; and
- (9) Force or threat of force means (a) the use of physical force which overcomes the victim's resistance or (b) the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

Sec. 7. Section 28-322.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-322.01 (1) A person commits the offense of sexual abuse of an inmate or parolee if such person subjects an inmate or parolee to sexual penetration or sexual contact as those terms are defined in section 28-318. It is not a defense to a charge under this section that the inmate or parolee consented to such sexual penetration or sexual contact.

(2) An otherwise lawful pat-down or body cavity search by a person is not a violation of this section.

Sec. 8. (1) For purposes of this section:

- (a) Detainee means an individual who has been:
  - (i) Arrested by a person;
  - (ii) Detained by a person, regardless of whether the detainee has been arrested or charged; or
  - (iii) Placed into the custody of a person, regardless of whether the detainee has been arrested or charged;
- (b) Law enforcement agency means an agency or department of this state or of any political subdivision of this state which is responsible for the prevention and detection of crime; the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state; and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of the town marshal, an office of the county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106; and
- (c) Person means an individual:
  - (i) Who is employed by a law enforcement agency, including an individual working under contract with the agency;
  - (ii) To whom the law enforcement agency has authorized or delegated authority to make arrests, to place a detainee in detention or custody, or to otherwise exercise control over a detainee or a detainee's activities; and
  - (iii) Who is not the spouse of a detainee.
- (2) A person commits the offense of sexual abuse of a detainee if the person engages in sexual penetration or sexual contact with a detainee. It is

not a defense to a charge under this section that the detainee consented to such sexual penetration or sexual contact.

(3) An otherwise lawful pat-down or body cavity search by a person is not a violation of this section.

(4) Any person who engages in sexual penetration with a detainee is guilty of sexual abuse of a detainee in the first degree. Sexual abuse of a detainee in the first degree is a Class IIA felony.

(5) Any person who engages in sexual contact with a detainee is guilty of sexual abuse of a detainee in the second degree. Sexual abuse of a detainee in the second degree is a Class IIIA felony.

Sec. 9. Section 28-707, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(b) Cruelly confined or cruelly punished;

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

(d) Placed in a situation to be sexually exploited through sex trafficking of a minor as defined in section 28-830 or by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

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

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

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

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

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

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

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

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

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

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

Sec. 10. Section 28-710, Reissue Revised Statutes of Nebraska, is amended to read:

28-710 (1) Sections 28-710 to 28-727 shall be known and may be cited as the Child Protection and Family Safety Act.

(2) For purposes of the Child Protection and Family Safety Act:

(a) Alternative response means a comprehensive assessment of (i) child safety, (ii) the risk of future child abuse or neglect, (iii) family strengths and needs, and (iv) the provision of or referral for necessary services and support. Alternative response is an alternative to traditional response and does not include an investigation or a formal determination as to whether child abuse or neglect has occurred, and the subject of the report shall not be entered into the central registry of child protection cases maintained pursuant to section 28-718;

(b) Child abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

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

(ii) Cruelly confined or cruelly punished;

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

(iv) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(v) Placed in a situation to be sexually Sexually abused; ~~or~~

(vi) Placed in a situation to be sexually Sexually exploited through sex trafficking of a minor as defined in section 28-830 or by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or

(vii) Placed in a situation to be a trafficking victim as defined in section 28-830;

(c) Comprehensive assessment means an analysis of child safety, risk of future child abuse or neglect, and family strengths and needs on a report of child abuse or neglect. Comprehensive assessment does not include a determination as to whether the child abuse or neglect occurred but does determine the need for services and support to address the safety of children

and the risk of future abuse or neglect;

(d) Department means the Department of Health and Human Services;

(e) Investigation means fact gathering related to the current safety of a child and the risk of future child abuse or neglect that determines whether child abuse or neglect has occurred and whether child protective services are needed;

(f) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol;

