

JUDICIARY COMMITTEE

One-Hundred Third Nebraska Legislature

First Session

2013

SUMMARY AND DISPOSITION OF BILLS



Senator Brad Ashford, Chairperson
Senator Steve Lathrop, Vice-Chairperson
Senator Ernie Chambers
Senator Mark Christensen
Senator Colby Coash
Senator Al Davis
Senator Amanda McGill
Senator Les Seiler

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CHILDREN/CHILD VISITATION AND CUSTODY

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LB 107 (Lathrop) Change waiver of hearing provisions under the Parenting Act

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LB 355 (Larson) Change the age of majority and certain age requirements

LB 374 (Nelson) Provide for a delinquent child support payment lien on an appearance bond as prescribed

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CRIMINAL OFFENSES AND PENALTIES

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LB 161 (*McGill*) Change a penalty for violation of building ordinances or regulations of a city of the metropolitan class.

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LB 329 (*Howard*) Change provisions relating to criminal offenses against animals

LB 403 (*Seiler*) Prohibit retail sale of novelty lighters

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LB 607 (*Pirsch*) Change provisions relating to protection order violations and conditions of release violations.

LB 608 (*Pirsch*) Change provisions relating to stalking.

LB 610 (*Pirsch*) Change provisions relating to terroristic threats.

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CRIMINAL PROCEDURE

LB 106 (*Lathrop*) Adopt the Uniform Unsworn Foreign Declarations Act and change provisions relating to perjury.

LB 151 (*Seiler*) Provide a hearsay exception for certain documents and data kept in the regular course of business.

LB 202 (*Coash*) Change provisions relating to DNA collection

LB 267 (*Chambers*) Prohibit persons on parole, probation, or work release from acting as undercover agents or employees of law enforcement and prohibit admissibility of certain evidence.

DEATH PENALTY

LB 542 (*Chambers*) Eliminate an aggravating circumstance regarding death penalty sentencing hearings.

LB 543 (*Chambers*) Change a penalty from death to life imprisonment or life imprisonment without possibility of parole.

EMPLOYMENT

LB 314 (*Christensen*) Adopt the Escort Services Accountability and Permit Act

FIREARMS

LB 50 (*Ashford*) Prohibit unreasonable placement of a firearm where a minor may unlawfully possess it.

LB 148 (*Ashford*) Include ammunition in certain offenses involving firearms.

LB 171 (*Bloomfield*) Provide for an expedited concealed handgun permit process for applicants who are victims of domestic violence.

LB 293 (*Kintner*) Prohibit disclosure of any applicant or permit holder information regarding firearms registration, possession, sale, or use as prescribed.

LB 319 (*McGill*) Change certain permit holder penalty provisions under the Concealed Handgun Permit Act.

LB 335 (*Christensen*) Authorize possession of firearms as prescribed

LB 390 (*Christensen*) Change provisions relating to Governor's powers regarding restrictions on firearms and ammunition under the Emergency Management Act.

LB 392 (*Lathrop*) Eliminate certain firearms provisions no longer authorized by federal law.

LB 451 (*Janssen*) Prohibit federal restrictions on firearms, magazines and firearm accessories as prescribed.

LB 592 (*Lautenbaugh*) Authorize the carrying of concealed handguns by qualified law enforcement officers and qualified retired law enforcement officers.

LB 602 (*Bloomfield*) Adopt the Nebraska Firearms Freedom Act.

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LB 86 (McGill) Authorize inspection and regulation of staff secure juvenile facilities

LB 247 (Larson) Change Nebraska Juvenile Code provisions relating to reimbursement by parents for costs of care and treatment

LB 320 (McGill) Change temporary custody without a warrant provisions of the Nebraska Juvenile Code

LB 342 (Coash) Change right to counsel provisions under the Nebraska Juvenile Code

LB 464 (Ahsford) Change court jurisdiction over juveniles and indictment procedures

LB 471 (Coash) Change provisions relating to juvenile commitment evaluations

LB 561 (Ashford) State findings and intent for changes to the juvenile justice system and a funding mechanism

LB 562 (Ashford) Change provisions of the juvenile justice system

LAW ENFORCEMENT

LB 46 (*Ashford*) Provide for consolidation and coordination of crime laboratories.

LB 99 (*Mello*) Change provisions relating to racial profiling information reviews.

LB 318 (*McGill*) Change duties of law enforcement officers and agencies relating to the taking and distribution of fingerprints.

LB 350 (*Murante*) Add members to the Nebraska Police Standards Advisory Council.

LB 352 (*Christensen*) Provide signage requirements and duties for the Nebraska State Patrol under the Concealed Handgun Permit Act.

LB 538 (*Chambers*) Change provisions relating to revocation and suspension of law enforcement training certificates or diploma

LB 541 (*Chambers*) Prohibit arbitration of claims involving disciplinary actions against peace officers.

LIABILITY

LB 89 (Haar) Provide immunity from liability for providing shelter during a weather event.

LB 284 (Conrad) Change provisions of the Political Subdivisions Tort Claims Act relating to limits on actions and amounts recoverable

LB 461 (Karpisek) Provide liability limitation for bucking bull activities

LB 462 (*Ashford*) Change provisions relating to contracts for joint law enforcement services.

LB 551 (*Schilz*) Change recreational liability provisions

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LB 61 (*Murante*) Change provisions relating to the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006

LB 109 (*McGill*) Provide requirements for precious metal dealers

LB 136 (*Avery*) Provide for the distribution of administrative fines and costs and forfeited property

LB 226 (*Smith*) Regulate dealers in the business of purchasing and reselling precious items

LB 277 (*Harr*) Change provisions relating to presentation of a false medicaid claim

LB 415 (*Seiler*) Change provisions relating to financial institutions and attachment and garnishment

LB 441 (*Seiler*) Change provisions relating to control of dead human remains

LB 482 (*Kintner*) Prohibit the state and political subdivisions from adopting certain policy recommendations

LB 485 (*Conrad*) Prohibit discrimination based upon sexual orientation as prescribed

LR 42 (*Brasch*) Urge Congress to pass the Parental Rights Amendment to the United States Constitution and submit it to the states for ratification

PROPERTY, REAL ESTATE AND PROBATE

LB 37 (*Wightman*) Change provisions relating to powers of personal representative with respect to decedent's internet sites

LB 134 (*Avery*) Provide for inheritance by issue conceived after death

LB 152 (*Dubas*) Change eminent domain negotiations

LB 172 (*Coash*) Change court filings for guardianships and conservatorships

LB 289 (*Lathrop*) Change provisions relating to duration of real estate improvement contract liens

LB 345 (Wightman) Change transfer of death deed requirements and filings

LB 520 (Christensen) Allow land surveyors to enter upon public or private lands or waters as prescribed

LB 533 (Avery) Require oil and gas pipeline eminent domain condemners to provide notice to property owners

LB 580 (Johnson) Change certain condemnation procedures

LB 615 (Schumacher) Provide for summary guardianships

SEX OFFENDER STATUTES

LB 473 (*Bloomfield*) **Authorize certain residency restrictions near parks under the Sexual Predator Residency Restriction Act.**

STATE AGENCIES

LB 142 (*Lathrop*) Provide that probation records are not subject to public disclosure

LB 369 (*Lathrop*) Require licensed service providers for services to probationers and parolees as prescribed.

TOBACCO

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LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB3	Krist	Change filing provisions relating to nonconsensual liens	1/24/13	General File W/Amendment	Speaker Priority	Approved by Governor
LB12	Krist	Change product liability action statute of limitations	1/24/13	Held		
LB22	Hadley	Change Parenting Act provisions relating to parenting plans	2/6/13	Held	Karpisek Priority	
LB37	Wightman	Change provisions relating to powers of personal representative with respect to a decedent's Internet sites	1/24/13	Held		
LB44	Ashford	Change penalty provisions with respect to Class IA felonies committed by persons under the age of eighteen	2/8/13	General File W/Amendment		Approved by Governor
LB45	Ashford	Change judge eligibility requirements for the Court of Appeals	1/24/13	Held		
LB46	Ashford	Provide for consolidation and coordination of crime laboratories	1/31/13	General File W/Amendment		
LB50	Ashford	Prohibit unreasonable placement of a firearm where a minor may unlawfully possess it	1/23/13	Held		
LB51	Ashford	Change provisions relating to publication of court opinions	1/24/13	General File		
LB52	Christensen	Change employment provisions for persons committed to the Department of Correctional Services	1/25/13	General File W/Amendment		
LB61	Murante	Change provisions relating to the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006	1/30/13	Held		
LB86	McGill	Authorize inspection and regulation of staff secure juvenile facilities	3/7/13	Held		Amended into LB 561
LB89	Haar	Provide immunity from liability for providing shelter during a weather event	1/25/13	Held		
LB99	Mello	Change provisions relating to racial profiling information reviews	1/23/13	General File W/Amendment	Speaker Priority	Approved by Governor

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB103	Lathrop	Change judges' general powers	2/1/13	General File		Approved by Governor
LB106	Lathrop	Adopt the Uniform Unsworn Foreign Declarations Act and change provisions relating to perjury	1/31/13	General File W/Amendment		
LB107	Lathrop	Change waiver of hearing provisions under the Parenting Act	2/6/13	General file w/ Amendment		Approved by Governor
LB109	McGill	Provide requirements for precious metals dealers	1/31/13	General File W/Amendment		
LB115	Lautenbaugh	Change provisions relating to homicide	2/7/13	Held	Speaker Priority	
LB120	Lautenbaugh	Change provisions of the Uniform Residential Landlord and Tenant Act	1/25/13	Held		
LB123	Lautenbaugh	Change distribution of indigent defense fees	1/25/13	IPP'd		
LB124	Lautenbaugh	Change provisions relating to grandparent visitation	2/6/13	Held		
LB128	Coash	Create the offense of disarming a peace officer	1/23/13	General File W/Amendment		
LB134	Avery	Provide for inheritance by issue conceived after death	1/30/13	Held		
LB136	Avery	Provide for the distribution of administrative fines and costs and forfeited property	1/30/13	Held		
LB142	Lathrop	Provide that probation records are not subject to disclosure as prescribed	1/23/13	Held		
LB148	Ashford	Include ammunition in certain offenses involving firearms	1/23/13	Held		
LB151	Seiler	Provide a hearsay exception for certain documents and data kept in the regular course of business	1/25/13	General File W/Amendment		
LB152	Dubas	Change eminent domain negotiations	1/30/13	Held		
LB161	McGill	Change a penalty for violation of building ordinances or regulations of a city of the metropolitan class	1/31/13	General File W/Amendment		
LB169	Gloor	Change provisions relating to jury commissioners	2/13/13	General file w/ Amendment		Approved by Governor
LB171	Bloomfield	Provide for an expedited concealed handgun permit process for applicants who are victims of domestic violence	3/21/13	Held		

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB172	Coash	Change court filings for guardianships and conservatorships	1/30/13	General File W/Amendment		Approved by Governor
LB182	Avery	Change paternity provisions for a child conceived as a result of sexual assault	2/6/13	IPP'd	Speaker Priority	
LB202	Coash	Change provisions relating to DNA collection	2/8/13	Held		
LB204	Larson	Change and provide criminal sanctions regarding animals and animal facilities	3/14/13	Held		
LB212	Karpisek	Change court-ordered parenting plan provisions of the Parenting Act	2/6/13	Held		
LB226	Smith	Regulate dealers in the business of purchasing and reselling precious items	1/31/13	held		
LB232	Lathrop	Change judges' salaries	2/1/13	General File W/Amendment	Speaker Priority	Amended into LB 306 and then IPP'd
LB233	Pirsch	Change award and report provisions under the Nebraska Crime Victim's Reparations Act	2/14/13	General File		Amended into LB 99 and then IPP'd
LB246	Larson	Provide for a health care copayment for jail and prison inmates	2/7/13	Held		
LB247	Larson	Change Nebraska Juvenile Code provisions relating to reimbursement by parents for costs of care and treatment	3/15/13	Held		
LB255	McGill	Change provisions relating to hearsay, child abuse, and offenses relating to morals	2/20/13	General File W/Amendment	Speaker Priority	Approved by Governor
LB256	McGill	Eliminate criminal forfeiture and provide for civil forfeiture as prescribed	2/20/13	Held		
LB267	Chambers	Prohibit persons on parole, probation, or work release from acting as undercover agents or employees of law enforcement and prohibit admissibility of certain evidence	2/7/13	Held		
LB277	Harr	Change provisions relating to presentation of a false medicaid claim	2/1/13	General File W/Amendment		Approved by Governor

