

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 255

Introduced by McGill, 26.

Read first time January 16, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 27-804,
 2 28-801, 28-801.01, 28-804, 28-805, 28-830, and 28-831,
 3 Reissue Revised Statutes of Nebraska, and sections
 4 28-707, 28-802, 28-1354, 43-248, and 43-250, Revised
 5 Statutes Cumulative Supplement, 2012; to provide for a
 6 hearsay exception; to change provisions relating to child
 7 abuse; to change provisions and penalties relating to
 8 prostitution, solicitation of prostitution, pandering,
 9 keeping a place of prostitution, and debauching a minor;
 10 to require publication of names and addresses of persons
 11 convicted of solicitation of prostitution as prescribed;
 12 to change and provide provisions and penalties relating
 13 to human trafficking offenses; to direct the Nebraska
 14 Commission on Law Enforcement and Criminal Justice to
 15 collect and analyze information relating to such
 16 offenses; to eliminate obsolete material; to provide
 17 immunity from prosecution for prostitution for persons

1 under eighteen years of age and further procedures as
2 prescribed; to harmonize provisions; to repeal the
3 original sections; and to outright repeal section 28-832,
4 Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 27-804, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 27-804 (1) Unavailability as a witness includes
4 situations in which the declarant:

5 (a) Is exempted by ruling of the judge on the ground of
6 privilege from testifying concerning the subject matter of his or her
7 statement; ~~or~~

8 (b) Persists in refusing to testify concerning the
9 subject matter of his or her statement despite an order of the judge
10 to do so; ~~or~~

11 (c) Testifies to lack of memory of the subject matter of
12 his or her statement; ~~or~~

13 (d) Is unable to be present or to testify at the hearing
14 because of death or then existing physical or mental illness or
15 infirmity; or

16 (e) Is absent from the hearing and the proponent of his
17 or her statement has been unable to procure his or her attendance by
18 process or other reasonable means.

19 A declarant is not unavailable as a witness if his or her
20 exemption, refusal, claim of lack of memory, inability, or absence is
21 due to the procurement or wrongdoing of the proponent of his or her
22 statement for the purpose of preventing the witness from attending or
23 testifying.

24 (2) Subject to the provisions of section 27-403, the
25 following are not excluded by the hearsay rule if the declarant is

1 unavailable as a witness:

2 (a) Testimony given as a witness at another hearing of
3 the same or a different proceeding, or in a deposition taken in
4 compliance with law in the course of the same or a different
5 proceeding, at the instance of or against a party with an opportunity
6 to develop the testimony by direct, cross, or redirect examination,
7 with motive and interest similar to those of the party against whom
8 now offered;

9 (b) A statement made by a declarant while believing that
10 his or her death was imminent, concerning the cause or circumstances
11 of what he or she believed to be his or her impending death;

12 (c) A statement which was at the time of its making so
13 far contrary to the declarant's pecuniary or proprietary interest, or
14 so far tended to subject him or her to civil or criminal liability or
15 to render invalid a claim by him or her against another, that a
16 reasonable ~~man~~ person in his or her position would not have made the
17 statement unless he or she believed it to be true. A statement
18 tending to expose the declarant to criminal liability and offered to
19 exculpate the accused is not admissible unless corroborating
20 circumstances clearly indicate the trustworthiness of the statement;

21 (d)(i) A statement concerning the declarant's own birth,
22 adoption, marriage, divorce, legitimacy, relationship by blood,
23 adoption, or marriage, ancestry, or other similar fact of personal or
24 family history, even though declarant had no means of acquiring
25 personal knowledge of the matter stated; or (ii) a statement

1 concerning the foregoing matters, and death also, of another person,
2 if the declarant was related to the other by blood, adoption, or
3 marriage or was so intimately associated with the other's family as
4 to be likely to have accurate information concerning the matter
5 declared; ~~or~~

6 (e) A statement offered against a party that wrongfully
7 caused, or acquiesced in wrongfully causing, the declarant's
8 unavailability as a witness, and did so intending that result; or

9 ~~(e)-(f)~~ A statement not specifically covered by any of
10 the foregoing exceptions but having equivalent circumstantial
11 guarantees of trustworthiness, if the court determines that (i) the
12 statement is offered as evidence of a material fact, (ii) the
13 statement is more probative on the point for which it is offered than
14 any other evidence which the proponent can procure through reasonable
15 efforts, and (iii) the general purposes of these rules and the
16 interests of justice will best be served by admission of the
17 statement into evidence. A statement may not be admitted under this
18 exception unless the proponent of it makes known to the adverse
19 party, sufficiently in advance of the trial or hearing to provide the
20 adverse party with a fair opportunity to prepare to meet it, his or
21 her intention to offer the statement and the particulars of it,
22 including the name and address of the declarant.

