

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 636

Introduced by Cavanaugh, J., 9.

Read first time January 20, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal procedure; to amend sections
2 14-603, 23-1808, 24-519, 25-1023, 25-10,101, 25-1544, 25-2730,
3 29-401, 29-428, 29-506, 29-901.02, 29-901.04, 29-901.06, 29-902.01,
4 29-903, 29-904, 29-908, 29-909, 29-1605, 29-1606, 29-1811, 29-2106,
5 29-2806, 29-2809, 33-117, 42-929, 43-255, 49-801, and 60-1307,
6 Reissue Revised Statutes of Nebraska, and sections 28-311.09,
7 28-311.11, 29-422, 29-901, 29-901.01, 29-1201, and 43-253, Revised
8 Statutes Cumulative Supplement, 2020; to eliminate cash bail,
9 appearance bonds, and related provisions; to provide procedures,
10 rules, and standards for release on a defendant's own recognizance
11 or upon conditional release; to require appointment of counsel as
12 prescribed; to change provisions relating to conditional release and
13 pretrial release agencies; to eliminate and update obsolete and
14 outdated language; to provide for rules; to provide duties for the
15 Supreme Court; to define a term; to eliminate provisions relating to
16 posting of bonds under the Nebraska Rules of the Road; to harmonize
17 provisions; to repeal the original sections; and to outright repeal
18 sections 29-901.03, 29-901.05, 29-902, 29-905, 29-906, 29-907,
19 29-1105, 29-1106, 29-1107, 29-1108, 29-1109, 29-1110, and 60-686,
20 Reissue Revised Statutes of Nebraska.
21 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-603, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 14-603 The chief of police shall be the principal ministerial
4 officer of the corporation. His or her jurisdiction and that of his or
5 her officers in the service of process in all criminal cases and in cases
6 for the violation of city ordinances shall be coextensive with the
7 county. ~~The chief of police or his or her officers shall take bail in all~~
8 ~~bailable cases for the appearance before the county court of persons~~
9 ~~under arrest, but such bail shall be subject to the approval of the~~
10 ~~county court.~~

11 Sec. 2. Section 23-1808, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 23-1808 If the evidence of any witness shall implicate any person as
14 the unlawful slayer of the person over whom the said inquisition shall be
15 held, the coroner shall recognize such witness, in such sum as the
16 coroner may think proper, to be and appear at the next term of the
17 district court for the said county, there to give evidence of the matter
18 in question and not depart without leave. Such recognizance shall be
19 administered pursuant and subject to rules adopted by the Supreme Court
20 ~~in the same form, as nearly as practicable, and have the same effect as~~
21 ~~recognizances taken in county court in cases of felony.~~

22 Sec. 3. Section 24-519, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 24-519 Clerk magistrates shall have authority to perform the
25 following duties:

26 (1) To conduct any proceeding which is based on a misdemeanor,
27 traffic infraction, violation of a city or village ordinance, or traffic
28 violation or infraction under the laws of this state, except the trial of
29 defendants who plead not guilty or for whom a not guilty plea has been
30 entered. Any penalty imposed under this subdivision shall be made
31 pursuant to a schedule established by the Supreme Court. Such schedule

1 shall not provide for imprisonment;

2 (2) To conduct any proceeding for the issuance of warrants for
3 arrest or for searches and seizures when no county or district judge is
4 available in the county;

5 (3) To hear and determine any nonfelony proceeding for preliminary
6 examination to determine probable cause or the release ~~on bail~~ of persons
7 charged with ~~bailable~~ offenses as provided in sections 29-901 to 29-910
8 and sections 17 and 18 of this act;

9 (4) To determine temporary custody of a juvenile pursuant to
10 sections 43-251, 43-253, 43-254, and 43-258. An order of a clerk
11 magistrate shall be reviewed by the county judge upon the written request
12 of any party to the action within ten days of the order. Such order may
13 be affirmed, modified, or set aside by the county judge. The clerk
14 magistrate may also appoint a guardian ad litem as provided in section
15 43-272.01;

16 (5) To hear and determine noncontested proceedings relating to
17 decedents' estates, inheritance tax matters, and guardianship or
18 conservatorship, except that matters relating to the construction of
19 wills and trusts, the determination of title to real estate, and an
20 authorization of the sale or mortgaging of real estate shall not be heard
21 by a clerk magistrate; and

22 (6) To enter orders for hearings and trials, including orders for
23 garnishment and hearings on distribution of garnished funds.

24 Sec. 4. Section 25-1023, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 25-1023 The court shall make proper orders for the preservation of
27 the property during the pendency of the suit. It may direct the sale of
28 property when, because of its perishable nature or the costs of keeping
29 it, a sale will be for the benefits of the parties. In vacation, such
30 sale may be ordered by the judge of the court. The sale shall be public,
31 after such advertisement as is prescribed for the sale of like property

1 on execution, and shall be made in such manner, and upon such terms of
2 credit, with security, as the court or judge, having regard to the
3 probable duration of the action, may direct. The proceeds, if collected
4 by the sheriff, with all the money received by the sheriff ~~him~~ from
5 garnishees, shall be held and paid over by the sheriff ~~him~~ under the same
6 requirement and responsibilities of the sheriff ~~himself~~ and sureties as
7 are provided in rules adopted by the Supreme Court ~~respect to money~~
8 ~~deposited in lieu of bail.~~

9 Sec. 5. Section 25-10,101, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 25-10,101 The defendant may, within twenty-four hours from the time
12 the undertaking referred to in section 25-10,100 is given by the
13 plaintiff, give notice to the sheriff that the defendant ~~he~~ excepts to
14 the sufficiency of the sureties. If the defendant ~~he~~ fails to do so, the
15 defendant ~~he~~ must be deemed to have waived all objections to them. When
16 the defendant excepts, the sureties must justify upon notice as provided
17 in rules adopted by the Supreme Court ~~in the case of bail on arrest~~. The
18 sheriff or other officer shall be responsible for the sufficiency of the
19 sureties, until the objection to them is waived as above provided or
20 until they justify. The property shall be delivered to the plaintiff when
21 the undertaking required by section 25-1098 has been given.

22 Sec. 6. Section 25-1544, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 25-1544 In all cases where judgment is rendered in any court of
25 record within this state upon any instrument in writing in which two or
26 more persons are jointly and severally bound, and it shall be made to
27 appear to the court by parol or other testimony that one or more of said
28 persons so bound signed the same as surety ~~or bail~~ for a ~~his or their~~
29 codefendant, it shall be the duty of the clerk of said court in recording
30 the judgment thereon, to certify which of the defendants is principal
31 debtor, and which are sureties ~~or bail~~. The clerk of the court aforesaid

1 shall issue execution on such judgment, commanding the sheriff or other
2 officer to cause the money to be made of the goods and chattels, lands,
3 and tenements, of the principal debtor, but for want of sufficient
4 property of the principal debtor to make the same, that the sheriff or
5 other officer ~~he~~ cause the same to be made of the goods and chattels,
6 lands, and tenements of the surety ~~or bail~~. In all cases the property,
7 both personal and real, of the principal debtor, within the jurisdiction
8 of the court, shall be exhausted before any of the property of the surety
9 ~~or bail~~ shall be taken in execution.

10 Sec. 7. Section 25-2730, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 25-2730 (1) In cases involving a money judgment or a judgment for
13 the possession of specified personal property, no appeal shall operate as
14 a supersedeas unless the appellant within thirty days after the entry of
15 the judgment deposits with the clerk of the county court a cash bond or
16 an undertaking with at least one good and sufficient surety approved by
17 the court. In cases involving a money judgment, the bond or undertaking
18 shall be in the amount of the judgment, costs, and estimated interest
19 pending appeal and conditioned that the appellant shall pay the judgment,
20 interest, and costs adjudged against him or her on appeal. In cases
21 involving a judgment for the possession of specified personal property,
22 the bond or undertaking shall be in an amount at least double the value
23 of the property and conditioned that the appellant shall pay all costs
24 and damages adjudged against him or her on appeal and deliver the
25 property in accordance with the judgment on appeal.

26 (2) In appeals in cases of forcible entry and detainer, no appeal
27 shall operate as a supersedeas unless the party appealing shall deposit
28 an undertaking or cash bond in accordance with section 25-21,234.

29 (3) In appeals in criminal cases, the execution of judgment and
30 sentence, other than any sentence to a period of confinement, shall be
31 suspended during the appeal. Execution of a sentence to a period of

1 confinement ~~may shall~~ be suspended ~~only~~ if ~~(a)~~ the county court, in its
2 discretion, allows the defendant to be released on personal continue at
3 liberty under the prior recognizance or on conditional release in
4 accordance with sections 29-901 to 29-910 and sections 17 and 18 of this
5 act bail or ~~(b)~~ the defendant enters into a written recognizance to the
6 State of Nebraska, with surety or sureties approved by the county court
7 or with a cash bond, filed with the clerk of the county court. The
8 conditions of any condition of the recognizance or release shall include
9 ~~be~~ that the defendant will prosecute the appeal without delay and abide
10 and perform the judgment and sentence of the appellate district court.
11 Upon the filing of the notice of appeal, the county court shall consider
12 whether to release the defendant under sections 29-901 to 29-910 and
13 sections 17 and 18 of this act fix the amount of the recognizance or cash
14 bond, which shall be a reasonable amount. The cash bond shall be returned
15 upon the fulfillment of the conditions of the bond.

16 (4) In appeals in cases under the Uniform Residential Landlord and
17 Tenant Act, no appeal shall operate as a supersedeas of any writ of
18 restitution unless the defendant deposits an undertaking or cash bond in
19 accordance with section 76-1447.

