

JUDICIARY COMMITTEE

**One-Hundred First Nebraska Legislature
First Session**

2009

SUMMARY AND DISPOSITION OF BILLS



Senator Brad Ashford, Chairperson
Senator Steve Lathrop, Vice-Chairperson
Senator Mark Christensen
Senator Colby Coash
Senator Brenda Council
Senator Scott Lautenbaugh
Senator Amanda McGill
Senator Kent Rogert

Committee Staff: Stacey Trout, Committee Counsel
LaMont Rainey, Committee Counsel
Christina Case, Committee Clerk

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SUBJECT INDEX

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INDEX OF BILLS BY SUBJECT

ABORTION

LB 594 (Dierks) Adopt the Women's Health Protection Act governing abortion and provide a civil remedy for failure to comply with the act

LB 675 (Fulton) Provide for additional voluntary and informed consents from a woman prior to abortion

LB 676 (Fulton) Provide for additional voluntary and informed consents from a woman prior to abortion

LR 26 (Lautenbaugh) Strongly opposes the federal Freedom of Choice Act and urge Congress to summarily reject it

CHILDREN/CHILD VISITATION AND CUSTODY

LB 79 (Pirsch) Change when a county attorney files a child support order modification complaint

LB 122 (Coash) Change terminology for the central register of child protection cases

LB 199 (Stuthman) Change provisions relating to court support orders and collection of such support

LB 201 (McGill) Change the Uniform Child Custody Jurisdiction and Enforcement Act relating to international application

LB 356 (Dubas) Provide behavioral health services for children without parental relinquishment of custody

LB 423 (Cornett) Change child custody provisions and the Parenting Act

LB 517 (Hansen) Change provisions relating to family reunification and termination of parental rights

LB 589 (Dierks) Designate both parents as joint custodians in a child custody determination unless there is proof otherwise

CIVIL PROCEDURE

LB 40 (Flood) Correct references to statutory provisions in civil procedure statutes

LB 170 (Wightman) Change temporary conservator appointment provisions

LB 203 (Rogert) Eliminate provisions relating to multiple constables and the service or execution of legal process

LB 351 (Lautenbaugh) Provide for charging orders against a limited liability company member's transferable interest

LB 352 (Lautenbaugh) Change civil procedure service of summons provisions

LB 353 (Lautenbaugh) Change pleading provisions in an action for disputed corners and boundaries

LB 374 (Lautenbaugh) Authorize recovery of costs as part of the settlement of a civil action

LB 375 (Lautenbaugh) Increase claim amount and provide for payment for costs for certain civil suits

CONSTITUTIONAL AMENDMENTS

CONTROLLED SUBSTANCES

LB 123 (*Karpisek*) Change the Uniform Controlled Substances Act to include Salvia divinorum or Salvinorin A

LB 151 (*Stuthman*) Change exemptions relating to ephedrine-containing substances under the Uniform Controlled Substances Act

LB 244 (*Coash*) Add Tramadol and Carisoprodol to schedules of controlled substances

LB 383 (*Pahls*) Provide for limited immunity from prosecution under the Uniform Controlled Substances Act

CORRECTIONS/COMMUNITY CORRECTIONS

LB 78 (*Gay*) Provide for deposit of inmate wages into the Victim's Compensation Fund

LB 274 (*Christensen*) Authorize the Director of Correctional Services to assign felony offenders to an incarceration work camp as prescribed

LB 429 (*Christensen*) Change employment provisions of persons committed to the Department of Correctional Services

LB 510 (*Pirsch*) Require the deposit and distribution of certain surcharges and inmate wages for the benefit of victims of crime

LB 659 (*Fulton*) Provide for data collection relating to persons released from incarceration

COURTS

LB 4 (Christensen) Change the rate of jury compensation to minimum

LB 35 (Ashford) Change legal process regarding limited liability companies, courts, civil and criminal procedure, grants, estates, real estate, adoption, foster care, juveniles, court appointed special advocates, and administrative hearings and change fees

LB 83 (*McGill*) Provide for the care of domestic animals in protection orders

LB 90 (Heidemann) Remove a requirement of consent and waiver of physical appearance relating to audiovisual court appearances

LB 305 (Council) Include state identification card holders in jury lists

LB 332 (Ashford) Change provisions relating to courts

LB 333 (Ashford) Increase and provide for court fees

LB 343 (Ashford) Designate the time a judge's term ends

LB 344 (Ashford) Change administration of the Civil Legal Services Program

LB 414 (Ashford) Change salary of Supreme Court judges

LB 433 (Lathrop) Change provisions relating to interchange of court judges and court jurisdiction

LB 596 (Ashford) Change a legal services fee

LB 669 (Coash) Change the number of district, county and separate juvenile court judges

CRIMINAL OFFENSES AND PENALTIES

LB 38 (*Flood*) Change assault, assault on an officer, and offenses by a confined person provisions

LB 39 (*Flood*) Adopt new rules of evidence relating to sexual offenses

LB 63 (*Friend*) Change provisions and penalties relating to assault, firearms and other weapons, graffiti, gang affiliation, juveniles, bail, jailhouse informers, appeals, violence prevention, prisoner employment, and dating violence policies

LB 76 (*Pirsch*) Authorize the aggregation of amounts under forgery in the second degree and criminal possession of a forged instrument

LB 148 (*Pirsch*) Change penalties for motor vehicle homicide and motor vehicle homicide of an unborn child

LB 155 (*Rogert*) Adopt the Public Protection Act, change provisions relating to theft, criminal impersonation, forgery, and bad and no-account checks, and create the offenses of identity theft and identity fraud and an additional deceptive trade practice

LB 238 (*Lathrop*) Adopt the Public Power Infrastructure Protection Act and change penalty provisions regarding trespass

LB 252 (*Cornett*) Prohibit possession of animal fighting paraphernalia

LB 258 (*Harms*) Change and provide penalties for minors in possession of alcoholic liquor

LB 276 (*Nordquist*) Change criminal mischief provisions and prohibit defacement

LB 277 (*Mello*) Prohibit the purchase of spray paint and industrial-strength marking pens by minors

LB 409 (*Dierks*) Provide violations and penalties for offenses against arson dogs

LB 494 (*McCoy*) Require animal health care professionals to report cases of animal abuse and change dangerous dog provisions

LB 506 (*Pirsch*) Change penalties related to the duty to stop at a motor vehicle accident

LB 507 (*Pirsch*) Change provisions and penalties regarding domestic assault in the third degree

LB 508 (*Pirsch*) Prohibit certain gang-related initiations

LB 518 (*McGill*) Change provisions relating to homicide and other criminal offenses and penalties

LB 625 (*Pirsch*) Prohibit intentional exposure to another of a life-threatening communicable disease

CRIMINAL PROCEDURE

LB 144 (*Avery*) Allow accessibility to certain disciplinary records regarding police officers and school district personnel

LB 185 (Louden) Change provisions relating to presentence investigations

LB 190 (*Avery*) Provide for collection of DNA samples from individuals convicted of a felony

LB 307 (*Council*) Change sentencing requirements with respect to certain minors

LB 671 (*Pirsch*) Provide powers and duties for and change membership of the Nebraska County Attorney Standards Advisory Council relating to death investigations, require training for coroners and deputy coroners, and provide duties for the Nebraska Commission on Law Enforcement and Criminal Justice

DEATH PENALTY

LB 36 (*Flood*) Change method and procedure for inflicting the death penalty

LB 306 (Council) Repeal the death penalty and replace it with life imprisonment without possibility of parole

EMPLOYMENT

LB 34 (Ashford) Require employment verification of employees by employers and by contractors who want to be awarded a public contract

FIREARMS

LB 145 (*Avery*) Prohibit firearms at schools, colleges, and universities as prescribed

LB 430 (*Christensen*) Change provisions relating to the Concealed Handgun Permit Act

JUVENILES

LB 82 (Howard) Require notification of change in a juvenile's case manager under the Nebraska Juvenile Code

LB 226 (Rogert) Change the age of majority to eighteen years of age for certain purposes

LB 237 (Lathrop) Adopt the Interstate Compact for Juveniles

LB 253 (Ashford) Adopt a new Nebraska Juvenile Code and change child abuse reporting and registry, child relinquishment, and Foster Care Review Act provisions

LB 345 (Gay) Change juvenile court jurisdiction to exclude school truancy

LAW ENFORCEMENT

LB 41 (Flood) Clarify references to the county sheriff

LB 496 (Fulton) Authorize enforcement of traffic control signal violations by automated traffic enforcement systems

LIABILITY

LB 153 (Lautenbaugh) Adopt the Tourism Liability Act

LB 156 (*Lautenbaugh*) Eliminate the strict liability requirement for pursuits by law enforcement officers

LB 216 (*Wallman*) Eliminate civil liability provisions relating to motor vehicle and aircraft guest statutes

LB 304 (Council) Change limitation of action provisions under the Political Subdivisions Tort Claims Act

LB 347 (*Cornett*) Eliminate governmental agency liability with respect to dogs

LB 513 (*Lautenbaugh*) Eliminate subrogation and contribution rights against a political subdivision or the state for property damage related to vehicular pursuit

MARRIAGE

LB 19 (Christensen) Change marriage license fee provisions and provide for marriage education

MEDICAL ETHICS

MISCELLANEOUS

LB 208 (*Lautenbaugh*) Add false information about employees to the crime of fraudulent insurance act and to the Insurance Fraud Act

LB 260 (*Rogert*) Adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act

LB 292 (*Lathrop*) Adopt the Nebraska Uniform Athlete Agents Act

LB 373 (*Lautenbaugh*) Change death and disability-related provisions pertaining to emergency response personnel

LB 472 (*Fulton*) Change payment terms for scrap copper and catalytic converters

LB 499 (Dubas) Allow breast-feeding as prescribed

LB 595 (Karpisek) Change coroner's examination provisions in motor vehicle accident cases

LB 598 (*Ashford*) Change the Nebraska Crime Victim's Reparations Act and authorize a Community Trust to assist with tragedies of violence or natural disaster

PROPERTY, REAL ESTATE AND PROBATE

LB 46 (Wightman) Provide for costs and expenses of estate administration

LB 47 (Wightman) Change the amount of the intestate share of the surviving spouse

LB 118 (Wightman) Change decedents' estates provisions relating to collection of personal property by affidavit and succession to real property by affidavit

SEX OFFENDER STATUTES

LB 15 (White) Require driver's license and Internet address information as part of sex offender registration

LB 97 (Lautenbaugh) Change provisions relating to foreign corporations and provisions and penalties relating to certain sex offenders

LB 147 (Pirsch) Provide name-change court orders to update the central register of child protection cases and the central registry of sex offenders

LB 265 (Giese) Change the Sexual Predator Residency Restriction

LB 284 (Fulton) Authorize employment restrictions for sexual predators

LB 285 (Pirsch) Change Sex Offender Registration Act provisions

STATE AGENCIES

LB 354 (*Lautenbaugh*) Provide for cross-appeals in contested cases under the Administrative Procedure Act

LB 403 (Karpisek) Require verification of lawful presence in the United States to receive public benefits as prescribed

LB 442 (Council) Change procedural and relief provisions of the Nebraska Fair Housing Act

LB 660 (Fulton) Change provisions relating to the Legislative Performance Audit Section and the Auditor of Public Accounts

LR 9 (Fulton) Encourage law enforcement agencies to enter into a memoranda of agreement with the U.S. Department of Homeland Security to perform immigration law enforcement functions

TOBACCO

INDEX OF BILLS (2009 Legislative Session)

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	FINAL DISPOSITION	COMMENTS
LB 4	Christensen	Change the rate of jury compensation to minimum wage	3/25	Held in Committee		
LB 15	White	Require driver's license and Internet address information as part of sex offender registration	3/11	Held in Committee	Amended into LB 97	
LB 19	Christensen	Change marriage license fee provisions and provide for marriage education	1/23	Held in Committee		
LB 34	Ashford	Require employment verification of employees by employers and by contractors who want to be awarded a public contract	2/18	Held in Committee	Partially Amended into LB 403	
LB 35	Ashford	Adopt the Violence Prevention Act, prohibit certain gang activity, and change certain firearm provisions	2/20	General File w/AM 836	Governor Approved	Judiciary Priority Bill
LB 36	Flood	Change method and procedure for inflicting the death penalty	1/29	General File w/AM 828	Governor Approved	Flood Priority Bill
LB 38	Flood	Change assault, assault on an officer, and offenses by a confined person provisions	3/19	Held in Committee		
LB 39	Flood	Adopt new rules of evidence relating to sexual offenses	3/19	General File	Amended into LB 97	
LB 40	Flood	Correct references to statutory provisions in civil procedure statutes	2/4	Held in Committee	Amended into LB 35	
LB 41	Flood	Clarify references to the county sheriff	1/22	General File	On Select File	
LB 46	Wightman	Provide for costs and expenses of estate administration	2/5	Held in Committee	Amended into LB 35	
LB 47	Wightman	Change the amount of the	2/5	General File w/AM	Amended into LB	

		intestate share of the surviving spouse		240	35	
LB 63	Friend	Change provisions relating to assault, firearms, graffiti, gang affiliation, juveniles, and jailhouse informers	2/20	General File w/AM 212	Governor Approved	Ashford Priority Bill
LB 76	Pirsch	Authorize the aggregation of amounts under forgery in the second degree and criminal possession of a forged instrument	1/21	General File	Amended into LB 155	
LB 78	Gay	Provide for deposit of inmate wages into the Victim's Compensation Fund	1/22	Held in Committee		
LB 79	Pirsch	Change when a county attorney files a child support order modification complaint	1/30	Held in Committee	Amended into LB 288	
LB 82	Howard	Require notification of change in a juvenile's case manager under the Nebraska Juvenile Code	3/12	Held in Committee		
LB 83	McGill	Provide for the care of domestic animals in protection orders	1/22	General File w/ AM77	Failed to advance to Select File	
LB 90	Heidemann	Remove a requirement of consent and waiver of physical appearance relating to audiovisual court appearances	1/23	General File	Governor Approved	
LB 97	Lautenbaugh	Change provisions relating to foreign corporations and provisions and penalties relating to certain sex offenders	3/11	General File w/ AM 893	Governor Approved	Speaker Priority Bill
LB 118	Wightman	Change decedents' estates provisions relating to collection of personal property by affidavit and succession to real property by affidavit	2/5	Held in Committee	Amended into LB 35	
LB 122	Coash	Change terminology for the central register of child protection cases	3/18	General File	Governor Approved	Consent Calendar

LB 123	Karpisek	Change the Uniform Controlled Substances Act to include Salvia divinorum or Salvinorin A	1/21	General File	Governor Approved	
LB 144	Avery	Allow accessibility to certain disciplinary records regarding police officers and school district personnel	2/26	IPP'd		
LB 145	Avery	Prohibit firearms at schools, colleges, and universities as prescribed	3/19	General File w/ AM 790		Amended into LB 430
LB 147	Pirsch	Provide name-change court orders to update the central register of child protection cases and the central registry of sex offenders	3/18	General File w/ AM 756		
LB 148	Pirsch	Change penalties for motor vehicle homicide and motor vehicle homicide of an unborn child	1/21	Held in Committee		
LB 151	Stuthman	Eliminate provisions relating to ephedrine under the Uniform Controlled Substances Act	1/21	General File w/ AM49	Governor Approved	
LB 153	Lautenbaugh	Adopt the Tourism Liability Act	3/4	Held in Committee		
LB 155	Rogert	Adopt the Public Protection Act, change provisions relating to theft offenses and criminal impersonation, and create the offenses of identity theft and identity fraud	1/28	General File w/ AM 1271	Governor Approved	Speaker Priority
LB 156	Lautenbaugh	Eliminate the strict liability requirement for pursuits by law enforcement officers	1/30	IPP'd 2-4-09		
LB 170	Wightman	Change temporary conservator appointment provisions	2/5	IPP'd; 2-5-09		
LB 185	Louden	Change provisions relating to presentence investigations	1/22	IPP'd; 2-4-09		
LB 190	Avery	Provide for collection of DNA samples from individuals convicted of a felony	1/22	General File w/ AM85		
LB 199	Stuthman	Change provisions relating to	3/4	General File w/AM	Amended into LB	

		court support orders and collection of such support		1213	288	
LB 201	McGill	Change the Uniform Child Custody Jurisdiction and Enforcement Act relating to international application	1/23	General File w/ AM 83	Governor Approved	
LB 203	Rogert	Eliminate provisions relating to multiple constables and the service or execution of legal process	1/23	IPP'd; 2-4-09		
LB 208	Lautenbaugh	Add false information about employees to the crime of fraudulent insurance act and to the Insurance Fraud Act	2/26	General File	Governor Approved	Consent Calendar
LB 216	Wallman	Eliminate civil liability provisions relating to motor vehicle and aircraft guest statutes	1/30	General File		
LB 226	Rogert	Change the age of majority to eighteen years of age for certain purposes	3/25	Held in Committee		
LB 237	Lathrop	Adopt the Interstate Compact for Juveniles	3/18	General File w/ AM 870	Governor Approved	Speaker Priority Bill
LB 238	Lathrop	Adopt the Public Power Infrastructure Protection Act and change penalty provisions regarding trespass	3/4	General File w/ AM 903	Governor Approved	Consent Calendar
LB 244	Coash	Add Tramadol and Carisoprodol to schedules of controlled substances	1/28	Held in Committee		
LB 252	Cornett	Prohibit possession of animal fighting paraphernalia	2/11	Held in Committee		
LB 253	Ashford	Adopt a new Nebraska Juvenile Code and change child abuse reporting and registry, child relinquishment, and Foster Care Review Act provisions	2/25	Held in Committee		
LB 258	Harms	Change and provide penalties for minors in possession of alcoholic liquor	3/19	Held in Committee		