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB280	Pirsch	Change domestic assault provisions	2/14/13	Held		
LB284	Conrad	Change provisions of the Political Subdivisions Tort Claims Act relating to limits on actions and amounts recoverable	2/13/13	Held		
LB289	Lathrop	Change provisions relating to duration of real estate improvement contract liens	2/1/13	General File W/Amendment		Amended into LB 3 and then IPP'd
LB293	Kintner	Prohibit disclosure of any applicant or permitholder information regarding firearms registration, possession, sale, or use as prescribed	3/20/13	Held	Kintner Priority	
LB298	McCoy	Change provisions relating to controlled substances schedules	2/28/13	General File W/Amendment	Speaker Priority	Approved by Governor
LB300	Krist	Provide licensure requirements for health care facilities and require Department of Health and Human Services to provide abortion information	2/20/13	Held		
LB313	Christensen	Change provisions relating to incarceration work camps	2/7/13	General File		
LB314	Christensen	Adopt the Escort Services Accountability and Permit Act	2/20/13	Held		
LB318	McGill	Change duties of law enforcement officers and agencies relating to the taking and distribution of fingerprints	2/8/13	Held		
LB319	McGill	Change certain permitholder penalty provisions under the Concealed Handgun Permit Act	3/21/13	Held		
LB320	McGill	Change temporary custody without a warrant provisions of the Nebraska Juvenile Code	3/6/13	Held		
LB329	Howard	Change provisions relating to criminal offenses against animals	2/20/13	General File		Approved by Governor
LB335	Christensen	Authorize possession of firearms as prescribed	3/21/13	Held		
LB342	Coash	Change right to counsel provisions under the Nebraska Juvenile Code	3/6/13	General File W/Amendment		Amended into LB 561 and then IPP'd
LB345	Wightman	Change transfer on death deed requirements and filings	2/1/13	General File W/Amendment		Approved by Governor

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB350	Murante	Add members to the Nebraska Police Standards Advisory Council	2/7/13	Held		
LB352	Christensen	Provide signage requirements and duties for the Nebraska State Patrol under the Concealed Handgun Permit Act	3/12/13	Held		
LB355	Larson	Change the age of majority and certain age requirements	3/6/13	Held		
LB360	Karpisek	Change court fees, sheriff's fees, identification inspection fees, and handgun certificate fees		Bill Withdrawn		
LB369	Lathrop	Require licensed service providers for services to probationers and parolees as prescribed	2/8/13	Held		
LB374	Nelson	Provide for a delinquent child support payment lien on an appearance bond as prescribed	2/27/13	Held		
LB379	Nelson	Change furlough and reduction of sentence provisions as prescribed	2/27/13	Held		
LB380	Howard	Provide for adoption by two adult persons jointly	3/14/13	Held		
LB385	Nordquist	Prohibit certain bases for discrimination relating to child placement	3/14/13	General File W/Amendment		
LB390	Christensen	Change provisions relating to Governor's powers regarding restrictions on firearms and ammunition under the Emergency Management Act	2/28/13	General File W/Amendment		
LB392	Lathrop	Eliminate certain firearms provisions no longer authorized by federal law	3/21/13	General File		
LB403	Seiler	Prohibit retail sale of novelty lighters	2/7/13	General File W/Amendment		
LB412	Schumacher	Adopt the Freedom from Unwarranted Surveillance Act	2/14/13	Held		
LB415	Seiler	Change provisions relating to financial institutions and attachment and garnishment	3/5/13	General File W/Amendment		
LB441	Seiler	Change provisions relating to control of dead human remains	2/27/13	General File W/Amendment		

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB451	Jansen	Prohibit federal restrictions on firearms, magazines, and firearm accessories as prescribed	3/20/13	Held		
LB455	Lautenbaugh	Provide procedures for termination of a lease based upon clear and present danger	2/27/13	Held		
LB461	Karpisek	Provide liability limitation for bucking bull activities	2/13/13	Held		
LB462	Ashford	Change provisions relating to contracts for joint law enforcement services	3/13/13	Held		
LB463	Ashford	Change the number of separate juvenile court judges	3/7/13	Held		
LB464	Ashford	Change court jurisdiction over juveniles and indictment procedures	3/6/13	General File W/Amendment	Ashford Priority	On Select File
LB471	Coash	Change provisions relating to juvenile commitment evaluations	3/6/13	Held		Amended into LB 561
LB472	Karpisek	Prohibit flying lanterns	2/28/13	Held		
LB473	Bloomfield	Authorize certain residency restrictions near parks under the Sexual Predator Residency Restriction Act	3/13/13			
LB483	Bolz	Provide for a reentry planning program in adult correctional facilities	2/22/13	General File W/Amendment	Speaker Priority	Approved by Governor
LB485	Conrad	Prohibit discrimination based upon sexual orientation as prescribed	3/14/13	Held		
LB498	Brasch	Provide for declaratory judgment and injunctive relief against foreign defamation judgments	3/14/13	Held		
LB503	Coash	Rename the Child Protection Act and provide for alternative response to a report of child abuse or neglect	3/15/13	Held		Amended into LB 561
LB520	Christensen	Allow land surveyors to enter upon public or private lands or waters as prescribed	3/5/13	IPP'd		
LB533	Avery	Require oil and gas pipeline eminent domain condemnors to provide notice to property owners	3/5/13	Held		

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB538	Chambers	Change provisions relating to revocation and suspension of law enforcement training certificates or diplomas	2/22/13	General File W/Amendment		Approved by Governor
LB541	Chambers	Prohibit arbitration of claims involving disciplinary actions against peace officers	2/22/13	General File W/Amendment		
LB542	Chambers	Eliminate an aggravating circumstance regarding death penalty sentencing hearings	2/22/13	Held		
LB543	Chambers	Change a penalty from death to life imprisonment or life imprisonment without possibility of parole	3/13/13	General File	Chamber Priority	
LB551	Schilz	Change recreational liability provisions	2/13/13	Held	Schilz Priority	
LB561	Ashford	State findings and intent for changes to the juvenile justice system and a funding mechanism	3/7/13	General File W/Amendment	Committee Priority	Approved by Governor
LB562	Ashford	Change provisions of the juvenile justice system	3/6/13	Held		Partially amended into LB 561
LB564	Nelson	Adopt the Health Care Freedom of Conscience Act	3/1/13	Held		
LB580	Johnson	Change certain condemnation procedures	3/6/13	Held		
LB592	Lautenbaugh	Authorize the carrying of concealed handguns by qualified law enforcement officers and qualified retired law enforcement officers	3/21/13	Held		
LB602	Bloomfield	Adopt the Nebraska Firearms Freedom Act	3/20/13	Held		
LB607	Pirsch	Change provisions relating to protection order violations and conditions of release violations	2/14/13	IPP'd		
LB608	Pirsch	Change provisions relating to stalking	2/28/13	Held		
LB610	Pirsch	Change provisions relating to terroristic threats	2/28/13	Held		
LB611	Pirsch	Redefine serious bodily injury for purposes of domestic assault	2/14/13	Held		
LB615	Schumacher	Provide for summary guardianships	2/27/13	Held		
LB631	Harr	Change provisions relating to garnishment	3/5/13	Held		

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	COMMENTS	FINAL DISPOSITION
LB648	Pirsch	Change penalty for public indecency		Bill Withdrawn		
LR42	Brasch	Urge Congress to pass the Parental Rights Amendment to the United States Constitution and submit it to the states for ratification	3/14/13	Held		

BILLS PASSED DURING THE 2013 LEGISLATIVE SESSION

LB 3 (Krist) Change filing provisions relating to nonconsensual liens

Legislative Bill 3 would require a stamped and addressed envelope to accompany the filing of a nonconsensual lien. Upon recording the nonconsensual lien, the county recording office must use the envelope to send a certified copy of the recorded lien to the owner of the real property. This provision does not apply to mortgages, deeds of trust or any encumbrances in which all parties involved have knowledge or should have knowledge of the encumbrances.

Committee Amendment AM 351 was adopted on general file to replace the green copy of the bill. The amendment creates the crime of fraudulently filing a financial statement, lien or document as a Class IV felony (5 years or \$10,000). The crime is committed if a person submits for filing or recording in the public record: 1) a nonconsensual lien, 2) a financing statement not based on a bona fide security agreement or not authorized or authenticated by the alleged debtor or 3) a document containing false information in attempt to harass or obstruct.

The amendment also provides that a nonconsensual lien is not binding or enforceable. If recorded, a nonconsensual lien would be void and unenforceable.

The amendment creates a process to notify the property owner if a nonconsensual lien is recorded. The claimant would cause the sheriff to serve a copy of the recorded lien on the owner of the property and the sheriff would file proof of service with the register of deeds with no filing fee. The claimant must then file a judicial proceeding to enforce the nonconsensual lien within ten days after recording the lien or else the lien would lapse and be of no legal effect.

The amendment also adds an emergency clause to the bill.

On select file, the Legislature adopted AM 1067 and AM 1128, as introduced by Senator Lathrop, to add the provisions of LB 289 as amended by the Judiciary Committee in Committee Amendment AM 571. AM 1067 creates the Commercial Real Estate Broker Lien Act. The amendment defines commercial real estate, commission, and commission agreement. Under the amendment, the broker shall have a lien on commercial real estate in the amount of commission due. The lien is only available to the broker named in the commission agreement. Such lien shall be attached when the broker is entitled to the commission, the broker records notice of the lien, and prior to the actual conveyance. The lien attaches on the date of notice not back to the date of the agreement. In the case of a lease the notice of the lien must be recorded within 90 days of the tenant taking possession. Future commissions can become a recordable lien only after the commissions become due. The amendment requires that the broker shall, within 10 days of filing the lien, notify the record owner by mail. The amendment lays out all the information the notice of lien must contain. The amendment establishes that a lien described in the Act that has become enforceable shall remain enforceable for two years and that an owner or anyone with an interest in the property may give written demand to institute judicial proceedings within 30 days. The amendment addresses the priority of liens. Under the amendment,

the owner or tenant may have a recorded lien released at any time by placing the amount of the lien plus 15% in escrow. The lien then attaches to the escrow funds and not the property. If a property is sold then the proceeds from that property shall be placed in escrow equal to an amount of 115% then the lien attaches to the escrow funds. AM 1128 is a technical amendment to accomplish the intent of AM 1067.

The bill was designated a Speaker Priority. The bill was passed by the Legislature by a vote of 46-0-3 on May 10, 2013 and signed by the Governor on May 16, 2013.

LB 44 (Ashford) Change penalty provisions with respect to Class IA felonies committed by persons under the age of eighteen.

LB 44, establishes a new 40-year minimum sentencing option for a juvenile convicted of a Class IA felony. LB 44 was introduced to bring Nebraska statutes into compliance with the 2012 US Supreme Court ruling of Miller v. Alabama, which prohibited as a violation of the Eighth Amendment of the U.S. Constitution, the sentencing of juveniles to a mandatory term of life imprisonment, without the possibility of parole.

The bill also establishes that offenders younger than 18 years old at the time that an offense was committed who were denied parole will be eligible for a parole hearing each year thereafter. The parole board must review and consider the juvenile's:

- Educational and court documents;
- Level of participation in the offense;
- Age at the time of the offense, level of maturity and intellectual capacity;
- Ability to appreciate the risks and consequences of his or her conduct;
- Efforts toward rehabilitation and participation in available rehabilitative and educational programs while incarcerated; and
- Any other mitigating circumstance submitted by the juvenile.

LB 44 was amended by AM1087 on Select File by Sen. Schumacher, which clarified that the minimum sentence under the act shall not be "less than" 40 years and the maximum sentence shall not be "greater than" life imprisonment.

The bill passed on a 38-1 vote and was approved by the Governor on May 08, 2013.

LB 99 (Mello) Change provisions relating to racial profiling information reviews.

Under LB 99, The Commission on Law Enforcement and Criminal Justice would be allowed to accept and required to seek grants, donations, gifts or contributions from public or private sources to fund comprehensive reviews of racial profiling data. A report of such reviews would be provided to the governor and Legislature annually until April 1, 2018.

The Judiciary Committee amended LB 99 with AM34, which provides the following changes:

- Establishes that the anti-profiling laws covers any detention of an individual, in addition to

traffic stops;

- Requires the commission include in the annual report any data suggesting racial profiling has occurred; and
- Allows the commission's Racial Profiling Advisory Committee to advise the commission's executive director and the commission itself on the annual review and collection of data, completeness and acceptability of the submitted anti-racial profiling policies and the need for enforcement by the Nebraska Department of Justice if law enforcement agencies fail to supply the required reporting or comply with the prohibition on racial profiling.

Additionally, the amendment requires law enforcement agencies to provide a written anti-racial profiling minimum-standard policy, a copy of which must be sent to the commission. The commission's model policy would be mandated if an agency refused to submit a policy. AM34 was adopted 37-0.

Sen. Schumacher amended LB 99 on general file with FA60, which requires law enforcement officers, prosecutors, defense attorneys and probation officers who become aware of racial profiling by a law enforcement agency to report it to the commission within 30 days, unless they are restricted by privilege, FA 60 was adopted 28-0. Sen. Pirsch offered AM1179, which incorporated the provisions contained in LB 233 into LB 99. AM 1179 was adopted 29-0.

LB 99 was passed by the Legislature 46-0 and was approved by the Governor on May 16, 2013.

LB 103 (Lathrop) Change judges' general powers

Legislative Bill 103 would amend statute section 24-734 to provide judges the authority to digitally sign court orders wherever the judge is physically located. The bill would also provide authority for the expanded use of videoconferencing in civil cases in which a party is incarcerated and for any case with the consent of the parties.

On general file, AM 86 was adopted to replace the green copy of the bill to clarify that judges have the authority to digitally sign court orders wherever the judge is physically located. The amendment would allow a judge, with the consent of the parties, to permit any witness who is to be examined by oral examination to appear by telephonic, videoconferencing or other similar methods.

The bill passed on a 41-0-8 vote and was signed into law by the Governor on May 7, 2013.

LB 107 (Lathrop) Change waiver of hearing provisions under the Parenting Act

LB 107 would amend statute section 43-2935 to provide for the waiver of final hearings in cases involving parenting plans, including paternity actions, if all parties have waived the hearing requirement and the documents have been signed by the parties under oath to resolve all issues presented by the pleadings.

