

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 920

Introduced by Lathrop, 12.

Read first time January 10, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal justice; to amend sections
2 24-1302, 28-116, 28-507, 28-518, 29-2204.02, 29-2221, 29-2263,
3 29-2269, 29-2281, 29-3603, 47-706, 50-434, 71-5661, 71-5662,
4 71-5663, 71-5665, 71-5666, 71-5668, 71-5669.01, and 83-1,110,
5 Reissue Revised Statutes of Nebraska, and sections 28-101, 28-105,
6 28-416, 28-1351, 28-1354, 29-2204, 83-1,100.02, 83-1,111, 83-1,114,
7 83-1,135, and 83-1,135.02, Revised Statutes Cumulative Supplement,
8 2020; to change provisions regarding problem solving courts,
9 mandatory minimums, penalties and provisions relating to controlled
10 substances, theft, and burglary, sentencing, set asides,
11 restitution, pretrial diversion, and parole; to provide for
12 applicability; to state legislative intent regarding appropriations;
13 to create pilot programs relating to courts, probation, and parole;
14 to create the Justice Reinvestment Oversight Task Force; to
15 terminate the Committee on Justice Reinvestment Oversight; to
16 provide for parole for geriatric offenders; to define terms; to
17 provide duties for courts, the probation administrator, the Board of
18 Parole, the Division of Parole Supervision, the State Court
19 Administrator, the Department of Health and Human Services, and the
20 Department of Correctional Services; to provide for additional
21 benefits under the Rural Health Systems and Professional Incentive
22 Act; to harmonize provisions; and to repeal the original sections.
23 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-1302, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-1302 (1) For purposes of this section, problem solving court
4 means a drug, veterans, mental health, driving under the influence,
5 reentry, young adult, or other problem solving court.

6 (2) A district court may establish a problem solving court. A
7 problem solving court shall function within the existing structure of the
8 court system. The goals of a problem solving court shall be consistent
9 with any relevant standards adopted by the United States Department of
10 Justice and the National Association of Drug Court Professionals, as such
11 standards existed on January 1, 2022.

12 (3) An individual may participate in a problem solving court through
13 a pretrial diversion program, as a condition of probation, as a response
14 to a technical violation of parole, as a sentence imposed by a court, or
15 as otherwise provided by the Supreme Court's rules.

16 (4) Problem (1) Drug, veterans, mental health, driving under the
17 influence, reentry, and other problem solving courts shall be subject to
18 rules which shall be promulgated by the Supreme Court for procedures to
19 be implemented in the administration of such courts.

20 (5) (2) It is the intent of the Legislature that funds be
21 appropriated separately to the Supreme Court such that each judicial
22 district may operate at least one drug, veterans, mental health, driving
23 under the influence, reentry, and young adult problem solving court. The
24 State Court Administrator shall ensure that each judicial district has at
25 least one of such courts by January 1, 2023 for each of the problem
26 solving courts to carry out this section and section 24-1301.

27 (6) The State Court Administrator shall track and evaluate outcomes
28 of problem solving courts. On or before June 1, 2023, and on or before
29 each June 1 thereafter, the State Court Administrator shall
30 electronically submit a report to the Legislature regarding the impact of
31 problem solving courts on recidivism rates in the state. The report shall

1 identify judicial districts that are underserved by problem solving
2 courts and what services or funding are needed to properly serve such
3 districts.

4 Sec. 2. (1) The State Court Administrator shall create a pilot
5 program to utilize physical space and information technology resources
6 within Nebraska courts to serve as points of access for virtual
7 behavioral health for court-involved individuals.

8 (2) The pilot program shall be limited to a single probation
9 district. Such district shall be chosen by the State Court Administrator
10 in consultation with the probation administrator.

11 (3) The purpose of the program is to provide access to safe,
12 confidential, and reliable behavioral health treatment via telehealth for
13 Nebraskans involved with the criminal justice system, either as
14 defendants, probationers, or victims in a criminal proceeding.

15 (4) On or before June 1, 2023, the State Court Administrator shall
16 electronically submit a report to the Judiciary Committee of the
17 Legislature regarding the pilot program.

18 (5) It is the intent of the Legislature to appropriate XXX dollars
19 from General Funds for FY2022-23 to the State Court Administrator to
20 carry out the pilot program.

21 Sec. 3. Section 28-101, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
24 6 of this act shall be known and may be cited as the Nebraska Criminal
25 Code.

26 Sec. 4. Section 28-105, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

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

1	Class I felony	Death
2	Class IA felony	Life imprisonment
3	Class IB felony	Maximum—life imprisonment
4		Minimum—twenty years imprisonment
5	Class IC felony	Maximum—fifty years imprisonment
6		Mandatory minimum—five years imprisonment
7		<u>(except as provided in section 6 of this act)</u>
8	Class ID felony	Maximum—fifty years imprisonment
9		Mandatory minimum—three years imprisonment
10		<u>(except as provided in section 6 of this act)</u>
11	Class II felony	Maximum—fifty years imprisonment
12		Minimum—one year imprisonment
13	Class IIA felony	Maximum—twenty years imprisonment
14		Minimum—none
15	Class III felony	Maximum—four years imprisonment and two years
16		post-release supervision or
17		twenty-five thousand dollars fine, or both
18		Minimum—none for imprisonment and nine months
19		post-release supervision if imprisonment is imposed
20	Class IIIA felony	Maximum—three years imprisonment
21		and eighteen months post-release supervision or
22		ten thousand dollars fine, or both
23		Minimum—none for imprisonment and nine months
24		post-release supervision if imprisonment is imposed
25	Class IV felony	Maximum—two years imprisonment and twelve
26		months post-release supervision or
27		ten thousand dollars fine, or both
28		Minimum—none for imprisonment and none for
29		post-release supervision

30 (2) All sentences for maximum terms of imprisonment for one year or

1 more for felonies shall be served in institutions under the jurisdiction
2 of the Department of Correctional Services. All sentences for maximum
3 terms of imprisonment of less than one year shall be served in the county
4 jail.

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

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

10 (5) All sentences of post-release supervision shall be served under
11 the jurisdiction of the Office of Probation Administration and shall be
12 subject to conditions imposed pursuant to section 29-2262 and subject to
13 sanctions authorized pursuant to section 29-2266.02.

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

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

23 (8) The changes made to the penalties for Class III, IIIA, and IV
24 felonies by Laws 2015, LB605, do not apply to any offense committed prior
25 to August 30, 2015, as provided in section 28-116.

26 Sec. 5. Section 28-116, Reissue Revised Statutes of Nebraska, is
27 amended to read:

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

1 offense was committed. For purposes of this subsection ~~section~~, an
2 offense shall be deemed to have been committed prior to August 30, 2015,
3 if any element of the offense occurred prior to such date. The following
4 sections are subject to this provision: Sections 9-262, 9-352, 9-434,
5 9-652, 23-135.01, 28-105, 28-106, 28-201, 28-204, 28-305, 28-306, 28-309,
6 28-310.01, 28-311, 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02,
7 28-322.03, 28-322.04, 28-323, 28-393, 28-394, 28-397, 28-416, 28-504,
8 28-507, 28-514, 28-518, 28-519, 28-603, 28-604, 28-611, 28-611.01,
9 28-620, 28-621, 28-622, 28-627, 28-631, 28-638, 28-639, 28-703, 28-707,
10 28-813.01, 28-912, 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104,
11 28-1212.03, 28-1222, 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816,
12 29-2204, 29-2260, 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017,
13 68-1017.01, 71-2228, and 71-2229.

14 (2) Except as otherwise provided in the sections listed in this
15 subsection, the changes made to the sections listed in this subsection by
16 this legislative bill shall apply to offenses committed before, on, or
17 after the effective date of this act for which a final judgment has not
18 been entered as of the effective date of this act. The following sections
19 are subject to this provision: Sections 28-105, 28-416, 28-507, 28-518,
20 28-1351, 28-1354, 29-2204, 29-2204.02, and 29-2221 and sections 6 and 14
21 of this act.

22 Sec. 6. A mandatory minimum sentence shall not be imposed for a
23 violation of section 28-416. The minimum term of imprisonment for a
24 violation of section 28-416 shall not be a mandatory minimum but a
25 minimum term only.

26 Sec. 7. Section 28-416, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 28-416 (1) Except as authorized by the Uniform Controlled Substances
29 Act, it shall be unlawful for any person knowingly or intentionally: (a)
30 To manufacture, distribute, deliver, dispense, or possess with intent to
31 manufacture, distribute, deliver, or dispense a controlled substance; or

1 (b) to create, distribute, or possess with intent to distribute a
2 counterfeit controlled substance.

3 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
4 (10) of this section, any person who violates subsection (1) of this
5 section with respect to: (a) A controlled substance classified in
6 Schedule I, II, or III of section 28-405 which is an exceptionally
7 hazardous drug shall be guilty of a Class II felony; (b) any other
8 controlled substance classified in Schedule I, II, or III of section
9 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
10 substance classified in Schedule IV or V of section 28-405 shall be
11 guilty of a Class IIIA felony.

12 (3)(a) ~~(3)~~ A person knowingly or intentionally possessing a
13 controlled substance, except marijuana or any substance containing a
14 quantifiable amount of the substances, chemicals, or compounds described,
15 defined, or delineated in subdivision (c)(25) of Schedule I of section
16 28-405, unless such substance was obtained directly or pursuant to a
17 medical order issued by a practitioner authorized to prescribe while
18 acting in the course of his or her professional practice, or except as
19 otherwise authorized by the act, shall:

20 (i) If the total weight of the substance or mixture is one-half of
21 one gram or less, be guilty of a Class I misdemeanor; or

22 (ii) If the total weight of the substance or mixture is more than
23 one-half of one gram, be guilty of a Class IV felony.

24 (b) A person shall not be in violation of this subsection if section
25 28-472 applies.

26 (4)(a) Except as authorized by the Uniform Controlled Substances
27 Act, any person eighteen years of age or older who knowingly or
28 intentionally manufactures, distributes, delivers, dispenses, or
29 possesses with intent to manufacture, distribute, deliver, or dispense a
30 controlled substance or a counterfeit controlled substance (i) to a
31 person under the age of eighteen years, (ii) in, on, or within one

1 thousand feet of the real property comprising a public or private
2 elementary, vocational, or secondary school, a community college, a
3 public or private college, junior college, or university, or a
4 playground, or (iii) within one hundred feet of a public or private youth
5 center, public swimming pool, or video arcade facility shall be punished
6 by the next higher penalty classification than the penalty prescribed in
7 subsection (2), (7), (8), (9), or (10) of this section, depending upon
8 the controlled substance involved, for the first violation and for a
9 second or subsequent violation shall be punished by the next higher
10 penalty classification than that prescribed for a first violation of this
11 subsection, but in no event shall such person be punished by a penalty
12 greater than a Class IB felony.