LB 260	Rogert	Adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act	2/19	General File w/ AM 456	Governor Approved	Rogert Priority Bill
LB 265	Giese	Change the Sexual Predator Residency Restriction Act	3/12	Held in Committee		
LB 274	Christensen	Authorize the Director of Correctional Services to assign felony offenders to an incarceration work camp as prescribed	2/19	General File	Governor Approved	Consent Calendar
LB 276	Nordquist	Change criminal mischief provisions and prohibit defacement	1/28	Held in Committee		
LB 277	Mello	Prohibit the purchase of spray paint and industrial-strength marking pens by minors	1/28	IPP'd; 2-27-09		
LB 284	Fulton	Authorize employment restrictions for sexual predators	3/12	Held in Committee		
LB 285	Pirsch	Change Sex Offender Registration Act provisions	3/18	General File w/ AM 774	Governor Approved	Friend Priority Bill
LB 292	Lathrop	Adopt the Nebraska Uniform Athlete Agents Act	2/26	General File w/ AM 496	Governor Approved	Lathrop Priority Bill
LB 304	Council	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	2/4	General File		
LB 305	Council	Include state identification card holders in jury lists	2/4	General File	Amended into LB 35	
LB 306	Council	Repeal the death penalty and replace it with life imprisonment without possibility of parole	1/29	General File		
LB 307	Council	Change sentencing requirements with respect to certain minors	2/19	General File		Council Priority Bill
LB 332	Ashford	Change provisions relating to courts	2/6	Held in Committee	Amended into LB 35	
LB 333	Ashford	Increase and provide for court fees	2/6	Held in Committee	Amended into LB 35	
LB 343	Ashford	Designate the time a judge's term ends	2/4	General File	Governor Approved	Consent Calendar

LB 344	Ashford	Change administration of the Civil Legal Services Program	2/6	Held in Committee	Amended into LB 35	
LB 345	Gay	Change juvenile court jurisdiction to exclude school truancy	2/25	IPP'd; 2-26-09		
LB 347	Cornett	Eliminate governmental agency liability with respect to dogs	2-11	General File w/ AM 985	Governor Approved	Consent Calendar
LB 351	Lautenbaugh	Provide for charging orders against a limited liability company member's transferable interest	2-27	Held in Committee	Amended into LB 35	
LB 352	Lautenbaugh	Change civil procedure service of summons provisions	2/5	Held in Committee	Amended into LB 35	
LB 353	Lautenbaugh	Change pleading provisions in an action for disputed corners and boundaries	2/5	Held in Committee	Amended into LB 35	
LB 354	Lautenbaugh	Provide for cross-appeals in contested cases under the Administrative Procedure Act	2/26	General File	Amended into LB 35	
356	Dubas	Provide behavioral health services for children without parental relinquishment of custody	2/25	General File	Amended into LB 603 then IPP'd	
373	Lautenbaugh	Change death and disability-related provisions pertaining to emergency response personnel	2/26	General File w/ AM 1022		
374	Lautenbaugh	Authorize recovery of costs as part of the settlement of a civil action	2/27	General File w/ AM 925	Amended into LB 35 then IPP'd	
375	Lautenbaugh	Increase claim amount and provide for payment for costs for certain civil suits	2/27	General File w/ AM 924	Amended into LB 35 then IPP'd	
383	Pahls	Provide for limited immunity from prosecution under the Uniform Controlled Substances Act	3/19	Held in Committee		
403	Karpisek	Require verification of lawful presence in the United States to receive public benefits as prescribed	2/18	General File w/ AM413	Governor Approved	Judiciary Committee Priority

409	Dierks	Provide violations and penalties for offenses against arson dogs	2/11	Held in Committee		
414	Ashford	Change salary of Supreme Court judges	2/25	General File w/ AM 812	Governor Approved	Speaker Priority Bill
423	Cornett	Change child custody provisions and the Parenting Act	3/25	Held in Committee		
429	Christensen	Change employment provisions of persons committed to the Department of Correctional Services	2/19	General File	Amended into LB 63	
430	Christensen	Amend the Concealed Handgun Permit Act and state the power of cities and villages with respect to firearms	3/26	General File w/ AM 835	Governor Approved	Christensen Priority Bill
433	Lathrop	Change provisions relating to interchange of court judges and court jurisdiction	2/4	Held in Committee	Amended into LB 35	
442	Council	Change procedural and relief provisions of the Nebraska Fair Housing Act	2/27	Held in Committee		
472	Fulton	Change payment terms for scrap copper and catalytic converters	2/11	IPP'd; 2-26-09		
494	McCoy	Change provisions relating to dangerous dogs	2/11	General File w/ AM 844	Governor Approved	Speaker Priority Bill
496	Fulton	Authorize enforcement of traffic control signal violations by automated traffic enforcement systems	3/11	Held in Committee		
499	Dubas	Allow breast-feeding as prescribed	3/18	Held in Committee		
506	Pirsch	Change penalties related to the duty to stop at a motor vehicle accident	3/4	Held in Committee		
507	Pirsch	Change provisions and penalties regarding domestic assault in the third degree	3/20	Held in Committee		
508	Pirsch	Prohibit certain gang-related initiations	2/20	Held in Committee		
510	Pirsch	Require the deposit and distribution of certain surcharges	3/26	Held in Committee		

		and inmate wages for the benefit of victims of crime				
513	Lautenbaugh	Eliminate subrogation and contribution rights against a political subdivision or the state for property damage related to vehicular pursuit	3/20	Held in Committee		
517	Hansen	Change provisions relating to family reunification and termination of parental rights	3/4	General File w/ AM 662	Governor Approved	Hansen Priority Bill
518	McGill	Change provisions relating to homicide and other criminal offenses and penalties	3/11	Held in Committee		
589	Dierks	Designate both parents as joint custodians in a child custody determination unless there is proof otherwise	3/25	Held in Committee		
594	Dierks	Adopt the Women's Health Protection Act governing abortion and provide a civil remedy for failure to comply with the act	3/5	Held in Committee		
595	Karpisek	Change coroner's examination provisions in motor vehicle accident cases	3/26	Held in Committee		
596	Ashford	Change a legal services fee	2/25	Held in Committee		
598	Ashford	Change the Nebraska Crime Victim's Reparations Act and authorize a Community Trust to assist with tragedies of violence or natural disaster	3/20	General File	Governor Approved	Consent Calendar
625	Pirsch	Prohibit intentional exposure to another of a life-threatening communicable disease	3/20	Held in Committee		
659	Fulton	Provide for data collection relating to persons released from incarceration	3/26	Held in Committee		
660	Fulton	Change provisions relating to the Legislative Performance Audit	3/25	Held in Committee		

		Section and the Auditor of Public Accounts				
668	Gay	Create offenses of assault on an emergency services provider or a health care provider in the first, second, and third degrees		Withdrawn; 2-27-09		
669	Coash	Change the number of district, county, and separate juvenile court judges	2/6	General File	Partially amended into LB 35	
671	Pirsch	Provide powers and duties and change membership of the Nebraska County Attorney Standards Advisory Council relating to death investigations	3/11	General File w/ AM 1009	Governor Approved	Pirsch Priority Bill
672	Pirsch	Change provisions and penalties for certain firearms crimes		Withdrawn; 1-26-09		
675	Fulton	Provide for additional voluntary and informed consents from a woman prior to abortion	3/5	General File w/ AM 994	Governor Approved	McCoy Priority Bill
676	Fulton	Provide for additional voluntary and informed consents from a woman prior to abortion	3/5	Held in Committee		
LR 9	Fulton	Encourage law enforcement agencies to enter into a memoranda of agreement with the U.S. Department of Homeland Security to perform immigration law enforcement functions	2/18	Held in Committee		
LR 26	Lautenbaugh	Strongly oppose the federal Freedom of Choice Act and urge Congress to summarily reject it	3/5	Held in Committee		
LR 223	Council	Urge the members of Nebraska's congressional delegation to pass immigration reform legislation	5/26	Held in Committee		

**BILLS PASSED DURING
THE 2009 LEGISLATIVE SESSION**

LB 35 (Ashford) Change legal process regarding limited liability companies, courts, civil and criminal procedure, grants, estates, real estate, adoption, foster care, juveniles, court appointed special advocates, and administrative hearings and change fees

Legislative Bill 35, as introduced, was a bill to adopt the Violence Prevention Act, prohibit certain gang activity, and change certain firearm provisions. The intent was to prevent and reduce violent crimes in the state. Several of the original provisions of LB 35 were amended into LB 63.

Committee Amendment AM 836 was adopted on general file to replace the original provisions of LB 35 with provisions of several court related bills, including LB 40, LB 46, LB 47, LB 118, LB 305, LB 332, LB 333, LB 344, LB 351, LB 352, LB 353, LB 354, LB 433 and LB 669. Some bills were amended by the Committee before being included in AM 836. The following summaries describe the amendments.

Legislative Bill 40 (Flood) clarifies the language in §25-1144, which describes the form of a motion for a new trial. The bill also updates a statutory reference to the Uniform Licensing Law in §27-1201(2)(a) to reflect a change in name to the Uniform Credentialing Act.

Legislative Bill 46 (Wightman) amends §30-2485 and §30-2487 to clarify that the actions taken and expenses incurred in the discharge of the statutory duties of a personal representative are properly considered costs and expenses of administration of the estate.

Legislative Bill 47 (Wightman) amends §30-2302, which governs the distribution of a decedent's property in the absence of a will. The change would update the fixed dollar lump sum that a surviving spouse is entitled to before the estate is divided up among the decedent's surviving parents or surviving children if a will does not exist. Currently, the amount is \$50,000. LB 47 would increase the fixed lump sum payment to the first \$100,000 of the estate. The change would account for inflation that has occurred since the last adjustment to the amount was made in 1980.

Legislative Bill 118 (Wightman) amends §30-24,125 and §30-24,129 to allow for succession of personal property by affidavit for estates with personal property not exceeding fifty thousand dollars and for estates with real property not exceeding thirty thousand dollars in value.

Legislative Bill 305 (Council) amends §25-1628 to add state identification card holders to the group of people included in initial jury pools. This bill is based on a recommendation from the Nebraska Minority Justice Committee's Minority and Justice Task Force, a joint effort of the Nebraska Supreme Court and the Nebraska State Bar Association.

Current source lists for jury pools in Nebraska consist of registered voters and driver's license holders. This bill expands the source lists in order to reduce racial disparities found on many Nebraska Juries.

Under the bill, the Department of Motor Vehicles must make available to each jury commissioner a list of the names, birthdates and addresses of all state identification card holders. If a county treasurer has an automated procedure for developing lists of state identification card holders, the jury commissioner may request the list from the county treasurer.

Legislative Bill 332 (Ashford) amends several statutes regarding the county courts. The bill was brought to the Legislature by the County Judges Association and includes the following provisions:

- The bill corrects vagueness in the term "court" in the statute allowing for the appointment of a special prosecutor by any of the courts in the state upon the request of the county attorney for good cause. The bill also adds conflict of interest to the list of causes, which currently includes absence, sickness and disability.
- The bill provides that a lower court would not have to swear in a certified interpreter who has been sworn in by the Supreme Court;
- The bill allows any person having a judgment rendered by a county court to request the court clerk to issue execution on the judgment and direct the execution on the judgment to any county in the state. Such person may request that any aid to execution be directed to any county without the necessity of filing a transcript in the receiving county and any hearing or proceeding would be heard in the court in which the judgment was originally rendered;
- The bill provides that upon the filing of a petition for adoption, the hearing would be held not less than four weeks nor more than eight weeks after the filing of the petition *unless* any party for good cause shown requests a continuance of the hearing or all parties agree to a continuance;
- The bill allows the county court to either provide a caregiver information form to foster parents to report on the status of the child in their care *or* direct the applicant to the Supreme Court Internet web site where they could download the form;
- The bill adds school personnel to the list of holders of confidential records of a child who is in the custody of the state, which records may be shared with individuals and agencies who have been identified in an authorized court order. It would also add to the list of those who may be identified in a juvenile court order, court appointed special advocate (CASA) volunteers and other individuals and agencies, to receive such records if the court finds that it would be in the best interest of the juvenile; and
- The bill adds school districts and school personnel to the list of those who would be required to cooperate with requests of the CASA volunteer.

The provisions of LB 332 in AM 836 to LB 35 do not include sections 4, 5 and 6 of the original bill. Based on issues that were discussed during the hearing, the Committee did not include these sections in the bill that was advanced.

Legislative Bill 333 (Ashford) increases the Supreme Court Automation Fee from the current \$6 per case to \$7 per case. The automation fee funds the Court's JUSTICE case and financial management system for the state trial courts. The increase is required for (1) an expected increase in the Court's annual retainer fee to the Office of the CIO which covers the Court's portion of the ninety-four AS-400 computer systems that provide hardware and maintenance for trial courts; and (2) covering the conversion of Douglas County District Court and Separate Juvenile Court to the statewide JUSTICE system within the next year including the additional costs for the 175 court staff and judges to be equipped with personal computers, printers and other hardware and software items.

The provisions of LB 333 in the AM 836 to LB 35 do not include sections 1, 3 and 4 of the original bill. The Committee also amended the proposed increase of the Automation fee from a two dollar increase to a one dollar increase. **However, the second dollar was amended back into the bill on general file by AM 987.**

Legislative Bill 344 (Ashford) amends §25-3007 and §25-3008 to transfer the administration of the Civil Legal Services Program from the State Court Administrator to the Commission on Public Advocacy. The Civil Legal Services Program and the accompanying fund provide grants to civil legal service providers for the delivery of free services to eligible low-income persons.

Legislative Bill 351 (Lautenbaugh) amends the Limited Liability Company Act to clarify that a judgment entered by a court against a Limited Liability Company may only be entered against the transferable interests in the LLC. This would force the Limited Liability Company to pay any distributions to the judgment creditor up to the amount of the judgment owed rather than making these distributions to the member of the LLC that owes the debt. LB 351 clarifies that a judgment creditor is prevented from receiving any management interests in the company. Today, 48 states and the Uniform Limited Liability Company Act have similar charging order statutes. The bill clarifies that this would apply to all LLC's, even those with a single member as allowed under Nebraska Law.

The Committee amended the provision to clarify that any third party making a distribution or a payment directly to a member of the LLC would not be held liable to the judgment creditor if they did so at the direction of the LLC.

Legislative Bill 352 (Lautenbaugh) amends §25-505.01 to allow for delivery of a summons by a commercial courier such as FedEx or UPS. Under current law, certified mail service is allowed if done by certified mail through the U.S. Postal Service.

The Committee advanced an amended version of the bill in AM 836. The amendment clarifies the intent of the bill by placing the commercial courier provision into a sub-

section separate from the certified mail provision in sub-section (c) and referring to a federal statute that authorizes commercial courier companies. The companies currently authorized under 26 U.S.C. Sec. 7502(f)(2) include DHL Express, Federal Express and United Parcel Service.

Legislative Bill 353 (Lautenbaugh) amends §34-301, which provides for the commencement of a boundary resolution case, by changing “petition” to “complaint” to make this statute consistent with other civil procedure statutes.

Legislative Bill 354 (Lautenbaugh) provides for the right of a cross-appeal to a responding party of any review under the Administrative Procedure Act. A respondent wanting to file a cross-appeal must file the cross-appeal within thirty days of being served with the summons and petition for review.

Legislative Bill 433 (Lathrop) amends provisions that were enacted through LB 1014 in 2008. The Committee advanced an amended version of the bill in AM 836 which strikes section 1 of the original LB 433.

Under current law, the district court has exclusive original jurisdiction over misdemeanor cases that arise from the same incident as a charged felony. LB 433 amends the law to expand the district court’s exclusive jurisdiction to concurrent jurisdiction with the county court over misdemeanor cases that arise from the same incident as a charged felony.

This section of AM 836 includes an emergency clause.

Legislative Bill 669 (Coash) creates five new judgeships. The Committee advanced an amended version of the bill in AM 836 which creates one new district court judgeship in Lancaster County.

This section of AM 836 includes an emergency clause.

AM 1054 was also adopted on general file. The amendment incorporates three additional bills to the package including LB 273, LB 374 and LB 375. LB 273 was introduced by Senator Ashford to raise certain fees charged by sheriffs for services such as serving capias, search warrants, summons, subpoenas, and various notices. Ultimately, the bill provides for a 20% increase of five different fees including: the fee for serving a summons, subpoena, order of attachment, order or replevin, order of the court, notice of motion, other notice, other writ or document or combination thereof; the fee for serving additional persons with summons, subpoena, order of attachment, order of replevin, order of the court, notice of motion, other notice, other writ or documents or combination thereof for each other person served at that time and location; the fee for levying a writ or court order and return thereof; the fee for executing a writ of restitution or a writ of assistance and return; and the fee for making a return of each summons, subpoena, order of attachment, order of replevin, other order, notice of motion, other notice, other writ or document, whether served or not.

As adopted in LB 1054, LB 374 amends §25-1708 to allow a civil court defendant to settle a suit and pay the plaintiff's court costs without requiring the entry of a judgment against the defendant. Furthermore, the bill would require the court to enter a judgment against the defendant for the plaintiff's court costs in the instance that the principal amount sued upon is voluntarily paid by the defendant after the filing of suit. The plaintiff may waive an award of court costs following a voluntary payment to the plaintiff by or on behalf of the defendant before a judgment is entered.

As adopted in LB 1054, LB 375 amends §25-1801 to allow a plaintiff to recover court costs from the defendant by voluntary payment after filing suit, but before a judgment is entered. The bill would also expand application of the statute from claims of up to \$2,000 to claims of up to \$4,000. The plaintiff may waive an award of court costs following a voluntary payment to the plaintiff by or on behalf of the defendant before a judgment is entered.