Committee Amendment AM was adopted on general file to require that the waivers be in writing. The amendment would also make a technical change to subsection (c) to separate for clarity the elements required for a waiver.

The bill passed on a 41-0-8 vote and was signed into law by the Governor on May 7, 2013.

LB 169 (Gloor) Change provisions relating to jury commissioners

Legislative Bill 169 would amend statute section 25-1625 to authorize the clerk of the district court to act as jury commissioner at the discretion of the judges of the district court in a county having a population greater than 50,000 and less than 200,000 inhabitants. The bill would authorize additional compensation in excess of the \$1,200 minimum required to be paid to a clerk of the district court acting as jury commissioner, at the discretion of the judges of the district court.

Committee Amendment AM 232 was adopted on general file to replace the original bill. The amendment would change the population levels, from fifty to seventy-five thousand inhabitants, in statute section 25-1625 to allow the Clerk of the District Court of Hall County to continue to serve as the jury commissioner ex officio instead of having the functions of the jury commissioner handled as another office in county government or by the election commissioner.

The bill passed on a 46-0-3 vote and was signed into law by the Governor on May 7, 2013.

LB 172 (Coash) Change court filings for guardianships and conservatorships

Legislative Bill 172 would amend statute sections 30-2628 and 30-2647 to clarify the notification requirements placed on guardians and conservators. Within 30 days of appointment, conservators or guardians, in cases where no conservator has been appointed, must file an affidavit with the court showing that they sent to all interested persons an inventory and a "notice of interested party" form, which is a form that allows someone to indicate that they wish to continue receiving inventories and notices about the ward.

Committee Amendment AM 182 was adopted on general file to add a new section and amend language in the bill. The new section would amend statute section 30-2601 to include in the definition of "interested person," the personal representative of a deceased ward's estate, the deceased ward's heirs and the deceased ward's devisees. The amendment also changed the requirement that conservators or guardians file an affidavit of mailing to instead require the filing of a certificate of mailing which would save them the added expense and effort of getting the statement notarized.

The bill passed on a 45-0-4 vote and was signed into law by the Governor on May 7, 2013.

LB 255 (McGill) Change provisions relating to hearsay, child abuse, and offenses relating to morals.

LB255, would enhance penalties for pandering, soliciting, harboring people for prostitution as well as create offenses for sex trafficking, which under the bill is defined as knowingly recruiting, enticing, harboring, transporting, providing or obtaining a person for the purpose of having such person engage in commercial sexual activity, sexually explicit performance or the production of pornography.

The Judiciary Committee, amended LB 255 through AM856 which was adopted 25-0, replaced the

original provisions of the bill and makes the following changes:

- Makes a person under 18 years old immune from charges of prostitution.
- Provides that a law enforcement officer who takes a person under 18 years of age into custody would be required to report an allegation of prostitution immediately to the state Department of Health and Human Services, which would commence an investigation within 24 hours under the Child Protection Act.
- Increases the penalty for soliciting a minor for prostitution, currently a Class I misdemeanor carrying a maximum one year in jail and \$1,000 fine, to a Class IV felony, which carries a maximum five years in jail, a \$10,000 fine or both the fine and incarceration.
- Provides that “keeping a place of prostitution”, currently a Class I misdemeanor, would be a Class IV felony when those kept as prostitutes are under the age of 18.
- In cases involving a trafficking victim between the ages of 15 and 18 years old, the offender would be guilty of a Class III felony.

LB 255 was amended on final reading by AM1551(McGill) to provide that juveniles who are exempted from prosecution for prostitution under this act will fall under the jurisdiction of the Juvenile Court per a change to section 43-247(3)(a).

Finally, LB255 would require a trafficking task force formed under LB 1145 in 2012' to use information and research that is available from the Innocence Lost National Initiative to recommend a model of rehabilitative services for victims of human trafficking.

LB 277 (Harr) Change provisions relating to presentation of a false medicaid claim

Legislative Bill 277 would amend statute sections 68-935 and 68-936 in the False Medicaid Claims Act to correspond to the federal False Claims Act by expanding liability to include entities such as subcontractors who file false claims with intermediaries, who thereafter file those claims with the state. The bill would remove language in statute section 68-945 prohibiting the Attorney General, in carrying out duties under the False Medicaid Claims Act, from reviewing the accounts or records of a non-medicaid patient without the patient's written consent or a court order.

Committee Amendment AM 240 was adopted on general file to clarify language and remove changes made to statute section 68-945 in section 3 of the bill so that the Attorney General would still be prohibited from reviewing the accounts or records of a non-medicaid patient without the patient's written consent or a court order.

The bill passed on a 46-0-3 vote and was signed into law by the Governor on May 7, 2013.

LB 298 (McCoy) Change provisions relating to controlled substances schedules.

LB298, makes the drugs adamantoylindoles, tetramethylcyclopropanoylindoles, adamantylindole

carboxamides, phenethylamine, tryptamine and their compounds Schedule I controlled substances under the Controlled Substances Act.

The bill passed with an emergency clause by a 44-2 vote.

LB 329 (Howard) Change provisions relating to criminal offenses against animals.

LB 329 amends sections 28-1005 (**Dogfighting, cockfighting, bearbaiting, or pitting an animal against another; prohibited acts; penalty.**), 28-1005.01(**Ownership or possession of animal fighting paraphernalia; penalty.**), 28-1009(**Abandonment; cruel neglect; harassment of a police animal; penalty.**), and 28-1010(**Indecency with an animal; penalty.**), of the Nebraska Revised Statutes to provide that in addition to the penalty provided for under these sections, a convicted person may also be subject to the penalties provided under section 28-1019, which provides that a person convicted under sections 28-1005, 28-1005.01, 28-1009, and 28-1010 may be subject to a court ordering such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

The bill passed on a 45-0 vote and was approved by the Governor on May 7, 2013.

LB 345 (Wightman) Change transfer of death deed requirements and filings

Legislative Bill 345 would amend statute sections 76-2,126 and 76-3409. The bill would require that a death certificate filed with the register of deeds be accompanied by a cover sheet indicating the title of the document, the previously recorded document data, and the grantor, surviving grantee and legal description of the property being transferred. The bill would remove the requirement that the two witnesses attesting in writing to the validity of a transfer on death deed be disinterested. The changes in this bill would be retroactively applied as the operative date is January 1, 2013. There is an emergency clause in the bill.

Committee Amendment AM 350 was adopted on general file to change the operative date with respect to the cover sheet requirement in section 1 of the bill to three months after the adjournment of this legislative session. The amendment also provides that the cover sheet attached to a death certificate be recorded by the register of deeds.

On select file, AM 1104 was adopted to replace the amended version that was advanced from general file. The amendment includes section 1 of the original bill as amended by AM 350 regarding the cover sheet to be attached to the death certificate and filed by the register of deeds. The amendment adds a definition of disinterested witness to statute section 76-3402 instead of striking the requirement for disinterested witnesses to attest to the signing of a transfer on death deed. The amendment also provides for a 90 day statute of limitations for commencing an action to set aside a transfer on death deed for failure to comply with the disinterested witness requirement. The amendment includes an emergency clause. The definition of disinterested witness in section 2 becomes operative retroactively on January 1, 2013. The cover sheet provision becomes operative 3 calendar months after adjournment.

The bill was passed by the Legislature on a vote of 46-0-3 and signed by the Governor on May 7, 2013.

LB 538 (Chambers) Change provisions relating to revocation and suspension of law enforcement training certificates or diploma.

LB538, addresses the suspension and revocation of a law enforcement diploma or certificate. This bill defines incapacity relating to a law enforcement officer as “incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental or emotional factors” for purposes of suspending or revoking a law enforcement certificate or diploma.

LB538 also clarifies that a law enforcement officer will not be deemed incapacitated if he or she remains employed as a law enforcement officer in a restricted or limited duty status.

Law enforcement agencies will be required to report to the Nebraska Police Standards Advisory Council an officer who is separated from the agency due to a physical, mental or emotional incapacity. The officer’s law enforcement certificate will be suspended until such incapacity no longer prevents him or her from performing essential duties.

The bill passed on a 45-0 vote and was approved by the Governor on May 7, 2013.

LB 561 (Ashford) State findings and intent for changes to the juvenile justice system and a funding mechanism

Legislative Bill 561 would expand the Nebraska Juvenile Service Delivery Project statewide and create the Office of Juvenile Assistance under the Supreme Court. The OJA would coordinate diversion programming, violence prevention programming, the distribution of juvenile grants and the collaboration between juvenile justice entities and the Juvenile Justice Institute, the University of Nebraska Medical Center and national experts. The Office of Juvenile Services and the Youth Rehabilitation and Treatment Centers in Kearney and Geneva would be eliminated or substantially transformed pursuant to a transition plan developed and implemented prior To January 1, 2015. Juveniles in the system would be supervised by Probation and treated in their homes and communities whenever possible utilizing evidence-based practices. The County Juvenile Services Aid Program would be enhanced with an additional \$10 million to help counties develop community-based service options. The bill would also provide for the use of social impact bonds to finance projects authorized by the Office of Juvenile Assistance.

Committee Amendment AM 734 was adopted on general file to replace the green copy of the bill to enact the following provisions:

- Expansion of the Nebraska Juvenile Services Delivery Project – The Project would be expanded statewide in a three-step process starting July 1, 2013 and ending July 1, 2014. The Project would be expanded to include community supervision, evaluations and the reentry function for kids leaving the YRTCs. The Office of Juvenile Services budget used for community supervision, evaluations and parole would be transferred to the Office of Probation Administration to fund the expansion. (pp. 69-70)
 - Intensive Supervised Probation is created for cases in which all levels of probation supervision and options for community-based services have been exhausted and the commitment of the juvenile to OJS for placement at a YRTC is necessary for the protection

of the juvenile and the public. (pp. 14-15)

- Strikes OJS authority for community supervision, parole and evaluations after July 1, 2014. (pp. 14-15 & 23-47)
- Limitation on sending juveniles to secure detention or YRTC – a juvenile cannot be sent unless it is a matter of immediate and urgent necessity for the protection of the juvenile or the person or property of another or the juvenile is likely to flee the jurisdiction of the court. (pp. 9, 12, 14)
- Changes to the juvenile evaluation requirements – evaluations must be completed and the juvenile returned to the court within 21 days. As the Project expands, the OJS evaluations will no longer be required and more single-focus evaluations will be utilized when appropriate. Such single focus evaluations will be less time consuming and less expensive. (pp. 12-13)
- Add \$10 million to the County Juvenile Services Aid Program yearly and rename it the Community-based Juvenile Services Aid Program to promote the development of community based care across the state. The grants would remain in the Crime Commission and a Director position would be created to oversee meaningful, effective management and disbursement of aid dollars to expand and encourage the use of diversion and community-based services to treat youth on the front end of the system. (pp. 47-56 & p. 69)
- Create the position of the Director of Juvenile Diversion Programs in the Crime Commission to assist in the creation and maintenance of juvenile pre-trial diversion programs to keep more kids out of the judicial system and in community-based services. (pp. 64-66)
- Require additional recommendations from the Children's Commission OJS Sub-Committee regarding the role of the YRTCs in juvenile justice system and the need for mental and behavioral health services for juvenile in Nebraska. Provide for appropriation for reimbursement of expenses and a consultant. (pp. 62-62 & p. 69)
- Create a Community and Family Reentry Process for juveniles leaving a YRTC to more effectively reenter their communities with the involvement of their families. The program will be implemented by the Office of Probation Administration in cooperation with the Office of Juvenile Services. (pp. 66-69)
- LB 463 (Ashford) - Add a juvenile judge to Douglas County Separate Juvenile Court. (pp 22-23)
- LB 471 (Coash) - Would provide that a juvenile committed by the court to the Office of Juvenile Services does not need to be evaluated prior to commitment if the court finds that a substantially equivalent evaluation has been done in the previous 12 months or if an addendum to a previous evaluation would be appropriate. (p. 39)
- LB 86 (McGill) - Would provide that staff secure juvenile detention facilities be placed under the general oversight of the Jail Standards Board. (pp. 77-84)
- Provision of LB 562 (Ashford)– Would provide Probation officers with more access to information to make decisions regarding cross-over youth. (pp. 2-3)
- Social Impact Bond language – Would amend the New Markets Job Growth Investment Act and other sections of statute to authorize social-impact projects related to the juvenile justice system. (pp. 73-76)

On select file, AM 1394 was adopted to replace the amendments adopted on general file, making extensive technical changes to reflect the transition plan to implement the statewide expansion of the Nebraska Juvenile Service Delivery Project. Aside from the changes noted below, the provisions of AM 734 were included in AM 1394. The amendment also eliminated DHHS as a dispositional option for status offenders after October 1, 2013. The amendment removed the additional juvenile judge that was originally in LB 463. The amendment removed the Social Impact Project language. The

amendment removed the intent language requiring \$10 million to be appropriated to the Community-based Juvenile Services Aid Program. The amendment included an amended version of LB 342 to clarify that a custodian, guardian or step-parent of a child does not have a default right to court-appointed counsel unless an allegation is made against such person in a petition alleging abuse and neglect or a petition for termination of parental rights. The amendment included intent language to appropriate \$250,000 to Probation to facilitate the establishment of an electronic information sharing process between DHHS, Probation and the Crime Commission.

