

LEGISLATIVE BILL 82

Approved by the Governor April 17, 2002

Introduced by Brashear, 4; Hilgert, 7; Robak, 22; Bruning, 3; Preister, 5

AN ACT relating to crimes and offenses; to amend sections 18-1741.03, 28-519, 28-1009, 28-1204.04, 28-1221, 29-423, 29-820, 29-3504, 32-1549, and 42-924, Reissue Revised Statutes of Nebraska, and sections 28-106, 28-1006, 28-1012, and 28-1213, Revised Statutes Supplement, 2000; to prohibit inclusion of social security numbers on citations; to change provisions relating to misdemeanor sentences being served in a Department of Correctional Services institution; to change the offense of and penalties for criminal mischief; to change provisions relating to offenses against animals; to provide for disposition of confiscated animals as prescribed; to change a penalty for possessing a firearm on school grounds; to redefine terms relating to destructive devices; to create the offense of and provide a penalty for placing a false bomb; to provide for plea advisements to defendants as prescribed; to redefine administration of criminal justice; to change penalty provisions for violating protection orders; to harmonize provisions; and to repeal the original sections.

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

Section 1. A citation issued by a law enforcement officer shall not contain the cited person's social security number.

Sec. 2. Section 18-1741.03, Reissue Revised Statutes of Nebraska, is amended to read:

18-1741.03. To insure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate, but shall not include a place for the cited person's social security number. The handicapped parking citation shall provide space for an affidavit by a peace officer certifying that the recipient of the citation is the lawful possessor in his or her own right of a handicapped or disabled parking permit issued under the provisions of section 18-1738 or 18-1738.01 and that the peace officer has personally viewed the permit. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Sec. 3. Section 28-106, Revised Statutes Supplement, 2000, is amended to read:

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

- Class I misdemeanor..... Maximum -- not more than one year imprisonment, or one thousand dollars fine, or both
Minimum -- none
- Class II misdemeanor..... Maximum -- six months imprisonment, or one thousand dollars fine, or both
Minimum -- none
- Class III misdemeanor..... Maximum -- three months imprisonment, or five hundred dollars fine, or both
Minimum -- none
- Class IIIA misdemeanor.... Maximum -- seven days imprisonment, five hundred dollars fine, or both
Minimum -- none
- Class IV misdemeanor..... Maximum -- no imprisonment, five hundred dollars fine
Minimum -- one hundred dollars fine
- Class V misdemeanor..... Maximum -- no imprisonment, one hundred dollars fine
Minimum -- none
- Class W misdemeanor..... Driving while intoxicated -- implied consent refusal
First conviction

Maximum -- sixty days imprisonment and five hundred dollars fine
Mandatory minimum -- seven days imprisonment and four hundred dollars fine
Second conviction
Maximum -- ninety days imprisonment and five hundred dollars fine
Mandatory minimum -- thirty days imprisonment and five hundred dollars fine
Third conviction
Maximum -- one year imprisonment and six hundred dollars fine
Mandatory minimum -- ninety days imprisonment and six hundred dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor; ~~or for a combined term of one year or more in the event of conviction of more than one misdemeanor offense;~~

(b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term ~~or combined terms~~ of six months or more.

Sec. 4. Section 28-519, Reissue Revised Statutes of Nebraska, is amended to read:

28-519. (1) A person commits criminal mischief if he or she:

(a) Damages property of another intentionally or recklessly; or

(b) Intentionally tampers with property of another so as to endanger person or property; or

(c) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(2) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss ~~in excess of three hundred~~ of one thousand five hundred dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.

(3) Criminal mischief is a Class ~~II~~ I misdemeanor if the actor intentionally or maliciously causes pecuniary loss ~~in excess of one hundred~~ of five hundred dollars or more but less than one thousand five hundred dollars.

(4) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of two hundred dollars or more but less than five hundred dollars.

(5) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of ~~one less than two~~ hundred dollars, ~~or less~~, or if his or her action results in no pecuniary loss.

Sec. 5. Section 28-1006, Revised Statutes Supplement, 2000, is amended to read:

28-1006. (1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of section 28-1005.

(2) Any animal, equipment, device, or other property or things involved in any violation of section 28-1005 shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in section 29-820.

(3) Any animal involved in any violation of section 28-1005 shall be subject to seizure. Distribution or disposition may be made in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of section 28-1005, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care,

impoundment, or disposal, including adoption, of an animal involved in the violation of such section. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

Sec. 6. Section 28-1009, Reissue Revised Statutes of Nebraska, is amended to read:

28-1009. (1) ~~A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. Cruelty to animals is a Class II misdemeanor for the first offense and a Class I misdemeanor for any subsequent offense.~~

~~(2) A person who abandons or cruelly neglects an animal is guilty of a Class II misdemeanor for the first offense and a Class I misdemeanor for any subsequent offense.~~

(2) A person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IV felony.