(g) Out-of-home child abuse or neglect means child abuse or neglect occurring outside of a child's family home, including in day care homes, foster homes, day care centers, residential child-caring agencies as defined in section 71-1926, and other child care facilities or institutions, and the community. Out-of-home child abuse or neglect also includes cases in which the subject of the report of child abuse or neglect is not a member of the child's household, no longer has access to the child, is unknown, or cannot be identified;

(h) Review, Evaluate, and Decide Team means an internal team of staff within the department and shall include no fewer than two supervisors or administrators and two staff members knowledgeable on the policies and practices of the department, including, but not limited to, the structured review process. County attorneys, child advocacy centers, or law enforcement agency personnel may attend team reviews upon request of a party;

(i) Traditional response means an investigation by a law enforcement agency or the department pursuant to section 28-713 which requires a formal determination of whether child abuse or neglect has occurred; and

(j) Subject of the report of child abuse or neglect or subject of the report means the person or persons identified in the report as responsible for the child abuse or neglect.

Sec. 11. Section 28-713, Reissue Revised Statutes of Nebraska, is amended to read:

28-713 (1) Unless an intake is assigned to alternative response, upon the receipt of a call reporting child abuse and neglect as required by section 28-711:

(a) (1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect. The law enforcement agency may request assistance from the department during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(b) (2) In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report of child abuse or neglect to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

(c) (3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;

(d) (4) The department shall, by the next working day after receiving a report of child abuse or neglect under this subsection ~~subdivision (1)~~ of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken; and

(e) (5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected child abuse or neglect.

(2)(a) In addition to the responsibilities under subsection (1) of this section, upon the receipt of any report that a child is a reported or suspected victim of sex trafficking of a minor or labor trafficking of a minor as defined in section 28-830 and without regard to the subject of the report, the department shall:

(i) Assign the case to staff for an in-person investigation. The department shall assign a report for investigation regardless of whether or not the subject of the report is a member of the child's household or family or whether the subject is known or unknown, including cases of out-of-home child

abuse and neglect;

(ii) Conduct an in-person investigation and appropriately coordinate with law enforcement agencies, the local child advocacy center, and the child abuse and neglect investigation team under section 28-729;

(iii) Use specialized screening and assessment instruments to identify whether the child is a victim of sex trafficking of a minor or labor trafficking of a minor or at high risk of becoming such a victim and determine the needs of the child and family to prevent or respond to abuse, neglect, and exploitation. On or before December 1, 2019, the department shall develop and adopt these instruments in consultation with knowledgeable organizations and individuals, including representatives of child advocacy centers, behavioral health providers, child welfare and juvenile justice service providers, law enforcement representatives, and prosecutors; and

(iv) Provide for or refer and connect the child and family to services deemed appropriate by the department in the least restrictive environment, or provide for safe and appropriate placement, medical services, mental health care, or other needs as determined by the department based upon the department's assessment of the safety, risk, and needs of the child and family to respond to or prevent abuse, neglect, and exploitation.

(b) On or before July 1, 2020, the department shall adopt rules and regulations on the process of investigation, screening, and assessment of reports of child abuse or neglect and the criteria for opening an ongoing case upon allegations of sex trafficking of a minor or labor trafficking of a minor.

(3) When a preponderance of the evidence indicates that a child is a victim of abuse or neglect as a result of being a trafficking victim as defined in section 28-830, the department shall identify the child as a victim of trafficking, regardless of whether the subject of the report is a member of the child's household or family or whether the subject is known or unknown. The child shall be included in the department's data and reporting on the numbers of child victims of abuse, neglect, and trafficking.

Sec. 12. On or before December 1, 2019, the Department of Health and Human Services shall make publicly available information on programs and services available for referral by the department to respond to the safety and needs of children reported or suspected to be victims of sex trafficking of a minor or labor trafficking of a minor as defined in section 28-830 and their families. The department shall develop this information in consultation with representatives of child advocacy centers, behavioral health providers, child welfare and juvenile justice service providers, law enforcement representatives, and prosecutors.