AM 1401 was adopted on select file to give the Inspector General investigative authority over private agencies that contract with Probation for the delivery of juvenile services when there is a death or serious injury of a juvenile or a complaint against such agency. The Inspector General would also have authority to investigate deaths or serious injuries occurring at juvenile detention facilities or staff secure juvenile detention facilities. The amendment would also give the Ombudsman authority to investigate juveniles committed to and discharged from a YRTC to the Community Reentry Program. AM 1438 was adopted to make a technical change to the provisions adopted in AM 1401.

AM 1351 was adopted on select file to include an amended version of LB 503 to provide for alternative response to a report of child abuse or neglect. The amended provisions require DHHS to convene a group of stakeholders to develop a model of an alternative response to report of child abuse and neglect. The model must be reported to the Children's Commission by November 1, 2013 and to the Legislature by December 15, 2013. The bill also states the intent of the Legislature that the model be implemented in designated sites no earlier than July of 2014.

LB 561 was adopted by the Legislature on May 29, 2013 by a vote of 44-1-4 and signed by the Governor on May 29, 2013.

LB 561 A was also adopted by the Legislature to direct the appropriation of additional general fund dollars and the transfer of dollars from DHHS to Probation to implement the provisions of LB 561. The Community-based Juvenile Services Aid for counties will increase by \$1.5 million in the first year and by an additional \$2 million in the second year. There will be \$15,000,000 transferred from the HHS/OJS budget to Probation in the first year and \$39,000,000 in the second year. Probation will get an additional \$4,000,000 in the first year and \$4,800,000 in the second year in general funds to cover transition and infrastructure costs.

BILLS ADVANCED TO SELECT FILE DURING THE 2013 SESSION

LB 464 (Ashford) Change court jurisdiction over juveniles and indictment procedures

Legislative Bill 464 would require that a petition against any alleged law violator, excluding traffic violations, under the age of 18 be filed in juvenile court. Cases could be transferred to adult court upon a motion by the prosecutor and a hearing before the juvenile court if the alleged law violation is a felony or if the alleged law violation is a misdemeanor and the juvenile was 16 or 17 years old at the time the act was committed. The motion to transfer must be filed with the petition unless otherwise permitted for good cause shown. A hearing on the transfer motion must be scheduled within 15 days. The juvenile court shall retain the case unless a sound basis exists for transferring it to adult court.

The bill has an operative date of January 1, 2014.

Committee Amendment AM 615 was adopted on general file to strike from the bill section 9, which would have extended jurisdiction over those committed to the Office of Juvenile Services to the age of 21 and was included in the original bill by error.

The Legislature advanced the bill to select file.

BILLS ADVANCED TO GENERAL FILE DURING THE 2013 SESSION

LB 46 (Ashford) Provide for consolidation and coordination of crime laboratories.

LB 46 would require the consolidation and coordination of public crime laboratory services in counties with cities of the metropolitan class in the following manner:

LB 46, requires counties with cities of the metropolitan class to consolidate public crime lab services by a vote of the registered voters of the county. This section would require the applicable county and city of the metropolitan class to appoint planning board within 30 days after the effective date of this act.

The planning board is required to study the issues relating to the consolidation and coordination of the public crime laboratory services of the county and city and they shall develop a plan for consolidation and coordination of those laboratory services. The plan developed by the planning board must contain the creation of an independent governing
whose members shall have the same expertise as required of the members of the planning board listed above.

The county board shall require the plan for consolidation and coordination of public crime laboratory services developed by the planning board to be placed on the next statewide primary or general election ballot of the registered voters of the county. If a majority of the registered voters in the county vote for the plan, the plan shall be implemented six months after the election.

LB 46 was amended in Committee by AM398, which removed the requirement that the plan created by the planning board be placed on the ballot for local voters to adopt and instead allows the plan to be adopted by the city and county jointly, with a copy of the plan to be submitted to the Judiciary Committee of the Nebraska Legislature for potential follow up by the committee. LB 46 was advanced to General File by a 5-0 vote.

LB 51 (Ashford) Change provisions relating to publication of court opinions

Legislative Bill 51 would provide authority for the opinions of the Supreme Court and the Court of Appeals to be published in electronic format, as designated by the Supreme Court, either in alternative to or in addition to print format.

LB 52 (Christensen) Change employment provisions for persons committed to the Department of Correctional Services.

LB 52, amends section 83-183 of the Nebraska Statutes to provide the authority to the Director of Corrections to enter into contracts for the provision of labor services by those individuals incarcerated at the McCook Work Camp with any charitable, fraternal, or nonprofit corporation as long as the labor provided serves a public benefit.

LB 52 was amended in committee by AM157, which clarifies that the Director of the Department of Corrections may contract for the provision of labor services with a charitable, fraternal or non-profit corporation and that any person committed to the Department of Corrections and not just those persons at the work ethic camp may provide labor services, provided that the committed person is volunteering to provide such labor.

LB 52 was advanced to General File by an 7-0 vote.

LB 106 (Lathrop) Adopt the Uniform Unsworn Foreign Declarations Act and change provisions relating to perjury.

LB 106 amends sections 28-915(Perjury; subornation of perjury.) and 29-915.01(False statement under oath or affirmation;) of the Nebraska Revised Statutes to implement the Uniform Unsworn Foreign Declarations Act (UUFDA) as proposed by the Uniform Law Commission. The Uniform Unsworn Foreign Declarations Act would approve the use in Nebraska legal proceedings unsworn declarations made by a declarant who is physically outside the boundaries of the United States when the declaration is made.

If the unsworn declaration is made subject to the penalties of perjury under section 1, of this act and is in the form outlined in section 8, which requires a declaration that the information being provided is "true and correct" with an acknowledgment that the penalty of perjury attaches and is signed, dated, and contains a country and city of location, then the statements contained within are valid in legal proceedings in Nebraska.

The Uniform Unsworn Foreign Declarations Act would not apply to the following legal proceedings:

- depositions;
- an oath of office;
- an oath required to be given before a specified official other than a notary public;
- a declaration to be recorded pursuant to a filling of a lien on real estate; or
- an oath required by section 30-2329 (Self-proved will.)

The Judiciary Committee amended LB 106 through AM95, which makes the following changes to LB 106:

- On page 6, subsection (4), strike line 18 and inserts the new sentence "a conveyance of or a lien on any interest in real estate; and
- creates new subsection (5) to provide that the act does not apply to , "a power of attorney; or"
- Changes ~~subsection (5)~~ to subsection (6).

LB 106 was advanced to General File by an 8-0 vote.

LB 128 (Coash) Create the offense of disarming a peace officer.

LB 128 would amend the Nebraska Criminal Code to create the new offense of "disarming" or the "attempt of disarming" a peace officer. Such offenses would occur if a person "intentionally" or "knowingly" removes or attempts to remove a firearm from a peace officer engaged in the performance

of their duties. A conviction under this act would be a *Class III felony*

LB 128 was amended by the Judiciary Committee through AM238, which struck the bill as introduced and replaced it with a change that added a new section to 28-906 (Obstructing a peace officer) which makes it a violation under this section to "intentionally" and "knowingly" remove a firearm or weapon from a peace officer in uniform or a peace officer displaying a badge of authority who is engaged in the performance of their official duties. A violation of this new section would be a Class I misdemeanor.

LB 151 (Seiler) Provide a hearsay exception for certain documents and data kept in the regular course of business.

LB 151 would amend section 27-803 (Rule 803. Hearsay exceptions.) of the Nebraska Revised Statutes to create a new subsection (6) of this section to provide: a memorandum, report, record, etc., made by one business entity and used in the regular course of business and relied upon and kept in the regular course of business by another entity and that the circumstances for its use would suggest that the information is trustworthy as shown through the testimony of the custodian or other qualified witness, is excluded from the rule against hearsay and is admissible as evidence.

LB 151 would allow the use of a business record as evidence without the need to call the creator of the document to testify as to its content, but that a person who in the completion of their employment duties utilizes the document and has come to rely on it and know it to be a trustworthy source, may testify as to the truthfulness and trustworthiness of the document, and would not be considered hearsay.

AM335 amends LB 151 to provide the following:

- On page 3, line 18 after "acquired" inserts "in the regular course of business" to clarify that the memorandum, report, record, etc., received or acquired under this section must have been done as a regular business practice.
- Provides that subdivision 5(b) of the act shall not apply in any criminal proceeding.

LB 161 (McGill) Change a penalty for violation of building ordinances or regulations of a city of the metropolitan class.

LB 161 would amend section 14-415 (Building regulations; enforcement; inspection; violations; penalty), of the Nebraska Revised Statutes to provide that the penalty for a violation of a city's building ordinance will increase the fine from "not less than \$10 and not more than \$100" to a fine of "not more than \$500 for each and every day the violations occur."

LB 161 was amended in Committee by AM399, which provided that first and second violations of this act are Class IV (\$100-\$500 fine) misdemeanors and that third and subsequent violations are Class II misdemeanors (6 months/\$1,000/Both), if the third or subsequent violations occur within two years of the prior violation.

LB 267 (Chambers) Prohibit persons on parole, probation, or work release from acting as undercover agents or employees of law enforcement and prohibit admissibility of certain evidence.

LB 267 provides that a person on probation, parole, work release or who is an inmate of any jail, correctional or penal facility is prohibited from acting as an undercover agent or employee of any law

enforcement agency or political subdivision of the state.

LB 267 also provides that any evidence derived in violation of this section is not admissible against any person in any proceeding.

LB 313 (Christensen) Change provisions relating to incarceration work camps.

LB 313 would provide that only the Director of Correctional Services may place an offender at the Work Ethic Camp (W.E.C) in McCook. Currently, the courts, the Nebraska Board of Parole, and the Director of Correctional Services may make placement at the WEC. Inmates convicted of a capital offense or of a crime under sections 28-319 to 28-321 would remain ineligible for such placement.

LB 385 (Nordquist) Prohibit certain bases for discrimination relating to child placement

Legislative Bill 385 would prohibit the Department of Health and Human Services from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, disability, marital status or national origin when making decisions on the placement of juveniles and children and the licensing foster families. Placement and licensing decisions must be made based upon the health, safety and well-being of the child, with consideration of the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, the federal Howard M. Metzenbaum MultiEthnic Placement Act of 1994 and the Nebraska Indian Child Welfare Act.

Committee Amendment AM 1539 would replace the original bill. A new section would be created to prohibit the Department of Health and Human Services or a child-placing agency from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, disability, marital status or national origin when determining the suitability of kinship home or relative home foster care placement for a juvenile. Section 79-1902 would also be amended to prohibit discrimination by the department when issuing a license, waiver, variance or approval of a kinship home or relative home.

LB 385 was advanced by the Committee to general file with AM 1539 attached.

LB 390 (Christensen) Change provisions relating to Governor's powers regarding restrictions on firearms and ammunition under the Emergency Management Act.

LB 390 amends sections 81-829.36(**Emergency Management Act.**) and 81-829.40(**Governor; powers and duties.**) of the Nebraska Revised Statutes in the following manner:

Section 1. 81-829.36 is amended to reference section 3 of this act to the Emergency Management Act.

Section 2. 81-829.40 is amended by striking "firearms" from subsection (h), which has the effect of removing the power of limiting or suspending the sale of firearms from the Governor during a state of emergency.

Section 3. Creates a new section that prohibits the state or anyone acting on behalf of the state including a political subdivision from doing any of the following during a declared state of emergency:

- Prohibit or restrict the lawful possession, use, transfer, transportation, etc., of a firearm or ammunition.

- Prohibits the seizure or confiscation of a lawfully possessed firearm or ammunition unless the firearm:
 - Unless firearm seized to defend oneself or another;
 - Firearm seized during the arrest of a person;
 - Seized firearm or ammunition as evidence to a crime.
- Prohibits requiring the registration of firearms during an emergency, unless registration was required before the emergency declaration.

These prohibitions do not apply to the commercial sale of firearms if an evacuation or closure order was given to that particular area.

This act provides that a person harmed by a violation of this act may seek relief in court against a person who causes or subjects anyone to a violation of this act, with relief to include "reasonable" attorney's fees.

LB 390 was amended in Committee by AM390 which would strike all original sections to and replace them with the following change:

- Amends 81-829.40 subsection (6) (h) by striking the word "firearms" from the list of items that the governor may suspend or limit the sale, or transportation of, during a state of emergency.

LB 390 was advanced out of Committee by a 6-0 vote.

LB 392 (Lathrop) Eliminate certain firearms provisions no longer authorized by federal law.

LB 392 would outright repeal section 28-1211 of the Nebraska Revised Statutes.

LB 403 (Seiler) Prohibit retail sale of novelty lighters.

LB 403 would amend 28-101 of the Nebraska Revised Statutes, also known as the criminal code, to provide that it is a criminal violation for a retailer in this state to sell or offer for sale a novelty lighter.

LB 403 defines a novelty lighter as a mechanical or electrical device used for lighting cigarettes, cigars, or pipes and is:

- Designed to resemble a cartoon character, toy, gun, watch, musical instrument etc;
- Plays musical notes;
- Has flashing lights; or
- Has more than one button or function.

A novelty lighter would not include:

- Lighters manufactured prior to January 1, 1980;
- Lighters incapable of being fueled or lacking a device needed to produce combustion or flame; and
- A standard disposable lighter that has a logo, label, decal.

LB 403 would also exempt novelty lighters being transported through the state and the storage of

novelty lighters in a warehouse or distribution center in the state as long as it is closed to the public for retail sales.

A violation of this act would be a Class IV misdemeanor (Max. \$500/ Min \$100).