23 Sec. 2. Section 28-707, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 28-707 (1) A person commits child abuse if he or she

1 knowingly, intentionally, or negligently causes or permits a minor
2 child to be:

3 (a) Placed in a situation that endangers his or her life
4 or physical or mental health;

5 (b) Cruelly confined or cruelly punished;

6 (c) Deprived of necessary food, clothing, shelter, or
7 care;

8 (d) Placed in a situation to be sexually exploited by
9 allowing, encouraging, or forcing such minor child to solicit for or
10 engage in prostitution, debauchery, public indecency, or obscene or
11 pornographic photography, films, or depictions; ~~or~~

12 (e) Placed in a situation to be sexually abused as
13 defined in section 28-319, 28-319.01, or 28-320.01; or -

14 (f) Placed in a situation to be a trafficking victim as
15 defined in section 28-830.

16 (2) The statutory privilege between patient and
17 physician, between client and professional counselor, and between
18 husband and wife shall not be available for excluding or refusing
19 testimony in any prosecution for a violation of this section.

20 (3) Child abuse is a Class I misdemeanor if the offense
21 is committed negligently and does not result in serious bodily injury
22 as defined in section 28-109 or death.

23 (4) Child abuse is a Class IIIA felony if the offense is
24 committed knowingly and intentionally and does not result in serious
25 bodily injury as defined in section 28-109 or death.

1 (5) Child abuse is a Class IIIA felony if the offense is
2 committed negligently and results in serious bodily injury as defined
3 in section 28-109.

4 (6) Child abuse is a Class III felony if the offense is
5 committed negligently and results in the death of such child.

6 (7) Child abuse is a Class II felony if the offense is
7 committed knowingly and intentionally and results in serious bodily
8 injury as defined in such section.

9 (8) Child abuse is a Class IB felony if the offense is
10 committed knowingly and intentionally and results in the death of
11 such child.

12 (9) For purposes of this section, negligently refers to
13 criminal negligence and means that a person knew or should have known
14 of the danger involved and acted recklessly, as defined in section
15 28-109, with respect to the safety or health of the minor child.

16 Sec. 3. Section 28-801, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 28-801 (1) ~~Any~~ Except as provided in subsection (5) of
19 this section, any person who performs, offers, or agrees to perform
20 any act of sexual contact or sexual penetration, as those terms are
21 defined in section 28-318, with any person not his or her spouse, in
22 exchange for money or other thing of value, commits prostitution.

23 (2) Any person convicted of violating subsection (1) of
24 this section shall be punished as follows:

25 (a) If such person has had no prior convictions or has

1 had one prior conviction, such person shall be guilty of a Class II
2 misdemeanor. If the court places such person on probation, such order
3 of probation shall include, as one of its conditions, that such
4 person shall satisfactorily attend and complete an appropriate mental
5 health and substance abuse assessment conducted by a licensed mental
6 health professional or substance abuse professional authorized to
7 complete such assessment; and

8 (b) If such person has had two or more prior convictions,
9 such person shall be guilty of a Class I misdemeanor. If the court
10 places such person on probation, such order of probation shall
11 include, as one of its conditions, that such person shall
12 satisfactorily attend and complete an appropriate mental health and
13 substance abuse assessment conducted by a licensed mental health
14 professional or substance abuse professional authorized to complete
15 such assessment.

16 (3) It is an affirmative defense to prosecution under
17 this section that such person was a victim of human trafficking or
18 forced labor or services pursuant to sections 28-830 and 28-831.

19 (4) For purposes of this subsection, section, prior
20 conviction means any conviction on or after July 14, 2006, for
21 violation of subsection (1) of this section or any conviction on or
22 after July 14, 2006, for violation of a city or village ordinance
23 relating to prostitution.