13 (b) For purposes of this subsection:

14 (i) Playground means any outdoor facility, including any parking lot
15 appurtenant to the facility, intended for recreation, open to the public,
16 and with any portion containing three or more apparatus intended for the
17 recreation of children, including sliding boards, swingsets, and
18 teeterboards;

19 (ii) Video arcade facility means any facility legally accessible to
20 persons under eighteen years of age, intended primarily for the use of
21 pinball and video machines for amusement, and containing a minimum of ten
22 pinball or video machines; and

23 (iii) Youth center means any recreational facility or gymnasium,
24 including any parking lot appurtenant to the facility or gymnasium,
25 intended primarily for use by persons under eighteen years of age which
26 regularly provides athletic, civic, or cultural activities.

27 (5)(a) Except as authorized by the Uniform Controlled Substances
28 Act, it shall be unlawful for any person eighteen years of age or older
29 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
30 induce, entice, seduce, or coerce any person under the age of eighteen
31 years to manufacture, transport, distribute, carry, deliver, dispense,

1 prepare for delivery, offer for delivery, or possess with intent to do
2 the same a controlled substance or a counterfeit controlled substance.

3 (b) Except as authorized by the Uniform Controlled Substances Act,
4 it shall be unlawful for any person eighteen years of age or older to
5 knowingly and intentionally employ, hire, use, cause, persuade, coax,
6 induce, entice, seduce, or coerce any person under the age of eighteen
7 years to aid and abet any person in the manufacture, transportation,
8 distribution, carrying, delivery, dispensing, preparation for delivery,
9 offering for delivery, or possession with intent to do the same of a
10 controlled substance or a counterfeit controlled substance.

11 (c) Any person who violates subdivision (a) or (b) of this
12 subsection shall be punished by the next higher penalty classification
13 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
14 this section, depending upon the controlled substance involved, for the
15 first violation and for a second or subsequent violation shall be
16 punished by the next higher penalty classification than that prescribed
17 for a first violation of this subsection, but in no event shall such
18 person be punished by a penalty greater than a Class IB felony.

19 (6) It shall not be a defense to prosecution for violation of
20 subsection (4) or (5) of this section that the defendant did not know the
21 age of the person through whom the defendant violated such subsection.

22 (7) Any person who violates subsection (1) of this section with
23 respect to cocaine or any mixture or substance containing a detectable
24 amount of cocaine in a quantity of:

25 (a) One hundred forty grams or more shall be guilty of a Class IB
26 felony;

27 (b) At least twenty-eight grams but less than one hundred forty
28 grams shall be guilty of a Class IC felony; or

29 (c) At least ten grams but less than twenty-eight grams shall be
30 guilty of a Class ID felony.

31 (8) Any person who violates subsection (1) of this section with

1 respect to base cocaine (crack) or any mixture or substance containing a
2 detectable amount of base cocaine in a quantity of:

3 (a) One hundred forty grams or more shall be guilty of a Class IB
4 felony;

5 (b) At least twenty-eight grams but less than one hundred forty
6 grams shall be guilty of a Class IC felony; or

7 (c) At least ten grams but less than twenty-eight grams shall be
8 guilty of a Class ID felony.

9 (9) Any person who violates subsection (1) of this section with
10 respect to heroin or any mixture or substance containing a detectable
11 amount of heroin in a quantity of:

12 (a) One hundred forty grams or more shall be guilty of a Class IB
13 felony;

14 (b) At least twenty-eight grams but less than one hundred forty
15 grams shall be guilty of a Class IC felony; or

16 (c) At least ten grams but less than twenty-eight grams shall be
17 guilty of a Class ID felony.

18 (10) Any person who violates subsection (1) of this section with
19 respect to amphetamine, its salts, optical isomers, and salts of its
20 isomers, or with respect to methamphetamine, its salts, optical isomers,
21 and salts of its isomers, in a quantity of:

22 (a) One hundred forty grams or more shall be guilty of a Class IB
23 felony;

24 (b) At least twenty-eight grams but less than one hundred forty
25 grams shall be guilty of a Class IC felony; or

26 (c) At least ten grams but less than twenty-eight grams shall be
27 guilty of a Class ID felony.

28 (11) Any person knowingly or intentionally possessing marijuana
29 weighing more than one ounce but not more than one pound shall be guilty
30 of a Class III misdemeanor.

31 (12) Any person knowingly or intentionally possessing marijuana

1 weighing more than one pound shall be guilty of a Class IV felony.

2 (13) Any person knowingly or intentionally possessing marijuana
3 weighing one ounce or less or any substance containing a quantifiable
4 amount of the substances, chemicals, or compounds described, defined, or
5 delineated in subdivision (c)(25) of Schedule I of section 28-405 shall:

6 (a) For the first offense, be guilty of an infraction, receive a
7 citation, be fined three hundred dollars, and be assigned to attend a
8 course as prescribed in section 29-433 if the judge determines that
9 attending such course is in the best interest of the individual
10 defendant;

11 (b) For the second offense, be guilty of a Class IV misdemeanor,
12 receive a citation, and be fined four hundred dollars and may be
13 imprisoned not to exceed five days; and

14 (c) For the third and all subsequent offenses, be guilty of a Class
15 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
16 be imprisoned not to exceed seven days.

17 (14) Any person convicted of violating this section, if placed on
18 probation, shall, as a condition of probation, satisfactorily attend and
19 complete appropriate treatment and counseling on drug abuse provided by a
20 program authorized under the Nebraska Behavioral Health Services Act or
21 other licensed drug treatment facility.

22 (15) Any person convicted of violating this section, if sentenced to
23 the Department of Correctional Services, shall attend appropriate
24 treatment and counseling on drug abuse.

25 (16) Any person knowingly or intentionally possessing a firearm
26 while in violation of subsection (1) of this section shall be punished by
27 the next higher penalty classification than the penalty prescribed in
28 subsection (2), (7), (8), (9), or (10) of this section, but in no event
29 shall such person be punished by a penalty greater than a Class IB
30 felony.

31 (17) A person knowingly or intentionally in possession of money used

1 or intended to be used to facilitate a violation of subsection (1) of
2 this section shall be guilty of a Class IV felony.

3 (18) In addition to the existing penalties available for a violation
4 of subsection (1) of this section, including any criminal attempt or
5 conspiracy to violate subsection (1) of this section, a sentencing court
6 may order that any money, securities, negotiable instruments, firearms,
7 conveyances, or electronic communication devices as defined in section
8 28-833 or any equipment, components, peripherals, software, hardware, or
9 accessories related to electronic communication devices be forfeited as a
10 part of the sentence imposed if it finds by clear and convincing evidence
11 adduced at a separate hearing in the same prosecution, following
12 conviction for a violation of subsection (1) of this section, and
13 conducted pursuant to section 28-1601, that any or all such property was
14 derived from, used, or intended to be used to facilitate a violation of
15 subsection (1) of this section.

16 (19) In addition to the penalties provided in this section:

17 (a) If the person convicted or adjudicated of violating this section
18 is eighteen years of age or younger and has one or more licenses or
19 permits issued under the Motor Vehicle Operator's License Act:

20 (i) For the first offense, the court may, as a part of the judgment
21 of conviction or adjudication, (A) impound any such licenses or permits
22 for thirty days and (B) require such person to attend a drug education
23 class;

24 (ii) For a second offense, the court may, as a part of the judgment
25 of conviction or adjudication, (A) impound any such licenses or permits
26 for ninety days and (B) require such person to complete no fewer than
27 twenty and no more than forty hours of community service and to attend a
28 drug education class; and

29 (iii) For a third or subsequent offense, the court may, as a part of
30 the judgment of conviction or adjudication, (A) impound any such licenses
31 or permits for twelve months and (B) require such person to complete no

1 fewer than sixty hours of community service, to attend a drug education
2 class, and to submit to a drug assessment by a licensed alcohol and drug
3 counselor; and

4 (b) If the person convicted or adjudicated of violating this section
5 is eighteen years of age or younger and does not have a permit or license
6 issued under the Motor Vehicle Operator's License Act:

7 (i) For the first offense, the court may, as part of the judgment of
8 conviction or adjudication, (A) prohibit such person from obtaining any
9 permit or any license pursuant to the act for which such person would
10 otherwise be eligible until thirty days after the date of such order and
11 (B) require such person to attend a drug education class;

12 (ii) For a second offense, the court may, as part of the judgment of
13 conviction or adjudication, (A) prohibit such person from obtaining any
14 permit or any license pursuant to the act for which such person would
15 otherwise be eligible until ninety days after the date of such order and
16 (B) require such person to complete no fewer than twenty hours and no
17 more than forty hours of community service and to attend a drug education
18 class; and

19 (iii) For a third or subsequent offense, the court may, as part of
20 the judgment of conviction or adjudication, (A) prohibit such person from
21 obtaining any permit or any license pursuant to the act for which such
22 person would otherwise be eligible until twelve months after the date of
23 such order and (B) require such person to complete no fewer than sixty
24 hours of community service, to attend a drug education class, and to
25 submit to a drug assessment by a licensed alcohol and drug counselor.

26 A copy of an abstract of the court's conviction or adjudication
27 shall be transmitted to the Director of Motor Vehicles pursuant to
28 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
29 juvenile is prohibited from obtaining a license or permit under this
30 subsection.

31 Sec. 8. Section 28-507, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-507 ~~(1)(a) (1)~~ A person commits burglary in the first degree if
3 such person willfully, maliciously, and forcibly breaks and enters any
4 dwelling real estate or any improvements erected thereon with intent to
5 commit any felony or with intent to steal property of any value.

6 ~~(b) (2)~~ Burglary in the first degree is a Class IIA felony.

7 ~~(2)(a)~~ A person commits burglary in the second degree if such person
8 willfully, maliciously, and forcibly breaks and enters any building,
9 other than a dwelling, while occupied, with intent to commit any felony
10 or with intent to steal property of any value.

11 ~~(b)~~ Burglary in the second degree is a Class III felony.

12 ~~(3)(a)~~ A person commits burglary in the third degree if such person
13 willfully, maliciously, and forcibly breaks and enters any real estate or
14 any improvements erected thereon, other than a dwelling, while
15 unoccupied, with intent to commit any felony or with intent to steal
16 property of any value.

17 ~~(b)~~ Burglary in the second degree is a Class IIIA felony.

18 ~~(4)~~ For purposes of this section, occupied means that a person,
19 other than the defendant or a coconspirator, accomplice, or other person
20 acting in concert with the defendant, is actually present.

21 Sec. 9. Section 28-518, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-518 (1) Theft constitutes a Class IIA felony when the value of
24 the thing involved is five thousand dollars or more.

25 (2) Theft constitutes a Class IV felony when the value of the thing
26 involved is one thousand five hundred dollars or more but less than five
27 thousand dollars.

28 (3) Theft constitutes a Class I misdemeanor when the value of the
29 thing involved is more than five hundred dollars but less than one
30 thousand five hundred dollars.

31 (4) Theft constitutes a Class II misdemeanor when the value of the

1 thing involved is five hundred dollars or less.

2 (5) For any second or subsequent conviction under subsection (3) of
3 this section, any person so offending shall be guilty of a Class IV
4 felony.

5 (6) For any second conviction under subsection (4) of this section,
6 any person so offending shall be guilty of a Class I misdemeanor, and for
7 any third or subsequent conviction under subsection (4) of this section,
8 the person so offending shall be guilty of a Class IV felony.