LB 403 was amended in Committee by AM 130 to LB 403 in the following manner:

- On page 2, line 17, after "disposable" insert "or refillable"

LB 403 was advanced from Committee by a 6-1 vote.

LB 415 (Seiler) Change provisions relating to financial institutions and attachment and garnishment

Legislative Bill 415 would amend statute sections 25-1010 and 25-1056 to allow financial institutions that operate more than one office or branch in the state to designate one location to receive service of garnishment summons. The designation would be made by filing notice with the Department of Banking and Finance and would be effective upon placement on a list on the department web site for public access. The designation could be modified or revoked by filing a notice of modification or revocation with the department. The department shall update its web site within 10 days of any filing and include the date of the most recent update on the website. Service made on a designated office or branch would be valid and effective as to any property or credits of the defendant in possession or control of any of the offices or branches of the financial institution. If service is made on an office or branch that is not designated to receive service of process, the financial institution may, in its discretion, elect to treat the service of summons as valid and effective or may file a statement with the interrogatories that the summons was not served at the designated location and therefore not processed and provide the address of the designated location.

Committee Amendment AM 513 would add a definition of financial institution to the bill to limit application to those included in the definition.

LB 415 was advanced by the Committee to general file with AM 513 attached.

LB 441 (Seiler) Change provisions relating to control of dead human remains

Legislative Bill 441 would amend current statute sections to provide authority for a person 18 years or older to direct the location, manner and conditions of disposition of his or her remains through a will, a pre-need sale or a standard notarized affidavit like the one described in this bill. The bill also provides for how to dispose of remains in the absence of any direction from the deceased.

Committee Amendment AM 975 would strike new language allowing for the cancellation or revision of pre-need sale contracts for burial by a person appointed by the decedent or if the resources set aside to carry out the contract are insufficient. The amendment would also strike civil and criminal immunity provisions.

The bill was advanced by the Committee to general file with AM 975 attached.

LB 541 (Chambers) Prohibit arbitration of claims involving disciplinary actions against peace officers.

LB 541 would amend section 25-2602.01 (Validity of arbitration agreement.) of the Nebraska Revised Statutes to provide that contracts between employers and employees that contain provisions for when disputes be sent to an arbitrator shall not pertain to a claim involving disciplinary action against a peace officer.

LB 541 was amended in Committee by AM491, which provides that a claim involving disciplinary action against a law enforcement officer submitted to arbitration under the Uniform Arbitration Act, shall have all proceedings open to the public and all documents and reports connected with the proceedings shall be public record. AM491 also provides that any decision rendered may be appealed to the district court in the same manner as an appeal from a county court. LB 541 was advanced from Committee by a 8-0 vote.

LB 543 (Chambers) Change a penalty from death to life imprisonment or life imprisonment without possibility of parole.

Legislative Bill 543 proposes to change the maximum penalty for first degree murder in Nebraska from death to life imprisonment without possibility of parole.

A section by section description of LB 543:

Section 1. -Legislative Intent

Section 2.- Amends 23-3406 relating to counties contracting with public defenders to strike the phrase "including capital cases"

Section 3.- Amends 24-1106 relating to appeals to replace a reference to capital cases with a reference to cases in which life imprisonment without parole has been imposed.

Section 4. - Amends 25-1140.09 to remove a reference to a capital sentencing notice provision which required preparation of transcripts in all capital cases and is no longer applicable.

Section 5. - Amends 28-104 to strike a reference to a criminal violation for which death may be imposed

Section 6. - Amends 28-105, the change the penalty for a Class I felony from death to life imprisonment without possibility of parole.

Section 7. - Amends 28-303, the first degree murder statute, to remove from this section the ability to convict for a first degree murder offense, a person who "by willful and corrupt perjury or subornation of the same he or she purposely procures the conviction and execution of any innocent person." As the penalty is being repealed under this act, a person would not be able to procure a conviction and execution going forward.

Section 8.-Amends 29-1602, Strikes the word "therein" and replaces it with "in the information".

Section 9. - Amends 29-1603, which sets forth the required contents of criminal information, to remove reference to the death penalty and replace it with life imprisonment without possibility of parole.

Section 10.- Amends 29-1822, relating to mentally incompetent criminal defendants, to remove language staying the imposition of the death penalty during a period of mental incompetence.

Section 11. - Amends 29-2004, relating to jury selection, to replace language referring to the death penalty with life imprisonment without possibility of parole.

Section 12. - Amends 29-2005, which provides the number of preemptory juror challenges a defendant

is entitled to in capital cases, to replace references to the death penalty with life imprisonment without possibility of parole.

Section 13. - Amends 29-2006, which lists the basis for good cause challenges of prospective jurors, to strike as the basis for a challenge in death eligible cases that a juror would be unable to render a guilty verdict if the accused faced the possibility of receiving the death penalty.

Section 14. - Amends 29-2020, relating to requesting a bill of exceptions, to strike language referring to a procedure only used in death penalty cases.

Section 15. - Amends 29-2027 to change a statutory reference to remove an unnecessary reference to a title section (29-2524).

Section 16. - Amends 29-2204, the indeterminate sentencing statute, to remove outdated language and references to the death penalty

Section 17. - Amends 29-2282, the restitution statute, to include the pain and suffering of the victim as an item for which restitution may be ordered in cases where the victim dies as a result of the offense.

Section 18. - Amends 29-2407, which provides that criminal fines and costs are to be a lien against a defendant, to remove references to the death penalty.

Section 19. - Creates a new section to provide that only subject to the constitutional powers provided to the Board of Pardons, a person sentenced for the conviction of a Class I felony shall serve a term of life imprisonment without parole. This section also provides that a person sentenced to life imprisonment for a Class IA felony would only be considered for parole as provided under sections 83-192 and 83-1,106 to 83-1,125.

Section 20. - New language clarifying that the changes made by this bill shall not restrict or limit the ability of a court to order restitution in cases other than first degree murder convictions or restrict the ability of the Department of Corrections to determine appropriate security considerations for confined offenders.

Section 21. - New Language requiring death sentences issued prior to effective date of this act which have not been carried out to be changed to life imprisonment without possibility of parole and with order of restitution.

Section 22. - Amends 29-2519 to strike statutory references of death sentences and sentences of death in this section and replaces them with life imprisonment without parole. This section also strikes the legislative intent pertaining to the Ring v. Arizona (2000) U.S. Supreme Court decision.

Section 23. - Amends 29-2521, the statute setting forth the procedure for determining aggravating and mitigating circumstances in first degree murder sentencing proceedings, to replace death with "life imprisonment without possibility of parole"

Section 24. - Amends 29-2522, which outlines procedures for first degree murder sentence determination proceedings, to replace death with "life imprisonment without possibility of parole", to strike "without parole" from the references to the minimum penalty for first degree murder and to strike language regarding the setting of an execution date.

Section 25. - Amends 29-2523, setting forth the statutory aggravating factors for first degree murder, to correct a statutory reference, make technical corrections and change the aggravating factor "the defendant knowingly created a great risk of death to at least several persons" to "knowingly created a great risk of death to more than one person".

Section 26. - Amends 29-2801, establishing the procedures for state habeas corpus petitions, to remove references to capital sentences and make other technical corrections.

Section 27. - Amends 29-3205 to correct a statutory reference and remove a reference to a death sentence.

Sections 28 to 32. - Amends sections 29-3920, 3922, and 3928-3930, relating to the Public Advocacy Commission, to strike references to capital cases and insert first degree murder.

Section 33. - Amends section 55-480 to clarify a statutory reference to the Nebraska Code of Military Justice.

Section 34. - Amends 83-1,110.02, the medical parole statutes to replace death penalty with life imprisonment without possibility of parole.

Section 35. - Amends 83-4,143, the Work Ethic Camp eligibility statute, to remove a reference to a capital crime.

Section 36. - Repealer

Section 37. - Outright Repealer

BILLS HELD DURING THE 2013 SESSION

LB 12 (Krist) Change product liability action statute of limitations

Legislative Bill 12 would change the statute of limitations for a product liability action from four years to eight years or the period of time commensurate with the product's written warranty, whichever is longer. An additional exception would be added to toll the statute of limitations until the date on which the owner of a recalled product was required to be notified but was not notified if the incident giving rise to the action occurs after a product is recalled.

LB 22 (Hadley) Change Parenting Act provisions relating to parenting plans

LB 22 would add intent language to the Parenting Act declaring the Legislature's recognition of the importance of maximizing parenting time with both parents and the potential harm caused by minimal parenting time with either parent. The bill would also add language to recognize the constitutionally protected rights to companionship and family integrity between parents and their child. The bill would declare that it is the public policy of the state that it is in the best interest of the child to have both parents participate in decision making about the child.

The bill would require each parent to submit a proposed parenting plan to the court if one parenting plan has not been agreed to prior to going to court. The court would then create a parenting plan. The bill would create a presumption that the parenting plan adopted by the court provide for both parents to share in the legal decision making and maximize the parenting time with both parents. The plan adopted by the court must not prefer one parent's proposed plan because of the sex of the parent or the sex of the child.

LB 37 (Wightman) Change provisions relating to powers of personal representative with respect to decedent's internet sites

Legislative Bill 37 would amend section 30-2476 to allow a personal representative of a decedent to take control of, conduct, continue or terminate any account of a deceased person on any social networking web site, microblogging or short message service web site or email service web site.

LB 45 (Ashford) Change judge eligibility requirements for the Court of Appeals

Legislative Bill 45 would require judges on the Court of Appeals to reside in the Supreme Court judicial district from which they were appointed for the duration of their service on the Court of Appeals.

LB 50 (Ashford) Prohibit unreasonable placement of a firearm where a minor may unlawfully possess it.

LB 50 would provide that when a person nineteen years of age or older, who is in possession of a firearm and unreasonably leaves the firearm in a manner that a person under the age of nineteen or a mentally incompetent person may take possession of it, shall be liable for civil damages resulting from

the person under age 19 or the incompetent person gaining possession of the firearm.

LB 61 (Murante) Change provisions relating to the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006

Legislative Bill 61 would amend statute sections 87-803 and 87-804 to provide that notice be given to the Attorney General of a security breach to a computerized system holding personal information about a Nebraska resident. The Attorney General must be notified if the investigation conducted pursuant to section 87-803 determines that the information has been or is reasonably likely to be used for an unauthorized purpose. The notice must be written and must include the nature of the breach and the names and addresses of the Nebraska residents affected. Failure to comply with the notice requirement would constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act.

LB 86 (McGill) Authorize inspection and regulation of staff secure juvenile facilities

Legislative Bill 86 would provide that staff secure juvenile detention facilities be placed under the general oversight of the Jail Standards Board. The bill would define staff secure facility for purposes of the statutes that control the Jail Standards Board. The bill would add staff secure facilities to the section of law allowing for the return of unused prescription drugs from facilities regulated by the Jail Standards Board. The bill would add a tenth member to the Jail Standards Board and require that member to be an administrator of a staff secure facility. The Jail Standards Board would have to develop minimum standards for and inspect staff secure facilities. The bill would also give a staff secure facility access to the sealed juvenile records of an individual placed there.

An amended version of LB 86 was included in AM 734 to LB 561 on general file. Section 2 of LB 86, which provided for the return of unused prescription drugs, was removed before it was amended into LB 561.

LB 89 (Haar) Provide immunity from liability for providing shelter during a weather event.

LB 89 would provide civil immunity from lawsuits for persons reasonably providing shelter to others during a severe weather event.

LB 109 (McGill) Provide requirements for precious metals dealers.

LB 109 seeks to add precious metals dealers, or jewelry stores, to the pawnbrokers statutes found at Neb. Revised Statutes 69-201 to 69-210, so that these dealers and stores will be regulated in the same manner as pawnbrokers and other dealers in secondhand goods

LB 115 (Lautenbaugh) Change provisions relating to homicide.

LB 115 seeks to divide the current manslaughter statute into two separate offenses, voluntary and involuntary manslaughter and incorporates the Nebraska Supreme Court's definitions of "sudden quarrel" and "legally sufficient provocation." The punishment for voluntary manslaughter is set as a class II felony based upon the fact that it is an intentional killing. Such classification is a mitigation of the next higher intentional killing, second degree murder, which is a class IB felony. Involuntary manslaughter continues to be a class III felony.

LB 120 (Lautenbaugh) Change provisions of the Uniform Residential Landlord and Tenant Act.

LB 120 seeks to do the following: (1) clarify that all residents of a rental home must be named in a written or oral lease, (2) to increase security and pet deposits in certain situations, and (3) to add the crime of criminal mischief to the Act for willfully damaging a landlord's property.

LB 124 (Lautenbaugh) Change provisions relating to grandparent visitation

Legislative Bill 124 would authorize a grandparent to seek visitation with his or her minor grandchild if the grandparent has made reasonable efforts to visit with the child and the child's parents have refused such visitation. The bill would also authorize the court to consider evidence of a potential relationship between a grandparent and a child when determining whether to grant visitation rights to the grandparent.

LB 134 (Avery) Provide for inheritance by issue conceived after death

Legislative Bill 134 would amend statute section 30-2308 to provide that children born within three years after the death of their biological father who are posthumously conceived via artificial insemination shall inherit if the decedent left written consent for such inheritance.