Sec. 7. Section 28-1012, Revised Statutes Supplement, 2000, is amended to read:

28-1012. (1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any animal, equipment, device, or other property or things involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure and distribution or disposition may be made in such manner as the court may direct.

(4) Any animal involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure. Distribution or disposition may be made in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(5) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

Sec. 8. Section 28-1204.04, Reissue Revised Statutes of Nebraska, is amended to read:

28-1204.04. (1) Any person who possesses a firearm in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event shall be guilty of the offense of unlawful possession of a firearm on school grounds. Unlawful possession of a firearm on school grounds is a Class ~~IV~~ II misdemeanor. This subsection shall not apply to (a) the issuance of firearms to or possession by members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training, (b) firearms which may lawfully be possessed by the person receiving instruction, for instruction under the immediate supervision of an adult instructor, or (c) firearms contained within a private vehicle operated by a nonstudent adult which are not loaded and (i) are encased or (ii) are in a locked firearm rack that is on a motor vehicle. For purposes of this subsection, encased shall mean enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied, or otherwise fastened with no part of the firearm exposed.

(2) Any firearm possessed in violation of subsection (1) of this section in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event shall be confiscated without warrant by a peace officer or may be confiscated without warrant by school administrative or teaching personnel. Any firearm confiscated by school administrative or teaching personnel shall be delivered to a peace officer as soon as practicable.

(3) Any firearm confiscated by or given to a peace officer pursuant to subsection (2) of this section shall be declared a common nuisance and shall be held by the peace officer prior to his or her delivery of the firearm to the property division of the law enforcement agency which employs the peace officer. The property division of such law enforcement agency shall hold such firearm for as long as the firearm is needed as evidence. After the firearm is no longer needed as evidence it shall be destroyed in such manner as the court may direct.

(4) Whenever a firearm is confiscated and held pursuant to this section or section 28-1204.02, the peace officer who received such firearm shall cause to be filed within ten days after the confiscation a petition for destruction of such firearm. The petition shall be filed in the district court of the county in which the confiscation is made. The petition shall describe the firearm held, state the name of the owner, if known, allege the essential elements of the violation which caused the confiscation, and conclude with a prayer for disposition and destruction in such manner as the court may direct. At any time after the confiscation of the firearm and prior to court disposition, the owner of the firearm seized may petition the district court of the county in which the confiscation was made for possession of the firearm. The court shall release the firearm to such owner only if the claim of ownership can reasonably be shown to be true and either (a) the owner of the firearm can show that the firearm was taken from his or her property or place of business unlawfully or without the knowledge and consent of the owner and that such property or place of business is different from that of the person from whom the firearm was confiscated or (b) the owner of the firearm is acquitted of the charge of unlawful possession of a revolver in violation of section 28-1204, unlawful transfer of a firearm to a juvenile, or unlawful possession of a firearm on school grounds. No firearm having significant antique value or historical significance as determined by the Nebraska State Historical Society shall be destroyed. If a firearm has significant antique value or historical significance, it shall be sold at auction and the proceeds deposited in the permanent school fund.

Sec. 9. Section 28-1213, Revised Statutes Supplement, 2000, is amended to read:

28-1213. For purposes of sections 28-1213 to 28-1239, unless the context otherwise requires:

(1) Person shall mean any individual, corporation, company, association, firm, partnership, limited liability company, society, or joint-stock company;

(2) Business enterprise shall mean any corporation, partnership, limited liability company, company, or joint-stock company;

(3) Explosive materials shall mean explosives, blasting agents, and detonators;

(4) Explosives shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, including, but not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, ignited cord, igniters, display fireworks as defined in section 28-1241, and firecrackers or devices containing more than one hundred thirty milligrams of explosive composition, but shall not include common fireworks as defined in such section, gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol, fixed ammunition and primers for small arms, safety fuses, or matches;

(5) Blasting agent shall mean any material or mixture, intended for blasting which meets the requirements of the federal Hazardous Material Regulations, 49 C.F.R. part 173, subpart C, as such subpart existed on the effective date of this act;

(6) Detonator shall mean any device containing an initiating or primary explosive that is used for initiating detonation. Excluding ignition or delay charges, a detonator shall not contain more than ten grams of explosive material per unit. Detonator shall include an electric detonator of instantaneous or delay type, a detonator for use with safety fuses, a detonating cord delay connector, and a nonelectric detonator of instantaneous or delay type which consists of detonating cord, shock tube, or any other replacement for electric leg wires;

(7) (a) Destructive devices shall mean:

~~(a)~~ (i) Any explosive, incendiary, chemical or biological poison, or poison gas ~~(i)~~ (A) bomb, ~~(ii)~~ (B) grenade, ~~(iii)~~ (C) rocket having a propellant charge of more than four ounces, ~~(iv)~~ (D) missile having an explosive or incendiary charge of more than one-quarter ounce, ~~(v)~~ (E) mine, ~~(vi)~~ (F) booby trap, ~~(vii)~~ (G) Molotov cocktail, ~~(viii)~~ (H) bottle bomb, ~~or~~ ~~(ix)~~ (I) vessel or container intentionally caused to rupture or mechanically explode by expanding pressure from any gas, acid, dry ice, or other chemical mixture, or (J) any similar device, the primary or common purpose of which is to explode and to be used as a weapon against any person or property; or

~~(b)~~ (ii) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision ~~(7)(a)~~ (7) (a) (i) of this section from which a destructive device may be readily assembled.

(b) The term destructive device shall not include (i) any device which is neither designed nor redesigned for use as a weapon to be used against person or property, (ii) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, (iii) surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to 10 U.S.C. 4684(2), 4685, or 4686, as such sections existed on the effective date of this act, (iv) any other device which the Nebraska State Patrol finds is not likely to be used as a weapon or is an antique, or (v) any other device possessed under circumstances negating an intent that the device be used as a weapon against any person or property;

(8) Federal permittee shall mean any lawful user of explosive materials who has obtained a federal user permit under 18 U.S.C. chapter 40, as such chapter existed on the effective date of this act;

(9) Federal licensee shall mean any importer, manufacturer, or dealer in explosive materials who has obtained a federal importers', manufacturers', or dealers' license under 18 U.S.C. chapter 40, as such chapter existed on the effective date of this act; and

(10) Smokeless propellants shall mean solid propellants commonly called smokeless powders in the trade and used in small arms ammunition.

Sec. 10. Section 28-1221, Reissue Revised Statutes of Nebraska, is amended to read:

28-1221. (1) ~~Any~~ A person who conveys any threat or maliciously conveys to any other person false information knowing the same to be false, concerning an attempt or alleged attempt being made or to be made to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of any explosive material or destructive device commits the offense of threatening the use of explosives.

(2) A person who places or causes to be placed any device or object that by its design, construction, content, or character appears to be or appears to contain a bomb, destructive device, or explosive, but is in fact an inoperative facsimile or imitation of a bomb, destructive device, or explosive, and that such person knows, intends, or reasonably believes is likely to cause public alarm or inconvenience, commits the offense of placing a false bomb.

(3) Threatening the use of explosives or placing a false bomb is a Class IV felony.

Sec. 11. Section 29-423, Reissue Revised Statutes of Nebraska, is amended to read:

29-423. To achieve uniformity, the Supreme Court may prescribe the form of citation. The citation shall include a description of the crime or offense charged, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the court deems appropriate, but shall not include a place for the cited person's social security number. The court may provide that a copy of the citation shall constitute the complaint filed in the trial court.

Sec. 12. Section 29-820, Reissue Revised Statutes of Nebraska, is amended to read:

29-820. (1) Unless other disposition is specifically provided by law, when property seized or held is no longer required as evidence, it shall be disposed of by the law enforcement agency on such showing as the law enforcement agency may deem adequate, as follows:

(a) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(b) Money shall be restored to the owner unless it was used in

unlawful gambling or lotteries or it was used or intended to be used to facilitate a violation of Chapter 28, article 4, in which case the money shall be forfeited and disposed of as required by Article VII, section 7, of the Constitution of Nebraska;

(c) Property which is unclaimed or the ownership of which is unknown shall be sold at a public auction held by the officer having custody thereof and the net proceeds disposed of as provided in subdivision (b) of this subsection, as shall any money which is unclaimed or the ownership of which is unknown;

(d) Except as provided in subdivision (2)(b) of this section, articles of contraband shall be destroyed; and

(e) Except as provided in subdivision (2)(a) of this section, firearms, ammunition, explosives, bombs, and like devices which have been used in the commission of crime shall be destroyed.

(2) When the following property is seized or held and is no longer required as evidence, such property shall be disposed of on order of the court as the court may deem adequate:

(a) Firearms which may have a lawful use; and

(b) Goods which are declared to be contraband but may reasonably be returned to a condition or state in which such goods may be lawfully used, possessed, or distributed by the public.

(3) When any animal as defined by section 28-1008 is seized or held and is no longer required as evidence, such animal may be disposed of in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) Unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

Sec. 13. (1) Prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall administer the following advisement on the record to the defendant:

IF YOU ARE NOT A UNITED STATES CITIZEN, YOU ARE HEREBY ADVISED THAT CONVICTION OF THE OFFENSE FOR WHICH YOU HAVE BEEN CHARGED MAY HAVE THE CONSEQUENCES OF REMOVAL FROM THE UNITED STATES, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.