9 (7) For a prior conviction to be used to enhance the penalty under
10 subsection (5) or (6) of this section, the prior conviction must have
11 occurred no more than ten years prior to the date of commission of the
12 current offense.

13 (8) {7} Amounts taken pursuant to one scheme or course of conduct
14 from one or more persons may be aggregated in the indictment or
15 information in determining the classification of the offense, except that
16 amounts may not be aggregated into more than one offense.

17 (9) {8} In any prosecution for theft under sections 28-509 to
18 28-518, value shall be an essential element of the offense that must be
19 proved beyond a reasonable doubt.

20 Sec. 10. Section 28-1351, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 28-1351 (1) A person commits the offense of unlawful membership
23 recruitment into an organization or association when he or she knowingly
24 and intentionally coerces, intimidates, threatens, or inflicts bodily
25 harm upon another person in order to entice that other person to join or
26 prevent that other person from leaving any organization, group,
27 enterprise, or association whose members, individually or collectively,
28 engage in or have engaged in any of the following criminal acts for the
29 benefit of, at the direction of, or on behalf of the organization, group,
30 enterprise, or association or any of its members:

31 (a) Robbery under section 28-324;

1 (b) Arson in the first, second, or third degree under section
2 28-502, 28-503, or 28-504, respectively;

3 (c) Burglary in the first, second, or third degree under section
4 28-507;

5 (d) Murder in the first degree, murder in the second degree, or
6 manslaughter under section 28-303, 28-304, or 28-305, respectively;

7 (e) Violations of the Uniform Controlled Substances Act that involve
8 possession with intent to deliver, distribution, delivery, or manufacture
9 of a controlled substance;

10 (f) Unlawful use, possession, or discharge of a firearm or other
11 deadly weapon under sections 28-1201 to 28-1212.04;

12 (g) Assault in the first degree or assault in the second degree
13 under section 28-308 or 28-309, respectively;

14 (h) Assault on an officer, an emergency responder, a state
15 correctional employee, a Department of Health and Human Services
16 employee, or a health care professional in the first, second, or third
17 degree under section 28-929, 28-930, or 28-931, respectively, or assault
18 on an officer, an emergency responder, a state correctional employee, a
19 Department of Health and Human Services employee, or a health care
20 professional using a motor vehicle under section 28-931.01;

21 (i) Theft by unlawful taking or disposition under section 28-511;

22 (j) Theft by receiving stolen property under section 28-517;

23 (k) Theft by deception under section 28-512;

24 (l) Theft by extortion under section 28-513;

25 (m) Kidnapping under section 28-313;

26 (n) Any forgery offense under sections 28-602 to 28-605;

27 (o) Criminal impersonation under section 28-638;

28 (p) Tampering with a publicly exhibited contest under section
29 28-614;

30 (q) Unauthorized use of a financial transaction device or criminal
31 possession of a financial transaction device under section 28-620 or

1 28-621, respectively;

2 (r) Pandering under section 28-802;

3 (s) Bribery, bribery of a witness, or bribery of a juror under
4 section 28-917, 28-918, or 28-920, respectively;

5 (t) Tampering with a witness or an informant or jury tampering under
6 section 28-919;

7 (u) Unauthorized application of graffiti under section 28-524;

8 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
9 against another under section 28-1005; or

10 (w) Promoting gambling in the first degree under section 28-1102.

11 (2) Unlawful membership recruitment into an organization or
12 association is a Class IV felony.

13 Sec. 11. Section 28-1354, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 28-1354 For purposes of the Public Protection Act:

16 (1) Enterprise means any individual, sole proprietorship,
17 partnership, corporation, trust, association, or any legal entity, union,
18 or group of individuals associated in fact although not a legal entity,
19 and shall include illicit as well as licit enterprises as well as other
20 entities;

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

27 (3) Until January 1, 2017, person means any individual or entity, as
28 defined in section 21-2014, holding or capable of holding a legal,
29 equitable, or beneficial interest in property. Beginning January 1, 2017,
30 person means any individual or entity, as defined in section 21-214,
31 holding or capable of holding a legal, equitable, or beneficial interest

1 in property;

2 (4) Prosecutor includes the Attorney General of the State of
3 Nebraska, the deputy attorney general, assistant attorneys general, a
4 county attorney, a deputy county attorney, or any person so designated by
5 the Attorney General, a county attorney, or a court of the state to carry
6 out the powers conferred by the act;

7 (5) Racketeering activity includes the commission of, criminal
8 attempt to commit, conspiracy to commit, aiding and abetting in the
9 commission of, aiding in the consummation of, acting as an accessory to
10 the commission of, or the solicitation, coercion, or intimidation of
11 another to commit or aid in the commission of any of the following:

12 (a) Offenses against the person which include: Murder in the first
13 degree under section 28-303; murder in the second degree under section
14 28-304; manslaughter under section 28-305; assault in the first degree
15 under section 28-308; assault in the second degree under section 28-309;
16 assault in the third degree under section 28-310; terroristic threats
17 under section 28-311.01; kidnapping under section 28-313; false
18 imprisonment in the first degree under section 28-314; false imprisonment
19 in the second degree under section 28-315; sexual assault in the first
20 degree under section 28-319; and robbery under section 28-324;

21 (b) Offenses relating to controlled substances which include: To
22 unlawfully manufacture, distribute, deliver, dispense, or possess with
23 intent to manufacture, distribute, deliver, or dispense a controlled
24 substance under subsection (1) of section 28-416; possession of marijuana
25 weighing more than one pound under subsection (12) of section 28-416;
26 possession of money used or intended to be used to facilitate a violation
27 of subsection (1) of section 28-416 prohibited under subsection (17) of
28 section 28-416; any violation of section 28-418; to unlawfully
29 manufacture, distribute, deliver, or possess with intent to distribute or
30 deliver an imitation controlled substance under section 28-445;
31 possession of anhydrous ammonia with the intent to manufacture

1 methamphetamine under section 28-451; and possession of ephedrine,
2 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
3 methamphetamine under section 28-452;

4 (c) Offenses against property which include: Arson in the first
5 degree under section 28-502; arson in the second degree under section
6 28-503; arson in the third degree under section 28-504; burglary in the
7 first, second, or third degree under section 28-507; theft by unlawful
8 taking or disposition under section 28-511; theft by shoplifting under
9 section 28-511.01; theft by deception under section 28-512; theft by
10 extortion under section 28-513; theft of services under section 28-515;
11 theft by receiving stolen property under section 28-517; criminal
12 mischief under section 28-519; and unlawfully depriving or obtaining
13 property or services using a computer under section 28-1344;

14 (d) Offenses involving fraud which include: Burning to defraud an
15 insurer under section 28-505; forgery in the first degree under section
16 28-602; forgery in the second degree under section 28-603; criminal
17 possession of a forged instrument under section 28-604; criminal
18 possession of written instrument forgery devices under section 28-605;
19 criminal impersonation under section 28-638; identity theft under section
20 28-639; identity fraud under section 28-640; false statement or book
21 entry under section 28-612; tampering with a publicly exhibited contest
22 under section 28-614; issuing a false financial statement for purposes of
23 obtaining a financial transaction device under section 28-619;
24 unauthorized use of a financial transaction device under section 28-620;
25 criminal possession of a financial transaction device under section
26 28-621; unlawful circulation of a financial transaction device in the
27 first degree under section 28-622; unlawful circulation of a financial
28 transaction device in the second degree under section 28-623; criminal
29 possession of a blank financial transaction device under section 28-624;
30 criminal sale of a blank financial transaction device under section
31 28-625; criminal possession of a financial transaction forgery device

1 under section 28-626; unlawful manufacture of a financial transaction
2 device under section 28-627; laundering of sales forms under section
3 28-628; unlawful acquisition of sales form processing services under
4 section 28-629; unlawful factoring of a financial transaction device
5 under section 28-630; and fraudulent insurance acts under section 28-631;

6 (e) Offenses involving governmental operations which include: Abuse
7 of public records under section 28-911; perjury or subornation of perjury
8 under section 28-915; bribery under section 28-917; bribery of a witness
9 under section 28-918; tampering with a witness or informant or jury
10 tampering under section 28-919; bribery of a juror under section 28-920;
11 assault on an officer, an emergency responder, a state correctional
12 employee, a Department of Health and Human Services employee, or a health
13 care professional in the first degree under section 28-929; assault on an
14 officer, an emergency responder, a state correctional employee, a
15 Department of Health and Human Services employee, or a health care
16 professional in the second degree under section 28-930; assault on an
17 officer, an emergency responder, a state correctional employee, a
18 Department of Health and Human Services employee, or a health care
19 professional in the third degree under section 28-931; and assault on an
20 officer, an emergency responder, a state correctional employee, a
21 Department of Health and Human Services employee, or a health care
22 professional using a motor vehicle under section 28-931.01;

23 (f) Offenses involving gambling which include: Promoting gambling in
24 the first degree under section 28-1102; possession of gambling records
25 under section 28-1105; gambling debt collection under section 28-1105.01;
26 and possession of a gambling device under section 28-1107;

27 (g) Offenses relating to firearms, weapons, and explosives which
28 include: Carrying a concealed weapon under section 28-1202;
29 transportation or possession of machine guns, short rifles, or short
30 shotguns under section 28-1203; unlawful possession of a handgun under
31 section 28-1204; unlawful transfer of a firearm to a juvenile under

1 section 28-1204.01; possession of a firearm by a prohibited juvenile
2 offender under section 28-1204.05; using a deadly weapon to commit a
3 felony or possession of a deadly weapon during the commission of a felony
4 under section 28-1205; possession of a deadly weapon by a prohibited
5 person under section 28-1206; possession of a defaced firearm under
6 section 28-1207; defacing a firearm under section 28-1208; unlawful
7 discharge of a firearm under section 28-1212.02; possession, receipt,
8 retention, or disposition of a stolen firearm under section 28-1212.03;
9 unlawful possession of explosive materials in the first degree under
10 section 28-1215; unlawful possession of explosive materials in the second
11 degree under section 28-1216; unlawful sale of explosives under section
12 28-1217; use of explosives without a permit under section 28-1218;
13 obtaining an explosives permit through false representations under
14 section 28-1219; possession of a destructive device under section
15 28-1220; threatening the use of explosives or placing a false bomb under
16 section 28-1221; using explosives to commit a felony under section
17 28-1222; using explosives to damage or destroy property under section
18 28-1223; and using explosives to kill or injure any person under section
19 28-1224;

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

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

24 (j) Offenses relating to public health and morals which include:
25 Prostitution under section 28-801; pandering under section 28-802;
26 keeping a place of prostitution under section 28-804; labor trafficking,
27 sex trafficking, labor trafficking of a minor, or sex trafficking of a
28 minor under section 28-831; a violation of section 28-1005; and any act
29 relating to the visual depiction of sexually explicit conduct prohibited
30 in the Child Pornography Prevention Act; and

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

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

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

5 (a) Incurred or contracted in gambling activity which was in
6 violation of federal law or the law of the state or which is
7 unenforceable under state or federal law in whole or in part as to
8 principal or interest because of the laws relating to usury; or

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

13 Sec. 12. Section 29-2204, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 29-2204 (1) Except when a term of life imprisonment is required by
16 law, in imposing a sentence upon an offender for any class of felony
17 other than a Class III, IIIA, or IV felony, the court shall fix the
18 minimum and the maximum terms of the sentence to be served within the
19 limits provided by law. The maximum term shall not be greater than the
20 maximum limit provided by law, and:

21 (a) The minimum term fixed by the court shall be:

22 (i) For a violation other than as described in subdivision (1)(a)
23 (ii) of this section, any term of years less than or equal to fifty
24 percent of the maximum term imposed by the court; or

25 (ii) For a violation of section 28-316.01, 28-319, 28-319.01,
26 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04,
27 or 28-322.05, any term of years less than or equal to seventy percent of
28 the maximum term imposed by the court; or

29 (b) The minimum term shall be the minimum limit provided by law.