LB 136 (Avery) Provide for the distribution of administrative fines and costs and forfeited property

Legislative Bill 136 would amend various statute sections referring to the distribution of fines, penalties and license fees collected by state agencies to clarify that fines, penalties and license money be remitted in accordance with Article VII, Section 5 of the Nebraska Constitution. The bill would also clarify that all funds from forfeited property and all other proceeds from lands be remitted in accordance with Article VII, Section 7 of the Nebraska Constitution.

LB 142 (Lathrop) Provide that probation records are not subject to disclosure as prescribed.

LB 142 would amend sections 29-2263 and 84-712.05 of the Nebraska Revised statutes, to clarify that probation records generated during a probationer's term of probation are not subject to public disclosure unless done as a result of a court order

LB 148 (Ashford) Include ammunition in certain offenses involving firearms.

LB 148 would amend sections 28-1204.01 (unlawful transfer of a firearm to a juvenile), 28-1206 (possession of a deadly weapon by a prohibited person), 28-1212 (presence of a firearm in a motor vehicle), 28-1354 (public protection act), and 69-2422 (obtaining a handgun for prohibited transfer) by providing that where it is presently prohibited to purchase, possess or transfer ownership of a firearm under these sections, it shall also be prohibited to purchase, possess, or transfer ownership of ammunition.

LB 152 (Dubas) Change eminent domain negotiations

Legislative Bill 152 would add new sections to regulate condemnation. The bill would codify the intent of the Legislature relating to how condemnation affects private property rights. The bill would prohibit condemnation negotiations from being initiated unless the condemner has a present plan and a present public purpose, including approval from all agencies required to approve and all necessary permits. The bill would provide for injunctive relief, attorney's fees and actual damages for condemnee if condemner is found noncompliant with the present plan and a present public purpose requirement or is found to be coercive or threatening condemnee with condemnation.

LB 171 (Bloomfield) Provide for an expedited concealed handgun permit process for applicants who are victims of domestic violence.

LB 171 seeks to provide for an expedited concealed carry permit process for victims of domestic violence. An application for an expedited permit must be based on the recommendation of a peace officer and the applicant must be a victim of a misdemeanor crime of domestic violence. The State Patrol shall issue the permit within five days of application, instead of forty-five days currently allowed, assuming the applicant has met all qualifications for the permit.

LB 202 (Coash) Change provisions relating to DNA collection.

LB 202 proposes changes to Nebraska State Statute 29-4106.01 and 29-4107 of the DNA Identification Information Act and Nebraska State Statute 81-2004.02 in an effort to fulfill a statutory requirement for the collection of DNA in a more streamlined and cost-saving manner.

Currently under 29-4106, a person required to submit a DNA sample shall be given the choice of having the sample collected by a blood draw or a buccal cell collection kit, which consists of a person having the inside of their mouth swabbed with a q-tip. This proposal is to remove the blood draw option and require buccal cell collection.

Proposed changes to Nebraska State Statute 81-2004.02 would create the Nebraska State Patrol DNA Cash Fund for funds received by the State Patrol under the DNA Identification Information Act as required by 29-4106. Under 29-4106 a person convicted of a felony offense after July 15, 2010 is to provide a DNA sample at their expense to pay costs associated with the collection of the sample. Currently this \$25 is sent to the Attorney General's Office.

An accounting shift will occur which will provide a mechanism for the money to go to the State Patrol DNA fund to help offset the costs of purchasing collection kits and testing which is what the funds were intended for and is the current practice. The State Patrol purchases and provides all test kits to collection agencies.

LB 204 (Larson) Change and provide criminal sanctions regarding animals and animal facilities.

LB204 would change the reporting requirements for those who observe or are involved in an incident involving animal abandonment, neglect, or mistreatment. The reporting requirements would require any person to report an incident twenty-four hours after the incident is observed and would require the person making the report to turn over any evidence of the incident, including video, photographs, or

audio collected.

LB204 would also create penalties for an individual who makes a false statement or representation as part of an application to be employed at an animal facility with the intent of damaging or interfering with the operations of that animal facility. This includes the individual causing economic damage to the facility and its operations, placing a person or his or her immediate family in fear of death or serious bodily harm, or conspiring to perform either of these actions

LB 212 (Karpisek) Change court-ordered parenting plan provisions of the Parenting Act

LB 212 would amend statute section 43-2929 of the Parenting Act to create a rebuttable presumption that each parent gets at least forty-five percent of annual parenting time in parenting plans created by the court.

LB 226 (Smith) Regulate dealers in the business of purchasing and reselling precious items.

LB 226 would provide for the regulation of dealers in precious items. A precious item is defined as any item made in whole or in part of gold, silver, platinum or precious or semiprecious stones or pearls.

Under LB 226, a dealer in precious items would be required to have a permit issued by the local governing body and would have to conduct business from a permanent location.

LB 246 (Larson) Provide for a health care co payment for jail and prison inmates.

LB246 would require an inmate housed in a county or state correctional facility to pay a copayment of not less than ten dollars for every self-initiated, non-emergency visit to a health care provider. The bill provides for certain exceptions for which the copayment would not be charged, including treatment for a chronic illness, emergency care of any kind, and staff initiated care.

LB246 would not restrict access to medical care if an inmate was unable to pay the copayment. The bill does state, that if an inmate's account balance is insufficient to cover the copayment at the time of the visit, fifty percent of each deposit into the inmate's account will be withheld until the copayment has been paid in full.

LB 247 (Larson) Change Nebraska Juvenile Code provisions relating to reimbursement by parents for costs of care and treatment

Legislative Bill 247 would amend statute section 43-290 to give the court more discretion over ordering parents to pay for placement of a juvenile with a state agency or for court-ordered medical, psychological or psychiatric study or treatment of a juvenile. The bill would remove the requirement that such an order be made pursuant to a petition filed by the county attorney.

LB 256 (McGill) Eliminate criminal forfeiture and provide for civil forfeiture as prescribed.

LB 256 authorizes law enforcement to both charge offenders for various crimes and seize property related to those violations, without obstructing Nebraska's constitutional restrictions on double

jeopardy. This moves asset forfeiture proceedings related to crimes from the criminal code to the civil code. The bill also extends the coverage of forfeiture proceedings to include additional crimes subject to forfeiture proceedings.

LB 280 (Pirsch) Change domestic assault provisions.

LB 280 amends Neb. Rev. Stat. 28-323(Domestic assault; penalties.) to include convictions for violation of any federal law, state law or county, city or village ordinance. Such violations must be substantially similar to an offense in violation of Nebraska's domestic assault statutes.

LB 284 (Conrad) Change provisions of the Political Subdivisions Tort Claims Act relating to limits on actions and amounts recoverable

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.

LB 284 amends §§13-919 and 13-920 to extend the time in which a claimant may file an initial claim from one year to two years.

LB 284 also amends N.R.S. §§13-922 and 13-926 to increase the amounts recoverable for claims brought pursuant to the Political Subdivisions Tort Claims Act.

Existing Nebraska law caps recovery under the Act as follows:

- \$1 million for any person for any number of claims, and
- \$5 million for all claims arising out of a single occurrence.

LB 284 would increase the caps for recovery under the Act to:

- \$3 million for any person for any number of claims, and
- \$12 million for all claims arising out of a single occurrence.

LB 293 (Kintner) Prohibit disclosure of any applicant or permit holder information regarding firearms registration, possession, sale, or use as prescribed.

LB 293 would amend current law to make clear that any handgun registration applications or certificates filed with a city police chief or a county sheriff or any state agency are confidential and exempt from the Nebraska public records statutes.

AM 687 which was presented to the Committee by Sen. Kintner, is intended to replace the original version of the bill. The bill would make clear that whenever a gun owner is required to file with any local or state law enforcement agency or issuance of a gun permit or registration, any documents required to be filed would be confidential and would not be considered as public records. Gun application or registration information would be available upon request to all federal, state and local law enforcement agencies.

LB 300 (Krist) Provide licensure requirements for health care facilities and require Department of Health and Human Services to provide abortion information

Legislative Bill 300 would require the Department of Health and Human Services to develop and maintain a website that includes the information about pregnancy, ultrasounds, abortion and adoption that the department is currently required to publish. The website must be user friendly and allow for printing of the information. The website must be accessible to the public without registration. The website must include a link to the website of the Endowment for Human Development which contains ultrasound images of fetal development. Any abortion provider that maintains a website must include a link to and description of the website maintained by the Department.

LB 314 (Christensen) Adopt the Escort Services Accountability and Permit Act.

Legislative Bill 314, would adopt the Escort Services Accountability and Permit Act. This act defines escort and creates a permit structure for escort agencies and their employees to be implemented by local governing bodies of counties, cities, and villages only when the local governing body has received a request from a person wanting to operate a escort agency, as defined, within their jurisdiction.

Under LB 314, to obtain an escort agency permit or an escort agency employee permit, the local permit authority would be required to obtain fingerprints; criminal history; proof that all employees, owners, and operators are at least 18 years old; and other pertinent information for the local permit authority to evaluate the applicant.

In addition, LB314 would require an escort agency to provide every patron a written contract for services. The contract shall contain the escort agency employee's name, the name and address of patron, services performed, the length of time of services, the compensation, any special terms, and a statement that prostitution is illegal in this state. A copy of all such contracts will be provided to the local permit authority monthly, and the contract shall be open to law enforcement review.

LB 318 (McGill) Change duties of law enforcement officers and agencies relating to the taking and distribution of fingerprints.

LB 318 changes provisions related to criminal fingerprinting by adding that those arrested for misdemeanors shall be fingerprinted. The bill also provides that electronic fingerprints will be accepted from one law enforcement agency to another. There is no current requirement to obtain fingerprints for misdemeanor arrests.

LB 319 (McGill) Change certain permit holder penalty provisions under the Concealed Handgun Permit Act.

The intent of LB 319 is to clarify a provision of Section 69-2443 (Laws 2012, LB 807) regarding concealed handgun permitholders. Under state law, it is a violation of law for a concealed handgun permitholder to carry a concealed handgun onto certain locations listed in the statute. Prior to 2012, the permit could be revoked for violation of this law.

In 2012 the Legislature enacted LB 807 to provide that a permit could not be revoked for first offense under this statute unless the violation “occurred on property owned by the state or any political subdivision.”

LB 319 amends the phrase “occurred on property owned by the state or any political subdivision” by adding “or leased.” LB 319 would therefore clarify that if concealed handgun permitholder carried a concealed handgun on property owned or leased by the state or political subdivision, the permit would be subject to revocation. LB 319 provides that carrying a handgun on state or local property is treated the same whether the property is owned or leased.

LB 320 (McGill) Change temporary custody without a warrant provisions of the Nebraska Juvenile Code

Legislative Bill 320 would amend statute section 43-248 and harmonize other sections. The bill would provide that a peace officer must have probable cause to take a juvenile into temporary custody without a warrant or order of the court. The bill would also provide for a probation officer to take a juvenile into temporary custody without a warrant or court order if the probation officer has probable cause to believe the juvenile is in violation of probation and is a flight risk or will place lives or property in danger.

LB 335 (Christensen) Authorize possession of firearms as prescribed.

Legislative Bill 335 would provide clear guidelines for the transportation and storage of firearms in vehicles in publicly accessible parking lots throughout the State of Nebraska.

LB355 would put us in line with 16 other states that have some form of parking lot law for firearms, along with bringing the state policy for the transportation and storage of all firearms more in line with the Nebraska Concealed Handgun Permit Act, in Section 69-2441 subsections (3) and (4).

LB 350 (Murante) Add members to the Nebraska Police Standards Advisory Council.

LB 350 amends Nebraska Revised Statute 81-1407 to change the membership of the Nebraska Police Standards Advisory Council from seven to nine council members. Under current law, six council members are required to be full-time officers or employees of a law enforcement agency and one member from a metropolitan city shall be a Chief of Police or representative of such. Currently, five of the seven members are police chiefs, sheriffs, or his or her designee.

LB 350 provides that two additional full-time officers of a law enforcement agency with the rank of Sergeant or below are added to the council to enhance the council's perspective by providing it hands-on "street level" experiences.

LB 352 (Christensen) Provide signage requirements and duties for the Nebraska State Patrol

under the Concealed Handgun Permit Act.

Legislative Bill 352 would amend the Concealed Handgun Permit Act to provide for uniform signs and placement of such signs when a property owner chooses to prohibit a permitholder from carrying a concealed handgun on his or her property as authorized in the Concealed Handgun Permit Act.

The bill defines "posted conspicuous notice" to clarify the term, and requires the Nebraska State Patrol to design a sign meeting all the specifications in LB 352. Any owners or controllers of property seeking to exercise their current right to prohibit a permitholder from carrying on their premises will be required to use such sign designed by the Nebraska State Patrol, and follow all requirements in the bill as to where the sign should be placed, to be considered a posted place under the law.

LB 352 would codify much of what the Nebraska State Patrol already recommends in their rules and regulations.

LB 355 (Larson) Change the age of majority and certain age requirements

Legislative Bill 355 would change the age of majority from 19 to 18.

LB 369 (Lathrop) Require licensed service providers for services to probationers and parolees as prescribed.

The purpose of LB 369 is to improve service accountability by enhancing the criteria for and oversight of Nebraska behavioral health providers that participate in delivering treatment services under the Probation and Parole Program Cash Funds.

The bill requires that services provided that address a probationer's mental health, behavioral health, or substance abuse treatment needs be provided by service providers that are:

- licensed pursuant to the uniform Credentialing Act;
- audited by the Division of Behavioral Health of the Department of Health and Human Services or by a regional behavioral health authority;
- accredited by a national accrediting entity with respect to the services provided; and,
- annually audited and provide an independent financial audit for review.