24 (5) If the law enforcement officer determines, after a
25 reasonable detention for investigative purposes, that a person

1 suspected of or charged with a violation of subsection (1) of this
2 section is a person under eighteen years of age, such person shall be
3 immune from prosecution for a prostitution offense under this section
4 and shall be subject to temporary custody under section 43-248 and
5 further disposition under the Nebraska Juvenile Code. A law
6 enforcement officer who takes a person under eighteen years of age
7 into custody under this section shall immediately report an
8 allegation of a violation of section 28-831 to the Department of
9 Health and Human Services which shall commence an investigation
10 within twenty-four hours under the Child Protection Act.

11 Sec. 4. Section 28-801.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 28-801.01 (1) Any person who solicits another person not
14 his or her spouse to perform any act of sexual contact or sexual
15 penetration, as those terms are defined in section 28-318, in
16 exchange for money or other thing of value, commits solicitation of
17 prostitution.

18 (2) Any person convicted of violating subsection (1) of
19 this section shall be punished as follows:

20 (a) If such person has had no prior convictions, such
21 person shall be guilty of a Class I misdemeanor and pay a fine of not
22 less than ~~two hundred fifty~~ five hundred dollars, unless the person
23 solicited is under the age of eighteen years, in which case such
24 person violating this section shall be guilty of a Class IIIA felony
25 and pay a fine of not less than two thousand five hundred dollars. If

1 the court places such offending person on probation, such order of
2 probation shall include, as one of its conditions, the payment of a
3 fine of not less than ~~two hundred fifty five hundred~~ dollars for a
4 Class I misdemeanor or two thousand five hundred dollars for a Class
5 IIIA felony for solicitation of prostitution from a person under the
6 age of eighteen years; and such person shall satisfactorily attend
7 and complete an appropriate mental health and substance abuse
8 assessment conducted by a licensed mental health professional or
9 substance abuse professional authorized to complete such assessment;
10 and

11 (b) If such person has had one or more prior convictions,
12 such person shall be guilty of a Class ~~IV-III~~ III felony and pay a fine
13 of not less than two thousand five hundred dollars. If the court
14 places such person on probation, such order of probation shall
15 include, as one of its conditions, the payment of a fine of not less
16 than two thousand five hundred dollars, ~~and such person shall~~
17 ~~satisfactorily attend and complete an appropriate mental health and~~
18 ~~substance abuse assessment conducted by a licensed mental health~~
19 ~~professional or substance abuse professional authorized to complete~~
20 ~~such assessment.~~

21 (3)(a) The court in which a conviction for solicitation
22 or attempted solicitation of prostitution occurred under this section
23 shall prepare, maintain, and publish a list that includes the name
24 and address of each person in such county who was convicted under
25 this section.

1 (b) The court shall update the list on a quarterly basis.
2 The name and address of a person on the list shall remain on the list
3 for at least six months.

4 (c) At least thirty days before the disclosure of the
5 name and address of a person pursuant to subdivision (a) of this
6 subsection, the court shall mail a written notice to the person at
7 the person's last-known address informing the person that his or her
8 name and address will be included on a list of persons convicted of
9 solicitation of prostitution under this section.

10 Sec. 5. Section 28-802, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 28-802 (1) A person commits pandering if such person:

13 (a) Entices another person to become a prostitute; or

14 (b) Procures or harbors therein an inmate for a house of
15 prostitution or for any place where prostitution is practiced or
16 allowed; or

17 (c) Inveigles, entices, persuades, encourages, or
18 procures any person to come into or leave this state for the purpose
19 of prostitution or debauchery; or

20 (d) Receives or gives or agrees to receive or give any
21 money or other thing of value for procuring or attempting to procure
22 any person to become a prostitute or commit an act of prostitution or
23 come into this state or leave this state for the purpose of
24 prostitution or debauchery.

25 (2) Pandering is a Class ~~IV~~IIIA felony for a first

1 offense and any person convicted of such offense shall pay a fine of
2 not less than five thousand dollars, unless the person being enticed,
3 procured, harbored, or otherwise persuaded to become a prostitute in
4 violation of this section is under the age of eighteen years, in
5 which case pandering is a Class III-II felony for a first offense. If
6 the court places such person on probation, such order of probation
7 shall include, as one of its conditions, the payment of a fine of not
8 less than five thousand dollars. Pandering is a Class III-ID felony
9 for a second or subsequent offense.

10 Sec. 6. Section 28-804, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 28-804 (1) Any person who has or exercises control over
13 the use of any place which offers seclusion or shelter for the
14 practice of prostitution and who knowingly grants or permits the use
15 of such place for the purpose of prostitution commits the offense of
16 keeping a place of prostitution.