30 (2) When a maximum term of life is imposed by the court for a Class
31 IB felony, the minimum term fixed by the court shall be:

1 (a) Any term of years not less than the minimum limit provided by
2 law; or

3 (b) A term of life imprisonment.

4 (3) When a maximum term of life is imposed by the court for a Class
5 IA felony, the minimum term fixed by the court shall be:

6 (a) A term of life imprisonment; or

7 (b) Any term of years not less than the minimum limit provided by
8 law after consideration of the mitigating factors in section 28-105.02,
9 if the defendant was under eighteen years of age at the time he or she
10 committed the crime for which he or she was convicted.

11 (4) When the court is of the opinion that imprisonment may be
12 appropriate but desires more detailed information as a basis for
13 determining the sentence to be imposed than has been provided by the
14 presentence report required by section 29-2261, the court may commit an
15 offender to the Department of Correctional Services. During that time,
16 the department shall conduct a complete study of the offender as provided
17 in section 29-2204.03.

18 (5) Except when a term of life is required by law, whenever the
19 defendant was under eighteen years of age at the time he or she committed
20 the crime for which he or she was convicted, the court may, in its
21 discretion, instead of imposing the penalty provided for the crime, make
22 such disposition of the defendant as the court deems proper under the
23 Nebraska Juvenile Code.

24 (6)(a) When determining whether to impose a consecutive or
25 concurrent sentence, a court shall impose a concurrent sentence unless
26 the court, on the record, identifies one or more aggravating factors
27 under section 14 of this act that necessitate a consecutive sentence.

28 (b) This subsection does not apply when a consecutive sentence is
29 required by statute.

30 (7)(a) ~~(6)(a)~~ When imposing an indeterminate sentence upon an
31 offender under this section, the court shall:

1 (i) Advise the offender on the record the time the offender will
2 serve on his or her minimum term before attaining parole eligibility
3 assuming that no good time for which the offender will be eligible is
4 lost; and

5 (ii) Advise the offender on the record the time the offender will
6 serve on his or her maximum term before attaining mandatory release
7 assuming that no good time for which the offender will be eligible is
8 lost.

9 (b) If any discrepancy exists between the statement of the minimum
10 limit of the sentence and the statement of parole eligibility or between
11 the statement of the maximum limit of the sentence and the statement of
12 mandatory release, the statements of the minimum limit and the maximum
13 limit shall control the calculation of the offender's term.

14 (c) If the court imposes more than one sentence upon an offender or
15 imposes a sentence upon an offender who is at that time serving another
16 sentence, the court shall state whether the sentences are to be
17 concurrent or consecutive.

18 Sec. 13. Section 29-2204.02, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 29-2204.02 (1) Except when a term of probation is required by law as
21 provided in subsection (2) of this section or except as otherwise
22 provided in subsection (4) of this section, in imposing a sentence upon
23 an offender for a Class III, IIIA, or IV felony, the court shall:

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

26 (b) Impose a sentence of post-release supervision, under the
27 jurisdiction of the Office of Probation Administration, within the
28 applicable range in section 28-105.

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

31 (a) The defendant is concurrently or consecutively sentenced to

1 imprisonment for any felony other than another Class IV felony;

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

4 (c) There are substantial and compelling reasons why the defendant
5 cannot effectively and safely be supervised in the community, including,
6 but not limited to, the criteria in subsections (2) and (3) of section
7 29-2260. Unless other reasons are found to be present, that the offender
8 has not previously succeeded on probation is not, standing alone, a
9 substantial and compelling reason.

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

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

23 (5) For any sentence of imprisonment for a misdemeanor imposed
24 consecutively or concurrently with a sentence of imprisonment for a Class
25 III, IIIA, or IV felony for an offense committed on or after August 30,
26 2015, the court shall impose a determinate sentence within the applicable
27 range in section 28-106 unless the person is also committed to the
28 Department of Correctional Services in accordance with section 29-2204
29 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony
30 committed prior to August 30, 2015, or (b) a sentence of imprisonment for
31 a Class I, IA, IB, IC, ID, II, or IIA felony.

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

6 (7)(a) When determining whether to impose a consecutive or
7 concurrent sentence, a court shall impose a concurrent sentence unless
8 the court, on the record, identifies one or more aggravating factors
9 under section 14 of this act that necessitate a consecutive sentence.

10 (b) This subsection does not apply when a consecutive sentence is
11 required by statute.

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

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

18 (ii) Advise the offender on the record the time the offender will
19 serve on his or her term of post-release supervision; and

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

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

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

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

5 Sec. 14. Except when a consecutive sentence is required by statute,
6 a court shall not order a sentence to run consecutive to another
7 sentence, whether being imposed at the same time or already being served,
8 unless the court finds, on the record, that at least one of the following
9 aggravating factors applies:

10 (1) The offenses occurred on different days;

11 (2) The offenses involved the use of force or threat of serious
12 bodily harm against separate victims;

13 (3) One of the offenses was a violation of section 28-316.01,
14 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02,
15 28-322.03, 28-322.04, or 28-322.05 or otherwise involved a sexual
16 assault; or

17 (4) One of the offenses was especially heinous, atrocious, or cruel
18 or manifested exceptional depravity by ordinary standards of morality and
19 intelligence.

20 Sec. 15. Section 29-2221, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-2221 (1) Whoever has been twice convicted of a covered felony
23 crime, sentenced, and committed to prison, in this or any other state or
24 by the United States or once in this state and once at least in any other
25 state or by the United States, for terms of not less than one year each
26 shall, upon conviction of any a felony committed in this state, be deemed
27 to be a habitual criminal and shall be punished by imprisonment in a
28 Department of Correctional Services adult correctional facility for a
29 mandatory minimum term of ten years and a maximum term of not more than
30 sixty years, except that:

31 (a) If the felony committed is in violation of section 28-303,

1 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,
2 and at least one of the habitual criminal's prior covered felony
3 convictions was for a violation of one of the sections listed in this
4 subdivision or of a similar statute in another state or of the United
5 States, the mandatory minimum term shall be twenty-five years and the
6 maximum term not more than sixty years;

7 (b) If the felony committed is in violation of subsection (3) of
8 section 28-306 and at least one of the prior convictions is in violation
9 of subsection (3) of section 28-306 and the other is in violation of one
10 of the sections set forth in subdivision (a) of this subsection or if the
11 felony committed is in violation of one of the sections set forth in
12 subdivision (a) of this subsection and both of the prior convictions are
13 in violation of subsection (3) of section 28-306, the mandatory minimum
14 term shall be twenty-five years and the maximum term not more than sixty
15 years; and

16 (c) If a greater punishment is otherwise provided by statute, the
17 law creating the greater punishment shall govern.

18 (2) When punishment of an accused as a habitual criminal is sought,
19 the facts with reference thereto shall be charged in the indictment or
20 information which contains the charge of the felony upon which the
21 accused is prosecuted, but the fact that the accused is charged with
22 being a habitual criminal shall not be an issue upon the trial of the
23 felony charge and shall not in any manner be disclosed to the jury. If
24 the accused is convicted of a felony, before sentence is imposed a
25 hearing shall be had before the court alone as to whether such person has
26 been previously convicted of prior covered felonies. The court shall fix
27 a time for the hearing and notice thereof shall be given to the accused
28 at least three days prior thereto. At the hearing, if the court finds
29 from the evidence submitted that the accused has been convicted two or
30 more times of covered felonies and sentences imposed therefor by the
31 courts of this or any other state or by the United States, the court

1 shall sentence such person so convicted as a habitual criminal.

2 (3) If the person so convicted shows to the satisfaction of the
3 court before which the conviction was had that he or she was released
4 from imprisonment upon either of such sentences upon a pardon granted for
5 the reason that he or she was innocent, such conviction and sentence
6 shall not be considered as such under this section and section 29-2222.

7 (4) For purposes of this section:

8 (a) Covered felony means:

9 (i) A felony violation of any of the following sections: Section
10 28-303, 28-304, 28-305, 28-306, 28-308, 28-309, 28-310.01, 28-311,
11 28-311.01, 28-311.03, 28-311.08, 28-313, 28-314, 28-316.01, 28-319,
12 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.02, 28-322.03, 28-322.04,
13 28-322.05, 28-323, 28-324, 28-386, 28-391, 28-392, 28-393, 28-394,
14 28-397, 28-398, 28-502, 28-503, 28-507, 28-703, 28-707, 28-813.01,
15 28-831, 28-833, 28-904, 28-905, 28-912, 28-929, 28-930, 28-931,
16 28-931.01, 28-932, 28-933, 28-934, 28-1005, 28-1009, 28-1105.01, 28-1205,
17 28-1212.02, 28-1212.04, 28-1221, 28-1222, 28-1223, 28-1224, 28-1351,
18 28-1463.03, or 28-1463.05;

19 (ii) A felony that has an element of the offense:

20 (A) Sexual contact or sexual penetration; or

21 (B) The threat to inflict serious bodily injury or death on another
22 person, the infliction of serious bodily injury on another person, or
23 causing the death of another person;

24 (iii) Attempt, solicitation, aiding or abetting, being an accessory,
25 or conspiracy to commit an offense listed in subdivision (4)(a)(i) or
26 (ii) of this section; or

27 (iv) A felony violation of an offense of any other state or of the
28 United States that is substantially equivalent to any offense listed in
29 subdivision (4)(a)(i), (ii), or (iii) of this section;

30 (b) Serious bodily injury has the same meaning as in section 28-109;

31 and

1 (c) Sexual contact and sexual penetration have the same meanings as
2 in section 28-318.

3 Sec. 16. Section 29-2263, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-2263 (1)(a) {1} Except as provided in subsection (2) of this
6 section, when a court has sentenced an offender to probation, the court
7 shall specify the term of such probation which shall be not more than
8 five years upon conviction of a felony or second offense misdemeanor and
9 two years upon conviction of a first offense misdemeanor.

10 (b) At sentencing, the court shall provide notice to the offender
11 that the offender may be eligible to have the conviction set aside as
12 provided in subsection (2) of section 29-2264 and shall provide
13 information on how to file such a petition. The State Court Administrator
14 shall develop standardized advisement language and any forms necessary to
15 carry out this subdivision. The court, on application of a probation
16 officer or of the probationer or on its own motion, may discharge a
17 probationer at any time.