Sec. 13. Section 29-110, Reissue Revised Statutes of Nebraska, is amended to read:

29-110 (1) Except as otherwise provided by law, no person shall be prosecuted for any felony unless the indictment is found by a grand jury within three years next after the offense has been done or committed or unless a complaint for the same is filed before the magistrate within three years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(2) Except as otherwise provided by law, no person shall be prosecuted, tried, or punished for any misdemeanor or other indictable offense below the grade of felony or for any fine or forfeiture under any penal statute unless the suit, information, or indictment for such offense is instituted or found within one year and six months from the time of committing the offense or incurring the fine or forfeiture or within one year for any offense the punishment of which is restricted by a fine not exceeding one hundred dollars and to imprisonment not exceeding three months.

(3) Except as otherwise provided by law, no person shall be prosecuted for kidnapping under section 28-313, false imprisonment under section 28-314 or 28-315, child abuse under section 28-707, pandering under section 28-802, debauching a minor under section 28-805, or an offense under section 28-813, ~~28-813.01, or 28-1463.03~~ when the victim is under sixteen years of age at the time of the offense (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(4) Except as otherwise provided by law, no person shall be prosecuted for a violation of subsection (2) or (3) of section 28-831 (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(5) Except as otherwise provided by law, no person shall be prosecuted for an offense under section 28-813.01 or 28-1463.05 (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday.

whichever is later, and a warrant for the arrest of the defendant has been issued.

~~(6)~~ (4) No person shall be prosecuted for a violation of the Securities Act of Nebraska under section 8-1117 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

~~(7)~~ (5) No person shall be prosecuted for criminal impersonation under section 28-638, identity theft under section 28-639, or identity fraud under section 28-640 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

~~(8)~~ (6) No person shall be prosecuted for a violation of section 68-1017 if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

~~(9)~~ (7) No person shall be prosecuted for knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult under section 28-386 unless the indictment for such offense is found by a grand jury within six years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within six years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

~~(10)~~ (8) There shall not be any time limitations for prosecution or punishment for treason, murder, arson, forgery, sexual assault in the first or second degree under section 28-319 or 28-320, sexual assault of a child in the second or third degree under section 28-320.01, incest under section 28-703, or sexual assault of a child in the first degree under section 28-319.01, labor trafficking of a minor or sex trafficking of a minor under subsection (1) of section 28-831, or an offense under section 28-1463.03; nor shall there be any time limitations for prosecution or punishment for sexual assault in the third degree under section 28-320 when the victim is under sixteen years of age at the time of the offense.

~~(11)~~ (9) The time limitations prescribed in this section shall include all inchoate offenses pursuant to the Nebraska Criminal Code and compounding a felony pursuant to section 28-301.

~~(12)~~ (10) The time limitations prescribed in this section shall not extend to any person fleeing from justice.

~~(13)~~ (11) When any suit, information, or indictment for any crime or misdemeanor is limited by any statute to be brought or exhibited within any other time than is limited by this section, then the suit, information, or indictment shall be brought or exhibited within the time limited by such statute.

~~(14)~~ (12) If any suit, information, or indictment is quashed or the proceedings set aside or reversed on writ of error, the time during the pendency of such suit, information, or indictment so quashed, set aside, or reversed shall not be reckoned within this statute so as to bar any new suit, information, or indictment for the same offense.