On select file, AM 1095 was adopted to increase the Law Enforcement Improvement Fund (LEIF) fee from \$1 to \$2. The LEIF fee is a court cost taxed on criminal proceedings. The fund is used to pay administrative and operations expenses of the Law Enforcement Training Center in Grand Island. AM 1287 was also adopted on select file to make technical corrections.

The bill was advanced to final reading and pulled back twice for specific amendments AM 1493 and AM 1498. Both amendments were adopted to reflect a compromise to delay the implementation of the new district court judgeship in Lancaster County for two years.

LB 35 was passed by the Legislature by a 46-1-2 vote and signed by the Governor on May 29, 2009.

LB 36 (Flood) Change method and procedure for inflicting the death penalty

LB 36 changes the method of execution under Nebraska law from electrocution to intravenous injection of a substance or substances in a quantity sufficient to cause death. A written execution protocol would be created by the Department of Correctional Services to include the processes and procedures by which an execution is to be carried out. The creation of the protocol would include the selection of the lethal substance or substances and the protocol is not specifically exempt from the provisions of the Administrative Procedure Act. LB 36 would also provide members of the execution team protections from disciplinary actions by a licensing board within the state.

LB 36 was advanced by the Judiciary Committee and placed on general file on April 16, 2009 by a 6-1 vote, with 1 member present and not voting. LB 36 was passed by the Legislature with a vote of 34-12-3 and signed by the Governor on May 29, 2009.

LB 63 (Ashford) Change provisions and penalties relating to assault, firearms and other weapons, graffiti, gang affiliation, juveniles, bail, jailhouse informers, appeals, violence prevention, prisoner employment, and dating violence policies

LB63 increases the criminal penalties for possession of a handgun by a juvenile, illegal transfer of a firearm to a juvenile, possession of a firearm on school grounds, first and second degree assault, first and second degree assault on an officer, shooting at an occupied dwelling, felon in possession of a deadly weapon and use of a deadly weapon to commit a felony.

As amended, the bill creates a state Office of Violence Prevention. The office will include a director and advisory board appointed by the governor.

The office will provide grants to agencies who seek to implement programs and services to help individuals change their pattern of criminal and violent behavior and will be funded through a \$350,000 transfer from the Community Corrections Uniform Data Analysis Cash Fund to the Violence Prevention Cash Fund.

Provisions from two other bills were amended into LB 63 on select file.

LB 64, sponsored by Sen. Gwen Howard, requires the state Department of Education to develop a model dating violence policy by March 1, 2010, to assist school districts in developing policies, which districts must adopt by July 1, 2010.

Each school district will be required to publish and inform parents about its policy and provide staff training.

LB 429, sponsored by Sen. Mark Christensen, requires that any inmate allowed to participate in a work release program per an arrangement with a school district, educational service unit, community college, state college or university be supervised by an employee of the Department of Corrections while performing their job.

LB 63 also:

- provides stronger and more comprehensive penalties for graffiti and criminal defacement;
- prohibits domestic violence offenders and subjects of protection orders from possessing firearms;
- adds additional penalties for possession of a deadly weapon during the commission of a felony;
- moves the implementation date for mandatory juvenile placement evaluations to July 1, 2010;
- allows judges to consider an offender's propensity for violence and the danger he or she may pose to public safety when setting conditions of bail;
- allows prosecutors and judges to consider a juvenile offender's gang affiliation when determining whether they should be prosecuted as adults or juveniles;

- creates offenses for discharge of a firearm from a motor vehicle and illegal recruitment into a criminal organization;
- allows 10 percent of Omaha convention center turn back funds to be directed to the reduction of street and gang violence;
- enhances penalties from Class IV felonies to Class III felonies for possessing a defaced or stolen firearm and defacing a firearm;
- clarifies existing handgun registration and purchase permit requirements regarding social security numbers to comply with federal law; and
- grants judges the authority to order a defendant in a criminal defacement case to clean or repair the defaced property and keep the property clean of graffiti for up to one year. Additionally, the court may require the defendant to undergo counseling.

LB 63 was advanced by the Judiciary Committee and placed on general file by a 7 -0 vote with 1 member absent. LB 63 was passed with an emergency clause by a vote of 43-4-2 and signed by the Governor on May 27, 2009.

LB 90 (Heidemann) Remove a requirement of consent and waiver of physical appearance relating to audiovisual court appearances

Under current law, a written consent and waiver of a physical personal appearance must be signed by a detainee or prisoner when an audiovisual court appearance is made in nonevidentiary criminal proceedings.

LB 90 repeals §29-4203 outright, thus removing the requirement for written consent and waiver of the physical personal appearance when an audiovisual court appearance is made in nonevidentiary criminal proceedings.

LB 90 was passed by the Legislature by a 46-0-3 vote and signed by the Governor on March 18, 2009.

LB 97 (Lautenbaugh) Change provisions relating to foreign corporations and provisions and penalties relating to certain sex offenders

Legislative Bill 97 amends statutes related to sex offenses and sex offenders to enhance penalties and increase regulation of those required to register.

LB 97 makes the following changes:

- Creates the offense of unlawful use of the Internet by a prohibited sex offender (one found to be a sexually violent predator or convicted of a sex offense involving a child) and makes it a Class I misdemeanor for the first offense and a Class IIIA felony for any subsequent offenses;
- Increases the penalty for On-Line Enticement of a Child from a Class IIIA felony for first offense to a Class ID felony and from a Class II felony for subsequent offenses to a Class IC felony;

- Increases the penalty for Criminal Child Enticement from a Class I misdemeanor to a Class IIIA felony;
- Changes On-Line Enticement Using a Computer to On-Line Enticement Using an Electronic Communication Device so as to include those offenders who use personal digital assistants (PDAs) or cell phones to commit their crimes;
- Increases the penalty for Manufacture of Child Pornography a Class III felony for a first offense to a Class ID felony and from a Class II felony for subsequent offenses to a Class IC felony;
- Increases the penalty for trafficking in Child Pornography from a Class IIIA felony for subsequent offenses to a Class IC felony for subsequent offenses;
- Increases the penalty for Possession of Child Pornography from a Class IV felony to a Class III felony and a Class IC felony for subsequent offenses;
- Expands the definition of visual depiction of sexually explicit conduct to include undeveloped films and videotapes and to include images merely depicted on a computer screen;
- Describes rules and procedures for introducing child pornography in court and
- for sharing child pornography evidence with the defense through the discovery process;
- Eliminates the applicability of the statute of limitations for the crime of Incest.
- Requires judges to tell applicable sex offenders at sentencing that they will have to disclose pertinent computer and Internet information to law enforcement and inform them that they are prohibited from accessing and using social networking sites;
- Adds the crime of Enticement by Electronic Communication Device to the list of offenses that are subject to the Sex Offender Registration Act;
- Allows for service of search warrants and subpoenas on Internet Service Providers headquartered in other jurisdictions but doing business on-line in Nebraska; and
- Includes an emergency clause.

Committee Amendment AM 893 was adopted on general file and includes the provisions of LB 97 with changes proposed by the Committee. The proposed changes incorporate the provisions of LB 15, introduced by Senator White; amend provisions related to the handling of evidence; add provisions related to juveniles and strike provisions related to the visual depiction of sexually explicit conduct.

Legislative Bill 15, as amended into LB 97 by AM 893, amends §29-4006 to require additional information to be included in the database of registered sex offenders. The new information required under the bill includes driver's license numbers, email addresses, instant messaging screen names, and other internet communication identifiers. In addition, the bill requires any person required to register under the Sex Offender Registration Act to inform the sheriff, in writing, by the next working day, if he or she establishes or changes an email addresses, instant messaging address, or other internet communication identifiers. The sheriff is required to send the information to the sex offender registration and community notification division of the Nebraska State Patrol, in writing, by the next working day after the receipt of the information.

The amendment adds language to the section of the bill describing rules and procedures for handling child pornography evidence. The new language allows the court to order that a copy of the evidence be delivered to an expert witness for the defense to prepare testimony. The defense expert would be subject to the same restrictions as law enforcement and would have to return all copies after their evaluation.

The amendment changes §28-319.01 to expand the crime of sexual assault of a child in the first degree to include instances when a person who is at least twenty-five years old subjects a person who is less than sixteen but at least twelve years old to sexual penetration. The crime is a Class IB felony with a mandatory minimum sentence of fifteen years in prison for the first offense.

The amendment addresses the issue of juveniles sending sexually explicit pictures of themselves to one another. Section 28-813.01, which prohibits the possession of child pornography, would be amended to differentiate between persons who are under nineteen years of age and those nineteen and older with regard to the penalty provisions. A person under nineteen at the time of the criminal conduct would be guilty of a Class IV felony for each offense and a Class IC felony for subsequent offenses. Those who are nineteen and older at the time of the criminal conduct would be guilty of a Class III felony for each offense and a Class IC felony for subsequent offenses in accordance with the provisions of the original LB 97. The amendment would also establish an affirmative defense to the charge of possession of child pornography if: 1) the image is of the defendant alone, or 2) the defendant was under 19; the image portrays a child at of least 15 years of age; the child depicted generated the image knowingly and voluntarily; the image was knowingly and voluntarily provided by the child depicted; the image contains only one child; the defendant has not provided or made available the image to anyone except the child who originally generated and provided it to the defendant; and the defendant did not coerce the depicted child to generate or provide the image.

Section 28-1463.03, which prohibits the manufacture of child pornography in (1), was amended to establish an affirmative defense to the charge if the defendant was under 18 at the time the image was generated and the image is of the defendant alone. An affirmative defense was established to the charge of buying, selling or distributing child pornography in (2) if: a) the defendant was under 18 at the time the image was generated, b) image is of the defendant alone, c) the defendant reasonably believed he or she was sending the image to a willing recipient, and d) the recipient was at least 15 at the time the image was sent.

Section 28-1463.04 was amended to differentiate between persons who are under nineteen years of age and those nineteen and older with regard to the penalty provisions for the crimes listed under §28-1463.03. A person under nineteen at the time of the criminal conduct is guilty of a Class III felony for each offense and a Class IC felony for subsequent offenses. Those who are nineteen and older at the time of the criminal conduct are guilty of a Class ID felony for each offense and a Class IC felony for subsequent offenses in accordance with the provisions of the original LB 97.

Section 28-1463.05 was amended to differentiate between persons who are under nineteen years of age and those nineteen and older with regard to the penalty provisions for possession with intent to deliver child pornography. A person under nineteen at the time of the criminal conduct is guilty of a Class IIIA felony for each offense and a Class IC felony for subsequent offenses. Those who are nineteen and older at the time of the criminal conduct are guilty of a Class III felony (this is an increase from a Class IIIA felony) for each offense and a Class IC felony for subsequent offenses in accordance with the provisions of the original LB 97.

The amendment struck all instances of new language in the bill that prohibited certain types of involvement with sexually explicit images that appear to, but do not actually, include a minor as a participant or portrayed observer.

The amendment added a severability clause to the bill.

AM 1094 was also adopted on general file to incorporate LB 39. LB 39, as amended by Committee Amendment 932, would amend existing rules of evidence concerning sexual offenses and adopt new rules of evidence that are consistent with federal law.

On select file, AM 1234 was adopted to incorporate the version of LB 290 that was amended by the Health and Human Services Committee Amendment AM 293. LB 290 prohibits any person who has been convicted of, charged with, or indicted for a felony or of any crime involving moral turpitude from providing transportation services under contact to the Department of Health and Human Services, whether as an employee or volunteer, for vulnerable adults as defined in §28-371 or for persons under nineteen years of age.

Also on select file, AM 1255 and AM 1259 were adopted. AM 1255 made technical corrections and clarified the intent of the bill. Under AM 1259, provisions pertaining to the evidentiary hearing which must be held before the admission of any evidence offered to prove prior sexual offense(s) or prior sexual history were stricken. Under the amended version, the provisions granting the parties a right to attend and be heard at the hearing were removed.

LB 97 was passed by the Legislature by a 48-0-1 vote and signed by the Governor on May 20, 2009.

LB 122 (Coash) Change terminology for the central register of child protection cases

Legislative Bill 122 amends §§28-718 and 28-720 to clarify classifications on the central register of child protection cases. Currently, there are three classifications for cases that get entered into the registry including “court substantiated,” “court pending” and “inconclusive.” The “court substantiated” classification indicates a court’s judgment of guilt. The “court pending” classification indicates the case has been filed and has not been decided by the court. The “inconclusive” classification indicates an investigation

has been made into the report of abuse or neglect and the Department of Health and Human Services has determined that the report was made by a preponderance of the evidence. The bill reflects the concern that “inconclusive” is misleading as a label for a determination by the department that child abuse or neglect was more likely to have occurred than not. The bill replaces the classification of “inconclusive” with “agency substantiated.” The bill also gives the department the authority to change current records to enact this change.

LB 122 was passed by the Legislature by a 44-0-5 vote and signed by the Governor on May 26, 2009.

LB 123 (Karpisek) Change the Uniform Controlled Substances Act to include *Salvia divinorum* or *Salvinorin A*

Legislative Bill 123 adds *Salvia divinorum* and *Salvinorin A* to the list of Schedule I controlled substances under the Uniform Controlled Substances Act as found in Nebraska Revised Statutes §28-405. This inclusion on the controlled substances act would include all parts of this plant, any seed, derivative, mixture, extract, or salt, whether it was growing or not.

LB 123 was advanced to general file by the Judiciary Committee by a 6-0 vote. LB 123 was passed by a 44-0-5 vote and signed by the Governor on February 26, 2009.

LB 151 (*Stuthman*) Change exemptions relating to ephedrine-containing substances under the Uniform Controlled Substances Act

LB 151 is a bill that would strike the exception to the sale and access to ephedrine and its derivatives that is currently provided under subsection (g) (1) of the schedule IV drug classification of the Controlled Substances Act.

The exception for ephedrine was provided to ephedrine based products that were used as dietary supplements which contained:

- less than twenty-five milligrams of ephedrine alkaloids,
- does not contain ephedrine alkaloids in excess of five percent of the total capsule weight,
- are not sold or advertised suggesting or indicating mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or an increased muscle, and
- Contained the phrases: "This statement has not been evaluated by the Food and Drug Administration" and "This product is not intended to diagnose, treat, cure, or prevent any disease."

LB 151 was amended in Committee by AM49 to provide that certain products that contain ephedrine will still be available for sale at retail, over the counter so as not to place an undue burden on consumers of the following products:

- Primatene Tablets;

- Bronkaid Dual Action Caplets; and
- Pazo Hemorrhoidal Ointment

Under AM49, new restrictions are placed on the sale of ephedrine based products, in that they will be treated like pseudoephedrine based products when being purchased from a retailer, and those restrictions are:

- Items are stored behind a counter or in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product;
- The products are sold by a person eighteen years of age or older in the course of his or her employment to a customer eighteen years of age or older with the following restrictions:
 1. No customer shall be able to purchase, receive, or otherwise acquire more than three and six-tenths grams of ephedrine during a twenty-four hour period,
 2. No customer shall purchase, receive, or otherwise acquire more than nine grams of ephedrine base during a thirty-day period; and
 3. The customer shall display valid drivers' license, state identification card, military identification card, alien registration card, or a passport as proof of identification.

LB 151 was advanced to general file by the Judiciary Committee by a 7-0 vote. LB 151 was passed with an emergency clause by a 46-0-3 vote and signed by the Governor on March 18, 2009.

LB 155 (*Rogert*) Adopt the Public Protection Act, change provisions relating to theft, criminal impersonation, forgery, and bad and no-account checks, and create the offenses of identity theft and identity fraud and an additional deceptive trade practice

LB 155 prohibits the receipt of proceeds or interest in an enterprise or in real property through racketeering activity or the collection of an unlawful debt.

Violators will be guilty of a Class III felony, unless the racketeering activity is punishable as a Class I, IA or IB felony, in which case perpetrators will be guilty of a Class IB felony. Those who benefit from racketeering activities may be sentenced to pay a fine up to three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and reasonable investigation and prosecution costs.

LB 155 also provides that prosecutions of identify theft may be started in any county in which an element of the offense occurred, including the county where a victim resides. In addition, the bill strengthens penalties for subsequent felony offenses of criminal impersonation and adds to criminal impersonation offenses violations of providing false identification information for employment or to the courts and law enforcement.

LB 76 sponsored by Senator Pirsch, was amended into LB 155 on general file and

provides that, in determining penalties for forgery in the second degree and criminal possession of a forged instrument, the bill allows the aggregation of monetary amounts of multiple checks forged during a "single forgery scheme" if the process took place within a 60-day period in one county.

Finally, the bill declares that a person engages in a deceptive trade practice if he or she advertises the price of a good or service in a way intended to mislead or deceive.

LB 155 was advanced to general file by the Judiciary Committee by an 8-0 vote. LB 155 was passed by a 47-0-2 vote and signed by the Governor on May 26, 2009.

LB 201 (McGill) Change the Uniform Child Custody Jurisdiction and Enforcement Act relating to international application

In 2007, the Legislature passed a law amending the Uniform Child Custody Jurisdiction and Enforcement Act (Act) which controls international jurisdictional disputes in custody cases in Nebraska (N.R.S. §§43-1201 – 25).

Under current law, Nebraska courts may refuse to recognize and enforce a foreign custody determination if a case satisfies two criteria. First, the child must be a habitual resident of Nebraska, as defined in the Hague Convention on Civil Aspects of International Child Abduction. Second, if the foreign custody determination were recognized and enforced, the child would be at a significant and demonstrable risk of abuse or neglect. If these two criteria are satisfied, there is a rebuttable presumption against enforcing the foreign custody determination. The Nebraska court then has the authority to exercise jurisdiction over the custody of the child under §43-1238(a)(1).