LB 374 (Nelson) Provide for a delinquent child support payment lien on an appearance bond as prescribed

Legislative Bill 374 would amend statute section 29-2206 and add new sections of statute to provide for the withholding of a bond to satisfy any delinquent child support payment owed by the accused. The appearance bond form would include a notice to the accused and depositor of the bond that the sum deposited is subject to a lien for delinquent child support payments of the accused. Prior to authorizing the return of the balance of the bond, the court shall determine if the offender owes delinquent child support payments and order that amount to be transmitted to the person entitled to receive it.

LB 379 (Nelson) Change furlough and reduction of sentence provisions as prescribed.

LB379 amends section 83-173.01 to require that the chief of police in Omaha (a city of the metropolitan class) and Lincoln (a city of the primary class) be notified at least two weeks prior to the release of a person convicted of a Class 1A felony or first-degree sexual assault in their respective jurisdictions. Currently such notification is available only upon request by the chief of police in Lincoln or Omaha.

Section 83-184 is amended to eliminate furlough eligibility for prisoners convicted of (a) being a habitual criminal pursuant to section 29-2221, (b) use of a deadly weapon to commit a felony pursuant to section 28-105, and (c) possession of a deadly weapon by a prohibited person pursuant to section 28-1206. Currently such prisoners can qualify for furlough release several years before the end of their terms.

Section 83-1,107 is amended to eliminate “good time” eligibility for the same three classes of prisoners. Currently the term of a prisoner at the Department of Correctional Services may be reduced by 6 months for each year of the offender's term and pro rata for any part of the term less than one year, to be deducted from the maximum term.

LB 380 (Howard) Provide for adoption by two adult persons jointly

Legislative Bill 380 would amend various adoption statutes to allow two adults, regardless of their marital status, to adopt jointly without the parent having to relinquish his or her parental rights to the child.

LB 412 (Schumacher) Adopt the Freedom from Unwarranted Surveillance Act

LB 412 is a bill that would prohibit state and local law enforcement agencies from using drones, which are aerial vehicles that are piloted remotely to gather evidence or collect other information.

Under LB412, a civil action could be brought against a law enforcement agency in violation of the act and any evidence gathered would be inadmissible in court.

LB 451 (Janssen) Prohibit federal restrictions on firearms, magazines and firearm accessories as prescribed.

LB 451 would declare that any federal law, rule, regulation, or order effective on or after January 1, 2013 shall be unenforceable within the borders of Nebraska if it: (1) bans or restricts or attempts to ban or restrict ownership of a semi-automatic firearm or any magazine of a firearm beyond those firearms which are already restricted in Nebraska; or (2) requires or attempts to require that any firearm, magazine, or other firearm accessory be registered in any manner beyond those firearms, magazines, or other firearm accessories which are already required to be registered in Nebraska.

LB 455 (Lautenbaugh) Provide procedures for termination of a lease based upon clear and present danger

Legislative Bill 455 would amend statute sections 76-1431 and 76-1441 to provide for the termination of a rental agreement due to a clear and present danger to the health or safety of other tenants, the

landlord, the landlord's employee or other persons on the landlord's property created or maintained by the tenant. A clear and present danger includes any of the following activities of the tenant or person on the premises with consent of the tenant: 1) physical assault or threat of physical assault, 2) illegal use of a firearm or weapon, the threat to use a firearm or other weapon illegally or possession of an illegal firearm, 3) unlawful manufacturing, selling, using, storing, keeping, possessing or giving of a controlled substance, 4) prostitution, sexual assault, any threat of sexual assault or any other crime against a person or property, or 5) other activities or the threat of activities that would harm a person or property. The termination provision would not apply if the tenant seeks a protective order from the person causing the clear and present danger or reports the activities to law enforcement.

LB 461 (Karpisek) Provide liability limitation for bucking bull activities

Legislative Bill 461 would implement the following sections to limit liability for “bucking bull activities” in Nebraska:

Section 1: Provides legislative intent

Section 2: Definitions:

- **Engages in a bucking bull activity means** riding, training, assisting in medical treatment of, assisting a participant in such activities, or assisting in show management. Engages in a bucking bull activity does not include being a spectator at a bucking bull activity except in cases when the spectator places himself or herself in an unauthorized area;
- **Bucking bull means** a bovine male bred or trained to buck;
- **Bucking bull activity means:**
 - Bucking bull rodeos or other competitions;
 - Bucking bull training or teaching activities or both;
 - Boarding bucking bulls; or
 - Riding, inspecting, or evaluating a bucking bull belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the bucking bull or is permitting a prospective purchaser of the bucking bull to ride, inspect, or evaluate the bucking bull;
- **Bucking bull activity sponsor means** an individual, group, club, partnership, limited liability company, or corporation, whether or not the sponsor is operating for profit or is nonprofit, which sponsors, organizes, or provides the facilities for a bucking bull activity, including, but not limited to, 4-H clubs, school and college-sponsored classes, programs, and activities, and operators, instructors, and promoters of livestock facilities, including, but not limited to, stables, clubhouses, rodeos, fairs, and arenas at which the bucking bull activity is held;
- **Bucking bull professional means** a person engaged for compensation:
 - In instructing a participant or renting to a participant a bucking bull for the purpose of riding; or
 - In renting equipment to a participant;

- **Inherent risks of bucking bull activities means** those dangers or conditions which are an integral part of bucking bull activities, including, but not limited to:
 - The propensity of a bucking bull to behave in ways that may result in injury, harm, or death to persons on or around them;
 - The unpredictability of a bucking bull's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;
 - Certain hazards such as surface and subsurface conditions; and Collisions with other animals or objects; and
- **Participant means** any person, whether amateur or professional, who engages in a bucking bull activity whether or not a fee is paid to participate in the bucking bull activity.

Section 3: Provides that a bucking bull activity sponsor, bucking bull professional, or any other person or entity will not be liable for injury to or death of a participant resulting from “inherent risk” of bucking bull activities. This section prohibits a claim resulting from injury or death, from the participant or their representative against a bucking bull activity sponsor.

Section 4: This section exempts from civil liability protection, injury or death that result from:

- Faulty equipment that was not reasonably and prudently inspected or maintained by the bucking bull activity sponsor;
- Dangerous and latent conditions on the land or facilities, that was known or should have been known to the activity sponsor who is in charge, control, or possession of such land or facilities;
- Acts and omissions that a reasonably prudent person would not have done or omitted under similar circumstances or which act or omission constitutes willful or wanton disregard for the safety of the participant and the act or omission was the “proximate cause” of the injury or death; and
- The activity sponsor intentionally injures the participant.

Section 5: Requires every bucking bull professional to post a warning sign that provides notice that the bucking bull professional is not liable for injuries or death. Signs required shall be placed on or near stables, corrals or arenas where the bucking bull professional conducts their activities. This warning requirement shall also be required in all contracts that a bucking bull professional enters into for professional services, instruction or rental of equipment.

LB 462 (Ashford) Change provisions relating to contracts for joint law enforcement services.

It is the intent of LB 462 to amend section 29-215 of the Nebraska Statutes to provide a means of limiting litigation involving multiple parties if litigation is filed against a drug task force established under the Interlocal Cooperation Act or the Joint Public Agency Act.

LB 463 (Ashford) Change the number of separate juvenile court judges

Legislative Bill 463 would add one judge to the Douglas County separate juvenile court, increasing the number of judges from five to six.

The provisions of LB 463 were amended into LB 561 through AM 734 on general file. The provisions

were not included in AM 1394 which became the bill on select file.

LB 471 (Coash) Change provisions relating to juvenile commitment evaluations

Legislative Bill 471 would provide that a juvenile committed by the court to the Office of Juvenile Services does not need to be evaluated prior to commitment if the court finds that a substantially equivalent evaluation has been done in the previous 12 months or if an addendum to a previous evaluation would be appropriate.

The provisions of LB 471 were amended into LB 561 through AM 734 on general file.

LB 472 (Karpisek) Prohibit flying lanterns.

Legislative Bill 472 would prohibit the sale, possession, and use of flying lanterns, as defined, in this state.

LB 473 (Bloomfield) Authorize certain residency restrictions near parks under the Sexual Predator Residency Restriction Act.

LB 473 would amend the Sexual Predator Residency Restriction Act, to extend authority to political subdivisions to restrict the residency of qualified sex offenders from living near parks.

For the purpose of this bill a park is defined as a parcel of ground or a facility established by a political subdivision for recreational use by the public that covers at least twenty-five hundred square feet.

LB 482 (Kintner) Prohibit the state and political subdivisions from adopting certain policy recommendations

Legislative Bill 482 would enact a prohibition on the state and the political subdivisions from adopting or implementing policies that infringe on or restrict private property rights without due process under Agenda 21 is a voluntary action plan developed by the United Nations and national governments at the "Earth Summit" in Rio de Janeiro, Brazil, in 1992) or any other international law that contravenes the U.S. Constitution or the Nebraska Constitution. The bill would also prohibit the state and the political subdivisions from entering into any agreement, expending money, receiving funds, contracting for services, giving financial aid to or receiving financial aid from nongovernmental and intergovernmental organizations accredited and enlisted by the United Nations to assist in the implementation of Agenda 21.

LB 485 (Conrad) Prohibit discrimination based upon sexual orientation as prescribed

Legislative Bill 485 would make statutory changes to prohibit employment discrimination on the basis of sexual orientation or marital status.

The bill would also repeal statute section 48-1109, which provides that members of the Communist Party are not protected under the Nebraska Fair Employment Practice Act.

LB 498 (Brasch) Provide for the declaratory judgment and injunctive relief against foreign

defamation judgments

Legislative Bill 498 would enact new statutory language to provide for defense against foreign defamation judgments. Actions could be filed in a district court in Nebraska for declaratory judgment or injunctive relief against defamation judgments and defamation actions brought outside of the U.S.

LB 503 (Coash) Rename the Child Protection Act and provide for alternative response to a report of child abuse or neglect

Legislative Bill 503 would change the name of the Child Protection Act to the Child Protection and Family Safety Act. The bill would add provisions to the Act to allow for the use of “alternative response,” which is defined under the Act, instead of an investigation and formal determination of the occurrence of abuse and neglect when there is a report not alleging substantial abuse or neglect. The use of “alternative response” would be authorized for implementation by DHHS in select locations for demonstration projects over the next three years with reports to the Legislature and to the Children's Commission. The Legislature would have to approve the continued use of “alternative response” after May 15, 2016.

An amended version of this bill was amended into LB 561 through AM 1351 on select file. The amended provisions require DHHS to convene a group of stakeholders to develop a model of an alternative response to report of child abuse and neglect. The model must be reported to the Children's Commission by November 1, 2013 and to the Legislature by December 15, 2013. The bill also states the intent of the Legislature that the model be implemented in designated sites no earlier than July of 2014.

LB 533 (Avery) Require oil and gas pipeline eminent domain condemnors to provide notice to property owners

Legislative Bill 533 would enact new notice requirements for any person authorized to exercise eminent domain to build a pipeline to transport crude oil, petroleum, gases or other products thereof. The notice would have to be provided to the property owner 10 days prior to starting negotiation to acquire the property. The notice could be delivered personally or mailed by registered or certified mail. The bill would provide a list of information to be included in the notice including: description of the property, amount of compensation for property, authority for the acquisition, description of how land will be used, reasons for selecting property, list of property owner's rights and identity of any agency required to approve of project.

LB 542 (Chambers) Eliminate an aggravating circumstance regarding death penalty sentencing hearings.

LB 542 seeks to repeal section 29-2523(1) (d), which provides that:
The murder was especially heinous, atrocious, cruel, or manifested exceptional depravity by ordinary standards of morality and intelligence. . .

LB 551 (Schilz) Change recreational liability provisions

Legislative Bill 153 would amend sections 37-729 to 37-736 to establish the Recreation and Tourism

Promotion Act. The Act would limit liability for owners of “premises” made available to the public for recreation and tourism activities. An owner who leases the premises to the state owes no duty of care to keep the premises safe. The owner would not be liable for injury or death or damage to property of a person who enters the premises for recreation and tourism activities due to an inherent risk on the owner's premises unless: (1) the owner has actual knowledge of a dangerous condition and does not make it known; (2) the owner reasonable should have known of a dangerous condition and does not make it know; (3) the owner fails to properly train employees resulting in injury or death or (4) the owner commits an act or omission with willful or wanton disregard for safety, with gross negligence or intentionally, resulting in injury or death. The Act would not limit the liability of an owner who receives a fee for allowing people on the premises and fails to do at least one of the following: (1) post and maintain signage containing the required warning or (2) include the required warning in any written contract for use of the premises.

The bill would define fee, inherent risk, owner, participant, person, premises and recreation and tourism activities.

The operative date of the Act is January 1, 2014.

LB 562 (Ashford) Change provisions of the juvenile justice system

Legislative Bill 562 would do the following:

- 1) Provide Probation officers with more access to information to make decisions regarding cross-over youth.
- 2) Provide clarity to provisions of law regulating the taking and handling of the fingerprints of juveniles to reflect current practice.
- 3) Provide authority for the juvenile court to retain jurisdiction over adjudicated youth already in the system so they can continue to receive services until the age of 21.
- 4) Provide authority for civil citation programs to be implemented statewide.
- 5) Provide clarity to the sealing of juvenile records provisions that a record cannot be sealed until the penalty or restitution has been completed and the time period for any impoundment or revocation or prohibition on obtaining a driver's license has passed.
- 6) Require that providers of residential placement, detention or incarceration of juveniles have rules and regulations that prohibit the use of seclusion for disciplinary purposes and have standards for the use of seclusion as a short-term emergency procedure to protect the safety of a juvenile.