17 (2) Keeping a place of prostitution is a Class I
18 ~~misdemeanor.~~ IIIA felony for a first offense and any person convicted
19 of such offense shall pay a fine of not less than five thousand
20 dollars, unless any person using such place for the practice of
21 prostitution is under the age of eighteen years, in which case any
22 person convicted of keeping a place of prostitution shall be guilty
23 of a Class II felony for a first offense. If the court places such
24 person on probation, such order of probation shall include, as one of
25 its conditions, the payment of a fine of not less than five thousand

1 dollars.

2 Sec. 7. Section 28-805, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-805 (1) Any person not a minor commits the offense of
5 debauching a minor if he or she shall debauch or deprave the morals
6 of any boy or girl under the age of seventeen years by:

7 (a) Lewdly inducing such boy or girl carnally to know any
8 other person; or

9 (b) Soliciting any such boy or girl to visit a house of
10 prostitution or other place where prostitution, debauchery, or other
11 immoral practices are permitted or encouraged, for the purpose of
12 prostitution or sexual penetration; or

13 (c) Arranging or assisting in arranging any meeting for
14 such purpose between any such boy or girl and any female or male of
15 dissolute character or any inmate of any place where prostitution,
16 debauchery, or other immoral practices are permitted or encouraged;
17 or

18 (d) Arranging or aiding or assisting in arranging any
19 meeting between any such boy or girl and any other person for the
20 purpose of sexual penetration.

21 (2) Debauching a minor is a Class I ~~misdemeanor~~. II
22 felony for a first offense. Debauching a minor is a Class ID felony
23 for a second or subsequent offense.

24 Sec. 8. Section 28-830, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 28-830 For purposes of sections 28-830 ~~to 28-832, and~~
2 28-831, the following definitions apply:

3 (1) Actor means a person who solicits, procures, or
4 supervises the services or labor of another person;

5 (2) Commercial sexual activity means any sex act on
6 account of which anything of value is given, promised to, or received
7 by any person;

8 (3) Financial harm means theft by extortion as described
9 by section 28-513;

10 (4) Forced labor or services means labor or services that
11 are performed or provided by another person and are obtained or
12 maintained through:

13 (a) Inflicting or threatening to inflict serious personal
14 injury to the other person as defined by section 28-318;

15 (b) Physically restraining or threatening to physically
16 restrain ~~another~~ the other person;

17 (c) Knowingly destroying, concealing, removing,
18 confiscating, or possessing any actual or purported passport or other
19 immigration document or any other actual or purported government
20 identification document of ~~another~~ the other person; or

21 (d) Causing or threatening to cause financial harm to
22 ~~another~~ the other person;

23 (5) Labor means work of economic or financial value;

24 (6) Labor trafficking means knowingly recruiting,
25 enticing, harboring, transporting, providing, or obtaining by any

1 means or attempting to recruit, entice, harbor, transport, provide,
2 or obtain by any means a person eighteen years of age or older
3 intending or knowing that the person will be subjected to forced
4 labor or services;

5 (7) Labor trafficking of a minor means knowingly
6 recruiting, enticing, harboring, transporting, providing, or
7 obtaining by any means or attempting to recruit, entice, harbor,
8 transport, provide, or obtain by any means a minor intending or
9 knowing that the minor will be subjected to forced labor or services;

10 (6)-(8) Maintain means, in relation to labor or services,
11 to secure continued performance thereof, regardless of any initial
12 agreement by the ~~victim~~ other person to perform such type of service;

13 (7)-(9) Minor means a person younger than eighteen years
14 of age;

15 (8)-(10) Obtain means, in relation to labor or services,
16 to secure performance thereof;

17 (9)-(11) Services means an ongoing relationship between a
18 ~~person and the actor~~ and another person in which the person performs
19 activities under the supervision of or for the benefit of the actor.
20 Commercial sexual activity and sexually-explicit performances are
21 forms of services under this section. Nothing in this subdivision
22 shall be construed to legalize prostitution;

23 (12) Sex trafficking means knowingly recruiting,
24 enticing, harboring, transporting, providing, or obtaining by any
25 means or knowingly attempting to recruit, entice, harbor, transport,