Legislative Bill 201 is a follow-up provision in response to a Nebraska State District Court's finding that interpreted the 2007 law as providing "a shield, not a sword." In other words, the court held that the law cannot be used affirmatively to attack a custody determination issued by the court of a foreign country. The law can only be used to defend against attempts to have the custody determination enforced. If there is no action before the Nebraska court for the recognition and enforcement of a foreign court's custody determination, the Nebraska court does not have child custody jurisdiction.

LB 201 adds a new subsection (f) to the Act, thus granting a Nebraska court initial and ongoing custody jurisdiction in cases that satisfy the two criteria set forth in §43-1230(d) upon a motion or complaint filed by a parent or custodian. The Nebraska court will have custody jurisdiction in these cases regardless of whether there is an action for recognition and enforcement of a foreign court's custody determination.

The bill applies to any case pending in the state.

The intent of LB 201 is to fill a procedural gap in the Act to give Nebraska courts original and continuing child custody jurisdiction in cases where the child that is subject to the custody determination is a habitual resident of Nebraska and there is a significant and

demonstrable risk of abuse or neglect if a foreign custody determination is recognized and enforced. Committee Amendment 83 clarifies the intent of LB 201 by adding two references to §43-1238(c) in the Act. The change specifically provides that a Nebraska court does not need personal jurisdiction over a party to a custody action in order to make a child custody determination if the case satisfies the two criteria set forth in §43-1230(d).

AM 83 includes an emergency clause.

LB 201 was passed by the Legislature by a 49-0-0 vote and signed by the Governor on March 5, 2009.

LB 208 (Lautenbaugh) Add false information about employees to the crime of fraudulent insurance act and to the Insurance Fraud Act

LB 208 would establish a violation of the Insurance Fraud Act and create the crime of committing a fraudulent insurance act for any person or entity that knowingly and with the intent to defraud or deceive provides false, incomplete, or misleading information to an insurer concerning the number, location, or classification of employees for the purpose of lessening or reducing the premium otherwise chargeable for workers' compensation insurance coverage.

LB 208 was advanced to general file by the Judiciary Committee by an 8-0 vote. LB 208 was passed by a vote of 47-0-2 and signed by the Governor on May 26, 2009.

LB 237 (Lathrop) Adopt the Interstate Compact for Juveniles

Legislative Bill 237 repeals the current Interstate Compact on Juveniles and adopts the updated version, which is named the Interstate Compact for Juveniles. The compact is an agreement between states that allows for tracking and supervision of juveniles under court supervision that move across state borders and regulates the return of out-of-state runaways and absconders in a safe and timely manner. Thirty-five states have already adopted the updated version and the compact.

Committee Amendment AM 870 was adopted by the Legislature to repeal the Interstate Compact on the Placement of Juveniles and adopt the updated version, which is named the Interstate Compact for the Placement of Juveniles. The purpose of this compact is to ensure that children placed across state lines for foster care, relative placement, or adoption are placed with persons who are safe, suitable, and able to provide proper care.

LB 237 was passed by the Legislature by a 47-0-2 vote and signed by the Governor on May 27, 2009.

LB 238 (Lathrop) Adopt the Public Power Infrastructure Protection Act and change penalty provisions regarding trespass

LB 238 would amend 28-520 to provide for the offense of criminal trespass when a person "enters" or secretly remains on public power facility property without consent from a person authorized to provide consent to be on facility property. A violation of this section would be a Class I misdemeanor.

LB 238 would also create a criminal offense when a person damages or destroys or attempts to damage or destroy any machine, facility, or apparatus owned by a public power supplier and such machine, facility or apparatus is used to generate electricity.

LB 238 would also prohibit damage, injury or destruction to any facility, electric wire, pole, bracket, insulator or other appliance owned by the public power supplier that is used for conducting, transforming, transmitting or distributing electricity. A violation under this act is a Class IV felony.

A person would be guilty of committing a Class II felony if such person willfully and maliciously causes damage or attempt to cause damage to a nuclear power facility. This provision would also cover acts and omissions of persons employed by the nuclear facility that are outside official rules or directives relating to facility operation.

LB 238 was amended by AM903 which requires damage to an electric generating facility to be "malicious" and not the result of a legitimate accident and advanced to general file by the Judiciary Committee by an 8-0 vote. LB 238 was passed by a 47-0-2 vote and signed by the Governor on May 26, 2009.

LB 260 (*Rogert*) Adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act

LB 260 creates the Nebraska Claims for Wrongful Conviction and Imprisonment Act. As amended, the bill entitles wrongfully convicted persons to a maximum of \$500,000. The original bill provided for \$50,000 for each year of incarceration and an additional \$50,000 for each year served on death row.

Under LB260, inmates wrongfully convicted, incarcerated and released will be allowed to file a tort claim against the state utilizing the Nebraska Tort Claims Act. Claimants must have received a pardon or a vacated or reversed conviction to file a claim. If the claimant previously confessed to the crime or pleaded guilty, they will have to prove they were coerced to do so.

Damages will not be assignable nor can the damages survive the claimant's death. The bill also includes a prohibition against successful claimants filing other suits against the state.

LB 260 was advanced to general file by the Judiciary Committee by an 8-0 vote. LB 260 passed by a 36-9-4 vote and signed by the Governor on April 8, 2009.

LB 274 (Christensen) Authorize the Director of Correctional Services to assign felony offenders to an incarceration work camp as prescribed

Under the provisions of LB 274, the Director of Correctional Services is given the authority to assign a felony offender to the Work Ethic Camp if he or she believes it is in the best interests of that offender and of society. Offenders convicted of a capital offense or of a crime under sections 28-319 to 28-321 are not eligible for such placement.

Currently, only the courts or the Nebraska Board of Parole determines placement at the WEC. Such placements are to continue under this bill.

LB 274 was advanced by the Judiciary Committee and placed on general file on February 24, 2009 by an 8-0 vote. LB 274 was passed by a vote of 48-0-1 and signed by the Governor on May 26, 2009.

LB 285 (Pirsch) Change Sex Offender Registration Act provisions

Legislative Bill 285 amends the Sex Offender Registration Act to bring Nebraska law into compliance with federal guidelines. On July 27, 2006, President Bush signed the Adam Walsh Child Protection and Safety Act of 2006. The purpose of the federal law is to provide for a more comprehensive, nationalized system for registration of sex offenders. Title 1 of the Act establishes the Sex Offender Registration and Notification Act (SORNA) which outlines a comprehensive set of minimum registration and notification standards for sex offenders. The National Sex Offender Registry will be maintained at the FBI by the US Attorney General.

The Adam Walsh Act calls for states to be in substantial compliance with the minimum standards of SORNA by July 27, 2009, including information that must be collected, duration of registration requirements for classifications of offenders, verification of registry information, access to and sharing of information, and penalties for failure to register as required. Nebraska is subject to mandatory 10% reduction in Byrne Justice Assistance Grant funding each year there is not substantial implementation of SORNA.

Under LB 285, the length of registration is based solely on the convicted offense. There is a 15-year registration requirement for offenses not punishable by imprisonment for more than 1 year. An offender subject to a 15-year registration would be eligible to apply to State Patrol for "Clean Record" consideration if, after ten years: there was no conviction of sex offense or offense punishable by more than one year imprisonment; there was successful completion of probation, parole, or supervised release, and there was successful completion of appropriate sex offender treatment program. There is a 25-year registration requirement for offenses punishable by imprisonment greater than 1 year or for two or more registry offenses that are not punishable by imprisonment for more than one year. There is a lifetime registration requirement for prior sex offense conviction, aggravated offense, or lifetime registration in another jurisdiction.

Under LB 285, the list of registry offenses is expanded to include: incest, unlawful intrusion, sexually related child abuse offenses, sexual assault of an inmate or protected

adult and sexually motivated offenses. The new registry and notification requirements apply retroactively to all sex offense convictions entered on or after January 1, 1997.

Under LB 285, the amount of information collected upon registration is expanded to include: all residency, employment and vehicle information; travel/Immigration documents; all professional license information; computer/Internet identifiers & addresses; cell phone numbers; digital fingerprints and palm prints; a digital photograph; and a DNA sample.

Under LB 285, registry information must be verified in-person and more frequently. A 15-year registrant must verify his or her information annually. A 25-year registrant must verify his or her information every six months. A lifetime registrant must verify his or her information every three months.

Under LB 285, the initial registration must occur within three working days after becoming subject to the act as opposed to the current five day requirement. The Nebraska State Patrol must designate locations to accept the initial registration at facilities that have equipment necessary to obtain digital fingerprints, palm prints, and a photograph.

Under LB 285, verifications and status changes must be reported to County Sheriff within three working days before the change as opposed to the current requirement to report within five days after. The registrant is required to maintain updated information within the county he or she resides, has a temporary domicile, has a habitual living location, works, or attends school. The Sheriff must submit the information to the State Patrol the same day. There is public notification on all registrants as opposed to the current requirement for public notification based on risk assessment. A violation of the registry requirement and instances when the registrant cannot be located will be reported to the U.S. Marshal Service and an arrest warrant will be sought.

Committee Amendment AM 774 was adopted on general file to address the retroactive application of the new registry requirements to the expanded list of registry offenses. The amendment separates the new offenses from the current list of registry offenses into a new subsection and makes them subject to the Sex Offender Registration Act from the effective date of the act onward. The amendment also strikes language that was added to the original bill by mistake.

Also on general file, AM 1147 was adopted to make technical corrections to the provisions added by AM 774 and to remove provisions requiring those individuals who are civilly committed for sex offenses to be subject to the registry. The amendment also reinserts a provision of the current law that was stricken by AM 774 by mistake. The mistakenly stricken section provides that the registry requirements apply to those currently incarcerated or under the supervision of probation or parole for being convicted of a registerable offense prior to January 1, 1997.

On select file, AM 1465 was adopted to incorporate and harmonize the amendments to the sex offender laws made under LB 97, which went into effect on an emergency clause after being signed by the Governor on May 20, 2009, prior to LB 285 being debated on select file. Under AM 1465, §29-4003(1)(b)(i), which makes additional offences subject to the sex offender registry starting on January 1, 2010, is amended to clarify the “sexual element” language in subsections (A), (B), (C), (D), (E), (F), (G), (H), (I) and (J). The sexual element language is stricken from the subsections listed above and a new subsection is added to clarify how the “non-sex” offences will come under the registry if there is a sexual element to the crime. In order for the registry requirements to apply to the additional “non-sex” offences, the court must find evidence of sexual penetration or sexual conduct, as defined in §28-318, present in the record, including consideration of the factual basis for a plea-based conviction and information contained in the presentence report.

Also on select file, AM 1496 was adopted to make technical corrections to clarify the intent of the bill.

LB 285 was passed by the Legislature by a 46-1-2 vote and signed by the Governor on May 29, 2009.

LB 292 (Lathrop) Adopt the Nebraska Uniform Athlete Agents Act

LB292 requires registration, certification and background checks of sports agents seeking to represent intercollegiate athletes in Nebraska. The bill enables Nebraska student athletes who sign with an agent the ability to opt out of an agreement within 14 days of signing a contract for representation by the sports agent. The director of the school’s athletic department must be notified when a student athlete enters into a contract with a sports agent. The process will be administered by the secretary of state.

LB 292 was amended in Committee by AM496 which provides that the Secretary of State shall administer the Nebraska Uniform Athlete Agents Act and can utilize the fees collected under the act for the administration of the act.

LB 292 was advanced by the Judiciary Committee and placed on general file on February 27, 2009 by an 8-0 vote. LB 292 was passed by a vote of 49-0 and signed by the Governor on April 22, 2009.

LB 343 (Ashford) Designate the time a judge's term ends

Legislative Bill 343 amends §24-819 to establish a specific end date for the term of office (1) of a judge who loses a retention election, and (2) of a judge who fails to file with the Secretary of State an indication, as required by law, of his or her desire to stand for retention in office.

The specific end date is the first Thursday after the first Tuesday in January next succeeding the retention election required by §24-814.

LB 343 was passed by the Legislature by a 48-0-1 vote and signed by the Governor on May 26, 2009.

LB 347 (*Cornett*) Eliminate governmental agency liability with respect to dogs

LB 347 provides that a governmental agency or its employees using a dog for military or law enforcement purposes shall not be liable under Nebraska Statute 54-601 for injuries that the dog may cause; (1) while the dog was defending itself from harassment or provocation and (2) when the injuries resulted from a reasonable use of force while the dog was assisting its handler in the following circumstances:

- Apprehending or holding a suspect,
- The investigation of a crime or possible crime;
- The execution of a warrant; or
- The defense of a peace officer or another officer other than the suspect.

LB 347 was advanced by the Judiciary Committee and placed on general file on April 7, 2009 by an 8-0 vote. LB 347 was passed by the Legislature as amended, with a vote of 47-0-2 and signed by the Governor on May 26, 2009.

LB 403 (*Karpisek*) Require verification of lawful presence in the United States to receive public benefits as prescribed

Legislative Bill 403 prohibits state agencies and political subdivisions from providing federal, state or local public benefits to individuals not lawfully present in the United States. The prohibition does not apply to benefits exempted under federal law, including emergency medical benefits, short-term emergency disaster relief, public health assistance for prevention and treatment of communicable diseases, and programs, services, or assistance necessary for the protection of life and safety.

Under LB 403, state agencies and political subdivisions must check the lawful status of all applicants for public benefits. The process requires each applicant to execute an affidavit stating their status as a citizen or alien. If the affidavit indicates alien status, that person's legal status must be verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements program (SAVE).

LB 403 requires all state agencies that administer federal, state or local public benefits to file a report regarding their compliance with the provisions of this law.

Committee Amendment AM 413 was adopted on general file to replace the original LB 403, but includes the provisions of LB 403 and incorporates amended provisions of LB 34 and LB 335. LB 335 was introduced by Senator Friend and advanced from the Revenue Committee by a unanimous vote.

Sections 1 through 6 of AM 413 include the provisions of LB 403 with a change to the affidavit required under section 4. Under the amendment, the affidavit would be called a

document in order to allow for electronic filing. An affidavit must be notarized, which cannot be done electronically.

Section 7 of AM 413 includes the intent of LB 34 to require certain employers in the state to verify the employment eligibility of new employees through E-Verify. Under the amendment, all public employers and public contractors must verify the employment eligibility of all new employees through a federal immigration verification system. Under current federal law, the system is E-Verify. However, the definition of federal immigration verification system included in this amendment allows for the possibility of an alternate federal program that could be created in the future. Additionally, any contract between a public contractor and a public employer must include a provision requiring the contractor to verify the employment eligibility of all new employees. Finally, the amendment requires the Department of Labor to make available to all private employers information about E-Verify and to encourage them to use E-Verify. After two years, the Department of Labor must report back to the Legislature about the use of E-Verify in Nebraska.

Sections 8 through 15 include provisions of LB 335 with amendments that make the duty to verify work eligibility status apply only to *new* employees. Under these provisions of the amendment, a new duty to electronically verify the work eligibility status of all new employees is placed on employers that apply for tax incentives under the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, the Nebraska Advantage Research and Development Act, or the Nebraska Advantage Microenterprise Tax Credit Act. Furthermore, for purposes of calculating any tax incentive, the Tax Commissioner shall exclude hours worked and compensation paid to an employee that is not eligible to work in Nebraska. The bill would not apply to any application filed under the act prior to the operative date of the act.

Also on general file, AM 440 was adopted to clarify the provision that includes postsecondary education benefit in the definition of public benefit. The amendment adds language providing that only postsecondary education benefits *involving direct payment of financial assistance* are included in the list of public benefits that cannot be given to individuals without legal status.

On select file, AM 680 was adopted to add a severability clause and to remove retirement from the list of public benefits that cannot be given to individuals without legal status. However, the amendment adds a section providing that public employees cannot participate in any retirement system unless they are a citizen of the United States or they are qualified aliens and lawfully present in the United States. The amendment narrows the meaning of health benefit to health payment or financial benefit for purposes of the list of public benefits that cannot be given to individuals without legal status. The amendment makes technical changes to the verification process for those applying for public benefits under the law. AM 680 also clarifies the definition of public contractor to include only those awarded contracts for the physical performance of services within the state. Finally, the amendment provides that the requirement for public contractors to use E-Verify does not apply to contracts awarded prior to the operative date of the act.

The operative date of the act is October 1, 2009.

LB 403 was passed by the Legislature by a 44-0-5 vote and signed by the Governor on April 8, 2009.

LB 414 (Ashford) Change salary of Supreme Court judges

Judges' salary bills are considered in the first year of each biennial session. Legislative Bill 414 was introduced without specific numbers because of the uncertainty of the salaries for state employees at the time of introduction, since such percentage increases are factors in the decision for the increases in judges' salaries, along with comparability with other states, consumer price index changes, and other considerations.

It is the intent of LB 414 to increase the salaries of the judges in Nebraska by an amount that would recognize the factors cited above.

The current salary for Supreme Court judges is \$135,880.60. Under the provisions of LB 414, the salary will increase each year for the next two years in an amount established by the Legislature and the Governor.

Although the bill only specifies salary increases for Supreme Court judges, other judges (district, county, juvenile, appellate and worker's compensation court judges) will also receive an increase in salary as their salaries are statutorily tied to the Supreme Court judge salaries.

Committee Amendment AM 812 was adopted on general file to insert the following dollar amounts in LB 414, providing for an increase in the salaries of the judges of the Supreme Court to \$139,277.61 beginning July 1, 2009 and an increase to \$142,759.55 beginning July 1, 2010. The changes reflect a 2.5% increase annually for two consecutive years.