20 (5) In all other cases, perfection of an appeal shall not stay the
21 proceedings.

22 (6) In any case, the district court, on motion after notice and
23 hearing and upon such terms as justice shall require, may stay any order
24 or judgment appealed from, order a renewal or additional surety of an
25 undertaking, or order the amount of the undertaking or recognizance
26 increased or decreased, except that in a criminal case the district court
27 shall consider release on personal recognizance or under conditions of
28 release in accordance with sections 29-901 to 29-910 and sections 17 and
29 18 of this act. The action of the district court shall be certified by
30 the clerk to the clerk of the county court.

31 Sec. 8. Section 28-311.09, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 28-311.09 (1) Any victim who has been harassed as defined by section
3 28-311.02 may file a petition and affidavit for a harassment protection
4 order as provided in subsection (3) of this section. Upon the filing of
5 such a petition and affidavit in support thereof, the court may issue a
6 harassment protection order without bond enjoining the respondent from
7 (a) imposing any restraint upon the person or liberty of the petitioner,
8 (b) harassing, threatening, assaulting, molesting, attacking, or
9 otherwise disturbing the peace of the petitioner, or (c) telephoning,
10 contacting, or otherwise communicating with the petitioner. The
11 harassment protection order shall specify to whom relief under this
12 section was granted.

13 (2) The petition for a harassment protection order shall state the
14 events and dates or approximate dates of acts constituting the alleged
15 harassment, including the most recent and most severe incident or
16 incidents.

17 (3) A petition for a harassment protection order shall be filed with
18 the clerk of the district court, and the proceeding may be heard by the
19 county court or the district court as provided in section 25-2740.

20 (4) A petition for a harassment protection order filed pursuant to
21 subsection (1) of this section may not be withdrawn except upon order of
22 the court. An order issued pursuant to subsection (1) of this section
23 shall specify that it is effective for a period of one year unless
24 otherwise dismissed or modified by the court. Any person, except the
25 petitioner, who knowingly violates an order issued pursuant to subsection
26 (1) of this section after service or notice as described in subdivision
27 (9)(b) of this section shall be guilty of a Class II misdemeanor.

28 (5)(a) Fees to cover costs associated with the filing of a petition
29 for a harassment protection order or the issuance or service of a
30 harassment protection order seeking only the relief provided by this
31 section shall not be charged, except that a court may assess such fees

1 and costs if the court finds, by clear and convincing evidence, that the
2 statements contained in the petition were false and that the harassment
3 protection order was sought in bad faith.

4 (b) A court may also assess costs associated with the filing of a
5 petition for a harassment protection order or the issuance or service of
6 a harassment protection order seeking only the relief provided by this
7 section against the respondent.

8 (6) The clerk of the district court shall make available standard
9 application and affidavit forms for a harassment protection order with
10 instructions for completion to be used by a petitioner. Affidavit forms
11 shall request all relevant information, including, but not limited to: A
12 description of the incidents that are the basis for the application for a
13 harassment protection order, including the most severe incident, and the
14 date or approximate date of such incidents. The clerk and his or her
15 employees shall not provide assistance in completing the forms. The State
16 Court Administrator shall adopt and promulgate the standard application
17 and affidavit forms provided for in this section as well as the standard
18 temporary ex parte and final harassment protection order forms and
19 provide a copy of such forms to all clerks of the district courts in this
20 state. These standard temporary ex parte and final harassment protection
21 order forms shall be the only such forms used in this state.

22 (7) Any order issued under subsection (1) of this section may be
23 issued ex parte without notice to the respondent if it reasonably appears
24 from the specific facts shown by affidavit of the petitioner that
25 irreparable harm, loss, or damage will result before the matter can be
26 heard on notice. If the specific facts included in the affidavit (a) do
27 not show that the petitioner will suffer irreparable harm, loss, or
28 damage or (b) show that, for any other compelling reason, an ex parte
29 order should not be issued, the court may forthwith cause notice of the
30 application to be given to the respondent stating that he or she may show
31 cause, not more than fourteen days after service, why such order should

1 not be entered. Any notice provided to the respondent shall include
2 notification that a court may treat a petition for a harassment
3 protection order as a petition for a sexual assault protection order or a
4 domestic abuse protection order if it appears from the facts that such
5 other protection order is more appropriate and that the respondent shall
6 have an opportunity to show cause as to why such protection order should
7 not be entered. If such ex parte order is issued without notice to the
8 respondent, the court shall forthwith cause notice of the petition and
9 order and a form with which to request a show-cause hearing to be given
10 the respondent stating that, upon service on the respondent, the order
11 shall remain in effect for a period of one year unless the respondent
12 shows cause why the order should not remain in effect for a period of one
13 year. If the respondent wishes to appear and show cause why the order
14 should not remain in effect for a period of one year, he or she shall
15 affix his or her current address, telephone number, and signature to the
16 form and return it to the clerk of the district court within ten business
17 days after service upon him or her. Upon receipt of a timely request for
18 a show-cause hearing, the court shall immediately schedule a show-cause
19 hearing to be held within thirty days after the receipt of the request
20 for a show-cause hearing and shall notify the petitioner and respondent
21 of the hearing date. If a petition is dismissed without a hearing, it
22 shall be dismissed without prejudice. The petition and affidavit shall be
23 deemed to have been offered into evidence at any show-cause hearing. The
24 petition and affidavit shall be admitted into evidence unless
25 specifically excluded by the court.

26 (8) A court may treat a petition for a harassment protection order
27 as a petition for a sexual assault protection order or a domestic abuse
28 protection order if it appears from the facts in the petition, affidavit,
29 and evidence presented at a show-cause hearing that such other protection
30 order is more appropriate and if:

31 (a) The court makes specific findings that such other order is more

1 appropriate; or

2 (b) The petitioner has requested the court to so treat the petition.

3 (9)(a) Upon the issuance of any temporary ex parte or final
4 harassment protection order, the clerk of the court shall forthwith
5 provide the petitioner, without charge, with two certified copies of such
6 order. The clerk of the court shall also forthwith provide the local
7 police department or local law enforcement agency and the local sheriff's
8 office, without charge, with one copy each of such order and one copy
9 each of the sheriff's return thereon. The clerk of the court shall also
10 forthwith provide a copy of the harassment protection order to the
11 sheriff's office in the county where the respondent may be personally
12 served together with instructions for service. Upon receipt of the order
13 and instructions for service, such sheriff's office shall forthwith serve
14 the harassment protection order upon the respondent and file its return
15 thereon with the clerk of the court which issued the harassment
16 protection order within fourteen days of the issuance of the harassment
17 protection order. If any harassment protection order is dismissed or
18 modified by the court, the clerk of the court shall forthwith provide the
19 local police department or local law enforcement agency and the local
20 sheriff's office, without charge, with one copy each of the order of
21 dismissal or modification.

22 (b) If the respondent is present at a hearing convened pursuant to
23 this section and the harassment protection order is not dismissed, such
24 respondent shall be deemed to have notice by the court at such hearing
25 that the harassment protection order will be granted and remain in effect
26 and further service of such notice described in this subsection shall not
27 be required for purposes of prosecution under this section.

28 (c) A temporary ex parte harassment protection order shall be
29 affirmed and deemed the final protection order and service of the
30 temporary ex parte order shall be notice of the final protection order if
31 the respondent has been properly served with the ex parte order and:

1 (i) The respondent fails to request a show-cause hearing within ten
2 business days after service upon him or her and no hearing was requested
3 by the petitioner or upon the court's own motion;

4 (ii) The respondent has been properly served with notice of any
5 hearing requested by the respondent or petitioner or upon the court's own
6 motion and the respondent fails to appear at such hearing; or

7 (iii) The respondent has been properly served with notice of any
8 hearing requested by the respondent, the petitioner, or upon the court's
9 own motion and the protection order was not dismissed at the hearing.

10 (10) A peace officer may, with or without a warrant, arrest a person
11 if (a) the officer has probable cause to believe that the person has
12 committed a violation of a harassment protection order issued pursuant to
13 this section or a violation of a valid foreign harassment protection
14 order recognized pursuant to section 28-311.10 and (b) a petitioner under
15 this section provides the peace officer with a copy of a harassment
16 protection order or the peace officer determines that such an order
17 exists after communicating with the local law enforcement agency or a
18 person protected under a valid foreign harassment protection order
19 recognized pursuant to section 28-311.10 provides the peace officer with
20 a copy of such order.

21 (11) A peace officer making an arrest pursuant to subsection (10) of
22 this section shall take such person into custody and take such person
23 before the county court or the court which issued the harassment
24 protection order within a reasonable time. At such time the court shall
25 establish the conditions of such person's release from custody, including
26 the determination of conditions of release ~~bond~~ or recognizance, as the
27 case may be. The court shall issue an order directing that such person
28 shall have no contact with the alleged victim of the harassment.

29 (12) When provided by the petitioner, the court shall make
30 confidential numeric victim identification information, including social
31 security numbers and dates of birth, available to appropriate criminal

1 justice agencies engaged in protection order enforcement efforts. Such
2 agencies shall maintain the confidentiality of this information except
3 for entry into state and federal data bases for protection order
4 enforcement.

5 Sec. 9. Section 28-311.11, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 28-311.11 (1) Any victim of a sexual assault offense may file a
8 petition and affidavit for a sexual assault protection order as provided
9 in subsection (3) of this section. Upon the filing of such a petition and
10 affidavit in support thereof, the court may issue a sexual assault
11 protection order without bond enjoining the respondent from (a) imposing
12 any restraint upon the person or liberty of the petitioner, (b)
13 harassing, threatening, assaulting, molesting, attacking, or otherwise
14 disturbing the peace of the petitioner, or (c) telephoning, contacting,
15 or otherwise communicating with the petitioner. The sexual assault
16 protection order shall specify to whom relief under this section was
17 granted.