1 provide, or obtain by any means a person eighteen years of age or
2 older for the purpose of having such person engage in commercial
3 sexual activity, sexually-explicit performance, or the production of
4 pornography or to cause or attempt to cause a person to engage in
5 commercial sexual activity, sexually-explicit performance, or the
6 production of pornography;

7 (13) Sex trafficking of a minor means knowingly
8 recruiting, enticing, harboring, transporting, providing, or
9 obtaining by any means or knowingly attempting to recruit, entice,
10 harbor, transport, provide, or obtain by any means a minor for the
11 purpose of having such minor engage in commercial sexual activity,
12 sexually-explicit performance, or the production of pornography or to
13 cause or attempt to cause a minor to engage in commercial sexual
14 activity, sexually-explicit performance, or the production of
15 pornography;

16 (10)-(14) Sexually-explicit performance means a live or
17 public play, dance, show, or other exhibition intended to arouse or
18 gratify sexual desire or to appeal to prurient interests; and

19 (11)-(15) Trafficking victim means a person subjected to
20 any act or acts prohibited by section 28-831.

21 Sec. 9. Section 28-831, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 28-831 (1) No person shall ~~knowingly subject or attempt~~
24 ~~to subject another person to forced labor or services.~~ engage in
25 labor trafficking or sex trafficking. If an actor knowingly subjects

1 ~~another person to forced labor or services by:~~ engages in labor
 2 trafficking or sex trafficking, the actor is guilty of a Class IV
 3 felony.

4 (2) If an actor engages in labor trafficking or sex
 5 trafficking by:

6 (a) Inflicting or threatening to inflict serious personal
 7 injury to the other person as defined by section 28-318, the actor is
 8 guilty of a Class III-II felony;

9 (b) Physically restraining or threatening to physically
 10 restrain another the other person, the actor is guilty of a Class III
 11 II felony;

12 (c) Knowingly destroying, concealing, removing,
 13 confiscating, or possessing any actual or purported passport or other
 14 immigration document, or any other actual or purported government
 15 identification document, of such the other person, the actor is
 16 guilty of a Class IV-III felony; or

17 (d) Causing or threatening to cause financial harm to
 18 another the other person, the actor is guilty of a Class I
 19 misdemeanor. IIIA felony.

20 ~~(2)-(3) No person shall knowingly recruit, entice,~~
 21 ~~harbor, transport, provide, or obtain by any means or attempt to~~
 22 ~~recruit, entice, harbor, provide, or obtain by any means a minor for~~
 23 ~~the purpose of having such minor engage in commercial sexual~~
 24 ~~activity, sexually explicit performance, or the production of~~
 25 ~~pornography, or to cause or attempt to cause a minor to engage in~~

1 ~~commercial sexual activity, sexually explicit performance, or the~~
2 ~~production of pornography. A person engage in labor trafficking of a~~
3 ~~minor or sex trafficking of a minor. An actor who violates this~~
4 ~~subsection engages in labor trafficking of a minor or sex trafficking~~
5 ~~of a minor shall be punished as follows:~~

6 (a) In cases in which the actor uses overt force or the
7 threat of force against the trafficking victim, the actor is guilty
8 of a Class ~~II-ID~~ felony;

9 (b) In cases in which the trafficking victim has not
10 attained the age of fifteen years, ~~and the actor does not use overt~~
11 ~~force or the threat of force,~~ the actor is guilty of a Class ~~II-ID~~
12 felony; or

13 (c) In cases involving a trafficking victim between the
14 ages of fifteen and eighteen years, and the actor does not use overt
15 force or threat of force against the trafficking victim, the actor is
16 guilty of a Class ~~III-II~~ felony.

17 ~~(3)-(4) Any person who knowingly (a) recruits, entices,~~
18 ~~harbors, transports, provides, or obtains by any means, or attempts~~
19 ~~to recruit, entice, harbor, transport, provide, or obtain by any~~
20 ~~means, a person eighteen years of age or older, intending or knowing~~
21 ~~that the person will be subjected to forced labor or services or (b)~~
22 ~~benefits, financially or by receiving anything of value, from~~
23 ~~participation in a venture which has, as part of the venture, an act~~
24 ~~that is in violation of subsection (1) of this section, is guilty of~~
25 a Class ~~IV-III~~ felony.