LB 414 contains an emergency clause.

LB 414 was passed by the Legislature by a 46-1-2 vote and signed by the Governor on May 19, 2009.

LB 430 (Christensen) Change provisions relating to the Concealed Handgun Permit Act

LB430 nullifies all city and village ordinances, permits and regulations regarding the ownership, possession and transportation of concealed handguns.

LB 430 was amended to include provisions from LB 145 sponsored by Senator Avery, which allows universities to prohibit firearms by expanding the definition of schools to include private postsecondary career schools, community colleges, public or private

colleges, junior colleges, universities and any other educational institutions.

Under amendments adopted on general file, LB430 allows a place of worship to authorize its security personnel with concealed handgun permits to carry concealed handguns.

Concealed handgun permits from other states are recognized under the bill. Recognized states must require standards equal to or greater than the standards required under Nebraska Concealed Carry Laws and will be determined by the Nebraska Attorney General. Military personnel permanently stationed in Nebraska are considered residents for the purpose of concealed handgun permits after residing in the state for 180 days.

LB 430 was amended on Select file, to allow conceal and carry permit holders to carry a concealed handgun onto parking lots of locations where concealed handguns are prohibited. Current law outlines several places where concealed handguns are prohibited, including emergency rooms, courtrooms, government meetings and school grounds. Prior to exiting the vehicle, handguns must be stored and locked in a glove box, trunk or other secured compartment and motorcycle drivers must store handguns in a secure, hard-sided compartment.

LB 430 was advanced by the Judiciary Committee and placed on general file on March 25, 2009 with 6 yes votes, 1 no vote and 1 member present and not voting. LB 430 as amended was passed by the Legislature by a vote of 45-3-1 and signed by the Governor on May 19, 2009.

LB 494 (McCoy) Require animal health care professionals to report cases of animal abuse and change dangerous dog provisions

LB494, provides that a dog defined as a dangerous dog as provided by Nebraska Statute and is listed as a dangerous dog by animal control authorities and the dog mutilates a person or causes the loss of a body part, can be charged with a Class I Misdemeanor.

The bill defines a dangerous dog as one that, according to the records of an animal control authority, has:

- killed a human being;
- inflicted injury on a human being that required medical treatment;
- killed a domestic animal without provocation; or
- been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination, after which the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

As amended on general file, a dog also is deemed dangerous if it causes injuries resulting in sutures, surgery or treatment for one or more broken bones.

LB 494's increased penalties do not pertain to an owner whose dog has no previous record of committing, or attempting to commit, a violent act. The owner also is exempted if the dog was under the control of a person other than the owner or the owner's family at the time of the attack.

The bill exempts owners from penalties if the attack resulted from abusing, assaulting or tormenting the dog or if the victim was trespassing on the owner's property. Police dogs are exempted from the bill's provisions.

The bill also includes provisions from LB71, introduced by Sen. Cornett, which requires animal care workers who have reason to suspect cases of animal abandonment, neglect or abuse to report instances to the appropriate investigative entities. The measure provides immunity from liability for those who make reports.

LB 494 was advanced by the Judiciary Committee and placed on general file on April 6, 2009 by a 7-0 vote, with 1 member absent. LB 494 passed by a 48-0-1 vote and signed by the Governor on May 22, 2009.

LB 517 (Hansen) Change provisions relating to family reunification and termination of parental rights

Legislative Bill 517 amends §§43-283.01 and 43-292 to provide an additional basis for not making reasonable efforts to reunify the family and for termination of parental rights. The bill provides that the court shall not be required to make reasonable efforts to reunify the family when one parent of a juvenile has been convicted of felony sexual assault of the other parent or a comparable crime in another state. Additionally, the court may terminate all parental rights between the parent and the juvenile if one parent has been convicted of felony sexual assault of the other parent or a comparable crime in another state.

Committee Amendment AM 662 was adopted on general file to add language to §§43-283.01 and 43-292 to protect all children of a parent who harms a child. Under the amendment, reunification efforts are not required in cases where the parent of the juvenile being removed from the home has subjected the juvenile *or another minor child* to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse. Further under the amendment, grounds for termination of parental rights exist where the parent of the juvenile has subjected the juvenile *or another minor child* to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.

LB 517 was passed by the Legislature by a 49-0-0 vote and signed by the Governor on April 22, 2009.

LB 598 (Ashford) Change the Nebraska Crime Victim's Reparations Act and authorizes a Community Trust to assist with tragedies of violence or natural disaster

LB 598 would authorize the creation of a nonprofit community trust by the Crime Victims Reparations Committee, for the purposes of receiving tax free contributions from the public, managing the receipt of those contributions from the public and making distributions of those contributions to help individuals, families, and communities who have suffered from a tragedy of violence or natural disaster.

Under LB 598, the Community Trust shall be required to:

- Submit an annual report of its activities to the Crime Victims Reparations Committee.
- The Community trust shall create a separate fund for each tragedy and begin to accept contributions immediately after a tragedy. The Trust shall be established as a 501 (c) (3) qualified organization under the Internal Revenue Code, thereby enabling contributions to be tax deductible to the donor and for distributions to be tax free to the recipient.
- The Community Trust may use the same procedures in place for the receiving and granting of applications that is currently used by the Crime Victims Reparations Committee, for the accepting and granting of funds from the Crime Victims Fund or the Board of Directors of the Community Trust may adopt alternate procedures for identifying eligible recipients, use of funds, and distribution of funds.

The Crime Victims Reparations Committee shall act as the oversight committee for the Community Trust and shall annually report the Community Trusts activities to the Nebraska Commission on Law Enforcement and Criminal Justice, the Governor, and the Clerk of the Nebraska Legislature.

LB 598 was advanced by the Judiciary Committee and placed on general file on April 3, 2009 by an 8-0 vote. LB 598 was passed by a 48-0-1 vote and signed by the Governor on May 26, 2009.

LB 671 (*Pirsch*) Provide powers and duties for and change membership of the Nebraska County Attorney Standards Advisory Council relating to death investigations, require training for coroners and deputy coroners, and provide duties for the Nebraska Commission on Law Enforcement and Criminal Justice

LB671 makes changes to the Nebraska County Attorney Standards Advisory Council.

The bill grants the council authority to create standardized procedures for death investigations, create and distribute uniform checklists of best practices and establish a region-based state medical examiner system. The bill also increases from four to six the number of county attorneys on the advisory council and allows one member to be a professor of law or forensic science.

LB671 requires every person elected or appointed as a coroner in Nebraska to complete initial death investigation training within one year and take annual continuing education classes.

LB 671 was advanced by the Judiciary Committee and placed on general file on April 15, 2009 by a 7-0 vote, with 1 member absent. LB 671 was passed by a 47-0-2 vote and signed by the Governor on May 27, 2009.

LB 675 (Fulton) Provide for additional voluntary and informed consents from a woman prior to abortion

Legislative Bill 675 amends several statutes regarding abortion. Definitions of “woman” and “ultrasound” are added to the statutes. The informed consent provision requiring the woman to be told about the medical risks associated with abortion is expanded to include additional risks including psychological trauma, endometritis, perforated uterus, incomplete abortion, and failed abortion. Another provision is added to the informed consent section to require that the woman be told that she cannot be forced to get the abortion by anyone and is free to withhold or withdraw her consent without affecting her right to future care or treatment and without the loss of benefits to which she would otherwise be entitled. In addition, the woman must be told of her right to request a list of places she can get a free ultrasound. The woman must be provided with the list upon request. The bill further provides that if an ultrasound is performed, that it be done at least one hour prior to the abortion and that the ultrasound image be displayed such that it is viewable by the woman, should she choose to view it. Additionally, if the woman requests a medical description of the ultrasound image, a detailed description must be provided. Finally, the bill requires the Department of Health and Human Services to publish a list of the names and contact information for facilities that offer free ultrasounds.

Committee Amendment AM 994 was adopted on general file. The amendment strikes psychological trauma, endometritis, incomplete abortion, and failed abortion from the list of medical risks associated with abortion that must be explained to the woman prior to the abortion procedure. AM 994 clarifies language regarding the list of facilities where a woman can get a free ultrasound. The amendment adds a requirement that the woman be informed that the ultrasound images will be displayed so she is able to view them. The amendment also strikes language providing that the woman can not be prevented from averting her eyes from the ultrasound images and would replace it with language providing that the woman can not be required to view the ultrasound images.

Also on general file, floor amendment FA 43 was adopted to strike language providing that a woman’s right to future care or treatment as well as any state or federal benefits to which she would otherwise be entitled will not be affected if she withholds or withdraws her consent to an abortion.

On select file, AM 1492 was adopted to provide that entities included in the list of facilities offering free ultrasounds must offer to have ultrasounds performed by a person at least as qualified as a registered nurse licensed under the Uniform Credentialing Act.

The bill was advanced to final reading and then returned to select file for specific amendment AM 1503, which harmonized the bill with AM 1492.

LB 675 was passed by the Legislature by a 40-5-4 vote and signed by the Governor on May 29, 2009.

BILLS ADVANCED TO SELECT FILE DURING THE 2009 SESSION

LB 41 (*Flood*) Clarify references to the county sheriff

LB 41 would amend 29-4004 (9) by clarifying that an individual who is required to register or who is already registered under the Sex Offender Registration Act, notify the sheriff of the county in which the offender has moved too, of their arrival in writing, within five working days.

LB 41 advanced from Committee by an 8-0 vote and advanced to select file by a 40-0 vote on January 29, 2009.

**BILLS ADVANCED TO GENERAL FILE
DURING THE 2009 SESSION**

LB 83 (McGill) Provide for the care of domestic animals in protection orders

LB 83 would amend 42-924 (Protection order; when authorized) of the Nebraska Statutes, by including in the provisions for issuing a protection order that a judge or court may provide for:

- The care of domestic pets belonging to the family and,
- That the individual subject to the protection order is prohibited from harming or killing the animal without justification.

A violation of this section is a Class II misdemeanor. The penalty is enhanced to a Class I misdemeanor if the person violating the order has a prior conviction for violating a different protection order.

A person who has a conviction for violating the same protection order or a protection order granted to the same person, who obtained the current protection order, shall be guilty of a Class IV felony.

LB 83 was amended in committee by AM 96 to provide clarification that the types of animals that a judge can consider under a protection order as established under LB 83 are to be limited to family pets and not those animals used for "commercial agricultural operations".

This bill advanced from committee by an 8-0 vote and was placed on general file on February 3, 2009. LB 83 failed to advance to E&R initial on February 20, 2009.

LB 147 (Pirsch) Provide name-change court orders to update the central register of child protection cases and the central registry of sex offenders

Legislative Bill 147 would provide that the clerks of the district courts send a copy, in hard or electronic form, of all name-change orders to the Department of Health and Human Services and to the sex-offender registration and community notification division of the Nebraska State Patrol. If the respective departments determine the name change is for a person on the central register of child protection cases or the central registry of sex offenders, the department must include the changed name and the former name in the registries and files or cross-reference the information under both names. If the department determines that a name change order is a match to a name on the central registry of sex offenders, the sex-offender registration and community notification division of the Nebraska State Patrol must notify the sheriff of the county in which such person resides.

Committee Amendment AM 756 would add a duty for the Department of Health and Human Services to determine if any name-change orders sent by the clerks of the district courts match any name on the Adult Protective Services Central Registry. If the department determines that a name change order is a match, the department must include the changed name and the former name in the registry and file or cross-reference the information under both names.

Additionally, the amendment would add a requirement that any name-change petition include the petitioner's address and date of birth.

The bill was advanced to general file by a unanimous vote of the Committee.

LB 190 (Avery) Provide for collection of DNA samples from individuals convicted of a felony

LB 190 would amend 29-4103(6), which contain the DNA Identification Information Act, by striking the requirement that persons convicted of felony sex offenses, kidnapping, incest, sexual assault, sexual assault of a child in either the 1st, 2nd, or 3rd degree, sexual assault of a vulnerable adult, false imprisonment of a minor in the first degree, and other specified offenses, submit their DNA for inclusion into the State DNA Database.

LB 190 would provide as a replacement for striking the "limited felony offenses" that DNA can be collected for inclusion into the DNA Database with the provision that all persons convicted of "any felony", must have their DNA submitted for inclusion in the State DNA database.

LB 190 was amended in Committee by AM85 which would retain the requirement that violations for the misdemeanor offenses of stalking pursuant to 28-311.02 to 28-311.05 and false imprisonment in the second degree pursuant to section 28-315 require the convicted individual to submit DNA to the State DNA Data Base.

AM 85 would also retain the requirement that an attempt, conspiracy, or solicitation to commit the offenses of "stalking" pursuant to sections 28-311.02 to 28-311.05, "false imprisonment" in the 1st and 2nd degree pursuant to sections 28-314 and 28-315, "knowing and intentional sexual abuse of a vulnerable adult" pursuant to 28-386 (1)(c) and for a violation of the "Sex Offender Registration Act" pursuant to section 29-4011 would require the individual convicted of the specified offenses to submit DNA to the State DNA Data Base.

AM 85 would finally amend 29-4106(1) by providing that a person who is convicted of a felony offense or other specified offense on the effective date of this act, who does not have a sample available for use in the State DNA Sample Bank, must have a DNA sample collected before release. The current statute provides that a person who commits the offense before "July 14, 2006", must submit a DNA sample before being released.

LB 190 as amended was advanced to general file on May 13, 2009 by an 8-0 vote of the committee.

LB 216 (Wallman) Eliminate civil liability provisions relating to motor vehicle and aircraft guest statutes

LB 216 would outright repeal Nebraska's guest statutes, thereby allowing injured passengers to sue a driver or pilot for negligence. Nebraska's guest statutes are codified at N.R.S. Sec. 3-129.01, 25-21,237, and 25-21,238.

Currently, Nebraska's guest statute provides that a passenger in a motor vehicle or aircraft who is injured through the negligence of the driver cannot recover damages for his or her injuries unless the driver is found to have been under the influence of intoxicating liquor or to have committed gross negligence.

LB 216 advanced to general file on May 5, 2009 by a 5-2 vote, with 1 member present and not voting.

LB 304 (Council) Change limitations of action provisions under the Political Subdivisions Tort Claims Act

Under the Political Subdivisions Tort Claims Act, all claims must first be made, in writing, to the governing body of the political subdivision before a claimant may file a lawsuit. The claimant must make the claim to the governing body within one year of the occurrence or discovery of the alleged tort or the claim is forever barred.

After the claim is filed with the governing body, the political subdivision has six months in which to make final disposition of the claim. If the political subdivision does not make a final disposition within six months, the claimant may withdraw the claim and file a lawsuit. The claimant has two years from the time the claim accrued to file suit. Such two-year limitation may be extended for an additional six months if the statute of limitations expires prior to the time when the claimant withdraws the claim.

Legislative Bill 304 would amend §§13-919 and 13-920 to extend the time in which a claimant may file an initial claim from one year to two years.

The bill was advanced by the Committee by a 7-1 vote without amendment.

LB 306 (Council) Repeal the death penalty and replace it with life imprisonment without possibility of parole

Legislative Bill 306 proposes to change the maximum penalty for first degree murder in Nebraska from death to life imprisonment without possibility of parole.

LB 36 advanced to general file on April 16, 2009 by a 6-1 vote, with 1 member present and not voting.

LB 307 (Council) Change sentencing requirements with respect to certain minors

LB 307 would change sentencing provisions for Class I, Class IA, or Class IB felonies when those convicted of the crime are under 18 years of age at the time the crime is committed. The changes include:

- Eliminates the possibility that someone convicted of committing a Class I or Class IA felony, who was under 18 years of age at the time of the commission of the crime, could be sentenced to life imprisonment without the possibility of parole;
- One who commits a Class I or Class IA felony and is between the ages of 16 and 18 at the time of the criminal act, will be sentenced to 50 years to life imprisonment;
- One who commits a Class I or Class IA felony and is under the age of 16 at the time of the criminal act will be sentenced to 40 years to life imprisonment; and
- One who commits a Class IB felony and is under the age of 18 at the time of the criminal act will not receive a sentence that exceeds 40 years imprisonment.

LB 307 advanced to general file on February 20, 2009 by a 7-0 vote, with 1 member present and not voting.

LB 373 (Lautenbaugh) Change death and disability-related provisions pertaining to emergency response personnel

LB 373 would provide a rebuttable presumption for police officers and firefighters that if death or disability as a result of hypertension, heart or respiratory defect, or disease occurs within three months of separation from employment, that there be a presumption that such death or disability occurred "while in the line of duty". The three month time period to calculate the presumption shall be multiplied by each year of the individual's service as a police officer or firefighter, not to exceed sixty months after separation, so an officer who served for three years, would have a time frame of nine months from separation for purposes of utilizing the presumption under this section.

LB 373 would also provide that a firefighter or firefighter paramedic who suffers death or disability as a result of a blood-borne infectious disease and that the individuals had passed a physical examination upon entry into service as a firefighter or firefighter paramedic and the examination failed to reveal any evidence of the existence of a blood-borne disease or the firefighter or firefighter paramedic has engaged in the service of the fire department within ten years before the onset of the disease, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while "in the line of duty" for purposes of pension plan and disability benefits.

LB 373 was amended in committee by AM 1022 which would provide that for disability and death benefit purposes the death or disability must occur within three months after separation from employment.

AM 1022 also amends LB 373 by adding to section 2, on page 3, line 27 that the types of cancer included under this act, is "as described in this section", so that it is clear that the types of cancer that apply are those that are currently contained in this statute and are not being expanded to include new forms of cancer.

LB 373 advanced to general file on April 15, 2009, by an 8-0 vote.