18 (2) The petition for a sexual assault protection order shall state
19 the events and dates or approximate dates of acts constituting the sexual
20 assault offense, including the most recent and most severe incident or
21 incidents.

22 (3) A petition for a sexual assault protection order shall be filed
23 with the clerk of the district court and the proceeding may be heard by
24 the county court or the district court as provided in section 25-2740.

25 (4) A petition for a sexual assault protection order may not be
26 withdrawn except upon order of the court. A sexual assault protection
27 order shall specify that it is effective for a period of one year unless
28 renewed pursuant to subsection (12) of this section or otherwise
29 dismissed or modified by the court. Any person, except the petitioner,
30 who knowingly violates a sexual assault protection order after service or
31 notice as described in subdivision (9)(b) of this section shall be guilty

1 of a Class I misdemeanor, except that any person convicted of violating
2 such order who has a prior conviction for violating a sexual assault
3 protection order shall be guilty of a Class IV felony.

4 (5)(a) Fees to cover costs associated with the filing of a petition
5 for issuance or renewal of a sexual assault protection order or the
6 issuance or service of a sexual assault protection order seeking only the
7 relief provided by this section shall not be charged, except that a court
8 may assess such fees and costs if the court finds, by clear and
9 convincing evidence, that the statements contained in the petition were
10 false and that the sexual assault protection order was sought in bad
11 faith.

12 (b) A court may also assess costs associated with the filing of a
13 petition for issuance or renewal of a sexual assault protection order or
14 the issuance or service of a sexual assault protection order seeking only
15 the relief provided by this section against the respondent.

16 (6) The clerk of the district court shall make available standard
17 application and affidavit forms for issuance and renewal of a sexual
18 assault protection order with instructions for completion to be used by a
19 petitioner. Affidavit forms shall request all relevant information,
20 including, but not limited to: A description of the most recent incident
21 that was the basis for the application for a sexual assault protection
22 order and the date or approximate date of the incident and, if there was
23 more than one incident, the most severe incident and the date or
24 approximate date of such incident. The clerk and his or her employees
25 shall not provide assistance in completing the forms. The State Court
26 Administrator shall adopt and promulgate the standard application and
27 affidavit forms provided for in this section as well as the standard
28 temporary ex parte and final sexual assault protection order forms and
29 provide a copy of such forms to all clerks of the district courts in this
30 state. Such standard temporary ex parte and final sexual assault
31 protection order forms shall be the only forms used in this state.

1 (7) A sexual assault protection order may be issued or renewed ex
2 parte without notice to the respondent if it reasonably appears from the
3 specific facts shown by affidavit of the petitioner that irreparable
4 harm, loss, or damage will result before the matter can be heard on
5 notice. If a sexual assault protection order is not issued ex parte, the
6 court shall immediately schedule an evidentiary hearing to be held within
7 fourteen days after the filing of the petition, and the court shall cause
8 notice of the application to be given to the respondent stating that he
9 or she may show cause why such order should not be entered. Any notice
10 provided to the respondent shall include notification that a court may
11 treat a petition for a sexual assault protection order as a petition for
12 a harassment protection order or a domestic abuse protection order if it
13 appears from the facts that such other protection order is more
14 appropriate and that the respondent shall have an opportunity to show
15 cause as to why such protection order should not be entered. If such ex
16 parte order is issued or renewed without notice to the respondent, the
17 court shall forthwith cause notice of the petition and order and a form
18 with which to request a show-cause hearing to be given the respondent
19 stating that, upon service on the respondent, the order shall remain in
20 effect for a period of one year unless the respondent shows cause why the
21 order should not remain in effect for a period of one year. If the
22 respondent wishes to appear and show cause why the order should not
23 remain in effect for a period of one year, he or she shall affix his or
24 her current address, telephone number, and signature to the form and
25 return it to the clerk of the district court within ten business days
26 after service upon him or her. Upon receipt of a timely request for a
27 show-cause hearing, the court shall immediately schedule a show-cause
28 hearing to be held within thirty days after the receipt of the request
29 for a show-cause hearing and shall notify the petitioner and respondent
30 of the hearing date. The petition and affidavit shall be deemed to have
31 been offered into evidence at any show-cause hearing. The petition and

1 affidavit shall be admitted into evidence unless specifically excluded by
2 the court.

3 (8) A court may treat a petition for a sexual assault protection
4 order as a petition for a harassment protection order or a domestic abuse
5 protection order if it appears from the facts in the petition, affidavit,
6 and evidence presented at a show-cause hearing that such other protection
7 order is more appropriate and if:

8 (a) The court makes specific findings that such other order is more
9 appropriate; or

10 (b) The petitioner has requested the court to so treat the petition.

11 (9)(a) Upon the issuance or renewal of any temporary ex parte or
12 final sexual assault protection order, the clerk of the court shall
13 forthwith provide the petitioner, without charge, with two certified
14 copies of such order. The clerk of the court shall also forthwith provide
15 the local police department or local law enforcement agency and the local
16 sheriff's office, without charge, with one copy each of such order and
17 one copy each of the sheriff's return thereon. The clerk of the court
18 shall also forthwith provide a copy of the sexual assault protection
19 order to the sheriff's office in the county where the respondent may be
20 personally served together with instructions for service. Upon receipt of
21 the order and instructions for service, such sheriff's office shall
22 forthwith serve the sexual assault protection order upon the respondent
23 and file its return thereon with the clerk of the court which issued the
24 sexual assault protection order within fourteen days of the issuance of
25 the initial or renewed sexual assault protection order. If any sexual
26 assault protection order is dismissed or modified by the court, the clerk
27 of the court shall forthwith provide the local police department or local
28 law enforcement agency and the local sheriff's office, without charge,
29 with one copy each of the order of dismissal or modification.

30 (b) If the respondent is present at a hearing convened pursuant to
31 this section and the sexual assault protection order is not dismissed,

1 such respondent shall be deemed to have notice by the court at such
2 hearing that the protection order will be granted and remain in effect
3 and further service of such notice described in this subsection shall not
4 be required for purposes of prosecution under this section.

5 (c) A temporary ex parte sexual assault protection order shall be
6 affirmed and deemed the final protection order and service of the
7 temporary ex parte order shall be notice of the final protection order if
8 the respondent has been properly served with the ex parte order and:

9 (i) The respondent fails to request a show-cause hearing within ten
10 business days after service upon him or her and no hearing was requested
11 by the petitioner or upon the court's own motion;

12 (ii) The respondent has been properly served with notice of any
13 hearing requested by the respondent or petitioner or upon the court's own
14 motion and the respondent fails to appear at such hearing; or

15 (iii) The respondent has been properly served with notice of any
16 hearing requested by the respondent, the petitioner, or upon the court's
17 own motion and the protection order was not dismissed at the hearing.

18 (10) A peace officer shall, with or without a warrant, arrest a
19 person if (a) the officer has probable cause to believe that the person
20 has committed a violation of a sexual assault protection order issued
21 pursuant to this section or a violation of a valid foreign sexual assault
22 protection order recognized pursuant to section 28-311.12 and (b) a
23 petitioner under this section provides the peace officer with a copy of
24 such order or the peace officer determines that such an order exists
25 after communicating with the local law enforcement agency.

26 (11) A peace officer making an arrest pursuant to subsection (10) of
27 this section shall take such person into custody and take such person
28 before the county court or the court which issued the sexual assault
29 protection order within a reasonable time. At such time the court shall
30 establish the conditions of such person's release from custody, including
31 the determination of conditions of release ~~bond~~ or recognizance, as the

1 case may be. The court shall issue an order directing that such person
2 shall have no contact with the alleged victim of the sexual assault
3 offense.

4 (12)(a) An order issued under subsection (1) of this section may be
5 renewed annually. To request renewal of the order, the petitioner shall
6 file a petition for renewal and affidavit in support thereof at any time
7 within forty-five days prior to the date the order is set to expire,
8 including the date the order expires.

9 (b) A sexual assault protection order may be renewed on the basis of
10 the petitioner's affidavit stating that there has been no material change
11 in relevant circumstances since entry of the order and stating the reason
12 for the requested renewal if:

13 (i) The petitioner seeks no modification of the order; and

14 (ii)(A) The respondent has been properly served with notice of the
15 petition for renewal and notice of hearing and fails to appear at the
16 hearing; or

17 (B) The respondent indicates that he or she does not contest the
18 renewal.

19 (c) The petition for renewal shall state the reasons a renewal is
20 sought and shall be filed with the clerk of the district court, and the
21 proceeding thereon may be heard by the county court or the district court
22 as provided in section 25-2740. A petition for renewal will otherwise be
23 governed in accordance with the procedures set forth in subsections (4)
24 through (11) of this section. The renewed order shall specify that it is
25 effective for one year commencing on the first calendar day after
26 expiration of the previous order or on the calendar day the court grants
27 the renewal if such day is subsequent to the first calendar day after
28 expiration of the previous order.

29 (13) When provided by the petitioner, the court shall make
30 confidential numeric victim identification information, including social
31 security numbers and dates of birth, available to appropriate criminal

1 justice agencies engaged in protection order enforcement efforts. Such
2 agencies shall maintain the confidentiality of this information, except
3 for entry into state and federal data bases for protection order
4 enforcement.