~~(15)~~ (13) The changes made to this section by Laws 2004, LB 943, shall apply to offenses committed prior to April 16, 2004, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

~~(16)~~ (14) The changes made to this section by Laws 2005, LB 713, shall apply to offenses committed prior to September 4, 2005, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

~~(17)~~ (15) The changes made to this section by Laws 2009, LB 97, and Laws 2006, LB 1199, shall apply to offenses committed prior to May 21, 2009, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

~~(18)~~ (16) The changes made to this section by Laws 2010, LB809, shall apply to offenses committed prior to July 15, 2010, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

~~(19)~~ (17) The changes made to this section by Laws 2016, LB934, shall apply to offenses committed prior to April 19, 2016, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(20) The changes made to this section by this legislative bill shall apply to offenses committed prior to the effective date of this act for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

Sec. 14. Section 29-4003, Reissue Revised Statutes of Nebraska, is amended to read:

29-4003 (1)(a) The Sex Offender Registration Act applies to any person who on or after January 1, 1997:

(i) Has ever pled guilty to, pled nolo contendere to, or been found guilty

of any of the following:

- (A) Kidnapping of a minor pursuant to section 28-313, except when the person is the parent of the minor and was not convicted of any other offense in this section;
- (B) False imprisonment of a minor pursuant to section 28-314 or 28-315;
- (C) Sexual assault pursuant to section 28-319 or 28-320;
- (D) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;
- (E) Sexual assault of a child in the first degree pursuant to section 28-319.01;
- (F) Sexual abuse of a vulnerable adult or senior adult pursuant to subdivision (1)(c) of section 28-386;
- (G) Incest of a minor pursuant to section 28-703;
- (H) Pandering of a minor pursuant to section 28-802;
- (I) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;
- (J) Knowingly possessing any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers pursuant to section 28-813.01;
- (K) Criminal child enticement pursuant to section 28-311;
- (L) Child enticement by means of an electronic communication device pursuant to section 28-320.02;
- (M) Debauching a minor pursuant to section 28-805; or
- (N) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;
  - (ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(a)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon;
  - (iii) Is incarcerated in a jail, a penal or correctional facility, or any other public or private institution or is under probation or parole as a result of pleading guilty to or being found guilty of a registrable offense under subdivision (1)(a)(i) or (ii) of this section prior to January 1, 1997; or
  - (iv) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.
- (b) In addition to the registrable offenses under subdivision (1)(a) of this section, the Sex Offender Registration Act applies to any person who on or after January 1, 2010:
  - (i)(A) Except as provided in subdivision (1)(b)(i)(B) of this section, has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following:
    - (I) Murder in the first degree pursuant to section 28-303;
    - (II) Murder in the second degree pursuant to section 28-304;
    - (III) Manslaughter pursuant to section 28-305;
    - (IV) Assault in the first degree pursuant to section 28-308;
    - (V) Assault in the second degree pursuant to section 28-309;
    - (VI) Assault in the third degree pursuant to section 28-310;
    - (VII) Stalking pursuant to section 28-311.03;
    - (VIII) Violation of section 28-311.08 requiring registration under the act pursuant to subsection (5) of section 28-311.08;
    - (IX) Kidnapping pursuant to section 28-313;
    - (X) False imprisonment pursuant to section 28-314 or 28-315;
    - (XI) Sexual abuse of an inmate or parolee in the first degree pursuant to section 28-322.02;
    - (XII) Sexual abuse of an inmate or parolee in the second degree pursuant to section 28-322.03;
    - (XIII) Sexual abuse of a protected individual pursuant to section 28-322.04;
    - (XIV) Incest pursuant to section 28-703;
    - (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section 28-707;
    - (XVI) Enticement by electronic communication device pursuant to section 28-833; or
    - (XVII) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this section.
  - (B) In order for the Sex Offender Registration Act to apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V), (VI), (VII), (IX), and (X) of this section, a court shall have found that evidence of sexual penetration or sexual contact, as those terms are defined in section 28-318, was present in the record, which shall include consideration of the factual basis for a plea-based conviction and information contained in the presentence report;
    - (ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(b)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a

foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon; or

(iii) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.

(c) In addition to the registrable offenses under subdivisions (1)(a) and (b) of this section, the Sex Offender Registration Act applies to any person who on or after January 1, 2020:

(i) Has ever pled guilty to, pled nolo contendere to, or been found guilty of sexual abuse of a detainee under section 8 of this act; or

(ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(c)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon.