LB 669 (Coash) Change the number of district, county and separate juvenile court judges

Legislative Bill 669 would create five new judgeships including the following:

- One county and one district judgeship in the Second Judicial District (Sarpy, Cass and Otoe counties)
- One county and one district judgeship in the Third Judicial District (Lancaster County)
- One juvenile judgeship in the Juvenile Court of Douglas County

There is an emergency clause included in this bill.

The original LB 669 was advanced unanimously by the Committee without amendment.

The provision of LB 669 adding one district court judgeship to Lancaster County was amended into LB 35 as part of Committee Amendment AM 836 on general file. Before final passage, the provision was amended to delay the establishment of the judgeship until July 1, 2011.

BILLS HELD DURING THE 2009 SESSION

LB 4 (Christensen) Change the rate of jury compensation to minimum wage

Legislative Bill 4 would amend §33-138 to change the rate of jury compensation from thirty five dollars a day to minimum wage.

LB 15 (White) Require driver's license and Internet address information as part of sex offender registration

Legislative Bill 15 would amend §29-4006 to require additional information to be included in the database of registered sex offenders. The new information required under the bill would include driver's license numbers, email addresses, instant messaging screen names, and other internet communication identifiers. In addition, the bill would require any person required to register under the Sex Offender Registration Act to inform the sheriff, in writing, by the next working day, if he or she establishes or changes an email addresses, instant messaging address, or other internet communication identifier. The sheriff would then be required to send the information to the sex offender registration and community notification division of the Nebraska State Patrol, in writing, by the next working day after the receipt of the information.

LB 15 was amended into LB 97 as part of the committee amendment, AM 893, which was adopted on general file. LB 97 was adopted by the Legislature and signed into law by the Governor on May 20, 2009.

LB 19 (Christensen) Change marriage license fee provisions and provide for marriage education

Under current law, there is a \$15 marriage license fee with no waiting period.

Legislative Bill 19 amends N.R.S. §33-110 to increase the marriage license fee to \$75 and add a 10-day waiting period for couples who do not complete eight hours of marriage education. The marriage license fee would remain at \$15 and the 10-day waiting period would be waived for couples who complete the statutorily approved marriage education. The county court would have the authority to waive the waiting period when there are compelling circumstances such as terminal illness or imminent transfer to a combat zone.

The criteria for marriage education to qualify a couple for the discounted fee and waiver of the waiting period include:

- Provided by any of the following;
 - an official representative of a religious institution or designee of such;
 - any member of the clergy authorized to perform marriages or designee of such including mentor couples or volunteers working in a clergy-supervised program;
 - a school, college, university, or non-profit community organization;

- any marriage education provider or program approved by the person performing the marriage; or
- a provider of counseling services that is licensed as such in the state including a psychologist or psychiatrist.
- Consist of at least 8 hours of instruction including at least the following topics:
 - Conflict management in marriage;
 - Communication skills;
 - Financial management; and
 - Parenting skills

Under the bill, the Department of Health and Human Services must create a certificate of completion of marriage education to be available to marriage education providers at all county clerk offices. When a county clerk provides a certificate to a provider, the clerk must record the following information in a public directory: the name, address and telephone number of the entity or individual provider. The provider or a representative of the provider must sign the record. Each county clerk must report monthly, on or before the 5th day of the month, to the Department of Health and Human Services a statement of all certificates of completion of marriage education recorded.

LB 34 (Ashford) Require employment verification of employees by employers and by contractors who want to be awarded a public contract

The Nebraska Fair and Legal Employment Act proposed in LB 34 is based on the Legal Arizona Workers Act. It creates a cause of action against employers that knowingly hire undocumented workers. The penalty is the discretionary suspension of an employer's business license for the first violation and the mandatory revocation of an employer's business for the second violation within the 3-year probationary period. Proof of the use of E-verify creates a rebuttable presumption against a violation. There is also a prohibition on the state or any political subdivision awarding contracts to contractors or subcontractors who do not use E-Verify.

LB 403 was adopted and signed by the Governor including an amended version of LB 34 to require certain employers in the state to verify the employment eligibility of new employees through E-Verify. Under the amendment, all public employers and public contractors must verify the employment eligibility of all new employees through a federal immigration verification system. Under current federal law, the system is E-Verify. However, the definition of federal immigration verification system included in this amendment allows for the possibility of an alternate federal program that could be created in the future. Additionally, any contract between a public contractor and a public employer must include a provision requiring the contractor to verify the employment eligibility of all new employees. Finally, the amendment requires the Department of Labor to make available to all private employers information about E-Verify and to encourage them to use E-Verify. After two years, the Department of Labor must report back to the Legislature about the use of E-Verify in Nebraska.

LB 38 (Flood) Change assault, assault on an officer, and offenses by a confined person provisions

LB 38 would amend current statutory sections regarding crimes and offenses against peace officers, probation officers, and employees of the Department of Correctional Services by including Department of Health and Human Services (DHHS) staff who work in a Regional Center facility or a Youth Rehabilitation and Treatment Center (YRTC). The bill would thus establish parity for the staff in the 24-hour facilities operated by DHHS with those employees holding similar job classifications, duties, and functions within the Department of Correctional Services.

LB 38 would also allow for the filing of felony charges against persons who commit certain assault or other offenses (1) while legally confined in a Regional Center facility or YRTC, or (2) while committed as a mentally ill dangerous person or dangerous sex offender under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act.

LB 40 (Flood) Correct references to statutory provisions in civil procedure statutes

Legislative Bill 40 would clarify the language in Neb. Rev. Stat. §25-1144, which describes the form of a motion for a new trial. The bill would also update a statutory reference to the Uniform Licensing Law in Neb. Rev. Stat. §27-1201(2) (a) to reflect a change in name to the Uniform Credentialing Act. The bill would not make any substantive changes.

LB 40 was amended into LB 35 under AM 836.

LB 46 (Wightman) Provide for costs and expenses of estate administration

Legislative Bill 46 amends §§30-2485 and 30-2487 to clarify that the actions taken and expenses incurred in the discharge of the statutory duties of a personal representative are properly considered costs and expenses of administration of the estate.

LB 46 was amended into LB 35 under AM 836.

LB 78 (Gay) Provide for deposit of inmate wages into the Victim's Compensation Fund

LB 78 would provide for up to 5% of gross wages earned by an inmate in the custody of the Department of Correctional Services who is in the work release program to be deposited into the Victim's Compensation Fund.

Under current law, inmates who work for private businesses on the grounds of state correctional facilities already must contribute up to 5% of their wages to the fund. LB 78 would treat both types of employed inmates the same.

LB 79 (Pirsch) Change when a county attorney files a child support order modification complaint

In 2007, the Legislature passed a law providing for the modification of child support orders for inmates under certain circumstances. Under current law, incarceration is regarded as an involuntary reduction in net monthly income for purposes of modifying child support obligations if the person is incarcerated for one or more years in a county or city jail or a federal or state correctional facility.

Legislative Bill 79 adds an exception to the ability to get a modification for those incarcerated as a result of victimizing the child who is the subject of the support order.

LB 79 was amended into LB 288 under AM 1428.

LB 82 (Howard) Require notification of change in a juvenile's case manager under the Nebraska Juvenile Code

Legislative Bill 82 would amend §43-285 to require the Department of Health and Human Services to report to the court within seven days whenever a new case manager is assigned to a state ward that is a juvenile. The information provided by HHS must include the name of the case manager being replaced; the name of the new case manager; and the number of times a new case manager has been assigned to the juvenile since his or her case was referred to the Department.

LB 118 (Wightman) Change decedents' estates provisions relating to collection of personal property by affidavit and succession to real property by affidavit

Under current law, the succession of personal property or real property by affidavit is allowed only for estates with personal property not exceeding twenty-five thousand dollars or for estates with real property not exceeding twenty-five thousand dollars in value.

Legislative Bill 118 amends §§30-24,125 and 129 to allow for succession of personal property by affidavit for estates with personal property not exceeding fifty thousand dollars and for estates with real property not exceeding thirty thousand dollars in value.

LB 118 was amended into LB 35 under AM 836.

LB 148 (Pirsch) Change penalties for motor vehicle homicide and motor vehicle homicide of an unborn child

LB 148 would amend Nebraska Statute 28-306 regarding penalties for motor vehicle homicide which is a Class IIIA felony.

LB 148 also amends Nebraska Statute 28-394 regarding penalties for motor vehicle homicide of an unborn child which is a Class IV felony.

LB 148 allows discretionary license revocation under 28-306 of at least one year and not more than fifteen years, and under 28-394 allows for a discretionary license revocation of at least sixty days and not more than fifteen years.

LB 153 (Lautenbaugh) Adopt the Tourism Liability Act

Legislative Bill 153 would amend §§37-729 to 37-736 to establish the Tourism Liability Act. The Act would limit liability incurred by those individuals and small businesses operating in a tourism and recreational capacity. Liability of the owner of a small tourism business would be capped at \$500,000 per person per occurrence, or \$1 million per two people per occurrence for gross negligence causing injury or death to persons entering or using the property for recreation or tourism activities.

The bill would amend the definition of recreational purposes to include tourism activities. The definition would be expanded to include outfitting, horseback riding, canoeing, bicycling. The bill would define small tourism business as a business that is engaged in providing recreation or tourism activities to its customers with average annual receipts, averaged over the previous three annual periods, of not more than five million dollars. The average annual receipt amount would be measured from the time of any incident for which liability is asserted.

The operative date of the Act is January 1, 2010.

LB 226 (Rogert) Change the age of majority to eighteen years of age for certain purposes

Legislative Bill 226 would amend various statute sections to lower the age of majority from nineteen to eighteen.

LB 244 (Coash) Add Tramadol and Carisoprodol to schedules of controlled substances.

LB 244 would amend Neb. Rev. Stat. Section 28-405 to classify Tramadol and Carisoprodol as Schedule IV controlled substances.

LB 252 (Cornett) Prohibit possession of animal fighting paraphernalia

LB 252 would make it illegal to knowingly or intentionally possess equipment used in violation of section 28-1005. LB 252 also defines which paraphernalia is illegal to possess in relation to animal fighting, and also provides a list of factors the court could use to determine if the paraphernalia is related to animal fighting such as expert testimony, incriminating statements, the proximity of the equipment to animals, and other factors. The bill provides a criminal penalty as well as the ability for the Courts to seize the property and/or the animal used in animal fighting.

LB 253 (Ashford) Adopt a new Nebraska Juvenile Code and change child abuse

reporting and registry, child relinquishment, and Foster Care Review Act provisions

The Juvenile Justice Act is a major reform of the current juvenile code. The intent is to organizationally realign a portion of juvenile services under the Administrative Office of the Courts and Probation to begin to fill gaps in the current Juvenile Justice System that result in families without access to services they need. By using the skills of the court's probation staff to manage cases, juveniles and families will have a better opportunity to be provided the following: beneficial affordable community based treatment alternatives; an array of alternatives to expensive highly restrictive detention and incentives to keep youth in the home rather than out of home placement.

LB 258 (Harms) Change and provide penalties for minors in possession of alcoholic liquor

LB 258 would increase the penalties for teens that are caught violating Nebraska's underage drinking law. The new penalties would be as follows:

- 1) For persons 16-20 years of age:
 - 1st offense: Class III Misdemeanor, 60-90 day drivers' license impoundment, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel
 - 2nd offense: Class III Misdemeanor, six month license impoundment, 20-40 hours community service, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel
 - 3rd offense: Class II Misdemeanor, 1 year license impoundment, 60 hours community service, and alcohol evaluation
 - 4th offense or more: Class 1 Misdemeanor, 2 year license impoundment, 5-15 days jail time, alcohol evaluation.

- 2) For persons under 16 years of age who have an operator's permit:
 - 1st offense: Class III Misdemeanor, 6 month impoundment of permit or 6 month delay in ability to obtain any permit (school, learner's) or license, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel
 - 2nd offense: Class III Misdemeanor, additional 6 month impoundment or delay, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel
 - 3rd offense or more: Class 11 Misdemeanor, additional 1 year impoundment or delay, and alcohol evaluation.

- 3) For persons under 16 years of age who do not have an operator's permit:
 - 1st offense: Class III Misdemeanor, 6 month delay in ability to obtain any permit (school, learner's) or license, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel

- 2nd offense: Class III Misdemeanor, additional 6 month delay, and required attendance at an alcohol education class, AA meeting, or MADD Victim Impact Panel
- 3rd offense or more: Class 11 Misdemeanor, additional 1 year delay, and alcohol evaluation.

LB 265 (Giese) Change the Sexual Predator Residency Restriction

Legislative Bill 265 would amend §§29-4016 and 17 of the Sexual Predator Residency Restriction Act to allow political subdivisions to adopt regulations to restrict sexual predators from living within five hundred feet from a park. Park is defined in the act as a parcel of ground or a facility set aside by a political subdivision for recreational use by the public. Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under §29-4013, and who has victimized a person eighteen year of age or younger.

A regulation adopted by a political subdivision under this act would not apply if the sexual predator had established a residence before the effective date of this act and has not moved from that residence; or established a residence after the effective date of this act and the park triggering the restriction was established after the initial date of the sexual predator's residence at that location. The regulation would not apply to a sexual predator who resides within a prison or a correctional or treatment facility operated by the state or a political subdivision.

LB 284 (Fulton) Authorize employment restrictions for sexual predators

Legislative Bill 284 would amend §§29-4015 thru 4017 of the Sexual Predator Residency Restriction Act to allow political subdivisions to adopt regulations regarding the employment of sexual predators. Under the bill, political subdivisions may adopt regulations to restrict sexual predators from being employed within five hundred feet of a school or child care facility. Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under §29-4013, and who has victimized a person eighteen year of age or younger.

A regulation adopted by a political subdivision under this act would not apply if the sexual predator had begun employment before the effective date of this act and has not changed the location of that employment; or had begun employment before the effective date of this act and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's employment at that location.

In addition, the act would be renamed the Sexual Predator Residency Restriction **and Employment Act**.

LB 332 (Ashford) Change provisions relating to courts

Legislative Bill 332 amends several statutes regarding the county courts. It was brought to the Legislature by the County Judges Association and includes the following provisions:

Section 1 would provide that any of the courts in the state could, upon the request of the county attorney for good cause, appoint an attorney to act as county attorney in the event of an absence, sickness, disability, or conflict of interest.

Section 2 would provide that a lower court would not have to swear in an interpreter who has been sworn in by the Supreme Court.

Section 3 would allow any person having a judgment rendered by a county court to request the court clerk to issue execution on the judgment and direct the execution on the judgment to any county in the state. Such person may request that any aid to execution be directed to any county without the necessity of filing a transcript in the receiving county and any hearing or proceeding would be heard in the court in which the judgment was originally rendered.

Section 4 would provide that the trial for Class III, IV, or V misdemeanors shall be by the court without a jury.

Section 5 would amend the Probate Code to provide that if there is an objection to probate of a will or if a petition is filed to set aside an informal probate, any party may commence an action in the county court to determine whether the decedent left a valid will by depositing with the clerk of the county court the required fee. Such party would no longer be able to transfer the proceeding to the district court. Trial on the determination would be to a jury of six persons.

Section 6 would remove language relating to the transferred proceeding in district court no longer necessary because of the changes in Section 5.

Section 7 would provide that upon the filing of a petition for adoption, the hearing would be held not less than four weeks nor more than eight weeks after the filing of the petition unless any party for good cause shown requests a continuance of the hearing or all parties agree to a continuance.

Section 8 would allow the county court to either provide a caregiver information form or direct the applicant to the Supreme Court Internet web site where they could download the form.

Section 9 would add school personnel to the list of holders of confidential records of a child who is in the custody of the state, which records may be shared with individuals and agencies who have been identified in an authorized court order. It would also add to the list of those who may be identified in a juvenile court order court

appointed special advocate volunteers and other individuals and agencies for which the court find that it would be in the best interest of the juvenile to receive such information.

Section 10 would add school districts and school personnel to the list of those who would be required to cooperate with requests of the CASA volunteer.

LB 332 was amended into LB 35 under AM 836.

The provisions of LB 332 included in the Committee Amendment AM 836 to LB 35 do not include sections 4, 5 and 6 of the original bill. Based on issues that were discussed during the hearing the Committee did not include these sections in the bill that was advanced.

LB 333 (Ashford) Increase and provide for court fees

Legislative Bill 333 would establish a new \$1 court filing fee and create a new cash fund called the Supreme Court Access to Justice Cash Fund. This fund and new court fee is intended to support programs related to interpreter services within the courts and probation and access to justice for indigent and pro se individuals.

The bill would increase the Supreme Court Automation Fee from the current \$6 per case to \$8 per case. The automation fee funds the Court's JUSTICE case and financial management system for the state trial courts. The increase is required for (1) an expected increase in the Court's annual retainer fee to the Office of the CIO which covers the Court's portion of the ninety-four AS-400 computer systems that provide hardware and maintenance for trial courts; and (2) covering the conversion of Douglas County District Court and Separate Juvenile Court to the statewide JUSTICE system within the next year including the additional costs for the 175 court staff and judges to be equipped with personal computers, printers and other hardware and software items.

The bill would increase the Court Education Fee from the current \$1 per case to \$2 per case in order to provide full funding of mandatory training and education for all employees and officers of the judicial branch.

An amended version of LB 333 was amended into LB 35 under AM 836.

LB 383 (Pahls) Provide for limited immunity from prosecution under the Uniform Controlled Substances Act

LB 383 would provide a person immunity from a drug possession charge, if the person seeks medical assistance for himself or another for a possible drug-related overdose while using or in possession of the substance. The immunity applies only if the evidence for possession was gained as the result of an overdose and seeking medical assistance.

The bill does not provide immunity from manufacturing, distributing, dispensing, or delivering illegal substances. The penalty for possession depends on the kind of drug and

the amount possessed, ranging from an infraction for marijuana to a felony for harder substances.