5 (14) For purposes of this section, sexual assault offense means:

6 (a) Conduct amounting to sexual assault under section 28-319 or
7 28-320, sexual abuse by a school employee under section 28-316.01, sexual
8 assault of a child under section 28-319.01 or 28-320.01, or an attempt to
9 commit any of such offenses; or

10 (b) Subjecting or attempting to subject another person to sexual
11 contact or sexual penetration without his or her consent, as such terms
12 are defined in section 28-318.

13 Sec. 10. Section 29-401, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 29-401 Every sheriff, deputy sheriff, marshal, deputy marshal,
16 security guard, police officer, or peace officer as defined in
17 ~~subdivision (15) of~~ section 49-801 shall arrest and detain any person
18 found violating any law of this state or any legal ordinance of any city
19 or incorporated village until a legal warrant can be obtained, except
20 that (1) any such law enforcement officer taking a juvenile under the age
21 of eighteen years into his or her custody for any violation herein
22 defined shall proceed as set forth in sections 43-248, 43-248.01, 43-250,
23 43-251, 43-251.01, and 43-253 and (2) the court in which the juvenile is
24 to appear shall not accept a plea from the juvenile until finding that
25 the parents of the juvenile have been notified or that reasonable efforts
26 to notify such parents have been made as provided in section 43-250.

27 Sec. 11. Section 29-422, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 29-422 It is hereby declared to be the policy of the State of
30 Nebraska to issue citations in lieu of arrest or continued custody to the
31 maximum extent consistent with the effective enforcement of the law and

1 the protection of the public. In furtherance of that policy, except as
2 provided in sections 28-311.11, 42-928, and 42-929, any peace officer
3 shall be authorized to issue a citation in lieu of arrest or continued
4 custody for any offense which is a traffic infraction, any other
5 infraction, or a misdemeanor and for any violation of a city or village
6 ordinance. Such authorization shall be carried out in the manner
7 specified in sections 29-422 to 29-429 and 60-684 and 60-685 ~~to 60-686~~.

8 Sec. 12. Section 29-428, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 29-428 Nothing in sections 29-422 to 29-429 and 60-684 and 60-685 ~~to~~
11 ~~60-686~~ shall be construed to affect the rights, lawful procedures, or
12 responsibilities of law enforcement agencies or peace officers using the
13 citation procedure in lieu of the arrest or warrant procedure.

14 Sec. 13. Section 29-506, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-506 If, upon the whole examination, it appears ~~shall appear~~ that
17 no offense has been committed or that there is no probable cause for
18 holding the defendant ~~accused~~ to answer for the offense, the defendant ~~he~~
19 shall be discharged. ~~If ; but if~~ it appears ~~shall appear~~ that an offense
20 has been committed and there is probable cause to believe that the
21 defendant ~~person charged~~ has committed the offense, the defendant ~~accused~~
22 shall be committed to the jail of the county in which the offense will
23 ~~same is~~ to be tried, there to remain until the defendant ~~he~~ is discharged
24 by due course of law or ; ~~Provided, if the offense beailable, the~~
25 ~~accused may be released pursuant to sections 29-901 to 29-910 and~~
26 sections 17 and 18 of this act Chapter 29, article 9, such release to be
27 ~~conditioned on his appearance before the district court as ordered. When~~
28 ~~a defendant has executed an appearance bond and made a deposit with the~~
29 ~~court pursuant to section 29-901, and such appearance bond is continued~~
30 ~~in force for the defendant's appearance in district court, the appearance~~
31 ~~bond costs shall be retained by the examining court, and the appearance~~

1 ~~bond and the balance of the deposit shall be transmitted to the district~~
2 ~~court.~~

3 Sec. 14. Section 29-901, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 29-901 (1) Except as provided in subsection (2) of this section, any
6 defendant bailable under Article I, section 9, of the Constitution of
7 Nebraska ~~defendant~~ shall be ordered released from custody pending
8 judgment on his or her personal recognizance unless the judge determines
9 in the exercise of his or her discretion that such a release:

10 (a) Will ~~will~~ not reasonably assure the appearance of the defendant
11 as required; or

12 (b) Could ~~that such a release could~~ jeopardize the safety and
13 maintenance of evidence or the safety of victims, witnesses, or other
14 persons in the community.

15 (2)(a) This subsection applies to any bailable defendant who is
16 charged with one or more Class IIIA, IV, or V misdemeanors or violations
17 of city or county ordinances, except when:

18 (i) The victim is an intimate partner as defined in section 28-323;
19 or

20 (ii) The defendant is charged with one or more violations of section
21 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance
22 with section 60-6,196 or 60-6,197.

23 (b) Any bailable defendant described in this subsection shall be
24 ordered released from custody pending judgment on his or her personal
25 recognizance or under other conditions of release, other than payment of
26 a bond, unless:

27 (i) The defendant has previously failed to appear in the instant
28 case or any other case in the previous six months;

29 (ii) The judge determines in the exercise of his or her discretion
30 that such a release will not reasonably assure the appearance of the
31 defendant as required or that such a release could jeopardize the safety

1 and maintenance of evidence or the safety of the defendant, victims,
2 witnesses, or other persons; and

3 (iii) The defendant was arrested pursuant to a warrant.

4 (3) The court shall consider all ~~methods of bond and~~ conditions of
5 release to avoid pretrial incarceration. In no case shall payment of a
6 cash bond be required. If the judge determines that the defendant shall
7 not be released on his or her personal recognizance, the judge shall
8 ~~consider the defendant's financial ability to pay a bond and shall~~ impose
9 the least restrictive ~~onerous~~ of the following conditions that will
10 reasonably assure the defendant's appearance or that will eliminate or
11 minimize the risk of harm described in subdivision (1)(b) of this
12 section, including to others or the public at large:

13 (a) Any reasonable conditions, including those listed in subsection
14 (5) of this section, which may be supervised by the court or by a person,
15 organization, or pretrial services program approved by the county board
16 ~~Place the defendant in the custody of a designated person or organization~~
17 ~~agreeing to supervise the defendant; and~~

18 (b) Restrictions ~~Place restrictions~~ on the travel, association, or
19 place of abode of the defendant during the period of such release. ~~;~~

20 (4)(a) Except as provided in subdivisions (4)(c) and (d) of this
21 section, in determining whether to release a defendant on personal
22 recognizance or under conditions of release, the judge may take into
23 account, among other things, the nature and circumstances of the offense,
24 yet to be collected evidence, alleged victims, potential witnesses, or
25 members of the general public, the defendant's family ties, employment,
26 the length of the defendant's residence in the community, the defendant's
27 record of criminal convictions, and the defendant's record of appearances
28 at court proceedings or of flight to avoid prosecution or of failure to
29 appear at court proceedings.

30 (b) In determining whether to release a defendant on personal
31 recognizance or under conditions of release, the following shall be

1 considered in favor of granting release on recognizance or under
2 conditions of release:

3 (i) Current or recent employment;

4 (ii) Obligations to provide support for dependents or family
5 members;

6 (iii) Involvement with a community support or other prosocial agency
7 or organization, including, but not limited to: Vocational
8 rehabilitation; mental health or substance abuse treatment or counseling;
9 or court-ordered family or rehabilitative services;

10 (iv) An ongoing need for medical care; and

11 (v) Enrollment in an educational program.

12 (c) In determining whether release on personal recognizance or under
13 conditions of release will reasonably assure the appearance of the
14 defendant as required, the following shall not be considered as a basis
15 to deny release on personal recognizance or under conditions of release:

16 (i) A lack of residence;

17 (ii) Allegations of failure to appear for court which occurred more
18 than two years prior and that did not result in a conviction;

19 (iii) A history of criminal charges that are different in nature
20 than the pending charge or charges;

21 (iv) A history of criminal charges unrelated to noncompliance with
22 law enforcement; or

23 (v) The defendant's assertion of constitutional or statutory rights,
24 including the right to remain silent or the right to deny consent to a
25 search or seizure.

26 (d) In determining whether release on personal recognizance or under
27 conditions of release could jeopardize the safety and maintenance of
28 evidence or the safety of victims, witnesses, or other persons in the
29 community, the following shall not be considered as a basis to deny
30 release on personal recognizance or under conditions of release:

31 (i) A lack of residence, when the defendant agrees to comply with

1 no-contact provisions or other conditions specified by the court;

2 (ii) A history of criminal charges that are different in nature than
3 the pending charge or charges;

4 (iii) A history of criminal charges unrelated to evidence or witness
5 tampering; or

6 (iv) The defendant's assertion of constitutional or statutory
7 rights, including the right to remain silent or the right to deny consent
8 to a search or seizure.