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

23 (3) During the term of probation, the court on application of a
24 probation officer or of the probationer, or its own motion, may modify or
25 eliminate any of the conditions imposed on the probationer or add further
26 conditions authorized by section 29-2262. This subsection does not
27 preclude a probation officer from imposing administrative sanctions with
28 the probationer's full knowledge and consent as authorized by sections
29 29-2266.01 and 29-2266.02.

30 (4)(a) {4} Upon completion of the term of probation, or the earlier
31 discharge of the probationer, the probationer shall be relieved of any

1 obligations imposed by the order of the court and shall have satisfied
2 the sentence for his or her crime.

3 (b) Upon satisfactory fulfillment of the conditions of probation for
4 the entire period or after discharge from probation prior to the
5 termination of the period of probation, a probation officer shall notify
6 the probationer that the probationer may be eligible to have the
7 conviction set aside as provided in subsection (2) of section 29-2264.
8 The notice shall include an explanation of the requirements for a
9 conviction to be set aside, how to file for a conviction to be set aside,
10 and the effect of and limitations of having a conviction set aside and an
11 advisement that the probationer consult with an attorney prior to filing
12 a petition. The State Court Administrator shall develop standardized
13 advisement language and any forms necessary to carry out this
14 subdivision.

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

19 Sec. 17. Section 29-2269, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 29-2269 Sections 29-2246 to 29-2269 and sections 18 and 19 of this
22 act shall be known and may be cited as the Nebraska Probation
23 Administration Act.

24 Sec. 18. (1) The probation administrator shall create a pilot
25 program to hire additional assistant probation officers as provided in
26 this section.

27 (2) The pilot program shall be limited to a single probation
28 district. Such district shall be chosen by the State Court Administrator
29 in consultation with the Commission on Public Advocacy and the Nebraska
30 County Attorneys Association.

31 (3) Assistant probation officers hired under this section shall

1 assist probation officers in the supervision of high-risk caseloads.

2 (4) The purpose of the pilot program is to determine whether
3 additional support for probation officers results in probationers
4 completing their terms of probation with fewer violations.

5 (5) On or before June 1, 2023, the probation administrator shall
6 electronically submit a report to the Judiciary Committee of the
7 Legislature regarding the pilot program.

8 (6) It is the intent of the Legislature to appropriate XXX dollars
9 from the General Fund for FY2022-23 to the Office of Probation
10 Administration to carry out the pilot program.

11 Sec. 19. (1) The probation administrator shall create a pilot
12 program to establish a probationer incentive program as provided in this
13 section.

14 (2) The pilot program shall be limited to a single probation
15 district. Such district shall be chosen by the State Court Administrator.

16 (3) The pilot program shall establish a gift fund to be used for the
17 purchase of gift cards, vouchers, and other tangible rewards for
18 probationers who are succeeding at probation, in order to encourage
19 continued success and reduce recidivism. The gifts shall be awarded at
20 the discretion of probation officers, subject to policies and guidelines
21 of the office.

22 (4) On or before June 1, 2023, the probation administrator shall
23 electronically submit a report to the Judiciary Committee of the
24 Legislature regarding the pilot program.

25 (5) It is the intent of the Legislature to appropriate XXX dollars
26 from the General Fund for FY2022-23 to the Office of Probation
27 Administration to carry out the pilot program.

28 Sec. 20. Section 29-2281, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 29-2281 (1) To determine the amount of restitution, the court may
31 hold a hearing at the time of sentencing. The amount of restitution shall

1 be based on the actual damages sustained by the victim and shall be
2 supported by evidence which shall become a part of the court record. The
3 court shall consider the defendant's earning ability, employment status,
4 financial resources, and family or other legal obligations and shall
5 balance such considerations against the obligation to the victim. In
6 considering the earning ability of a defendant who is sentenced to
7 imprisonment, the court may receive evidence of money anticipated to be
8 earned by the defendant during incarceration.

9 (2) A person may not be granted or denied probation or parole either
10 solely or primarily due to his or her financial resources or ability or
11 inability to pay restitution.

12 (3) The court may order that restitution be made immediately, in
13 specified installments, or within a specified period of time not to
14 exceed five years after the date of judgment or defendant's final release
15 date from imprisonment, whichever is later.

16 (4) If, in addition to restitution, a defendant is ordered to pay
17 finances and costs as part of the judgment and the defendant fails to pay
18 the full amount owed, funds shall first be applied to a restitution
19 obligation with the remainder applied towards fines and costs only when
20 the restitution obligation is satisfied in full.

21 (5) Restitution payments shall be made through the clerk of the
22 court ordering restitution. The clerk shall maintain a record of all
23 receipts and disbursements.

24 Sec. 21. Section 29-3603, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-3603 A pretrial diversion plan for criminal offenses shall
27 include, but not be limited to:

28 (1) Formal eligibility guidelines established following consultation
29 with criminal justice officials and program representatives. The
30 eligibility guidelines shall not prohibit participation by a defendant
31 charged with a Class IV felony if such defendant has no prior felony

1 convictions and has not previously completed a pretrial diversion program
2 for a felony. The guidelines shall be written and made available and
3 routinely disseminated to all interested parties;

4 (2) A maximum time limit for any defendant's participation in a
5 diversion program, beyond which no defendant shall be required or
6 permitted to participate. Such maximum term shall be long enough to
7 effect sufficient change in participants to deter them from criminal
8 activity, but not so long as to prejudice the prosecution or defense of
9 the case should the participant be returned to the ordinary course of
10 prosecution;

11 (3) The opportunity for eligible defendants to review, with their
12 counsel present, a copy of general diversion program requirements
13 including average program duration and possible outcome, prior to making
14 the decision to enter a diversion program;

15 (4) Dismissal of the diverted case upon completion of the program;

16 (5) A provision that participants shall be able to withdraw at any
17 time before the program is completed and be remanded to the court process
18 without prejudice to them during the ordinary course of prosecution;

19 (6) Enrollment shall not be conditioned on a plea of guilty; and

20 (7) Defendants who are denied enrollment in a diversion program
21 shall be afforded an administrative review of the decision and written
22 reasons for denial.

23 Sec. 22. Section 47-706, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 47-706 (1) It is the intent of the Legislature to ensure that human
26 services agencies, correctional facilities, and detention facilities
27 recognize that:

28 (a) Federal law generally does not authorize federal financial
29 participation for medicaid when a person is an inmate of a public
30 institution as defined in federal law but that federal financial
31 participation is available after an inmate is released from

1 incarceration; and

2 (b) The fact that an applicant is currently an inmate does not, in
3 and of itself, preclude the Department of Health and Human Services from
4 processing an application submitted to it by, or on behalf of, the
5 inmate.

6 (2)(a) Medical assistance under the medical assistance program shall
7 be suspended, rather than canceled or terminated, for a person who is an
8 inmate of a public institution if:

9 (i) The Department of Health and Human Services is notified of the
10 person's entry into the public institution;

11 (ii) On the date of entry, the person was enrolled in the medical
12 assistance program; and

13 (iii) The person is eligible for the medical assistance program
14 except for institutional status.

15 (b) A suspension under subdivision (2)(a) of this section shall end
16 on the date the person is no longer an inmate of a public institution.

17 (c) Upon release from incarceration, such person shall continue to
18 be eligible for receipt of medical assistance until such time as the
19 person is otherwise determined to no longer be eligible for the medical
20 assistance program.

21 (3)(a) The Department of Correctional Services shall notify the
22 Department of Health and Human Services:

23 (i) Within twenty days after receiving information that a person
24 receiving medical assistance under the medical assistance program is or
25 will be an inmate of a public institution; and

26 (ii) Within forty-five days prior to the release of a person who
27 qualified for suspension under subdivision (2)(a) of this section.

28 (b)(i) The Department of Correctional Services shall record the
29 number of notifications it provides under this subsection to the
30 Department of Health and Human Services and the number of individuals
31 released from custody who are eligible for the medical assistance program

1 who do not have the suspension under subdivision (2)(a) of this section
2 ended upon release from a public institution.

3 (ii) The Department of Health and Human Services shall record the
4 number of suspensions under subdivision (2)(a) of this section that have
5 ended on the date a person is no longer an inmate of a public
6 institution.

7 (c) ~~(b)~~ Local correctional facilities, juvenile detention
8 facilities, and other temporary detention centers shall notify the
9 Department of Health and Human Services within ten days after receiving
10 information that a person receiving medical assistance under the medical
11 assistance program is or will be an inmate of a public institution.

12 (4) Nothing in this section shall create a state-funded benefit or
13 program.

14 (5) For purposes of this section, medical assistance program means
15 the medical assistance program under the Medical Assistance Act and the
16 State Children's Health Insurance Program.

17 (6) This section shall be implemented only if, and to the extent,
18 allowed by federal law. This section shall be implemented only to the
19 extent that any necessary federal approval of state plan amendments or
20 other federal approvals are obtained. The Department of Health and Human
21 Services shall seek such approval if required.

22 (7) Local correctional facilities, the Nebraska Commission on Law
23 Enforcement and Criminal Justice, and the Office of Probation
24 Administration shall cooperate with the Department of Health and Human
25 Services and the Department of Correctional Services for purposes of
26 facilitating information sharing to achieve the purposes of this section.

27 (8)(a) The Department of Correctional Services shall adopt and
28 promulgate rules and regulations, in consultation with the Department of
29 Health and Human Services and local correctional facilities, to carry out
30 this section.

31 (b) The Department of Health and Human Services shall adopt and

1 promulgate rules and regulations, in consultation with the Department of
2 Correctional Services and local correctional facilities, to carry out
3 this section.

4 Sec. 23. (1) The Legislature finds that while serious crime in the
5 State of Nebraska has not increased, the prison population continues to
6 increase as does the amount spent on correctional issues. The Legislature
7 further finds that a need exists to closely examine the criminal justice
8 system of the State of Nebraska in order to increase public safety while
9 concurrently reducing correctional spending and reinvesting in strategies
10 that decrease crime and strengthen Nebraska communities.

11 (2) The Justice Reinvestment Oversight Task Force is created. The
12 task force shall evaluate implementation of the Nebraska Justice
13 Reinvestment Initiative, this legislative bill, and related issues.

14 (3) The task force shall consist of the following ten members, who
15 shall be selected or appointed no later than October 1, 2022:

16 (a) The chairperson of the Judiciary Committee of the Legislature,
17 who shall serve as chairperson of the task force;

18 (b) Two other members of the Legislature selected by the Executive
19 Board of the Legislative Council;

20 (c) Four members who are key criminal justice stakeholders appointed
21 by the Governor; and

22 (d) Three members selected by the Chief Justice.

23 (4) The task force shall monitor and guide analysis and policy
24 development in all aspects of the criminal justice system in Nebraska
25 within the scope of the justice reinvestment initiative, including
26 tracking implementation of evidence-based strategies as established in
27 Laws 2015, LB605, and this legislative bill, and reviewing policies to
28 improve public safety, reduce recidivism, and reduce spending on
29 corrections in Nebraska. The task force shall monitor performance and
30 measure outcomes by collecting data from counties and relevant state
31 agencies for analysis and reporting.