LB 344 (Ashford) Change administration of the Civil Legal Services Program

Legislative Bill 344 amends §§25-3007 and 3008 to transfer the administration of the Civil Legal Services Program from the State Court Administrator to the Commission on Public Advocacy. The Civil Legal Services Program and the accompanying fund provide grants to civil legal service providers for the delivery of free services to eligible low-income persons.

LB 344 was amended into LB 35 under AM 836.

LB 351 (Lautenbaugh) Provide for charging orders against a limited liability company member's transferable interest

Legislative Bill 351 would amend the Limited Liability Company Act to clarify that a judgment entered by a court against a Limited Liability Company may only be entered against the transferable interests in the LLC. This would force the Limited Liability Company to pay any distributions to the judgment creditor up to the amount of the judgment owed rather than making these distributions to the member of the LLC that owes the debt. LB 351 would clarify that a judgment creditor is prevented from receiving any management interests in the company. The bill would clarify that this would apply to all LLC's, even those with a single member as allowed under Nebraska Law.

LB 351 was amended into LB 35 under AM 836.

LB 352 (Lautenbaugh) Change civil procedure service of summons provisions

Legislative Bill 352 would amend §25-505.01 to allow for delivery of a summons by a commercial courier such as FedEx or UPS. Under current law, certified mail service is allowed if done by certified mail through the U.S. Postal Service.

An amended version of LB 352 was amended into LB 35 under AM 836.

LB 353 (Lautenbaugh) Change pleading provisions in an action for disputed corners and boundaries

Legislative Bill 353 would amend §34-301, which provides for the commencement of a boundary resolution case, by changing "petition" to "complaint" to make this statute consistent with other civil procedure statutes.

LB 353 was amended into LB 35 under AM 836.

LB 409 (Dierks) Provide violations and penalties for offenses against arson dogs

LB 409 would change Nebraska statutes by including arson dogs in the same category as police animals. This change will provide extra protection for dogs used in fire scene investigations by allowing charges against an individual who knowingly and intentionally harasses, teases, causes serious injury or illness, or kills an arson dog while it is performing its official duties.

LB 409 would also change the definition of police animal. Currently, the statutes define police animal as dogs or horses owned or controlled by the State of Nebraska for the purpose of assisting Nebraska State Troopers. This bill changes the definition of police animal to dogs or horses owned by any law enforcement agency in Nebraska.

LB 423 (Cornett) Change child custody provisions and the Parenting Act

Legislative Bill 423 would amend sections of the Parenting Act to change the definitions of joint legal custody, joint physical custody, legal custody and physical custody. The bill would create a presumption that it is in the best interest of the child that the parents share joint legal and joint physical custody, assuming that both parents are fit. The presumption may be rebutted by a preponderance of evidence.

LB 433 (Lathrop) Change provisions relating to interchange of court judges and court jurisdiction

Legislative Bill 433 would amend provisions that were enacted through LB 1014 in 2008.

Under current law, the district court and county court judges in each judicial district must meet once a year to review their caseloads and may reassign domestic relations cases and Class IV felony cases. The judges in each judicial district must submit an annual plan on the allocation of such cases to the Supreme Court. LB 433 creates an exception to this provision for the judges in District 4 (Douglas County).

Under current law, the district court has exclusive original jurisdiction over misdemeanor cases that arise from the same incident as a charged felony. LB 433 would amend the law to expand the district court's exclusive jurisdiction into concurrent jurisdiction with county court over misdemeanor cases that arise from the same incident as a charged felony.

This bill includes an emergency clause.

An amended version of LB 433 was amended into LB 35 under AM 836.

LB 442 (Council) Change procedural and relief provisions of the Nebraska Fair Housing Act

Legislative Bill 442 would amend the Nebraska Fair Housing Act in §§20-331, 20-335, 20-340 and 20-343 to allow the Equal Opportunity Commission to hire counsel on a fee

for service basis or to employ in-house counsel if the Attorney General does not act in cases filed under the Nebraska Fair Housing Act.

LB 496 (Fulton) Authorize enforcement of traffic control signal violations by automated traffic enforcement systems

LB 496 would allow municipalities to adopt ordinances relating to traffic control signal violations using automated traffic enforcement systems. The bill sets forth requirements for a prima facie case of a signal violation, as well as the procedure for proper notice, the civil fee assessable by the municipality, and a procedure by which one may contest the violation.

A traffic control signal violation is not intended to result in any points assessed to the violator. Enactment of this legislation will further ensure the safety of pedestrians and motorists and decrease demand on police resources by the use of existing technology.

LB 499 (Dubas) Allow breast-feeding as prescribed

Legislative Bill 499 would make it a woman's right to breastfeed in public places in the State of Nebraska.

LB 506 (Pirsch) Change penalties related to the duty to stop at a motor vehicle accident.

LB 506 changes the provisions under Nebraska's duty to stop in the event of accident resulting in personal injury or death (*NRS §60-697 and §60-698*).

Under this bill, if a person flees an accident which results in an injury to any person, the penalty remains a Class IIIA felony (up to five years).

Under the provisions of LB 506, if a person flees an accident which results in the death of any person or serious bodily injury, the penalty is a Class III felony (up to twenty years).

The order not to drive and license revocation provisions for both offenses would remain within the range of one to fifteen years.

LB 507 (Pirsch) Change provisions and penalties regarding domestic assault in the third degree.

LB 507 proposes a change in Nebraska Statute that would permit the arrest and prosecution of a suspect who intentionally, knowingly or recklessly causes bodily injury to an intimate partner or threatens an intimate partner in a menacing manner. This language is already in use in the non-aggravated assault statute.

LB 507 allows for two important changes in the way repeat offenders are charged:

- First, LB 507 removes the twelve year limitation on the use of a prior Domestic Assault conviction for enhancement.
- Second, and perhaps most important of all, LB 507 allows a prosecutor to use a prior conviction to enhance the penalty for violating this offense even when the prior case involved a different intimate partner. Currently, any prior conviction used to enhance the penalty must involve the same intimate partner.

LB 508 (Pirsch) Prohibit certain gang-related initiations.

LB 508 provides that anyone who endangers the physical health, mental health or safety of another person or causes another person to engage in any criminal act or causes another person to be subjected to sexual contact for the purpose of initiation into any criminal gang, shall be guilty of a Class I misdemeanor.

Consent to such shall not constitute a defense under LB 508.

LB 510 (Pirsch) Require the deposit and distribution of certain surcharges and inmate wages for the benefit of victims of crime

LB 510 creates the Nebraska Crime Victim Fund and authorizes the Nebraska Commission on Law Enforcement and Criminal Justice to serve as the administrator. This new fund would consist of one dollar surcharges assessed on defendant fines or other penalties for state or local criminal and traffic offenses. Under LB 510, these funds would be distributed to:

- The Victim Information and Notification Everyday Network (VINE),
- Comprehensive crime victim assistance programs, and
- Non-profit organizations working for the benefit of the crime victim.

In addition, LB 510 authorizes the director for the Department of Correctional Services to authorize deposits of up to 5% of wages earned by an inmate participating in the work release program. Such deposits would go to the Victim's Compensation Fund which serves as the funding resource for the Crime Victim Reparations program (CVR). The Federal Government matches 60% of these funds for the CVR program.

LB 513 (Lautenbaugh) Eliminate subrogation and contribution rights against a political subdivision or the state for property damage related to vehicular pursuit

LB 513 would clarify that the State of Nebraska and other parties' obligations to compensate innocent third parties who sustain property damage as the result of a vehicular pursuit.

LB 513 would provide that while the state is required to contribute to make innocent persons whole where no other coverage exists, we are not required to do so in the place of those who would otherwise be obligated.

LB 518 (McGill) Change provisions relating to homicide and other criminal offenses and penalties

LB 518 would change the definitions of first degree murder and second degree murder, redefine manslaughter to include new definitions of voluntary and involuntary manslaughter, adds new definitions for first degree felony murder and second degree felony murder, adds definitions of terms not currently in the statute (including deliberation, malice, intentionally, unintentionally, kills another, causes the death of another and proximate result), and makes clear that death penalty proceedings can take place when the accused has been charged with either premeditated murder or intentional felony murder and an aggravating circumstance has been alleged.

LB 518 would also modify the definition of motor vehicle homicide, modifies the perjury statutes and use of explosive statutes and amends the maximum punishment for 1B felonies (second degree murder and kidnapping) to a maximum of 100 years.

LB 589 (Dierks) Designate both parents as joint custodians in a child custody determination unless there is proof otherwise

Legislative Bill 589 would amend the Parenting Act to create a presumption that both parents involved in a divorce have joint legal custody and joint physical custody of their minor child/children unless there is medical or legal proof to rebut the presumption the each parent is suitable to be awarded legal and physical custody.

LB 594 (Dierks) Adopt the Women's Health Protection Act governing abortion and provide a civil remedy for failure to comply with the act

Legislative Bill 594 would create the Women's Health Protection Act. Under the act, the following must have occurred before an abortion is performed or a patient is referred for an abortion, except in cases of emergency:

- A physician, psychiatrist, psychologist, mental health practitioner, physician assistant, registered nurse or social worker must evaluate the patient to identify the presence of any risk factors associated with abortion (physical, psychological, emotional, demographic, or situational).
- The patient, referring physician and provider must be informed of the results of the evaluation and provided with a certification that the patient understands the risk factors and freely consents.

The act would also authorize civil remedies for failure to comply with the provisions of the act.

This bill contains a severability clause.

LB 595 (Karpisek) Change coroner's examination provisions in motor vehicle accident cases

For purposes of certain death-related motor vehicle accidents, Legislative Bill 595 amends §60-6,102 to further define drugs to also include controlled substances enumerated in section 28-405.

LB 596 (Ashford) Change a legal services fee

LB 596 would increase the legal services fee by two dollars from \$5.25 to \$7.25. This fee is included in the court costs for juvenile, county, and district court cases, appeals to the Court of Appeals and Supreme Court and actions to modify decrees of dissolution, annulment, child support, and custody and visitation cases. Small claims case filings are exempt from this fee. The fees are collected in the Legal Aid and Services Fund which is administered by the Commission on Public Advocacy. The money is distributed through grants to non-profit service providers of civil legal services to eligible low-income persons.

The two dollar increase would yield approximately \$600,000 annually.

LB 625 (Pirsch) Prohibit intentional exposure to another of a life-threatening communicable disease

LB 625 would amend the Nebraska Criminal Code by prohibiting the intentional exposure to another of a life-threatening communicable disease.

Under LB 625, if the individual knows they are infected with a life-threatening communicable disease, they are prohibited from intentionally, or knowingly engaging in the following activities with intent to expose another person:

- Sexual intercourse or sodomy,
- Selling or donating their organs, tissue, or blood, blood products, semen, or other bodily fluids,
- Sharing hypodermic needles, syringes, or both for the introduction of drugs (or any other substance) into the other individual's body (this includes the withdrawal of blood or other body fluids).

LB 625 classifies a violation of this section as a Class IB felony.

LB 659 (Fulton) Provide for data collection relating to persons released from incarceration

LB 659 provides for a pilot data collection program conducted by private agencies that contract with the Community Corrections Council. Such a pilot program is intended to improve re-entry outcomes for individuals upon release from the Department of Correctional Services.

LB 660 (Fulton) Change provisions relating to the Legislative Performance Audit Section and the Auditor of Public Accounts

Legislative Bill 660 amends provisions regarding the access of both the Legislative Performance Audit Section and the State Auditor of Public Accounts to certain records of state agencies and public entities.

LB 676 (Fulton) Provide for additional voluntary and informed consents from a woman prior to abortion

Legislative Bill 676 amends several statute sections regarding abortion. Definitions of “woman” and “ultrasound” are added to the statutes. The informed consent provision requiring the woman to be told about the medical risks associated with abortion is expanded to include additional risks including psychological trauma, endometritis, perforated uterus, incomplete abortion, and failed abortion. In addition, the woman must be informed that an ultrasound is available, that she has a right to request that an ultrasound be performed at least one hour prior to the abortion and that she has a right to view the ultrasound. Another provision requires that the woman be told that she cannot be forced to get the abortion by anyone and is free to withhold or withdraw her consent without affecting her right to future care or treatment and without the loss of benefits to which she would otherwise be entitled.

Under the bill, the woman must be provided a list of places she can get a free ultrasound at least twenty-four hours prior to the abortion. If a woman requests that an ultrasound be performed, it must be provided at least one hour prior to the abortion. Finally, the bill requires the Department of Health and Human Services to publish a list of the names and contact information for facilities that offer free ultrasounds.

LR 9 (Fulton) Encourage law enforcement agencies to enter into a memoranda of agreement with the U.S. Department of Homeland Security to perform immigration law enforcement functions

Legislative Resolution 9 reflects the intent of the Legislature to encourage law enforcement agencies in Nebraska to enter into memoranda of agreement with the Department of Homeland Security to perform immigration law enforcement functions pursuant to Section 287 (g) of the Illegal Immigration Reform and Immigrant Responsibility Act.

LR 26 (Lautenbaugh) Strongly oppose the federal Freedom of Choice Act and urge Congress to summarily reject it

Legislative Resolution 26 reflects the intent of the Legislature to summarily reject any action by Congress to introduce and pass the “Freedom of Choice Act.”

LR 223 (Council) Urge the members of Nebraska's congressional delegation to pass immigration reform legislation

Legislative Resolution 223 reflects the intent of the Legislature to urge the members of Nebraska’s congressional delegation to work to pass immigration reform at the federal level that is rational and humane.

BILLS INDEFINITELY POSTPONED BY THE JUDICIARY COMMITTEE DURING THE 2009 SESSION

LB 39 (*Flood*) Adopt new rules of evidence relating to sexual offenses

LB 39 would amend existing rules of evidence concerning sexual offenses and adopt new rules concerning the same:

- Section 1 of the bill is identical to Federal Rule of Evidence 412 and would replace Nebraska's current "rape shield law," Neb. Rev. Stat. § 28-321.
- Section 2 of the bill is modeled on Federal Rules of Evidence 413 and 414;
- Section 3 is modeled on Federal Rule of Evidence 415. Rules 413-415 expand the admission of evidence of an accused person's other sexual misconduct or sex offenses. These rules cover a range of cases: Rule 413 applies in criminal cases of sexual assault; Rule 414 applies to child sex abuse cases; and Rule 415 applies to civil cases.
- Section 4 harmonizes provisions in Neb. Rev. Stat. § 27-404 and incorporates the applicable federal evidentiary threshold.
- Section 5 would add two new categories of nonhearsay statements to Neb. Rev. Stat. § 27-801: (1) pretrial identification testimony, similar to Federal Rule of Evidence 801, and, in certain circumstances, (2) statements made by a child who is an alleged victim of child abuse.

LB 39 was amended in Committee by AM 932 and advanced to general file by an 8-0 vote. AM 932 made the following changes to LB 39:

- On page 3, line 5 change "fourteen" to "fifteen" to make consistent with the "fifteen" days allowed under section 3; subsection 2, located on page 4 of the green copy of the bill.
- On page 3, lines 2-3 and page 4, lines 3-4, strike, "sufficient evidence to support a finding by the jury" and replace it with, "clear and convincing evidence otherwise admissible under these rules." This change requires a higher burden of proof be met before evidence of a prior bad act can be admitted into evidence.
- AM 932 strikes on page 3 of the green copy beginning with the word "The" in line 14 through line 16. This change would do away with the statutory requirement that this information automatically be sealed and remain sealed unless the court orders otherwise.
- On Page 3 and 4, insert new subsection (3) on both pages, which requires that, before admitting evidence of a party's commission of another offense or offenses of sexual assault under this rule, the court must conduct a hearing outside the presence of the jury, and afford the victim and parties a right to attend the hearing and be heard. The rules of evidence shall apply at the hearing and the court shall apply a 27-403 balancing test and admit the evidence unless the risk of prejudice substantially outweighs the probative value of the evidence.

- Finally, AM 932, would strike the newly added exemptions from hearsay found on page 8, line 8-9 and 18-22 of the green copy of the bill.

Portions of LB 39 were amended into LB 97 by AM 1094 on May 29, 2009 and then LB 39 was IPP'D.

LB 47 (*Wightman*) Change the amount of the intestate share of the surviving spouse

Legislative Bill 47 amends Sec. 30-2302, which governs the distribution of a decedent's property in the absence of a will. The change would update the fixed dollar lump sum that a surviving spouse is entitled to before the estate is divided up among the decedent's surviving parents or surviving children if a will does not exist. Currently, the amount is \$50,000. LB 47 would increase the fixed lump sum payment to the first \$100,000 of the estate. The change would account for inflation that has occurred since the last adjustment to the amount was made in 1980.

Committee Amendment 240 incorporates the provision of LB 46 and LB 118

Legislative Bill 46 amends Sec. 30-2485 and Sec. 30-2487 to clarify that the actions taken and expenses incurred in the discharge of the statutory duties of a personal representative are properly considered costs and expenses of administration of the estate.

Legislative Bill 118 amends Sec. 30-24,125 and Sec. 30-24,129 to allow for succession of personal property by affidavit for estates with personal property not exceeding fifty thousand dollars and for estates with real property not exceeding thirty thousand dollars in value.

Under current law, the succession of personal property or real property by affidavit is allowed only for estates with personal property not exceeding twenty-five thousand dollars or for estates with real property not exceeding twenty-five thousand dollars in value.

LB 47, as amended, was advanced to general file by a unanimous vote. The original LB 47 was amended into LB 35 as part of Committee Amendment AM 836 on general file and LB 47 was then indefinitely postponed. LB 35 was adopted by the Legislature and signed by the Governor on May 29, 2009.