9 ~~(c) Require, at the option of any bailable defendant, either of the~~
10 ~~following:~~

11 ~~(i) The execution of an appearance bond in a specified amount and~~
12 ~~the deposit with the clerk of the court in cash of a sum not to exceed~~
13 ~~ten percent of the amount of the bond, ninety percent of such deposit to~~
14 ~~be returned to the defendant upon the performance of the appearance or~~
15 ~~appearances and ten percent to be retained by the clerk as appearance~~
16 ~~bond costs, except that when no charge is subsequently filed against the~~
17 ~~defendant or if the charge or charges which are filed are dropped before~~
18 ~~the appearance of the defendant which the bond was to assure, the entire~~
19 ~~deposit shall be returned to the defendant. If the bond is subsequently~~
20 ~~reduced by the court after the original bond has been posted, no~~
21 ~~additional appearance bond costs shall be retained by the clerk. The~~
22 ~~difference in the appearance bond costs between the original bond and the~~
23 ~~reduced bond shall be returned to the defendant. In no event shall the~~
24 ~~deposit be less than twenty-five dollars. Whenever jurisdiction is~~
25 ~~transferred from a court requiring an appearance bond under this~~
26 ~~subdivision to another state court, the transferring court shall transfer~~
27 ~~the ninety percent of the deposit remaining after the appearance bond~~
28 ~~costs have been retained. No further costs shall be levied or collected~~
29 ~~by the court acquiring jurisdiction; or~~

30 ~~(ii) The execution of a bail bond with such surety or sureties as~~
31 ~~shall seem proper to the judge or, in lieu of such surety or sureties, at~~

1 ~~the option of such person, a cash deposit of such sum so fixed,~~
2 ~~conditioned for his or her appearance before the proper court, to answer~~
3 ~~the offense with which he or she may be charged and to appear at such~~
4 ~~times thereafter as may be ordered by the proper court. The cash deposit~~
5 ~~shall be returned to the defendant upon the performance of all~~
6 ~~appearances.~~

7 ~~(4) If the court requires the defendant to execute an appearance~~
8 ~~bond requiring the defendant to post money or requires the defendant to~~
9 ~~execute a bail bond, the court shall appoint counsel for the defendant if~~
10 ~~the court finds the defendant is financially unable to pay the amount~~
11 ~~required and is indigent.~~

12 ~~(5) If the amount of bail is deemed insufficient by the court before~~
13 ~~which the offense is pending, the court may order an increase of such~~
14 ~~bail and the defendant shall provide the additional undertaking, written~~
15 ~~or cash, to secure his or her release. All recognizances in criminal~~
16 ~~cases shall be in writing and be continuous from term to term until final~~
17 ~~judgment of the court in such cases and shall also extend, when the court~~
18 ~~has suspended execution of sentence for a limited time, as provided in~~
19 ~~section 29-2202, or, when the court has suspended execution of sentence~~
20 ~~to enable the defendant to apply for a writ of error to the Supreme Court~~
21 ~~or Court of Appeals, as provided in section 29-2301, until the period of~~
22 ~~suspension has expired. When two or more indictments or informations are~~
23 ~~returned against the same person at the same term of court, the~~
24 ~~recognizance given may be made to include all offenses charged therein.~~
25 ~~Each surety on such recognizance shall be required to justify under oath~~
26 ~~in a sum twice the amount of such recognizance and give the description~~
27 ~~of real estate owned by him or her of a value above encumbrance equal to~~
28 ~~the amount of such justification and shall name all other cases pending~~
29 ~~in which he or she is a surety. No one shall be accepted as surety on~~
30 ~~recognizance aggregating a sum in excess of his or her equity in the real~~
31 ~~estate, but such recognizance shall not constitute a lien on the real~~

1 ~~estate described therein until judgment is entered thereon against such~~
2 ~~surety.~~

3 (5) (6) In order to assure compliance with the conditions of release
4 referred to in subsection (3) of this section, the court may order a
5 defendant to be supervised by a person, an organization, or a pretrial
6 services program approved by the county board. A court shall waive any
7 fees or costs associated with the conditions of release or supervision if
8 the court finds the defendant is unable to pay for such costs.
9 Eligibility for release or supervision by such pretrial release program
10 shall under no circumstances be conditioned upon the defendant's ability
11 to pay. While under supervision of an approved entity, and in addition to
12 the conditions of release referred to in subsection (3) of this section,
13 the court may impose the following conditions:

14 (a) Periodic telephone contact by the defendant with the
15 organization or pretrial services program;

16 (b) Periodic office visits by the defendant to the organization or
17 pretrial services program;

18 (c) Periodic visits to the defendant's home by the organization or
19 pretrial services program;

20 (d) Mental health or substance abuse treatment for the defendant,
21 including residential treatment, if the defendant consents or agrees to
22 the treatment;

23 (e) Periodic alcohol or drug testing of the defendant;

24 (f) Domestic violence counseling for the defendant, if the defendant
25 consents or agrees to the counseling;

26 (g) Electronic or global-positioning monitoring of the defendant;
27 and

28 (h) Any other supervision techniques shown by research to increase
29 court appearance and public safety rates for defendants released on bail
30 ~~bond~~.

31 (6) (7) The incriminating results of any drug or alcohol test or any

1 information learned by a representative of an organization or program
2 shall not be admissible in any proceeding, except for a proceeding
3 relating to revocation or amendment of conditions of ~~bond~~ release.

4 (7) If the court determines that the defendant shall not be released
5 on personal recognizance or under conditions of release the court shall:

6 (a) Make specific written findings explaining why such release will
7 not reasonably assure the appearance of the defendant as required or
8 could jeopardize the safety and maintenance of evidence or the safety of
9 victims, witnesses, or other persons in the community;

10 (b) Appoint counsel to any defendant found to be indigent if counsel
11 has not already been appointed; and

12 (c) Order that the defendant be formally screened by a person,
13 organization, or pretrial services program approved by the county board
14 to identify any potential services, supports, or conditions that could be
15 ordered to allow for the release of the defendant. Such screening shall
16 be provided to the defendant's counsel who may request a further hearing
17 seeking release of the defendant.

18 Sec. 15. Section 29-901.01, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 29-901.01 If the judge orders the defendant released the judge
21 shall release the defendant on the defendant's own recognizance or under
22 ~~In determining which~~ condition or conditions of release ~~which~~ shall
23 reasonably assure appearance and deter possible threats to the safety and
24 maintenance of evidence or the safety of victims, witnesses, or other
25 persons in the community, ~~the judge shall, on the basis of available~~
26 ~~information, consider the defendant's financial ability to pay in setting~~
27 ~~the amount of bond. The judge may also take into account the nature and~~
28 ~~circumstances of the offense charged, including any information to~~
29 ~~indicate that the defendant might engage in additional criminal activity~~
30 ~~or pose a threat to himself or herself, yet to be collected evidence,~~
31 ~~alleged victims, potential witnesses, or members of the general public,~~

1 ~~the defendant's family ties, employment, the length of the defendant's~~
2 ~~residence in the community, the defendant's record of criminal~~
3 ~~convictions, and the defendant's record of appearances at court~~
4 ~~proceedings or of flight to avoid prosecution or of failure to appear at~~
5 ~~court proceedings.~~

6 Sec. 16. Section 29-901.02, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 29-901.02 (1) Any judge who shall authorize the release of a
9 defendant under section 29-901 shall issue a written order containing a
10 statement of the condition or conditions imposed and the time and date of
11 the next hearing in the case. Such order ~~shall~~ shall inform the defendant of
12 the penalties for violating any of the conditions of such release, ~~and~~
13 shall advise the defendant that a warrant for the defendant's his arrest
14 may shall be issued immediately upon such violation. A copy of the order
15 shall be provided to the defendant upon his or her release from custody.

16 (2) Prior to being released, the defendant shall sign a copy of the
17 order as an acknowledgement that the defendant is subject to the
18 conditions set forth in the order. The defendant may sign the order:

19 (a) If the release occurs in district court, at the office of the
20 clerk of the district court or at the jail; or

21 (b) If the release occurs in county court, at the office of the
22 clerk magistrate or at the jail.

23 (3) A defendant shall not be required to swear to a bond.

24 Sec. 17. Section 29-901.04, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 ~~29-901.04~~ Any judge who shall order the release of a defendant on
27 any condition specified in section 29-901 may at any time, following a
28 hearing as provided in section 18 of this act, amend the judge's his
29 order to impose additional or different conditions of release, ~~but if the~~
30 ~~imposition of different or additional conditions results in the detention~~
31 ~~of the defendant as a result of his inability to meet such conditions,~~

1 ~~the provisions of section 29-901.03 shall apply.~~

2 Sec. 18. (1) Any party shall be entitled to a review of the court's
3 findings regarding release on personal recognizance or release under
4 conditions of release upon filing a written request for such hearing.

5 (2) The court shall hold a hearing prior to the issuance of any
6 order revoking or modifying release on personal recognizance or under
7 conditions of release, unless both parties stipulate to such revocation
8 or modification.

9 (3) A motion requesting revocation or modification of release on
10 personal recognizance or release under conditions of release shall be
11 filed no less than forty-eight hours prior to the time set for hearing
12 and served upon the other party in accordance with the statutes and rules
13 governing service of such motions.

14 (4) If, following a hearing under this section, the court determines
15 that the defendant shall not be released on personal recognizance or
16 under conditions of release, the court shall:

17 (a) Make specific written findings explaining why such release will
18 not reasonably assure the appearance of the defendant as required or
19 could jeopardize the safety and maintenance of evidence or the safety of
20 victims, witnesses, or other persons in the community;

21 (b) Appoint counsel to any defendant found to be indigent if counsel
22 has not already been appointed; and

23 (c) If such screening has not been previously ordered in the case,
24 order that the defendant be formally screened by a person, organization,
25 or pretrial services program approved by the county board to identify any
26 potential services, supports, or conditions that could be ordered to
27 allow for the release of the defendant. Such screening shall be provided
28 to the defendant's counsel who may request a further hearing seeking
29 release of the defendant.

30 Sec. 19. Section 29-901.06, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 29-901.06 When a defendant bailable under Article I, section 9, of
2 the Constitution of Nebraska ~~defendant~~ appears at any judicial proceeding
3 in which such defendant's release ~~bail~~ is being considered, the judge at
4 such proceeding shall inform the defendant of the condition or conditions
5 imposed on the defendant's ~~his~~ release, the penalties for violating any
6 of the conditions of such release, and any options or alternatives
7 available to such defendant.