1 Sec. 10. Section 28-1354, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 28-1354 For purposes of the Public Protection Act:

4 (1) Enterprise means any individual, sole proprietorship,
5 partnership, corporation, trust, association, or any legal entity,
6 union, or group of individuals associated in fact although not a
7 legal entity, and shall include illicit as well as licit enterprises
8 as well as other entities;

9 (2) Pattern of racketeering activity means a cumulative
10 loss for one or more victims or gains for the enterprise of not less
11 than one thousand five hundred dollars resulting from at least two
12 acts of racketeering activity, one of which occurred after August 30,
13 2009, and the last of which occurred within ten years, excluding any
14 period of imprisonment, after the commission of a prior act of
15 racketeering activity;

16 (3) Person means any individual or entity, as defined in
17 section 21-2014, holding or capable of holding a legal, equitable, or
18 beneficial interest in property;

19 (4) Prosecutor includes the Attorney General of the State
20 of Nebraska, the deputy attorney general, assistant attorneys
21 general, a county attorney, a deputy county attorney, or any person
22 so designated by the Attorney General, a county attorney, or a court
23 of the state to carry out the powers conferred by the act;

24 (5) Racketeering activity includes the commission of,
25 criminal attempt to commit, conspiracy to commit, aiding and abetting

1 in the commission of, aiding in the consummation of, acting as an
2 accessory to the commission of, or the solicitation, coercion, or
3 intimidation of another to commit or aid in the commission of any of
4 the following:

5 (a) Offenses against the person which include: Murder in
6 the first degree under section 28-303; murder in the second degree
7 under section 28-304; manslaughter under section 28-305; assault in
8 the first degree under section 28-308; assault in the second degree
9 under section 28-309; assault in the third degree under section
10 28-310; terroristic threats under section 28-311.01; kidnapping under
11 section 28-313; false imprisonment in the first degree under section
12 28-314; false imprisonment in the second degree under section 28-315;
13 sexual assault in the first degree under section 28-319; and robbery
14 under section 28-324;

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

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

4 (c) Offenses against property which include: Arson in the
5 first degree under section 28-502; arson in the second degree under
6 section 28-503; arson in the third degree under section 28-504;
7 burglary under section 28-507; theft by unlawful taking or
8 disposition under section 28-511; theft by shoplifting under section
9 28-511.01; theft by deception under section 28-512; theft by
10 extortion under section 28-513; theft of services under section
11 28-515; theft by receiving stolen property under section 28-517;
12 criminal mischief under section 28-519; and unlawfully depriving or
13 obtaining property or services using a computer under section
14 28-1344;

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

1 device under section 28-620; criminal possession of a financial
2 transaction device under section 28-621; unlawful circulation of a
3 financial transaction device in the first degree under section
4 28-622; unlawful circulation of a financial transaction device in the
5 second degree under section 28-623; criminal possession of a blank
6 financial transaction device under section 28-624; criminal sale of a
7 blank financial transaction device under section 28-625; criminal
8 possession of a forgery device under section 28-626; unlawful
9 manufacture of a financial transaction device under section 28-627;
10 laundering of sales forms under section 28-628; unlawful acquisition
11 of sales form processing services under section 28-629; unlawful
12 factoring of a financial transaction device under section 28-630; and
13 fraudulent insurance acts under section 28-631;

14 (e) Offenses involving governmental operations which
15 include: Abuse of public records under section 28-911; perjury or
16 subornation of perjury under section 28-915; bribery under section
17 28-917; bribery of a witness under section 28-918; tampering with a
18 witness or informant or jury tampering under section 28-919; bribery
19 of a juror under section 28-920; assault on an officer in the first
20 degree under section 28-929; assault on an officer in the second
21 degree under section 28-930; assault on an officer in the third
22 degree under section 28-931; and assault on an officer using a motor
23 vehicle under section 28-931.01;

24 (f) Offenses involving gambling which include: Promoting
25 gambling in the first degree under section 28-1102; possession of

1 gambling records under section 28-1105; gambling debt collection
2 under section 28-1105.01; and possession of a gambling device under
3 section 28-1107;