(2) A person appealing a conviction of a registrable offense under this section shall be required to comply with the act during the appeals process.

Sec. 15. Section 43-4406, Revised Statutes Cumulative Supplement, 2018, is amended to read:

43-4406 On or before each September 15, the department shall report electronically to the Health and Human Services Committee of the Legislature the following information regarding child welfare services, with respect to children served by any lead agency or the pilot project and children served by the department:

(1) The percentage of children served and the allocation of the child welfare budget, categorized by service area and by lead agency or the pilot project, including:

(a) The percentage of children served, by service area and the corresponding budget allocation; and

(b) The percentage of children served who are wards of the state and the corresponding budget allocation;

(2) The number of siblings in out-of-home care placed with siblings as of the June 30 immediately preceding the date of the report, categorized by service area and by lead agency or the pilot project;

(3) The number of waivers granted under subsection (2) of section 71-1904;

(4) An update of the information in the report of the Children's Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003, including:

(a) The number of children receiving mental health and substance abuse services annually by the Division of Behavioral Health of the department;

(b) The number of children receiving behavioral health services annually at the Hastings Regional Center;

(c) The number of state wards receiving behavioral health services as of September 1 immediately preceding the date of the report;

(d) Funding sources for children's behavioral health services for the fiscal year ending on the immediately preceding June 30;

(e) Expenditures in the immediately preceding fiscal year by the division, categorized by category of behavioral health service and by behavioral health region; and

(f) Expenditures in the immediately preceding fiscal year from the medical assistance program and CHIP as defined in section 68-969 for mental health and substance abuse services, for all children and for wards of the state;

(5) The following information as obtained for each service area and lead agency or the pilot project:

(a) Case manager education, including college degree, major, and level of education beyond a baccalaureate degree;

(b) Average caseload per case manager;

(c) Average number of case managers per child during the preceding twelve months;

(d) Average number of case managers per child for children who have been in the child welfare system for three months, for six months, for twelve months, and for eighteen months and the consecutive yearly average for children until the age of majority or permanency is attained;

(e) Monthly case manager turnover;

(f) Monthly face-to-face contacts between each case manager and the children on his or her caseload;

(g) Monthly face-to-face contacts between each case manager and the parent or parents of the children on his or her caseload;

(h) Case documentation of monthly consecutive team meetings per quarter;

(i) Case documentation of monthly consecutive parent contacts per quarter;

(j) Case documentation of monthly consecutive child contacts with case manager per quarter;

(k) Case documentation of monthly consecutive contacts between child welfare service providers and case managers per quarter;

(l) Timeliness of court reports; and

(m) Non-court-involved children, including the number of children served, the types of services requested, the specific services provided, the cost of the services provided, and the funding source;

(6) All placements in residential treatment settings made or paid for by

the child welfare system, the Office of Juvenile Services, the State Department of Education or local education agencies, any lead agency or the pilot project through letters of agreement, and the medical assistance program, including, but not limited to:

- (a) Child variables;
- (b) Reasons for placement;
- (c) The percentage of children denied medicaid-reimbursed services and denied the level of placement requested;
- (d) With respect to each child in a residential treatment setting:
  - (i) If there was a denial of initial placement request, the length and level of each placement subsequent to denial of initial placement request and the status of each child before and immediately after, six months after, and twelve months after placement;
  - (ii) Funds expended and length of placements;
  - (iii) Number and level of placements;
  - (iv) Facility variables; and
  - (v) Identification of specific child welfare services unavailable in the child's community that, if available, could have prevented the need for residential treatment; and
- (e) Identification of child welfare services unavailable in the state that, if available, could prevent out-of-state placements;
- (7) From any lead agency or the pilot project, the percentage of its accounts payable to subcontracted child welfare service providers that are thirty days overdue, sixty days overdue, and ninety days overdue;
- (8) For any individual involved in the child welfare system receiving a service or a placement through the department or its agent for which referral is necessary, the date when such referral was made by the department or its agent and the date and the method by which the individual receiving the services was notified of such referral. To the extent the department becomes aware of the date when the individual receiving the referral began receiving such services, the department or its agent shall document such date; ~~and~~
- (9) The number of sexual abuse allegations that occurred for children being served by the Division of Children and Family Services of the Department of Health and Human Services and placed at a residential child-caring agency and the number of corresponding (a) screening decision occurrences by category, (b) open investigations by category, and (c) agency substantiations, court substantiations, and court-pending status cases; ~~and~~
- (10) Information on children who are reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor, as defined in section 28-830, including:
  - (a) The number of reports to the statewide toll-free number pursuant to section 28-711 alleging sex trafficking of a minor or labor trafficking of a minor and the number of children alleged to be victims;
  - (b) The number of substantiated victims of sex trafficking of a minor or labor trafficking of a minor, including demographic information and information on whether the children were already served by the department;
  - (c) The number of children determined to be reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor, including demographic information and information on whether the children were previously served by the department;
  - (d) The types and costs of services provided to children who are reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor; and
  - (e) The number of ongoing cases opened due to allegations of sex trafficking of a minor or labor trafficking of a minor and number of children and families served through these cases.

Sec. 16. Section 83-4,143, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

(2) When the court is of the opinion that imprisonment is appropriate, but that a brief and intensive period of regimented, structured, and disciplined programming within a secure facility may better serve the interests of society, the court may place an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of a sentence of intensive supervision probation. The court may consider such placement if the offender (a) is a male or female offender convicted of a felony offense in a district court, (b) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (c) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.04 and section 8 of this act or of any capital crime are not eligible to be placed in an incarceration work camp.

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

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

(5) The Director of Correctional Services may assign a felony offender to an incarceration work camp if he or she believes it is in the best interests of the felony offender and of society, except that offenders convicted of a crime under sections 28-319 to 28-322.04 and section 8 of this act ~~28-321~~ or of any capital crime are not eligible to be assigned to an incarceration work camp pursuant to this subsection.

Sec. 17. Section 86-291, Reissue Revised Statutes of Nebraska, is amended to read:

86-291 The Attorney General or any county attorney may make application to any district court of this state for an order authorizing or approving the interception of wire, electronic, or oral communications, and such court may grant, subject to sections 86-271 to 86-295, an order authorizing or approving the interception of wire, electronic, or oral communications by law enforcement officers having responsibility for the investigation of the offense as to which application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, robbery, bribery, extortion, dealing in narcotic or other dangerous drugs, labor trafficking or sex trafficking, labor trafficking of a minor or sex trafficking of a minor, sexual assault of a child or a vulnerable adult, visual depiction or possessing a visual depiction of sexually explicit conduct of a child, or child enticement by means of a computer, or any conspiracy to commit any such offense.

At the same time a county attorney first makes application to the district court for an initial order authorizing or approving the interception of wire, electronic, or oral communications, the county attorney shall submit the application to the Attorney General or his or her designated deputy or assistant. Within twenty-four hours of receipt by the office of the Attorney General of the application from the county attorney, the Attorney General or his or her designated deputy or assistant, as the case may be, shall state to the district court where the order is sought his or her recommendation as to whether the order should be granted. The court shall not issue the order until it has received the recommendation or until seventy-two hours after receipt of the application from the county attorney, whichever is sooner, unless the court finds exigent circumstances existing which necessitate the immediate issuance of the order. The court may issue the order and disregard the recommendation of the Attorney General or his or her designated deputy or assistant.

Sec. 18. Original sections 25-21,299, 27-404, 27-413, 28-115, 28-318, 28-322.01, 28-707, 28-710, 28-713, 29-110, 29-4003, and 86-291, Reissue Revised Statutes of Nebraska, and sections 28-101, 43-4406, and 83-4,143, Revised Statutes Cumulative Supplement, 2018, are repealed.