Section 1 of the bill was included in Committee Amendment AM 734 to LB 561, which was adopted on general file.

LB 564 (Nelson) Adopt the Health Care Freedom of Conscience Act

Legislative Bill 564 would enact the Health Care Freedom of Conscience Act. The Act protect the right of a health care provider or institution to decline to participate in health care functions that would violate their conscience. The Act would prohibit discrimination against a provider or institution that declines to participate in any healthcare function that would violate their conscience and provide immunity.

The Act would define “Conscience,” health care facility,” “health care function,” “health care

provider” and “participate.”

The Act would provide immunity from civil, criminal and administrative liability for any health care provider or health care facility that declines to participate in any health care function that would violate their conscience unless: 1) they refuse to comply with the requirements of the Pain-Capable Unborn Child Protection Act or 2) if their refusal to perform the health care function will, in reasonable medical judgment, result in or hasten death and the provision of the health care function is directed by the patient or authorized person on the basis that extending the life of an elderly, disabled or terminally ill person is of lower value than extending the life of a younger healthy person or on the basis of disagreement with how to balance length of life and risk of disability.

The Act would prohibit discrimination against any a health care provider for refusing to participate in a healthcare function that would violate their conscience. Such discrimination by a person, health care provider, health care entity, public or private entity, public official or certification board would be a violation of the Act except that an employer my take action is the health care function in question constitutes a regular or substantial portion of the employee's current and defined position and the employer has not refused to reasonably accommodate the employee. The Act would prohibit discrimination against any a health care facility for refusing to participate in a healthcare function that would violate its conscience. Such discrimination by a person, private entity, any public official, agency, facility, or entity would be a violation of the Act.

The bill would create a civil cause of action for damages or injunctive relief including reinstatement or both for violations of the Act. It shall not be a defense to claim that the violation was necessary to prevent additional burden or expense on any other health care provider, health care facility, individual or patient. The action must be brought within one year after the cause of action accrues. The court must order reasonable attorney’s fees in favor of the prevailing party.

Any rules and regulations adopted, promulgated or enforced under the Uniform Credentialing Act are subject to the Health Care Freedom of Conscience Act. Violations of the Act are added to the definition of unprofessional conduct under the Uniform Credentialing Act.

The bill includes a severability clause.

LB 580 (Johnson) Change certain condemnation procedures

Legislative Bill 580 would create a three year statute of limitations for a condemnee to file a petition with the district court, rather than county court, to determine if a taking of or damage to their property has taken place is cases where the condemner has not instituted condemnation proceedings. Appeals of the district court's decision would go to the Court of Appeals. The bill would also allow for offers of judgment.

LB 592 (Lautenbaugh) Authorize the carrying of concealed handguns by qualified law enforcement officers and qualified retired law enforcement officers.

LB592 would allow "qualified law enforcement officers", meeting requirements as defined in both federal law and LB592, to carry their weapons concealed while off duty anywhere they could carry while uniformed or on duty.

LB592 would further allow "qualified retired law enforcement officers", meeting requirements as defined in both federal law and LB592, to carry a concealed weapon anywhere they could carry before their retirement when they were uniformed or on duty.

LB592 would supercede any local carry restrictions in regards to these retired and active qualified law enforcement officers.

LB 602 (Bloomfield) Adopt the Nebraska Firearms Freedom Act.

LB 602 seeks to adopt the Nebraska Firearms Freedom Act, which provides that a personal firearm, accessory or ammunition that is manufactured in Nebraska and that remains within the borders of Nebraska is not subject to federal law or federal regulation.

LB 608 (Pirsch) Change provisions relating to stalking.

LB 608, incorporates the Model Code "reasonable person" standard with respect to the crime of stalking. LB 608 also strengthens the penalties imposed for stalking violations.

LB 610 (Pirsch) Change provisions relating to terroristic threats.

LB 610 clarifies the venue requirement with respect to the Terroristic Threats statute. Under LB 610, the crime of Terroristic Threats can be committed either at the place where the threat was made or at the place where the threat was received.

LB 611 (Pirsch) Redefine serious bodily injury for purposes of domestic assault.

LB 611 amends Nebraska's domestic assault statute to expand the definition of serious bodily injury for purposes of domestic assault.

LB 615 (Schumacher) Provide for summary guardianships

Legislative Bill 615 would provide for summary guardianships in cases where the incapacitated person's estate totals less ten thousand dollars or less and is expected to have annual receipts of less than twelve thousand dollars. The bill has an operative date of January 1, 2014.

LB 631 (Harr) Change provisions relating to garnishment

Legislative Bill 631 would amend provisions related to garnishment procedures to create a twenty-five dollar fee to be paid by the plaintiff at the time of filing an affidavit in cases where the summons and order must be served on a financial institution. If the financial institution has property of the defendant then the fee would be returned to the plaintiff and the financial institution may deduct the garnishment processing fee. If the financial institution does not have property of the defendant then the court would pass the fee to the financial institution as compensation for responding to the garnishment summons and interrogatories.

LR 42 (Brasch) Urge Congress to pass the Parental Rights Amendment to the United States

Constitution and submit it to the states for ratification

Legislative Resolution 42 would urge Congress to pass the Parental Rights Amendment to the U.S. Constitution.

BILLS INDEFINITELY POSTPONED BY THE JUDICIARY COMMITTEE
DURING THE 2013 SESSION

LB 123 (Lautenbaugh) Change distribution of indigent defense fees

LB 123 would allocate the three dollar fee collected by the courts for indigent defense to help defray the costs of such service in counties with a city of the metropolitan class.

LB 182 (Avery) Change paternity provisions for a child conceived as a result of sexual assault

LB 182 would amend existing statute sections to change laws regarding a child conceived as a result of a sexual assault. If the biological father of the child is convicted of the sexual assault, he would not be considered part of the family for purposes of requiring reasonable efforts to preserve or reunify the family. If the biological father of the child is convicted of the sexual assault, the county attorney must petition the court to terminate his parental rights and the conviction would be considered conclusive evidence that the rights should be terminated unless the biological mother or guardian consents otherwise and the court finds it is in the best interest of the child not to terminate the father's parental rights. The court may order the father to pay child support even if his rights are terminated. The court must stay a paternity action if there is a pending criminal allegation of first degree sexual assault against the alleged father. If the father is not guilty, the paternity action shall proceed. If the father is found guilty, the paternity is established by the conviction and the parental rights of the father may be terminated.

The bill was indefinitely postponed by the Judiciary Committee on March 20, 2013.

LB 232 (Lathrop) Change judges' salaries

Legislative Bill 232 would change the salaries of the Nebraska Supreme Court Judges starting July 1, 2013 and again on July 1, 2014. The current salary is \$145,614. 74.

Although the law 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 200 was adopted on general file to replace the "XX" in the bill with dollar amounts to effect a five percent increase in 2013 and another five percent increase in 2014.

The provisions of LB 232, as amended by AM 200, were added to LB 306 on select file through AM 1114. LB 306 was passed by a vote of 41-6-2 and signed by the Governor on June 4, 2013. LB 232 was indefinitely postponed upon adjournment.

LB 289 (Lathrop) Change provisions relating to duration of real estate improvement contract liens

Legislative Bill 289 would amend statute sections 52-130 and 52-140. The bill would expand the definition of real estate improvement contract to include services provided by a commercial real estate broker. The bill would also provide that a lien based on a contract with a commercial real estate broker continues for two years after the date the payment was due under the contract.

Committee Amendment AM 571 would strike the original sections and adopt the Commercial Real Estate Broker Lien Act. The Act would provide the following:

Section 1 creates the Commercial Real Estate Broker Lien Act.

Section 2 defines commercial real estate, commission, and commission agreement.

Section 3 does the following:

The broker shall have a lien on commercial real estate in the amount of commission due. The lien is only available to the broker named in the commission agreement. Such lien shall be attached when the broker is entitled to the commission, the broker records notice of the lien, and prior to the actual conveyance. The lien attaches on the date of notice not back to the date of the agreement. In the case of a lease the notice of the lien must be recorded within 90 days of the tenant taking possession. Future commissions can become a recordable lien only after the commissions become due.

Section 4 requires that the broker shall, within 10 days of filing the lien, notify the record owner by mail.

Section 5 lays out the all the information the notice of lien must contain.

Section 6 establishes that a lien described in section 3 of the Act that has become enforceable shall remain enforceable for two years and that an owner or anyone with an interest in the property may give written demand to institute judicial proceedings within 30 days.

Section 7 addresses the priority of liens.

Section 8 would do the following:

- The owner or tenant may have a recorded lien released at any time by placing the amount of the lien plus 15% in escrow. The lien then attaches to the escrow funds and not the property.
- If a property is sold then the proceeds from that property shall be placed in escrow equal to an amount of 115% then the lien attaches to the escrow funds.

The provisions of AM 571 were amended into LB 3 on select file in AM 1067 and LB 3 was subsequently signed into law by the Governor on May 16. Upon adjournment of the Legislature, LB 289 was indefinitely postponed.

LB 342 (Coash) Change right to counsel provisions under the Nebraska Juvenile Code

Legislative Bill 342 would provide that proceedings for the termination of parental rights retained by the county or district court be conducted as provided in the Juvenile Code. The bill would clarify that the court will not appoint counsel for a stepparent, custodian or guardian unless there are allegations against that person in the petition. The bill would provide that failure to maintain contact with court appointed counsel may result in such counsel being discharged by the court. The bill would also clarify the distinction between custodial and noncustodial for purposes of determining which parent a probation officer can release a juvenile to.

Committee Amendment AM 490 would strike section four of the bill which would have changed provisions related to determining which parent a probation officer can release a juvenile to. The amendment would provide the court with discretion to appoint counsel for a person who is not a party to the proceeding.

The bill, as amended by AM 490, was included in AM 1394 to LB 561 which was adopted on select file. LB 561 was passed by the Legislature by a vote of 44-1-4 and signed by the Governor on May 29, 2013. LB 342 was indefinitely postponed upon adjournment sine die.

LB 520 (Christensen) Allow land surveyors to enter upon public or private lands or waters as prescribed

Legislative Bill 520 would add provisions allowing registered surveyors to enter upon public or private property in the performance of their duties. The bill would limit surveying duties to the following activities:

- (a) Determination of section quarters, quarter corners, property corners, boundary lines, right-of-way and easements;
- (b) making surveys;
- (c) conducting examinations or investigations; or
- (d) acquiring other necessary and relevant data in contemplation of:
 - (i) Establishing the location of a street, road or highway;
 - (ii) Acquiring of land, property and road building materials; or
 - (iii) Performing other operations incidental to construction, reconstruction, or maintenance of a road, street or highway.

The bill would require a surveyor to make a good faith attempt to identify themselves and the purpose for entry to the owner. The surveyor would be responsible for any actual or demonstrable damages to property that occurred outside the scope of the performance of their surveying activities. If prevented from entering property or threatened with violence, the surveyor may petition the county court for a court order allowing entry.

This bill was indefinitely postponed by the Judiciary Committee on March 20, 2013.

LB 607 (Pirsch) Change provisions relating to protection order violations and conditions of release violations

LB 607 would permit a judge to issue ex parte temporary protection orders in certain situations.

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

COMMITTEE:Judiciary Committee

DATE:

The following resolutions were referred to the Committee on _____
_____. The committee has prioritized the resolutions in the following order:

Resolution No.	Subject
LR 111	Interim study to explore the possibility of replicating the Delancey Street Foundation in Nebraska, which is considered one of the nation's leading self-help residential education centers for ex-convicts and former substance abusers
LR 184	Interim study to examine the costs and benefits associated with lowering the age of majority to eighteen years of age
LR 207	Interim study to examine the impact of the possession, sale, trade, and distribution of shark fins in the State of Nebraska
LR 235	Interim study to examine the adoption process under the current safe haven law
LR 262	Interim study to examine the high rate of placement of Nebraska's Native American children involved in the foster care system
LR 277	Interim study to review the current costs associated with correctional and detention facilities in Nebraska
LR 278	Interim study to review matters under the jurisdiction of the Judiciary Committee
LR 279	Interim study to examine the use of social impact bonds to develop programming for juveniles and adults reentering the community after involvement with the juvenile justice system or the criminal justice system
LR 284	Interim study to review issues relating to child custody proceedings and parenting time determinations as they pertain to families of divorce
LR 286	Interim study to review state law regarding child abuse and neglect in instances when a pregnant woman engages in an activity that causes harm to the fetus
LR 287	Interim study to examine the requirement that counties pay court filing fees and costs when filing criminal charges and civil proceedings in the

	county, district, and juvenile courts
LR 313	Interim study to examine comprehensive models of response and treatment for victims of human trafficking
LR 320	Interim study to examine statutes and procedures relating to the eminent domain laws for oil pipelines and the authority of local governments to regulate oil pipelines
LR 328	Interim study to examine methods to better protect elderly and other vulnerable Nebraskans from financial exploitation
LR 331	Interim study to examine stronger penalties for offenders convicted of the crime of sexual assault of a child as well as related deterrents and victim remedies
LR 336	Interim study to investigate methods to reduce gang violence
LR 338	Interim study to examine issues relating to the regulation of abortion clinics