(2) Upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section. If, on or after the effective date of this act, the court fails to advise the defendant as required by this section and the defendant shows that conviction of the offense to which the defendant pleaded guilty or nolo contendere may have the consequences for the defendant of removal from the United States, or denial of naturalization pursuant to the laws of the United States, the court, on the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.

(3) With respect to pleas accepted prior to the effective date of this act, it is not the intent of the Legislature that a court's failure to provide the advisement required by subsection (1) of this section should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid. Nothing in this section, however, shall be deemed to inhibit a court, in the sound exercise of its discretion, from vacating a judgment and permitting a defendant to withdraw a plea.

Sec. 14. The Legislature finds and declares that in many instances involving an individual who is not a citizen of the United States and who is charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for removal from the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the Legislature in enacting this section and section 13 of this act to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the Legislature that

the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the defendant's counsel was unaware of the possibility of removal from the United States, or denial of naturalization as a result of conviction. It is further the intent of the Legislature that at the time of the plea no defendant shall be required to disclose his or her legal status to the court.

Sec. 15. Section 29-3504, Reissue Revised Statutes of Nebraska, is amended to read:

29-3504. Administration of criminal justice shall mean performance of any of the following activities: Detection, apprehension, detention, pretrial release, pretrial diversion, posttrial release, prosecution, defense by a full-time public defender's office, defense by the Commission on Public Advocacy, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

Sec. 16. Section 32-1549, Reissue Revised Statutes of Nebraska, is amended to read:

32-1549. (1) A peace officer may issue a citation in lieu of arrest for any offense which is a misdemeanor under the Election Act. The citation may be served in the same manner as an arrest warrant, in the same manner as a summons in a civil action, or by certified mail.

(2) To achieve uniformity, the Supreme Court may prescribe the form of citation. The citation shall include a description of the crime or offense charged, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the court deems appropriate, but shall not include a place for the cited person's social security number. The court may provide that a copy of the citation shall constitute the complaint filed in the trial court.

(3) When a citation is used by a peace officer, he or she shall enter on the citation all required information, including the name and address of the cited person, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to the person cited, and a duplicate thereof shall be signed by such person, giving his or her promise to appear at the time and place stated in the citation. Such person shall be released from custody upon signing the citation. As soon as practicable, the copy signed by the person cited shall be delivered to the prosecuting attorney.

(4) At least twenty-four hours before the time set for the appearance of the cited person, the prosecuting attorney shall issue and file a complaint charging such person with an offense or such person shall be released from the obligation to appear as specified. A person cited pursuant to this section may waive his or her right to trial. The Supreme Court may prescribe uniform rules for such waivers.

(5) Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

(6) Any person failing to appear or otherwise comply with the command of a citation shall be guilty of a Class III misdemeanor.

Sec. 17. Section 42-924, Reissue Revised Statutes of Nebraska, is amended to read:

42-924. (1) Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in subsection (2) of this section. Upon the filing of such a petition and affidavit in support thereof, the judge or court may issue a protection order without bond granting the following relief:

(a) Enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner;

(b) Enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner;

(c) Enjoining the respondent from telephoning, contacting, or otherwise communicating with the petitioner;

(d) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;

(e) Ordering the respondent to stay away from any place specified by the court;

(f) Awarding the petitioner temporary custody of any minor children not to exceed ninety days; or

(g) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household

member.

(2) Petitions for protection orders shall be filed with the clerk of the district court, and the proceeding may be heard by the county court or the district court as provided in section 25-2740.

(3) A petition filed pursuant to subsection (1) of this section may not be withdrawn except upon order of the court. An order issued pursuant to subsection (1) of this section shall specify that it is effective for a period of one year and, if the order grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court. Any person who knowingly violates an order issued pursuant to subsection (1) of this section or section 42-931 after service shall be guilty of a Class II misdemeanor, except that (a) any person convicted of violating such order who has a prior conviction for violating a protection order shall be guilty of a Class I misdemeanor and (b) any person convicted of violating such order who has a prior conviction for violating the same protection order or a protection order granted to the same petitioner shall be guilty of a Class IV felony.

(4) If there is any conflict between sections 42-924 to 42-926 and any other provision of law, sections 42-924 to 42-926 shall govern.

Sec. 18. Original sections 18-1741.03, 28-519, 28-1009, 28-1204.04, 28-1221, 29-423, 29-820, 29-3504, 32-1549, and 42-924, Reissue Revised Statutes of Nebraska, and sections 28-106, 28-1006, 28-1012, and 28-1213, Revised Statutes Supplement, 2000, are repealed.