1 (5) The task force shall prepare and submit an annual report of its
2 activities and findings and may make recommendations to improve any
3 aspect of the criminal justice system. The task force shall deliver the
4 report to the Governor, the Clerk of the Legislature, and the Chief
5 Justice by September 1, 2023, and by each September 1 thereafter. The
6 report to the Legislature shall be delivered electronically.

7 Sec. 24. Section 50-434, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 50-434 (1) The Legislature finds that while serious crime in the
10 State of Nebraska has not increased in the past five years, the prison
11 population continues to increase as does the amount spent on correctional
12 issues. The Legislature further finds that a need exists to closely
13 examine the criminal justice system of the State of Nebraska in order to
14 increase public safety while concurrently reducing correctional spending
15 and reinvesting in strategies that decrease crime and strengthen Nebraska
16 communities.

17 (2) It is the intent of the Legislature that the State of Nebraska
18 work cooperatively with the Council of State Governments Justice Center
19 to study and identify innovative solutions and evidence-based practices
20 to develop a data-driven approach to reduce correctional spending and
21 reinvest savings in strategies that can decrease recidivism and increase
22 public safety and for the executive, legislative, and judicial branches
23 of Nebraska state government to work with the Council of State
24 Governments Justice Center in this process.

25 (3) The Committee on Justice Reinvestment Oversight is created as a
26 special legislative committee to maintain continuous oversight of the
27 Nebraska Justice Reinvestment Initiative and related issues.

28 (4) The special legislative committee shall be comprised of five
29 members of the Legislature selected by the Executive Board of the
30 Legislative Council, including the chairperson of the Judiciary Committee
31 of the Legislature who shall serve as chairperson of the special

1 legislative committee.

2 (5) The Committee on Justice Reinvestment Oversight shall monitor
3 and guide analysis and policy development in all aspects of the criminal
4 justice system in Nebraska within the scope of the justice reinvestment
5 initiative, including tracking implementation of evidence-based
6 strategies as established in Laws 2015, LB605, and reviewing policies to
7 improve public safety, reduce recidivism, and reduce spending on
8 corrections in Nebraska. With assistance from the Council of State
9 Governments Justice Center, the committee shall monitor performance and
10 measure outcomes by collecting data from counties and relevant state
11 agencies for analysis and reporting.

12 (6) The committee shall prepare and submit an annual report of its
13 activities and findings and may make recommendations to improve any
14 aspect of the criminal justice system. The committee shall deliver the
15 report to the Governor, the Clerk of the Legislature, and the Chief
16 Justice by September 1 of each year. The report to the clerk shall be
17 delivered electronically.

18 (7) The committee shall terminate on September 30, 2022.

19 Sec. 25. Section 71-5661, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 71-5661 (1) The financial incentives provided by the Rural Health
22 Systems and Professional Incentive Act shall consist of (a) student loans
23 to eligible students for attendance at an eligible school as determined
24 pursuant to section 71-5662, (b) the repayment of qualified educational
25 debts owed by physicians and psychiatrists in an approved medical
26 specialty residency program in Nebraska as determined pursuant to section
27 71-5662, and (c) the repayment of qualified educational debts owed by
28 eligible health professionals as determined pursuant to section 71-5662.
29 Funds for such incentives shall be appropriated from the General Fund to
30 the department for such purposes.

31 (2) The Rural Health Professional Incentive Fund is created. The

1 fund shall be used to carry out the purposes of the act, except that
2 transfers may be made from the fund to the General Fund at the direction
3 of the Legislature. Money credited pursuant to section 71-5670.01 and
4 payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01
5 shall be remitted to the State Treasurer for credit to the Rural Health
6 Professional Incentive Fund. Any money in the fund available for
7 investment shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 Sec. 26. Section 71-5662, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-5662 (1) To be eligible for a student loan under the Rural Health
13 Systems and Professional Incentive Act, an applicant or a recipient shall
14 be enrolled or accepted for enrollment in an accredited medical or dental
15 education program or physician assistant education program or an approved
16 mental health practice program in Nebraska.

17 (2) To be eligible for the medical resident incentive under the act,
18 an applicant or a recipient shall be enrolled or accepted for enrollment
19 in an approved medical specialty residency program in Nebraska.

20 (3) To be eligible for loan repayment under the act, an applicant or
21 a recipient shall be a pharmacist, a dentist, a physical therapist, an
22 occupational therapist, a mental health practitioner, a psychologist
23 licensed under the requirements of section 38-3114 or the equivalent
24 thereof, a nurse practitioner, a physician assistant, a psychiatrist, or
25 a physician in an approved specialty and shall be licensed to practice in
26 Nebraska, not be enrolled in a residency program, not be practicing under
27 a provisional or temporary license, and enter practice in a designated
28 health profession shortage area in Nebraska.

29 Sec. 27. Section 71-5663, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-5663 (1) The amount of financial assistance provided through

1 student loans pursuant to the Rural Health Systems and Professional
2 Incentive Act shall be limited to thirty thousand dollars for each
3 recipient for each academic year and, except as provided in subdivision
4 (4)(a) of this section, shall not exceed one hundred twenty thousand
5 dollars per medical, dental, or doctorate-level mental health student or
6 thirty thousand dollars per master's level mental health or physician
7 assistant student.

8 (2) The amount of financial assistance provided through the medical
9 resident incentive program pursuant to the act shall be limited to forty
10 thousand dollars for each recipient for each year of residency and,
11 except as provided in subdivision (4)(b) of this section, shall not
12 exceed one hundred twenty thousand dollars.

13 (3) The amount of financial assistance provided by the state through
14 loan repayments pursuant to the act (a) for physicians, psychiatrists,
15 dentists, and psychologists shall be limited to thirty thousand dollars
16 per recipient per year of full-time practice in a designated health
17 profession shortage area and, except as provided in subdivision (4)(c) of
18 this section, shall not exceed ninety thousand dollars per recipient and
19 (b) for physician assistants, nurse practitioners, pharmacists, physical
20 therapists, occupational therapists, and mental health practitioners
21 shall be limited to fifteen thousand dollars per recipient per year of
22 full-time practice in a designated health profession shortage area and,
23 except as provided in subdivision (4)(c) of this section, shall not
24 exceed forty-five thousand dollars per recipient.

25 (4)(a) The total amount of financial assistance provided through
26 student loans for a doctorate-level mental health student or master's
27 level mental health student shall be the full amount of such loans for a
28 person who practices psychiatry, psychology, or mental health practice:

29 (i) For at least five years in a designated health profession
30 shortage area; and

31 (ii) If all or a majority of such practice consists of the treatment

1 of members of the community supervision population.

2 (b) The total amount of financial assistance provided through the
3 medical resident incentive program for a psychiatrist shall be the full
4 amount of such psychiatrists qualified educational debts if such person
5 practices psychiatry:

6 (i) For at least five years in a designated health profession
7 shortage area; and

8 (ii) If all or a majority of such practice consists of the treatment
9 of members of the community supervision population.

10 (c) The total amount of financial assistance provided through loan
11 repayments pursuant to the act for psychiatrists, psychologists, and
12 mental health practitioners shall be the full amount of such person's
13 qualified educational debts if such person practices psychiatry,
14 psychology, or mental health practice:

15 (i) For at least five years in a designated health profession
16 shortage area; and

17 (ii) If all or a majority of such practice consists of the treatment
18 of members of the community supervision population.

19 (5) For purposes of this section, community supervision population
20 means persons on probation, post-release supervision, and pretrial
21 release.

22 Sec. 28. Section 71-5665, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-5665 The commission shall periodically designate health
25 profession shortage areas within the state for the following professions:
26 Medicine and surgery, psychiatry, physician assistants' practice, nurse
27 practitioners' practice, psychology, and mental health practitioner's
28 practice. The commission shall also periodically designate separate
29 health profession shortage areas for each of the following professions:
30 Pharmacy, dentistry, physical therapy, and occupational therapy. In
31 making such designations the commission shall consider, after

1 consultation with other appropriate agencies concerned with health
2 services and with appropriate professional organizations, among other
3 factors:

4 (1) The latest reliable statistical data available regarding the
5 number of health professionals practicing in an area and the population
6 to be served by such practitioners;

7 (2) Inaccessibility of health care services to residents of an area;

8 (3) Particular local health problems;

9 (4) Age or incapacity of local practitioners rendering services; and

10 (5) Demographic trends in an area both past and future.

11 Sec. 29. Section 71-5666, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 71-5666 Each student loan recipient shall execute an agreement with
14 the state. Such agreement shall be exempt from the requirements of
15 sections 73-501 to 73-510 and shall include the following terms, as
16 appropriate:

17 (1) The borrower agrees to practice the equivalent of one year of
18 full-time practice of an approved specialty in a designated health
19 profession shortage area in Nebraska for each year of education for which
20 a loan is received, or a longer period as required in subdivision (4)(a)
21 of section 71-5663, and agrees to accept medicaid patients in his or her
22 practice;

23 (2) If the borrower practices an approved specialty in a designated
24 health profession shortage area in Nebraska, the loan shall be forgiven
25 as provided in this section and subdivision (4)(a) of section 71-5663.

26 Practice in a designated area shall commence within three months of the
27 completion of formal education, which may include a period not to exceed
28 five years to complete specialty training in an approved specialty. The
29 commission may approve exceptions to any period required for completion
30 of training upon showing good cause. Loan forgiveness shall occur on a
31 quarterly basis, with completion of the equivalent of three months of

1 full-time practice resulting in the cancellation of one-fourth of the
2 annual loan amount. Part-time practice in a shortage area shall result in
3 a prorated reduction in the cancellation of the loan amount;

4 (3) If the borrower practices an approved specialty in Nebraska but
5 not in a designated health profession shortage area, practices a
6 specialty other than an approved specialty in Nebraska, does not practice
7 the profession for which the loan was given, discontinues practice of the
8 profession for which the loan was given, or practices outside Nebraska,
9 the borrower shall repay one hundred fifty percent of the outstanding
10 loan principal with interest at a rate of eight percent simple interest
11 per year from the date of default. Such repayment shall commence within
12 six months of the completion of formal education, which may include a
13 period not to exceed five years to complete specialty training in an
14 approved specialty, and shall be completed within a period not to exceed
15 twice the number of years for which loans were awarded;

16 (4) If a borrower who is a medical, dental, or doctorate-level
17 mental health student determines during the first or second year of
18 medical, dental, or doctorate-level mental health education that his or
19 her commitment to the loan program cannot be honored, the borrower may
20 repay the outstanding loan principal, plus six percent simple interest
21 per year from the date the loan was granted, prior to graduation from
22 medical or dental school or a mental health practice program without
23 further penalty or obligation. Master's level mental health and physician
24 assistant student loan recipients shall not be eligible for this
25 provision;

26 (5) If the borrower discontinues the course of study for which the
27 loan was granted, the borrower shall repay one hundred percent of the
28 outstanding loan principal. Such repayment shall commence within six
29 months of the date of discontinuation of the course of study and shall be
30 completed within a period of time not to exceed the number of years for
31 which loans were awarded; ~~and~~

1 (6) Any practice or payment obligation incurred by the student loan
2 recipient under the student loan program is canceled in the event of the
3 student loan recipient's total and permanent disability or death; and -

4 (7) For a borrower seeking benefits under subdivision (4)(a) of
5 section 71-5663, the borrower agrees to such other terms as the
6 department deems appropriate.