4 (g) Offenses relating to firearms, weapons, and
5 explosives which include: Carrying a concealed weapon under section
6 28-1202; transportation or possession of machine guns, short rifles,
7 or short shotguns under section 28-1203; unlawful possession of a
8 handgun under section 28-1204; unlawful transfer of a firearm to a
9 juvenile under section 28-1204.01; using a deadly weapon to commit a
10 felony or possession of a deadly weapon during the commission of a
11 felony under section 28-1205; possession of a deadly weapon by a
12 prohibited person under section 28-1206; possession of a defaced
13 firearm under section 28-1207; defacing a firearm under section
14 28-1208; unlawful discharge of a firearm under section 28-1212.02;
15 possession, receipt, retention, or disposition of a stolen firearm
16 under section 28-1212.03; unlawful possession of explosive materials
17 in the first degree under section 28-1215; unlawful possession of
18 explosive materials in the second degree under section 28-1216;
19 unlawful sale of explosives under section 28-1217; use of explosives
20 without a permit under section 28-1218; obtaining an explosives
21 permit through false representations under section 28-1219;
22 possession of a destructive device under section 28-1220; threatening
23 the use of explosives or placing a false bomb under section 28-1221;
24 using explosives to commit a felony under section 28-1222; using
25 explosives to damage or destroy property under section 28-1223; and

1 using explosives to kill or injure any person under section 28-1224;

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

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

6 (j) Offenses relating to public health and morals which
7 include: Prostitution under section 28-801; pandering under section
8 28-802; keeping a place of prostitution under section 28-804; ~~human~~
9 ~~trafficking or forced labor or services~~ labor trafficking or sex
10 trafficking under section 28-831; a violation of section 28-1005; and
11 any act relating to the visual depiction of sexually explicit conduct
12 prohibited in the Child Pornography Prevention Act; and

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

14 (6) State means the State of Nebraska or any political
15 subdivision or any department, agency, or instrumentality thereof;
16 and

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

19 (a) Incurred or contracted in gambling activity which was
20 in violation of federal law or the law of the state or which is
21 unenforceable under state or federal law in whole or in part as to
22 principal or interest because of the laws relating to usury; or

23 (b) Which was incurred in connection with the business of
24 gambling in violation of federal law or the law of the state or the
25 business of lending money or a thing of value at a rate usurious

1 under state law if the usurious rate is at least twice the
2 enforceable rate.

3 Sec. 11. Section 43-248, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 43-248 A peace officer may take a juvenile into temporary
6 custody without a warrant or order of the court and proceed as
7 provided in section 43-250 when:

8 (1) A juvenile has violated a state law or municipal
9 ordinance and the officer has reasonable grounds to believe such
10 juvenile committed such violation;

11 (2) A juvenile is seriously endangered in his or her
12 surroundings and immediate removal appears to be necessary for the
13 juvenile's protection;

14 (3) The officer believes the juvenile to be mentally ill
15 and dangerous as defined in section 71-908 and that the harm
16 described in that section is likely to occur before proceedings may
17 be instituted before the juvenile court;

18 (4) The officer has reasonable grounds to believe that
19 the juvenile has run away from his or her parent, guardian, or
20 custodian;

21 (5) A probation officer has reasonable cause to believe
22 that a juvenile is in violation of probation and that the juvenile
23 will attempt to leave the jurisdiction or place lives or property in
24 danger; ~~or~~

25 (6) The officer has reasonable grounds to believe the

1 juvenile is truant from school; or -

2 (7) The officer has reasonable grounds to believe the
3 juvenile is immune from prosecution for prostitution under subsection
4 (5) of section 28-801.

5 Sec. 12. Section 43-250, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 43-250 (1) A peace officer who takes a juvenile into
8 temporary custody under section 29-401 or subdivision (1), (4), or
9 (5) of section 43-248 shall immediately take reasonable measures to
10 notify the juvenile's parent, guardian, custodian, or relative and
11 shall proceed as follows:

12 (a) The peace officer may release a juvenile taken into
13 temporary custody under section 29-401 or subdivision (1) or (4) of
14 section 43-248;

15 (b) The peace officer may require a juvenile taken into
16 temporary custody under section 29-401 or subdivision (1) or (4) of
17 section 43-248 to appear before the court of the county in which such
18 juvenile was taken into custody at a time and place specified in the
19 written notice prepared in triplicate by the peace officer or at the
20 call of the court. The notice shall also contain a concise statement
21 of the reasons such juvenile was taken into custody. The peace
22 officer shall deliver one copy of the notice to such juvenile and
23 require such juvenile or his or her parent, guardian, other
24 custodian, or relative, or both, to sign a written promise that such
25 signer will appear at the time and place designated in the notice.