8 Sec. 20. Section 29-902.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 29-902.01 (1) The presiding judge of the county court in each county
11 having a population of four hundred thousand or more inhabitants as
12 determined by the most recent federal decennial census shall, as often as
13 is necessary, meet and designate on a schedule not less than one judge of
14 the county court to be reasonably available on call for the setting of
15 orders for discharge from actual custody upon personal recognizance or
16 conditions of release ~~bail~~, the issuance of search warrants, and for such
17 other matters as may be deemed appropriate, at all times when a court is
18 not in session in the county.

19 (2) The officer in charge of a jail, or a person such officer
20 designates, in which an arrested person is held in custody shall assist
21 the arrested person or such person's attorney in contacting the judge on
22 call as soon as possible for the purpose of obtaining release personal
23 recognizance or conditions of release ~~on bail~~.

24 Sec. 21. Section 29-903, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-903 ~~If In fixing the amount of bail, the judge admitting to the~~
27 ~~same shall be governed in the amount and quality of bail required by the~~
28 ~~direction of the district court in all cases where such court shall have~~
29 ~~made any order or direction in that behalf. In the event that the~~
30 district court designates ~~shall designate~~ an official pretrial release
31 agency for the district under section 29-909, the judge may give

1 consideration to a report and recommendation of such agency and in the
2 event that such agency should recommend the release of the defendant
3 ~~prisoner~~ on the defendant's his own recognizance or under conditions of
4 release, the court may order release of such defendant with or without
5 the conditions recommended by the pretrial release agency ~~prisoner~~
6 ~~without the necessity of posting a cash deposit or requiring the sureties~~
7 ~~set out in section 29-901.~~

8 Sec. 22. Section 29-904, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 29-904 In all cases in which ~~when~~ a judge releases ~~or examining~~
11 ~~court shall recognize a defendant prisoner under the provisions of the~~
12 three sections 29-901 to 29-910 and sections 17 and 18 of this act, the
13 judge shall issue ~~, 29-902, and 29-903, he shall forthwith deposit with~~
14 ~~the clerk of the proper court the recognizance so taken, and also a~~
15 warrant directed to the jailer requiring the jailer ~~him~~ to discharge the
16 defendant prisoner.

17 Sec. 23. Section 29-908, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 29-908 (1) Any person who ~~whoever~~ is charged with a felony and is
20 released from custody under ~~bail~~, ~~recognizance~~, or a conditioned release
21 and willfully fails to appear before the court granting such release when
22 legally required or to surrender ~~himself~~ within three days thereafter,
23 shall be guilty of a Class IV felony, in addition to any other penalties
24 ~~or forfeitures~~ provided by law.

25 (2) Any person who ~~whoever~~ is charged with a misdemeanor or a
26 violation of city or village ordinance, conviction of which would carry a
27 jail sentence of more than ninety days, who is released from custody
28 under ~~bail~~ ~~or~~ ~~recognizance~~ or conditioned release and who willfully fails
29 to appear before the court granting such release when legally required or
30 to surrender ~~himself~~ ~~or~~ within three days thereafter, shall be guilty of
31 a Class II misdemeanor, in addition to any other penalties ~~or forfeitures~~

1 provided by law.

2 Sec. 24. Section 29-909, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-909 (1) The district courts of this state are authorized to
5 designate an official pretrial release agency for a district, or for any
6 county within a district, whenever the court is satisfied that such
7 agency can render competent and effective assistance to the court in
8 making its determination of the terms and conditions under which any
9 court should release a ~~defendant prisoner~~ from jail prior to trial. ~~Each~~
10 county may create a pretrial services agency or delegate to an existing
11 county department the responsibility to screen for pretrial release and
12 supervised people released by the court. Screening for eligibility and
13 conditions of release shall be done using an evidence-based risk
14 assessment tool that has been proven not to discriminate on the basis of
15 income, race, ethnicity, religion, disability, gender, sexual
16 orientation, gender identity, national origin, or citizenship status.

17 (2) When such a pretrial release agency has been designated, the
18 judge of any court within the district or county in which such agency has
19 been authorized to operate may give consideration to a report and
20 recommendation of such agency and in the event that such agency should
21 recommend the release of the ~~defendant prisoner~~ on ~~the defendant's~~ his
22 own recognizance or under conditions of release, the court may order the
23 release of the ~~defendant prisoner~~ without the necessity of posting a cash
24 deposit or requiring any surety set out in section 29-901.

25 (3) Nothing in this section shall restrict any ~~judge court~~ from
26 releasing a ~~defendant prisoner~~ on ~~his own~~ recognizance, whether or not
27 such ~~judge~~ he has received a report or recommendation from a pretrial
28 release agency, if the judge determines that such type of release would
29 adequately serve the ends of justice.

30 Sec. 25. Section 29-1201, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 29-1201 Except as provided in subsection (2) of this section, any
2 Any person held in jail and charged with an indictable offense shall be
3 discharged if such person he or she is not indicted at the term of court
4 at which such person he or she is held to answer, unless such person is
5 committed to jail on such charge after the rising and final report of the
6 grand jury for that term, in which case the court may release discharge
7 such person as provided in sections 29-901 to 29-910 and sections 17 and
8 18 of this act , or require such person to enter into recognizance with
9 sufficient security for his or her appearance before such court to answer
10 such charge at the next term.

11 (2) ~~A~~ ~~However,~~ such person so held in jail without indictment shall
12 not be released ~~discharged~~ if it appears to the satisfaction of the court
13 that the witnesses on the part of the state have been enticed or kept
14 away or are detained and prevented from attending court by sickness or
15 some inevitable accident.

16 Sec. 26. Section 29-1605, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-1605 Any person who may, according to law, be committed to jail
19 or released as provided in sections 29-901 to 29-910 and sections 17 and
20 18 of this act ~~become recognized or held to bail with sureties for his~~
21 ~~appearance in court~~ to answer to any indictment, may in like manner be
22 committed to jail or released as provided in sections 29-901 to 29-910
23 and sections 17 and 18 of this act ~~become recognized and held to bail for~~
24 ~~his appearance,~~ to answer to any information or indictment, as the case
25 may be.

26 Sec. 27. Section 29-1606, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 29-1606 It shall be the duty of the county attorney of the proper
29 county to inquire into and make full examination of all the facts and
30 circumstances connected with any case on preliminary examination, as
31 provided by law, touching the commission of any offense for which ~~wherein~~

1 the offender ~~is shall be~~ committed to jail or released as provided in
2 sections 29-901 to 29-910 and sections 17 and 18 of this act ~~, or become~~
3 ~~recognized or held to bail~~. If the prosecuting attorney determines shall
4 ~~determine~~ in any such case that an information ought not to be filed,
5 such prosecuting attorney he shall make, subscribe, and file with the
6 clerk of the court a statement in writing, containing the ~~his~~ reasons, in
7 fact and in law, for not filing an information in such case. Such ~~;~~ and
8 ~~such~~ statement shall be filed at and during the term of court at which
9 the offender ~~is shall be~~ held for ~~his~~ appearance. In ~~;~~ Provided, in such
10 case such court may examine the statement, together with the evidence
11 filed in the case, and if ~~;~~ upon such examination ~~;~~ the court ~~is shall~~ not
12 ~~be~~ satisfied with the statement, the court shall direct the county
13 ~~attorney shall be directed by the court~~ to file the proper information
14 and bring the case to trial.

15 Sec. 28. Section 29-1811, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 29-1811 When a motion to quash ~~;~~ or a plea in abatement ~~;~~ has been
18 adjudged in favor of the defendant ~~accused~~, the defendant he may be
19 committed or released as provided in sections 29-901 to 29-910 and
20 sections 17 and 18 of this act ~~held to bail in such sum~~ as the court may
21 require for the defendant's ~~his~~ appearance at the first day of the next
22 term of said court.

23 Sec. 29. Section 29-2106, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 29-2106 The effect of allowing a motion in arrest of judgment shall
26 be to place the defendant in the same position with respect to the
27 prosecution as before the indictment was found. If, from the evidence on
28 the trial, there shall be sufficient reason to believe the defendant ~~him~~
29 guilty of an offense, the court shall proceed as provided in sections
30 29-901 to 29-910 and sections 17 and 18 of this act ~~order him to enter~~
31 ~~into a recognizance with sufficient security, conditioned for his~~

1 ~~appearance at the first day of the next term of the same court; otherwise~~
2 ~~the defendant shall be discharged.~~

3 Sec. 30. Section 29-2806, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-2806 When the judge shall have examined into the cause of the
6 capture and detention of the person so brought before the judge ~~him~~, and
7 ~~such judge is~~ shall be satisfied that the person is unlawfully imprisoned
8 or detained, such judge ~~he~~ shall forthwith discharge such prisoner from
9 confinement. ~~If In case~~ the person ~~or persons~~ applying for such writ is
10 ~~shall be~~ confined or detained in a legal manner, on a charge of having
11 committed any crime or offense, the judge shall, at the judge's ~~his~~
12 discretion, commit, discharge, or ~~let to bail~~ release such person on
13 personal recognizance or on conditional release in accordance with
14 sections 29-901 to 29-910 and sections 17 and 18 of this act ~~or persons,~~
15 ~~and if the judge shall deem the offense bailable, on the principles of~~
16 ~~law, he shall cause the person charged as aforesaid to enter into~~
17 ~~recognizance, with one or more sufficient securities, in such sum as the~~
18 judge shall think reasonable, given the circumstances of the defendant
19 ~~prisoner~~ and the nature of the offense charged ~~considered~~, conditioned
20 for the defendant's ~~his~~ appearance at the next court where the offense is
21 cognizable. The judge shall certify the ~~his~~ proceedings, ~~together with~~
22 ~~the recognizance,~~ forthwith, to the proper court; ~~and if the person or~~
23 ~~persons charged as aforesaid shall fail to enter into such recognizance,~~
24 ~~he or they shall be committed to prison by such judge.~~

25 Sec. 31. Section 29-2809, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 29-2809 Any defendant ~~person who shall be~~ set at large upon any
28 habeas corpus, shall not be again imprisoned for the same offense, unless
29 by the legal order or process of the court wherein such defendant is ~~he~~
30 ~~or she shall be~~ bound by recognizance to appear, or of another ~~other~~
31 court having jurisdiction of the cause or offense. If any person shall

1 knowingly, contrary to sections 29-2801 to 29-2824, recommit or imprison,
2 or cause to be recommitted or imprisoned for the same offense or
3 pretended offense, any defendant ~~person~~ so set at large, or shall
4 knowingly aid or assist therein, such person ~~he~~ shall forfeit to the
5 defendant ~~party aggrieved~~ five hundred dollars, any colorable pretense or
6 variation in the warrant or commitment notwithstanding.