7 Sec. 30. Section 71-5668, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-5668 Each loan repayment recipient shall execute an agreement
10 with the department and a local entity. Such agreement shall be exempt
11 from the requirements of sections 73-501 to 73-510 and shall include, at
12 a minimum, the following terms:

13 (1) The loan repayment recipient agrees to practice his or her
14 profession, and a physician, psychiatrist, dentist, nurse practitioner,
15 or physician assistant also agrees to practice an approved specialty, in
16 a designated health profession shortage area for at least three years, or
17 the period required by subdivision (4)(c) of section 71-5663, and to
18 accept medicaid patients in his or her practice;

19 (2) In consideration of the agreement by the recipient, the State of
20 Nebraska and a local entity within the designated health profession
21 shortage area will provide equal funding for the repayment of the
22 recipient's qualified educational debts, in amounts up to thirty thousand
23 dollars per year per recipient for physicians, psychiatrists, dentists,
24 and psychologists and up to fifteen thousand dollars per year per
25 recipient for physician assistants, nurse practitioners, pharmacists,
26 physical therapists, occupational therapists, and mental health
27 practitioners toward qualified educational debts for up to three years or
28 a longer period as required by subdivision (4)(c) of section 71-5663. The
29 department shall make payments directly to the recipient;

30 (3) If the loan repayment recipient discontinues practice in the
31 shortage area prior to completion of the three-year requirement or the

1 period required by subdivision (4)(c) of section 71-5663, as applicable,
2 the recipient shall repay to the state one hundred fifty percent of the
3 total amount of funds provided to the recipient for loan repayment with
4 interest at a rate of eight percent simple interest per year from the
5 date of default. Upon repayment by the recipient to the department, the
6 department shall reimburse the local entity its share of the funds which
7 shall not be more than the local entity's share paid to the loan
8 repayment recipient;~~and~~

9 (4) Any practice or payment obligation incurred by the loan
10 repayment recipient under the loan repayment program is canceled in the
11 event of the loan repayment recipient's total and permanent disability or
12 death; and -

13 (5) For a loan repayment recipient seeking benefits under
14 subdivision (4)(c) of section 71-5663, the recipient agrees to such other
15 terms as the department deems appropriate.

16 Sec. 31. Section 71-5669.01, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 71-5669.01 Each medical resident incentive recipient shall execute
19 an agreement with the department. Such agreement shall be exempt from the
20 requirements of sections 73-501 to 73-510 and shall include, at a
21 minimum, the following terms:

22 (1) The medical resident incentive recipient agrees to practice an
23 approved medical specialty the equivalent of one year of full-time
24 practice in a designated health profession shortage area, or for a longer
25 period as required by subdivision (4)(b) of section 71-5663, and to
26 accept medicaid patients in his or her practice;

27 (2) In consideration of the agreement by the medical resident
28 incentive recipient, the State of Nebraska will provide funding for the
29 repayment of the recipient's qualified educational debts, in amounts up
30 to forty thousand dollars per year for up to three years while in an
31 approved medical specialty residency program in Nebraska, or for a longer

1 period as required by subdivision (4)(b) of section 71-5663. The
2 department shall make payments directly to the medical resident incentive
3 recipient;

4 (3) If the medical resident incentive recipient extends his or her
5 residency training but not in an approved specialty, practices an
6 approved specialty in Nebraska but not in a designated health profession
7 shortage area, practices a specialty other than an approved specialty in
8 Nebraska, does not practice the profession for which the loan was given,
9 discontinues practice of the profession for which the loan was given, or
10 practices outside Nebraska, the medical resident incentive recipient
11 shall repay to the state one hundred fifty percent of the outstanding
12 loan principal with interest at a rate of eight percent simple interest
13 per year from the date of default. Such repayment shall commence within
14 six months of the completion or discontinuation of an approved specialty
15 residency training in Nebraska and shall be completed within a period not
16 to exceed twice the number of years for which the medical resident
17 incentive recipient received awards;~~and~~

18 (4) Any practice or payment obligation incurred by the medical
19 resident incentive recipient under the medical resident incentive program
20 is canceled in the event of the medical resident incentive recipient's
21 total and permanent disability or death; and -

22 (5) For a medical resident incentive recipient seeking benefits
23 under subdivision (4)(b) of section 71-5663, the recipient agrees to such
24 other terms as the department deems appropriate.

25 Sec. 32. Section 83-1,100.02, Revised Statutes Cumulative
26 Supplement, 2020, is amended to read:

27 83-1,100.02 (1) For purposes of this section:

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

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

- 1 (ii) Substance abuse testing requirements and frequency;
- 2 (iii) Contact restrictions;
- 3 (iv) Curfew restrictions;
- 4 (v) Access to available programs and treatment, with priority given
- 5 to moderate-risk and high-risk parolees; and
- 6 (vi) Severity of graduated responses to violations of supervision
- 7 conditions; ~~and~~

8 (b) Responsivity factors means characteristics of a parolee that
9 affect the parolee's ability to respond favorably or unfavorably to any
10 treatment goals; and

11 (c) ~~(b)~~ Risk and needs assessment means an actuarial tool that has
12 been validated in Nebraska to determine the likelihood of the parolee
13 engaging in future criminal behavior.

14 (2) The Division of Parole Supervision shall establish an evidence-
15 based process that utilizes a risk and needs assessment to measure
16 criminal risk factors, ~~and~~ specific individual needs, and responsivity
17 factors.

18 (3) The risk and needs assessment shall be performed at the
19 commencement of the parole term and every six months thereafter by
20 division staff trained and certified in the use of the risk and needs
21 assessment.

22 (4) The validity of the risk and needs assessment shall be tested at
23 least every five years.

24 (5) Based on the results of the risk and needs assessment, the
25 division shall target parolee criminal risk and need factors by focusing
26 sanction, program, and treatment resources on moderate-risk and high-risk
27 parolees.

28 (6) The division shall provide training to its parole officers on
29 (a) use of a risk and needs assessment, (b) risk-based supervision
30 strategies, (c) relationship skills, (d) cognitive behavioral
31 interventions, (e) community-based resources, (f) criminal risk factors,

1 (g) targeting criminal risk factors to reduce recidivism, (h) and proper
2 use of a matrix of administrative sanctions, custodial sanctions, (i)
3 addressing responsivity factors, and (j) rewards developed pursuant to
4 section 83-1,119. All parole officers employed on August 30, 2015, shall
5 complete the training requirements set forth in this subsection on or
6 before January 1, 2017. Each parole officer hired on or after August 30,
7 2015, shall complete the training requirements set forth in this
8 subsection within one year after his or her hire date or one year after
9 the effective date of this act, whichever is later.

10 (7) The division shall provide training for chief parole officers to
11 become trainers so as to ensure long-term and self-sufficient training
12 capacity in the state.

13 Sec. 33. Section 83-1,110, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 83-1,110 (1) Except as provided in subsections (2) and (3) of this
16 section, every Every committed offender shall be eligible for parole:

17 (a) For an offender sentenced to a minimum of less than five years,
18 upon serving when the offender has served one-half the minimum term of
19 the offender's his or her sentence as provided in sections 83-1,107 and
20 83-1,108; or -

21 (b) For an offender sentenced to a minimum of five years or more,
22 upon the earlier of:

23 (i) Serving one-half of the minimum term of the offender's sentence
24 as provided in sections 83-1,107 and 83-1,108; or

25 (ii) Two years prior to the offender's mandatory discharge date The
26 board shall conduct a parole review not later than sixty days prior to
27 the date a committed offender becomes eligible for parole as provided in
28 this subsection, except that if a committed offender is eligible for
29 parole upon his or her commitment to the department, a parole review
30 shall occur as early as is practical. No such reduction of sentence shall
31 be applied to any sentence imposing a mandatory minimum term.

1 (2)(a) Except as provided in subsection (3) of this section, every
2 ~~(2) Every~~ committed offender sentenced to consecutive terms, whether
3 received at the same time or at any time during the original sentence,
4 shall be eligible for release on parole;

5 (i) For an offender sentenced to a total minimum term of less than
6 five years, upon serving when the offender has served the total of one-
7 half of the minimum term as provided in sections 83-1,107 and 83-1,108;
8 or -

9 (ii) For an offender sentenced to a total minimum of five years or
10 more, upon the earlier of:

11 (A) Serving the total of one-half of the minimum term as provided in
12 sections 83-1,107 and 83-1,108; or

13 (B) Two years prior to the offender's mandatory discharge date.

14 (b) The maximum terms shall be added to compute the new maximum term
15 which, less good time, shall determine the date when discharge from the
16 custody of the state becomes mandatory.

17 (3) A committed offender serving a sentence with one or more
18 mandatory minimum terms imposed on or after the effective date of this
19 act shall be eligible for parole upon the later of:

20 (a) Serving all such mandatory minimum terms; or

21 (b) Serving one-half of the maximum term of the offender's sentence
22 as provided in sections 83-1,107 and 83-1,108.

23 (4) The board shall conduct a parole review not later than sixty
24 days prior to the date a committed offender becomes eligible for parole
25 as provided in this section, except that if a committed offender is
26 eligible for parole upon the offender's commitment to the department, a
27 parole review shall occur as early as is practical.

28 Sec. 34. Section 83-1,111, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 83-1,111 (1)(a) ~~(1)~~ A committed offender serving an indeterminate
31 sentence under which he or she may become eligible for parole shall be

1 interviewed and have his or her record reviewed by two or more members of
2 the board ~~Board of Parole~~ or a person designated by the board by the
3 deadline ~~within sixty days before the expiration of his or her minimum~~
4 ~~term less any reductions as provided in section 83-1,110.~~

5 (b) If the committed offender is a qualified offender as defined in
6 section 35 of this act, the committed offender shall enter into a
7 streamlined parole contract as provided in such section.

8 (2) If the committed offender is a qualified offender, the review
9 shall be limited to verifying that the committed offender is a qualified
10 offender and whether the committed offender has already fulfilled the
11 streamlined parole contract. If the committed offender has not yet
12 fulfilled the streamlined parole contract, a subsequent review hearing
13 shall be set for the date the committed offender will fulfill the
14 streamlined parole contract, assuming the committed offender will meet
15 the requirements of subsection (3) of section 35 of this act.

16 (3)(a) This subsection applies if the committed offender is not a
17 qualified offender or has been found at a review under subsection (2) of
18 this section to have not fulfilled the terms of the streamlined parole
19 contract. If, in the opinion of the reviewers, the review indicates the
20 offender is reasonably likely to be granted parole and has a potential
21 parole term of no less than one month, the board ~~Board of Parole~~ shall
22 schedule a public hearing before a majority of its members. At such
23 hearing the offender may present evidence, call witnesses, and be
24 represented by counsel. If, in the opinion of the reviewers, the review
25 indicates the offender should be denied parole, the offender may request
26 an additional review by a majority of the members of the board. A review
27 by the majority of the members of the board may be conducted not more
28 than once annually. Any hearing and review shall be conducted in an
29 informal manner, but a complete record of the proceedings shall be made
30 and preserved.