LB 76 (*Pirsch*) Authorize the aggregation of amounts under forgery in the second degree and criminal possession of a forged instrument

LB 76 would allow prosecutors to aggregate the amounts on all forged checks issued or possessed by the same individual during the same scheme or course of conduct. In allowing prosecutors to aggregate multiple forged checks issued or possessed during the same scheme or course of conduct, the forged check statutes would become uniform with the bad check statute. The bad check statute currently allows for multiple check aggregation.

LB 76 was amended in Committee by AM 649, which would make the following change to LB 76:

- On page 2, line 23; and page 3, line 22, after "conduct" insert "within a sixty-day period in one county".

This amendment would clarify that for aggregation purposes, forged checks and criminal possession of forged instruments can be aggregated for penalty enhancement purposes if the checks were written during a single "course" or "scheme", with a single "course" or "scheme" being limited to a sixty day period within one county. LB 76 with AM 649 was advanced to general file by an 8-0 vote.

Portions of LB 76 were amended into LB 155 by AM 1350 on May 29, 2009 and then IPP'D.

LB 144 (*Avery*) Allow accessibility to certain disciplinary records regarding police officers and school district personnel

LB 144 would make the disciplinary records of state and local law enforcement, Game and Parks conservation officers, any teacher administrator or full-time employee of any public school available to the public. Law enforcement and Games and Parks records shall be available to the public for misconduct involving physical or sexual abuse. While school employee records shall be made public for any event, occurrence, or act deemed to be a violation of public school policy, rule or state law.

LB 144 was Indefinitely Postponed on March 3, 2009.

LB 145 (*Avery*) Prohibit firearms at schools, colleges, and universities as prescribed

LB 145 would amend sections 28-1204.03 and 28-1204.04 for the purposes of adding the following institutions to the definition of schools for the purpose of prohibiting firearms from the premises of these institutions unless they are properly stored and safeguarded:

- Private postsecondary career schools as defined in section 85-1603,
- A community college, a public or private college, a junior college, a university, or any other educational institution.

LB 145 was amended in committee by AM 790 and advanced to general file by a 7-0 vote, with one member present and not voting. LB 145 was amended by AM 790 in the following manner:

- Provides an exemption for college and university rifle team members to possess firearms on college and university property as part of the requirements for being on the rifle team, and
- Provides that a person employed by a college or university who is part of an agriculture or a natural resources program of such college or university may lawfully possess a firearm within the scope of the persons employment with the college or university.

Portions of LB 145 were amended into LB 430 by AM 993 on May 29, 2009 and then IPP'D

LB 156 (*Lautenbaugh*) Eliminate the strict liability requirement for pursuits by law enforcement officers

LB 156 proposes to repeal language found in both the state and political subdivisions tort claims acts imposing strict liability on the state and political subdivisions for injuries sustained by an innocent third party which are a proximate result of a vehicular pursuit by law enforcement.

Current law requires that innocent third parties be compensated by the state or political subdivision if they are injured as a result of a vehicular pursuit involving law enforcement officers employed by the state or a political subdivision. Once the innocent third party has been fully compensated for his or her injuries and damage to property, the state or political subdivision is entitled to reimbursement of some or the entire amount paid to the innocent third party from any or all of the following sources:

- The driver of the fleeing vehicle;
- Any organization liable for the conduct of the fleeing vehicle;
- The insurers of either the driver of the fleeing vehicle or the organization liable for the conduct of the driver up to the liability limit of the policy;
- Uninsured or underinsured motorist insurer legally liable to the innocent third party up to the limits provided by law;
- The state or political subdivision employing law enforcement officers whose actions contributed to the proximate cause of damages to the innocent third party.

LB 156 was Indefinitely Postponed on February 9, 2009.

LB 170 (*Wightman*) Change temporary conservator appointment provisions

Legislative Bill 170 amends § 30-2630.01 to give the court discretion to extend a temporary conservatorship that was granted in an emergency situation beyond the minimum 90 day period by court order for any period of time the court determines appropriate. Under current law, the court may only extend for additional 90 day periods.

LB 170 was indefinitely postponed on February 11, 2009 by the Committee.

LB 185 (*Louden*) Change provisions relating to presentence investigations

Nebraska Revised Statute 29-2261 provides for the type of information that must be contained in a presentence investigation report that is compiled by Nebraska Courts for the purpose of helping the court set the proper sentence for offenders convicted of Class II misdemeanor penalties through felony level convictions, excluding a felony for first degree murder in which the death penalty is being sought.

LB 185 would amend 29-2261(3), by requiring that the presentence report must provide information pertaining to the following regarding an offender:

- Whether the offender is a single custodial parent of a minor child(ren);
- What the living conditions would be for the minor child of a single custodial parent who will be incarcerated;
- What the criminal history of the adult who would take custody of a child whose single custodial parent is incarcerated;
- Any other relevant information regarding the offender and the minor children they have custody of.

LB 185 was Indefinitely Postponed on February 9, 2009.

LB 199 (*Stuthman*) Change provisions relating to court support orders and collection of such support

Legislative Bill 199 amends several sections of statute related to child and medical support requirements. Certain changes proposed in LB 199 are needed to comply with a federal mandate in order to avoid losing federal funding for child support enforcement.

The bill would amend §48-2302 to amend the New Hire Reporting Act to add independent contractor to the definition of employee. This change would allow for the reporting of individuals that take new employment as independent contractors and have child support obligations. Once these individuals are identified, an income withholding notice can be generated to their employer and child support can be collected from each paycheck.

The bill would amend §77-27,166 to allow for the continuous submittal of past due support amounts to the Department of Revenue. Under current law, the information is reported once yearly.

The bill would amend §42-358.02 to provide that interest on spousal support and medical support payments accrue after a 30-day grace period rather than beginning the day after it is due. The 30-day grace period brings spousal and medical support interest accrual into conformity with how interest is accrued in child support cases.

The bill would amend §43-512.07 to provide that only the support payments that become due during the time period in which the individual receives public assistance is assignable to the state. This change is needed to comply with a federal mandate. Currently, an individual applying for and accepting public assistance assigns all court-ordered child, spousal or other support arrears and any additional support that becomes due while receiving public assistance to the state.

The bill would amend §42-369 to establish and enforce medical support obligations in cases where health care coverage is not available or not accessible. This change is needed to comply with a federal mandate. Cash medical support must be ordered in cases

where health care coverage is either unavailable or inaccessible. Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing it does not exceed 5% of his or her gross income.

Committee Amendment AM 1213 would amend the bill to add cash medical support to Section 42-364 to ensure the money is used on behalf of the children for which it was ordered. The amendment would narrow the standard for accessibility to health care coverage from 60 miles or 60 minutes to 30 mile or 30 minutes. The administrative agency, court or other tribunal would have the discretion to order longer travel times where necessary to accommodate rural Nebraskans. The amendment would require cash medical support payments in situations where health care coverage is either not available at a reasonable cost or is inaccessible to the children, and where one or more of the parties are receiving Title IV-D services. The original LB 199 required cash medical payments to be ordered in both IV-D and non IV-D cases. Under AM 1213, cash medical support or the cost of health care coverage will be considered reasonable in cost if the cost to the party providing the support does not exceed 3% of his or her gross income. The amendment also provides that cash medical support shall not be ordered if such expense would reduce the responsible party's net income below the basic subsistence limitation provided in Nebraska's Child Support Guidelines.

As amended by AM 1213, LB 199 was amended into LB 288 as part of AM 1278 on select file. LB 288 was adopted by the Legislature and signed by the Governor on May 29, 2009. LB 199 was then indefinitely postponed.

LB 203 (*Rogert*) Eliminate provisions relating to multiple constables and the service or execution of legal process

Under current law, each county court judge in a county with a population exceeding 100,000 inhabitants may contract with one constable to conduct service of process. In counties with more than one constable, a litigant may designate a constable to serve process in his or her case.

Legislative Bill 203 would amend §25-2229 to eliminate the ability of a litigant to designate a particular constable to serve process in his or her case. Instead, the court would designate a constable to serve process.

LB 203 was indefinitely postponed on February 9, 2009 by the Committee.

LB 277 (*Mello*) Prohibit the purchase of spray paint and industrial-strength marking pens by minors

LB 277 is a bill that would prohibit the sale, giving, or exchange of spray paint and/or industrial strength marking pens to any minor. A person violating this provision would be guilty of a Class I misdemeanor. LB 277 would also prohibit a minor from trying to purchase, receive, or attempt to acquire an industrial marking pen or spray paint. A minor violating this section would be guilty of committing a Class III misdemeanor.

LB 277 would require as proof of age for the purchase of spray paint and/or an industrial strength marking pen, a valid drivers or operators license, Nebraska state identification card, military identification card, alien registration card, or a passport.

Finally, LB 277 would provide, a complete defense to the charge of selling the prohibited items to a minor under the following circumstances:

- Purchaser falsely represented his/her legal age;
- Purchasers appearance conformed to that represented in an I.D. card shown;
- An ordinary and prudent person would have believed under the circumstances that purchaser was old enough to make a legal purchase; and
- Seller was acting with knowledge of and in cooperation with law enforcement.

LB 277 was Indefinitely Postponed on March 3, 2009.

LB 305 (*Council*) Include state identification card holders in jury lists

Legislative Bill 305 amends §25-1628 to add state identification card holders to the group of people included in initial jury pools. This bill is based on a recommendation from the Nebraska Minority Justice Committee's Minority and Justice Task Force, a joint effort of the Nebraska Supreme Court and the Nebraska State Bar Association.

Current source lists for jury pools in Nebraska consist of registered voters and driver's license holders. This bill would expand the source lists in order to reduce racial disparities found on many Nebraska Juries.

Under the bill, the Department of Motor Vehicles would have to make available to each jury commissioner a list of the names, birthdates and addresses of all state identification card holders. If a county treasurer has an automated procedure for developing lists of state identification card holders, the jury commissioner may request the list from the county treasurer.

LB 305 was advanced to general file by a unanimous vote. LB 305 was then amended into LB 35 as part of Committee Amendment AM 836 on general file and LB 305 was then indefinitely postponed. LB 35 was adopted by the Legislature and signed by the Governor on May 29, 2009.

LB 345 (*Gay*) Change juvenile court jurisdiction to exclude school truancy

Legislative Bill 345 would amend §43-247 to eliminate habitual truancy from school as a status offence under the Juvenile Code. Under the bill, the juvenile court would no longer have jurisdiction over a juvenile for habitual truancy.

LB 345 was indefinitely postponed by the Committee on March 3, 2009 by a vote of 7-1.

LB 354 (*Lautenbaugh*) provide for cross-appeals in contested cases under the Administrative Procedure Act

LB 354 would provide the right of a cross-appeal to a responding party of any review under the Administrative Procedure Act. A respondent wanting to file a cross-appeal must file the cross-appeal within thirty days of being served with the summons and petition for review.

Portions of LB 354 were amended into LB 35 by AM 836 on May 29, 2009 and then IPP'D.

LB 356 (*Dubas*) Provide behavioral health services for children without parental relinquishment of custody

Legislative Bill 356 would create a new statute requiring a behavioral health region to provide wrap-around services or other behavioral health services for a child who is the subject of a voluntary service agreement. A voluntary service agreement is defined as a voluntary, temporary, written agreement wherein a parent, guardian, or other legal custodian of a child who has a behavioral health disorder requests behavioral health services for the child. Wrap-around services are defined as strength-based, individualized community-based services for a family with a child with behavioral health disorder. Requesting a voluntary service agreement puts the juvenile under the jurisdiction of the juvenile court.

The voluntary service agreements are to be entered into for 90 days or less at the request of a parent, guardian, or child's custodian. Behavioral health services, including but not limited to, case management shall be provided to the child. The cost of the child's care is to be paid by the Department of Health and Human Services (HHS). The bill provides for a behavioral health region to assess and determine financial responsibility according to HHS rules and charge for behavioral health services per a sliding fee schedule. The relinquishment of legal or physical custody of a child shall not be required while the child is receiving services from a behavioral health region under a voluntary placement agreement.

If a child requires greater than 90 days of wrap-around or other behavioral health services, and one or more parties are not agreeable to an extension of services, then the regional behavioral health administrator is to notify the county attorney who is to petition for review of services with the juvenile court. The court is to conduct a review of services and may extend the voluntary service agreement. The petition is to be accompanied by an evaluation for placement prepared by the behavioral health region. The evaluation is to include recommended services and placements for the child and a treatment plan. A \$64 court fee is to be charged the parents, if there is an ability to pay.

Committee Amendment AM 529 replaces the original provisions of the bill. The amendment establishes the intent of the Legislature to appropriate \$15 million each year for two years starting with Fiscal Year 2009-10 to the behavioral health regions for the

purpose of funding behavioral health services for children. The funds will be appropriated from the General Fund to HHS Program 38, Behavioral Health Aid. The funds will be excluded from the calculation of county matching funds that is required under the Nebraska Behavioral Health Services Act. The funds will be given to the six regional behavioral health authorities based on the 2008 allocation formula.

The amendment also defines “children” within the Behavioral Health Services Act as “Nebraska residents under 19 years of age.”

The intent of AM 529 was amended and included in LB 603, the package of safe haven crisis-related bills. However, the \$15 million appropriation for childrens’ behavioral health services was decreased to \$1.5 million over the next two years.

LB 603 was passed by the Legislature by a vote of 45-2-2 and signed by the Governor on May 22, 2009.

LB 374 (*Lautenbaugh*) Authorize recovery of costs as part of the settlement of a civil action

Legislative Bill 374 would amend §25-1708 to allow a civil court defendant to settle a suit and pay the plaintiff’s court costs without requiring the entry of a judgment against the defendant. Furthermore, the bill would require the court to enter a judgment against the defendant for the plaintiff’s court costs in the instance that the principal amount sued upon is voluntarily paid by the defendant after the filing of suit.

Committee Amendment AM 925 would allow the plaintiff to waive an award of court costs following a voluntary payment to the plaintiff by or on behalf of the defendant before a judgment is entered.

LB 374, as amended, was amended into LB 35 as part of AM 1054 on general file and LB 374 was then indefinitely postponed. LB 35 was adopted by the Legislature and signed by the Governor on May 29, 2009.

LB 375 (*Lautenbaugh*) Increase claim amount and provide for payment for costs for certain civil suits

Legislative Bill 375 would amend §25-1801 to allow a plaintiff to recover court costs from the defendant by voluntary payment after filing suit, but before a judgment is entered. The bill would also expand application of the statute from claims of up to \$2,000 to claims of up to \$4,000.

Committee Amendment AM 924 would allow the plaintiff to waive an award of court costs following a voluntary payment to the plaintiff by or on behalf of the defendant before a judgment is entered.

LB 375, as amended, was amended into LB 35 as part of AM 1054 on general file and LB 375 was then indefinitely postponed. LB 35 was adopted by the Legislature and signed by the Governor on May 29, 2009.

LB 429 (Christensen) Change employment provisions of persons committed to the Department of Correctional Services

Legislative Bill 429 would allow the Department of Correctional Services to enter into arrangements with school districts, educational service units, community colleges, state colleges, and universities for employment of persons committed to the department, as long as the department supervises such persons.

Currently, § 83-183 (1) provides the authority for the Department of Correctional Services to enter into arrangements with any other board or agency of the state, any natural resources district, or any other political subdivision, except for political subdivisions connected with education.

Portions of LB 429 were amended into LB 63 by AM 1088 on May 29, 2009 and then IPP'D

LB 472 (Fulton) Change payment terms for scrap copper and catalytic converters

LB 472 would amend "69-404" which specifies how payment for used copper and catalytic converters can be paid for by secondary metals recyclers, by requiring that secondary metal recyclers hold payment for copper and catalytic converters be held for three days. Payment under current statute must be by check and after the newly implemented three day hold; payment must be mailed to the address on the record that is required to be created for secondary metals transactions.

LB 472 was Indefinitely Postponed on March 3, 2009.

REPORT ON THE PRIORTIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)

COMMITTEE: Judiciary

DATE: 5/27/09

The following resolutions were referred to the Committee on May 21, 2009. The committee has prioritized the resolutions in the following order:

<u>Resolution No.</u>	<u>Subject</u>
<u>LR233 Coash</u>	Interim study to examine judicial resources and the allocation of judicial resources
<u>LR109 Ashford</u>	Interim study to examine the issue of juvenile overcrowding in youth detention centers
<u>LR239 Pirsch</u>	Interim study to assess the effectiveness of existing community corrections programs
<u>LR237 Pirsch</u>	Interim study to evaluate the period of time juveniles are involved in the Nebraska juvenile court system
<u>LR184 Coash</u>	Interim study to examine the process by which the Division of Children and Family Services of the Dept. of Health and Human Services places Nebraska citizens on the central register of child protection cases
<u>LR138 Ashford</u>	Interim study to examine issues under the jurisdiction of the Judiciary Committee
<u>LR113 McGill</u>	Interim study to examine whether Nebraska should update provisions of the Nebraska Criminal Code relating to the degrees and types of homicides that may be charged under Nebraska law
<u>LR 189 Lathrop</u>	Interim study to examine Nebraska's court-appointed special advocate programs
<u>LR183 Coash</u>	Interim study to examine creating a specialized magistrate for the state's largest courts
<u>LR226 Howard</u>	Interim study to examine medical malpractice liability
<u>LR225 Christensen</u>	Interim study to examine the actions other states and organizations have taken to strengthen marriage and reduce divorce through policy change and marriage education

LR191
Christensen

Interim study to examine Nebraska's laws regarding a persons' right in their home to defend another person's life by reasonable force and to review the Castle Doctrine laws

LR 236
Christensen

Interim study to examine in vitro fertilization