7 Sec. 32. Section 33-117, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 33-117 (1) The several sheriffs shall charge and collect fees at the
10 rates specified in this section. The rates shall be as follows: (a)
11 Serving a capias with commitment ~~or bail bond and return~~, two dollars;
12 (b) serving a search warrant, two dollars; (c) arresting under a search
13 warrant, two dollars for each person so arrested; (d) unless otherwise
14 specifically listed in subdivisions (f) to (s) of this subsection,
15 serving a summons, subpoena, order of attachment, order of replevin,
16 other order of the court, notice of motion, other notice, other writ or
17 document, or any combination thereof, including any accompanying or
18 attached documents, twelve dollars for each person served, except that
19 when more than one person is served at the same time and location in the
20 same case, the service fee shall be twelve dollars for the first person
21 served at that time and location and three dollars for each other person
22 served at that time and location; (e) making a return of each summons,
23 subpoena, order of attachment, order of replevin, other order of the
24 court, notice of motion, other notice, or other writ or document, whether
25 served or not, six dollars; (f) taking and filing a replevin bond or
26 other indemnification to be furnished and approved by the sheriff, one
27 dollar; (g) making a copy of any process, bond, or other paper not
28 otherwise provided for in this section, twenty-five cents per page; (h)
29 traveling each mile actually and necessarily traveled within or without
30 their several counties in their official duties, three cents more per
31 mile than the rate provided in section 81-1176, except that the minimum

1 fee shall be fifty cents when the service is made within one mile of the
2 courthouse, and, as far as is expedient, all papers in the hands of the
3 sheriff at any one time shall be served in one or more trips by the most
4 direct route or routes and only one mileage fee shall be charged for a
5 single trip, the total mileage cost to be computed as a unit for each
6 trip and the combined mileage cost of each trip to be prorated among the
7 persons or parties liable for the payment of same; (i) levying a writ or
8 a court order and return thereof, eighteen dollars; (j) summoning a grand
9 jury, not including mileage to be paid by the county, ten dollars; (k)
10 summoning a petit jury, not including mileage to be paid by the county,
11 twelve dollars; (l) summoning a special jury, for each person impaneled,
12 fifty cents; (m) calling a jury for a trial of a case or cause, fifty
13 cents; (n) executing a writ of restitution or a writ of assistance and
14 return, eighteen dollars; (o) calling an inquest to appraise lands and
15 tenements levied on by execution, one dollar; (p) calling an inquest to
16 appraise goods and chattels taken by an order of attachment or replevin,
17 one dollar; (q) advertising a sale in a newspaper in addition to the
18 price of printing, one dollar; (r) advertising in writing for a sale of
19 real or personal property, five dollars; and (s) making deeds for land
20 sold on execution or order of sale, five dollars.

21 (2)(a) Except as provided in subdivision (b) of this subsection, the
22 commission due a sheriff on an execution or order of sale, an order of
23 attachment decree, or a sale of real or personal property shall be: For
24 each dollar not exceeding four hundred dollars, six cents; for every
25 dollar above four hundred dollars and not exceeding one thousand dollars,
26 four cents; and for every dollar above one thousand dollars, two cents.

27 (b) In real estate foreclosure, when any party to the original
28 action purchases the property or when no money is received or disbursed
29 by the sheriff, the commission shall be computed pursuant to subdivision
30 (a) of this subsection but shall not exceed two hundred dollars.

31 (3) The sheriff shall, on the first Tuesday in January, April, July,

1 and October of each year, make a report to the county board showing (a)
2 the different items of fees, except mileage, collected or earned, from
3 whom, at what time, and for what service, (b) the total amount of the
4 fees collected or earned by the officer since the last report, and (c)
5 the amount collected or earned for the current year. He or she shall pay
6 all fees earned to the county treasurer who shall credit the fees to the
7 general fund of the county.

8 (4) Any future adjustment made to the reimbursement rate provided in
9 subsection (1) of this section shall be deemed to apply to all provisions
10 of law which refer to this section for the computation of mileage.

11 (5) Commencing on and after January 1, 1988, all fees earned
12 pursuant to this section, except fees for mileage, by any constable who
13 is a salaried employee of the State of Nebraska shall be remitted to the
14 clerk of the county court. The clerk of the county court shall pay the
15 same to the General Fund.

16 Sec. 33. Section 42-929, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 42-929 A peace officer making an arrest pursuant to section 42-928
19 shall take such person into custody and take such person before a judge
20 of the county court or the court which issued the protection order. At
21 such time the court shall establish the conditions of such person's
22 release from custody as provided in sections 29-901 to 29-910 and
23 sections 17 and 18 of this act , ~~including the determination of bond or~~
24 ~~recognizance, as the case may be.~~ The court shall issue an order
25 directing that such person shall have no contact with the alleged victim
26 of the abuse or violation.

27 Sec. 34. Section 43-253, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 43-253 (1) Upon delivery to the probation officer of a juvenile who
30 has been taken into temporary custody under section 29-401, 43-248, or
31 43-250, the probation officer shall immediately investigate the situation

1 of the juvenile and the nature and circumstances of the events
2 surrounding his or her being taken into custody. Such investigation may
3 be by informal means when appropriate.

4 (2) The probation officer's decision to release the juvenile from
5 custody or place the juvenile in detention or an alternative to detention
6 shall be based upon the results of the standardized juvenile detention
7 screening instrument described in section 43-260.01.

8 (3) No juvenile who has been taken into temporary custody under
9 subdivision (1)(c) of section 43-250 or subsection (6) of section
10 43-286.01 or pursuant to an alleged violation of an order for conditional
11 release shall be detained in any detention facility or be subject to an
12 alternative to detention infringing upon the juvenile's liberty interest
13 for longer than twenty-four hours, excluding nonjudicial days, after
14 having been taken into custody unless such juvenile has appeared
15 personally before a court of competent jurisdiction for a hearing to
16 determine if continued detention, services, or supervision is necessary.
17 The juvenile shall be represented by counsel at the hearing. Whether such
18 counsel shall be provided at the cost of the county shall be determined
19 as provided in subsection (1) of section 43-272. If continued secure
20 detention is ordered, such detention shall be in a juvenile detention
21 facility, except that a juvenile charged with a felony as an adult in
22 county or district court may be held in an adult jail as set forth in
23 subdivision (1)(c)(v) of section 43-250. A juvenile placed in an
24 alternative to detention, but not in detention, may waive this hearing
25 through counsel.

26 (4) When the probation officer deems it to be in the best interests
27 of the juvenile, the probation officer shall immediately release such
28 juvenile to the custody of his or her parent. If the juvenile has both a
29 custodial and a noncustodial parent and the probation officer deems that
30 release of the juvenile to the custodial parent is not in the best
31 interests of the juvenile, the probation officer shall, if it is deemed

1 to be in the best interests of the juvenile, attempt to contact the
2 noncustodial parent, if any, of the juvenile and to release the juvenile
3 to such noncustodial parent. If such release is not possible or not
4 deemed to be in the best interests of the juvenile, the probation officer
5 may release the juvenile to the custody of a legal guardian, a
6 responsible relative, or another responsible person.

7 (5) The court may place ~~admit~~ such juvenile on conditional release,
8 ~~to bail by bond in such amount and on such conditions and security as the~~
9 court, in its sole discretion, shall determine, or the court may proceed
10 as provided in section 43-254. In no case shall the court or probation
11 officer release such juvenile if it appears that: ~~(a) Before July 1,~~
12 ~~2019, further detention or placement of such juvenile is a matter of~~
13 ~~immediate and urgent necessity for the protection of such juvenile or the~~
14 ~~person or property of another or if it appears that such juvenile is~~
15 ~~likely to flee the jurisdiction of the court; and (b) On or after July 1,~~
16 ~~2019,~~ the physical safety of persons in the community would be seriously
17 threatened or that detention is necessary to secure the presence of the
18 juvenile at the next hearing, as evidenced by a demonstrable record of
19 willful failure to appear at a scheduled court hearing within the last
20 twelve months.

21 Sec. 35. Section 43-255, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 43-255 Whenever a juvenile is detained or placed in an alternative
24 to detention infringing upon the child's liberty interest under section
25 43-250 or 43-253, the juvenile shall be released unconditionally within
26 forty-eight hours after the detention or placement order or the setting
27 of conditions of release bond, ~~and~~, excluding nonjudicial days, unless within
28 such period of time (1) a motion has been filed alleging that such
29 juvenile has violated an order of the juvenile court, (2) a juvenile
30 court petition has been filed pursuant to section 43-274, or (3) a
31 criminal complaint has been filed in a court of competent jurisdiction.