31 (b) (2) The board shall render its decision regarding the committed

1 offender's release on parole within a reasonable time after the hearing
2 or review. The decision shall be by majority vote of the board. The
3 decision shall be based on the entire record before the board which shall
4 include the opinion of the person who conducted the review. If the board
5 denies parole, written notification listing the reasons for such denial
6 and the recommendations for correcting deficiencies which cause the
7 denial shall be given to the committed offender within thirty days
8 following the hearing.

9 (c) ~~(3)~~ If the board fixes the release date, such date shall be not
10 more than six months from the date of the committed offender's parole
11 hearing or from the date of last reconsideration of his or her case,
12 unless there are special reasons for fixing a later release date.

13 (d) ~~(4)~~ If the board defers the case for later reconsideration, the
14 committed offender shall be afforded a parole review at least once a year
15 until a release date is fixed. The board may order a reconsideration or a
16 rehearing of the case at any time.

17 (4) ~~(5)~~ The release of a committed offender on parole shall not be
18 upon the application of the offender but by the initiative of the Board
19 of Parole. No application for release on parole made by a committed
20 offender or on his or her behalf shall be entertained by the board. This
21 subsection does not prohibit the Director of Correctional Services from
22 recommending to the board that it consider an individual offender for
23 release on parole.

24 Sec. 35. (1) A qualified offender serving a sentence imposed prior
25 to the effective date of this act who has not yet received a review from
26 the board shall, at the review, enter into a streamlined parole contract
27 under this section.

28 (2) A qualified offender serving a sentence imposed on or after the
29 effective date of this act shall, at the qualified offender's first
30 review from the board, enter into a streamlined parole contract under
31 this section.

1 (3) Under a streamlined parole contract, a qualified offender shall
2 be released on parole on the qualified offender's eligibility date,
3 without a hearing before the board, if:

4 (a) In the twenty-four-month period prior to the parole eligibility
5 date, the qualified offender has not committed a Class I offense under
6 the department's disciplinary code; and

7 (b) The qualified offender has completed all diagnostic evaluations
8 provided by the department and any programming or treatment required by
9 the department for substance abuse, sex offenses, and violence reduction.

10 (4) If a qualified offender does not meet the requirements of
11 subsection (3) of this section, the board shall consider the offender's
12 parole eligibility as provided for nonqualified offenders under section
13 83-1,111.

14 (5) For purposes of this section:

15 (a) Qualified offender means a committed offender who is serving an
16 indeterminate sentence under which the committed offender may become
17 eligible for parole and who is not serving a sentence for a violent
18 felony;

19 (b) Serious bodily injury has the same meaning as in section 28-109;

20 (c) Sexual contact and sexual penetration have the same meaning as
21 in section 28-318; and

22 (d) Violent felony means an offense which is a Class IIIA felony or
23 higher and:

24 (i) Which includes, as an element of the offense:

25 (A) Sexual contact or sexual penetration;

26 (B) The threat to inflict serious bodily injury or death on another
27 person, the infliction of serious bodily injury on another person, or
28 causing the death of another person; or

29 (C) The use of physical force against another person; or

30 (ii) Which consists of attempt, conspiracy, being an accessory to,
31 or aiding and abetting a felony with any of the offenses described in

1 subdivision (5)(d)(i) of this section as the underlying offense.

2 Sec. 36. (1) A committed offender may be eligible for geriatric
3 parole if the committed offender:

4 (a) Is not serving a sentence for a Class I or IA felony or
5 otherwise serving a sentence of life imprisonment;

6 (b) Is seventy years of age or older; and

7 (c) Has served at least ten years of the sentence for which
8 currently incarcerated.

9 (2) A committed offender may be eligible for geriatric parole in
10 addition to any other parole. The department shall identify committed
11 offenders who may be eligible for geriatric parole.

12 (3) The board shall decide to grant geriatric parole only after a
13 review of the decision guidelines as set forth in the board's rules and
14 regulations and the factors set forth in section 83-1,114.

15 (4) The parole term of a geriatric parolee shall be for the
16 remainder of the parolee's sentence as reduced by any adjustment for good
17 conduct pursuant to the Nebraska Treatment and Corrections Act.

18 Sec. 37. Section 83-1,114, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 83-1,114 (1) Whenever the board considers the release of a committed
21 offender who is eligible for release on parole, it shall order his or her
22 release unless it is of the opinion that his or her release should be
23 deferred because:

24 (a) There is a substantial risk that he or she will not conform to
25 the conditions of parole;

26 (b) His or her release would depreciate the seriousness of his or
27 her crime or promote disrespect for law;

28 (c) His or her release would have a substantially adverse effect on
29 institutional discipline; or

30 (d) His or her continued correctional treatment, medical care, or
31 vocational or other training in the facility will substantially enhance

1 his or her capacity to lead a law-abiding life when released at a later
2 date.

3 (2) In making its determination regarding a committed offender's
4 release on parole, the board shall give consideration to the ~~its~~ decision
5 guidelines as set forth in its rules and regulations and shall take into
6 account each of the following factors:

7 ~~(a) The offender's personality, including his or her maturity,~~
8 ~~stability, and sense of responsibility and any apparent development in~~
9 ~~his or her personality which may promote or hinder his or her conformity~~
10 ~~to law;~~

11 ~~(a)~~ ~~(b)~~ (a) The adequacy of the offender's parole plan, including
12 sufficiency of residence, employment history, and employability;

13 ~~(c) The offender's ability and readiness to assume obligations and~~
14 ~~undertake responsibilities;~~

15 ~~(d) The offender's intelligence and training;~~

16 ~~(e) The offender's family status and whether he or she has relatives~~
17 ~~who display an interest in him or her or whether he or she has other~~
18 ~~close and constructive associations in the community;~~

19 ~~(f) The offender's employment history, his or her occupational~~
20 ~~skills, and the stability of his or her past employment;~~

21 ~~(g) The type of residence, neighborhood, or community in which the~~
22 ~~offender plans to live;~~

23 ~~(h) The offender's past use of narcotics or past habitual and~~
24 ~~excessive use of alcohol;~~

25 ~~(i) The offender's mental or physical makeup, including any~~
26 ~~disability or handicap which may affect his or her conformity to law;~~

27 (b) ~~(j)~~ The offender's prior criminal record, including the nature
28 and circumstances, dates, and frequency of previous offenses;

29 ~~(k) The offender's attitude toward law and authority;~~

30 ~~(l) The offender's conduct in the facility, including particularly~~
31 ~~whether he or she has taken advantage of the opportunities for self-~~

1 ~~improvement, whether he or she has been punished for misconduct within~~
2 ~~six months prior to his or her hearing or reconsideration for parole~~
3 ~~release, whether any reductions of term have been forfeited, and whether~~
4 ~~such reductions have been restored at the time of hearing or~~
5 ~~reconsideration;~~

6 ~~(c) (m) The offender's institutional behavior and attitude during~~
7 ~~any previous experience of probation or parole and how recent such~~
8 ~~experience is;~~

9 ~~(d) The offender's previous experience on parole and how recent such~~
10 ~~experience is;~~

11 ~~(e) Whether the offender has completed a (n) The risk and needs~~
12 ~~assessment completed pursuant to section 83-192; and~~

13 ~~(f) Any testimony or written statement by a victim as provided in~~
14 ~~section 81-1848.~~

15 ~~(o) Any other factors the board determines to be relevant.~~

16 ~~Sec. 38. (1) The Division of Parole Supervision and the department~~
17 ~~shall create a pilot program to establish a technical parole violation~~
18 ~~residential housing program. The purpose of the program is to provide~~
19 ~~accountability and intensive support for individuals on parole who commit~~
20 ~~technical violations, without revoking them fully back to prison.~~

21 ~~(2) The pilot program shall be located within one or more facilities~~
22 ~~designated by the Director of Correctional Services. The program shall~~
23 ~~provide a structured environment for selected individuals on parole who~~
24 ~~have committed technical violations. The program shall be based upon a~~
25 ~~therapeutic community model. Participants in the program shall, at a~~
26 ~~minimum, be required to take part in counseling, educational, and other~~
27 ~~programs as the department deems appropriate, to provide community~~
28 ~~service, and to submit to drug and alcohol screening.~~

29 ~~(3) An individual on parole shall not be placed in the pilot program~~
30 ~~until the Division of Parole Supervision has determined the individual is~~
31 ~~a suitable candidate in accordance with policies and guidelines developed~~

1 by the division.

2 (4) On or before June 1, 2023, the Division of Parole Supervision
3 shall electronically submit a report to the Judiciary Committee of the
4 Legislature regarding the pilot program. The report shall evaluate
5 effects of the pilot program on recidivism and make recommendations
6 regarding expansion of or changes to the program.

7 (5) It is the intent of the Legislature to appropriate XXX dollars
8 from the General Fund for FY2022-23 to the Division of Parole Supervision
9 to carry out the pilot program.

10 (6) For purposes of this section, technical violation has the same
11 meaning as in section 83-1,119.

12 Sec. 39. Section 83-1,135, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 83-1,135 Sections 83-170 to 83-1,135.05 and sections 35, 36, and 38
15 of this act shall be known and may be cited as the Nebraska Treatment and
16 Corrections Act.

17 Sec. 40. Section 83-1,135.02, Revised Statutes Cumulative
18 Supplement, 2020, is amended to read:

19 83-1,135.02 (1) It is the intent of the Legislature that the changes
20 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
21 with respect to parole eligibility apply to all committed offenders under
22 sentence and not on parole on May 24, 2003, and to all persons sentenced
23 on and after such date.

24 (2) It is the intent of the Legislature that the changes made to
25 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
26 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
27 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
28 sentence, on parole, or on probation on August 30, 2015, and to all
29 persons sentenced on and after such date.

30 (3) It is the intent of the Legislature that the changes made to
31 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,

1 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
2 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
3 apply to all committed offenders under sentence, on parole, or on
4 probation on or after April 20, 2016, and to all persons sentenced on and
5 after such date.

6 (4) It is the intent of the Legislature that the changes made to
7 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all
8 committed offenders under sentence or on parole on or after July 19,
9 2018, and to all persons sentenced on and after such date.

10 (5) Except as otherwise provided in sections 83-1,110, 83-1,111, and
11 83-1,114 and section 35 of this act, it is the intent of the Legislature
12 that the changes made to sections 83-1,110, 83-1,111, and 83-1,114 and
13 section 35 of this act by this legislative bill, apply to all committed
14 offenders under sentence or on parole on or after the effective date of
15 this act, and to all persons sentenced on and after such date.

16 Sec. 41. Original sections 24-1302, 28-116, 28-507, 28-518,
17 29-2204.02, 29-2221, 29-2263, 29-2269, 29-2281, 29-3603, 47-706, 50-434,
18 71-5661, 71-5662, 71-5663, 71-5665, 71-5666, 71-5668, 71-5669.01, and
19 83-1,110, Reissue Revised Statutes of Nebraska, and sections 28-101,
20 28-105, 28-416, 28-1351, 28-1354, 29-2204, 83-1,100.02, 83-1,111,
21 83-1,114, 83-1,135, and 83-1,135.02, Revised Statutes Cumulative
22 Supplement, 2020, are repealed.