1 Sec. 36. Section 49-801, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 49-801 Unless the context is shown to intend otherwise, words and
4 phrases in the statutes of Nebraska hereafter enacted are used in the
5 following sense:

6 (1) Acquire when used in connection with a grant of power or
7 property right to any person includes ~~shall include~~ the purchase, grant,
8 gift, devise, bequest, and obtaining by eminent domain;

9 (2) Action includes ~~shall include~~ any proceeding in any court of
10 this state;

11 (3) Attorney means ~~shall mean~~ attorney at law;

12 (4) Bail means the process by which a person is released from
13 custody either on his or her own recognizance or under conditions of
14 release imposed by a court;

15 (5) ~~(4)~~ Company includes ~~shall include~~ any corporation, partnership,
16 limited liability company, joint-stock company, joint venture, or
17 association;

18 (6) ~~(5)~~ Domestic when applied to corporations means ~~shall mean~~ all
19 those created by authority of this state;

20 (7) ~~(6)~~ Federal refers ~~shall refer~~ to the United States;

21 (8) ~~(7)~~ Foreign when applied to corporations includes ~~shall include~~
22 all those created by authority other than that of this state;

23 (9) ~~(8)~~ Grantee includes ~~shall include~~ every person to whom any
24 estate or interest passes in or by any conveyance;

25 (10) ~~(9)~~ Grantor includes ~~shall include~~ every person from or by whom
26 any estate or interest passes in or by any conveyance;

27 (11) ~~(10)~~ Inhabitant shall be construed to mean a resident in the
28 particular locality in reference to which that word is used;

29 (12) ~~(11)~~ Land or real estate includes ~~shall include~~ lands,
30 tenements, and hereditaments and all rights thereto and interest therein
31 other than a chattel interest;

1 (13) ~~(12)~~ Magistrate includes ~~shall include~~ judge of the county
2 court and clerk magistrate;

3 (14) ~~(13)~~ Month means ~~shall mean~~ calendar month;

4 (15) ~~(14)~~ Oath includes ~~shall include~~ affirmation in all cases in
5 which an affirmation may be substituted for an oath;

6 (16) ~~(15)~~ Peace officer includes ~~shall include~~ sheriffs, coroners,
7 jailers, marshals, police officers, state highway patrol officers,
8 members of the National Guard on active service by direction of the
9 Governor during periods of emergency, and all other persons with similar
10 authority to make arrests;

11 (17) ~~(16)~~ Person includes ~~shall include~~ bodies politic and
12 corporate, societies, communities, the public generally, individuals,
13 partnerships, limited liability companies, joint-stock companies, and
14 associations;

15 (18) ~~(17)~~ Personal estate includes ~~shall include~~ money, goods,
16 chattels, claims, and evidences of debt;

17 (19) ~~(18)~~ Process means ~~shall mean~~ a summons, subpoena, or notice to
18 appear issued out of a court in the course of judicial proceedings;

19 (20) ~~(19)~~ Service animal has ~~shall have~~ the same meaning as in 28
20 C.F.R. 36.104, as such regulation existed on January 1, 2008;

21 (21) ~~(20)~~ State when applied to different states of the United
22 States shall be construed to extend to and include the District of
23 Columbia and the several territories organized by Congress;

24 (22) ~~(21)~~ Sworn includes ~~shall include~~ affirmed in all cases in
25 which an affirmation may be substituted for an oath;

26 (23) ~~(22)~~ The United States includes ~~shall include~~ territories,
27 outlying possessions, and the District of Columbia;

28 (24) ~~(23)~~ Violate includes ~~shall include~~ failure to comply with;

29 (25) ~~(24)~~ Writ means ~~shall signify~~ an order or citation in writing
30 issued in the name of the state out of a court or by a judicial officer;

31 and

1 (26) ~~(25)~~ Year means ~~shall mean~~ calendar year.

2 Sec. 37. Section 60-1307, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 60-1307 (1) Whenever any person is arrested at one of the state
5 weighing stations or portable scales for a violation of the laws relating
6 to the trip permit provided in section 66-1418, the Motor Vehicle
7 Registration Act, or the laws relating to the size, weight, and load of
8 buses, trucks, truck-tractors, semitrailers, trailers, or towed vehicles,
9 the arresting officer shall take the name and address of such person and
10 the license number of his or her motor vehicle and issue a summons or
11 otherwise notify him or her in writing to appear at a time and place to
12 be specified in such summons or notice, such time to be at least five
13 days after such arrest unless the person arrested demands an earlier
14 hearing. Such person shall, if he or she desires, have a right to an
15 immediate hearing or a hearing within twenty-four hours at a convenient
16 hour. The hearing shall be before a magistrate within the county in which
17 the offense was committed. Such officer shall, upon such person giving a
18 written promise to appear at such time and place, release him or her from
19 custody. Such person arrested and released shall not be permitted to
20 operate the motor vehicle concerned until it is in compliance with the
21 Motor Vehicle Registration Act and section 60-6,301. Any person refusing
22 to give such written promise to appear shall be immediately taken by the
23 arresting officer before the nearest or most accessible magistrate. Any
24 person who willfully violates a written promise to appear given in
25 accordance with this section shall be guilty of a Class III misdemeanor
26 regardless of the disposition of the charge upon which he or she was
27 originally arrested.

28 (2) Subsection (1) of this section shall not apply to any person not
29 a resident of the State of Nebraska. The arresting officer shall take
30 such person forthwith before the nearest or most accessible magistrate.

31 (3)(a) The arresting officer shall seize and detain the motor

1 vehicle concerned until the motor vehicle is in compliance with section
2 60-6,294 or in conformity with the exceptions permitted by section
3 60-6,301, and unless all the violations pending before the magistrate
4 relating to section 60-6,294 have been the subject of a conviction,
5 acquittal, or dismissal and all related fines and costs have been paid,
6 the arresting officer may detain the motor vehicle concerned when the
7 officer has reasonable grounds to believe that (i) the accused will
8 refuse to respond to the citation, (ii) the accused has no ties to the
9 jurisdiction reasonably sufficient to assure his or her appearance in
10 court, or (iii) the accused has previously failed to appear in response
11 to a citation.

12 (b) If a motor vehicle detained pursuant to this section is
13 transporting livestock, procedures and precautions shall be taken if
14 necessary to ensure the health and welfare of such livestock while the
15 motor vehicle is detained.

16 (c) A motor vehicle detained pursuant to this subsection shall be
17 released upon execution of a bond with such surety or sureties as the
18 court deems proper or, in lieu of such surety or sureties and at the
19 option of the accused, a cash deposit, conditioned upon his or her
20 appearance before the proper court to answer the offense for which he or
21 she may be charged and to appear at such times thereafter as the court so
22 orders. Such bond shall be in an amount as set forth in the schedule
23 adopted under subsection (5) of this section pursuant to section
24 ~~29-901.05 and shall be administered, subject to review and forfeiture, in~~
25 ~~the same manner as bail bonds,~~ except that for violations of section
26 60-6,294, such bond or cash deposit shall be in an amount not less than
27 the sum of costs together with the appropriate fine prescribed in section
28 60-6,296. Such bond shall be administered pursuant and subject to rules
29 adopted by the Supreme Court.

30 (d) In addition to the operator, any owner or lessee of the motor
31 vehicle may execute the bond or make the cash deposit required by this

1 section. Upon execution of the bond or cash deposit, the arresting or
2 custodial officer shall release the motor vehicle and cargo to the person
3 who executed the bond or deposited the cash or to the designee of such
4 person.

5 (e) Towing and storage charges, if any, shall be paid by the person
6 to whom the motor vehicle is released prior to the release of the motor
7 vehicle. Such charges shall be assessed as costs in any action for the
8 forfeiture of the recognizance.

9 (4) Nothing in this section shall (a) prevent the owner or the
10 owner's representative of such motor vehicle or the cargo on the motor
11 vehicle from taking possession of the cargo and transferring it to
12 another vehicle or taking possession of the cargo and the trailer, if the
13 trailer can be separated from the power unit, or (b) create any liability
14 for the state arising out of damage to such motor vehicle and its cargo.

15 (5) The Director of Motor Vehicles shall adopt and promulgate rules
16 and regulations containing a schedule for bonds required by this section.
17 The initial schedule shall be based upon the schedule set forth in
18 section 29-901.05 as such section existed prior to the effective date of
19 this act. The director may by rule and regulation revise the schedule
20 from time to time as he or she deems necessary.

21 Sec. 38. Original sections 14-603, 23-1808, 24-519, 25-1023,
22 25-10,101, 25-1544, 25-2730, 29-401, 29-428, 29-506, 29-901.02,
23 29-901.04, 29-901.06, 29-902.01, 29-903, 29-904, 29-908, 29-909, 29-1605,
24 29-1606, 29-1811, 29-2106, 29-2806, 29-2809, 33-117, 42-929, 43-255,
25 49-801, and 60-1307, Reissue Revised Statutes of Nebraska, and sections
26 28-311.09, 28-311.11, 29-422, 29-901, 29-901.01, 29-1201, and 43-253,
27 Revised Statutes Cumulative Supplement, 2020, are repealed.

28 Sec. 39. The following sections are outright repealed: Sections
29 29-901.03, 29-901.05, 29-902, 29-905, 29-906, 29-907, 29-1105, 29-1106,
30 29-1107, 29-1108, 29-1109, 29-1110, and 60-686, Reissue Revised Statutes
31 of Nebraska.