1 Upon the execution of the promise to appear, the peace officer shall
2 immediately release such juvenile. The peace officer shall, as soon
3 as practicable, file one copy of the notice with the county attorney
4 or city attorney and, when required by the court, also file a copy of
5 the notice with the court or the officer appointed by the court for
6 such purpose; or

7 (c) The peace officer may retain temporary custody of a
8 juvenile taken into temporary custody under section 29-401 or
9 subdivision (1), (4), or (5) of section 43-248 and deliver the
10 juvenile, if necessary, to the probation officer and communicate all
11 relevant available information regarding such juvenile to the
12 probation officer. The probation officer shall determine the need for
13 detention of the juvenile as provided in section 43-260.01. Upon
14 determining that the juvenile should be placed in a secure or
15 nonsecure placement and securing placement in such secure or
16 nonsecure setting by the probation officer, the peace officer shall
17 implement the probation officer's decision to release or to detain
18 and place the juvenile. When secure detention of a juvenile is
19 necessary, such detention shall occur within a juvenile detention
20 facility except:

21 (i) When a juvenile described in subdivision (1) or (2)
22 of section 43-247, except for a status offender, is taken into
23 temporary custody within a metropolitan statistical area and where no
24 juvenile detention facility is reasonably available, the juvenile may
25 be delivered, for temporary custody not to exceed six hours, to a

1 secure area of a jail or other facility intended or used for the
2 detention of adults solely for the purposes of identifying the
3 juvenile and ascertaining his or her health and well-being and for
4 safekeeping while awaiting transport to an appropriate juvenile
5 placement or release to a responsible party;

6 (ii) When a juvenile described in subdivision (1) or (2)
7 of section 43-247, except for a status offender, is taken into
8 temporary custody outside of a metropolitan statistical area and
9 where no juvenile detention facility is reasonably available, the
10 juvenile may be delivered, for temporary custody not to exceed
11 twenty-four hours excluding nonjudicial days and while awaiting an
12 initial court appearance, to a secure area of a jail or other
13 facility intended or used for the detention of adults solely for the
14 purposes of identifying the juvenile and ascertaining his or her
15 health and well-being and for safekeeping while awaiting transport to
16 an appropriate juvenile placement or release to a responsible party;

17 (iii) Whenever a juvenile is held in a secure area of any
18 jail or other facility intended or used for the detention of adults,
19 there shall be no verbal, visual, or physical contact between the
20 juvenile and any incarcerated adult and there shall be adequate staff
21 to supervise and monitor the juvenile's activities at all times. This
22 subdivision shall not apply to a juvenile charged with a felony as an
23 adult in county or district court if he or she is sixteen years of
24 age or older;

25 (iv) If a juvenile is under sixteen years of age or is a

1 juvenile as described in subdivision (3) of section 43-247, he or she
2 shall not be placed within a secure area of a jail or other facility
3 intended or used for the detention of adults;

4 (v) If, within the time limits specified in subdivision
5 (1)(c)(i) or (1)(c)(ii) of this section, a felony charge is filed
6 against the juvenile as an adult in county or district court, he or
7 she may be securely held in a jail or other facility intended or used
8 for the detention of adults beyond the specified time limits;

9 (vi) A status offender or nonoffender taken into
10 temporary custody shall not be held in a secure area of a jail or
11 other facility intended or used for the detention of adults. Until
12 January 1, 2013, a status offender accused of violating a valid court
13 order may be securely detained in a juvenile detention facility
14 longer than twenty-four hours if he or she is afforded a detention
15 hearing before a court within twenty-four hours, excluding
16 nonjudicial days, and if, prior to a dispositional commitment to
17 secure placement, a public agency, other than a court or law
18 enforcement agency, is afforded an opportunity to review the
19 juvenile's behavior and possible alternatives to secure placement and
20 has submitted a written report to the court; and

21 (vii) A juvenile described in subdivision (1) or (2) of
22 section 43-247, except for a status offender, may be held in a secure
23 area of a jail or other facility intended or used for the detention
24 of adults for up to six hours before and six hours after any court
25 appearance.

1 (2) When a juvenile is taken into temporary custody
2 pursuant to subdivision (2) or (7) of section 43-248, the peace
3 officer shall deliver the custody of such juvenile to the Department
4 of Health and Human Services which shall make a temporary placement
5 of the juvenile in the least restrictive environment consistent with
6 the best interests of the juvenile as determined by the department.
7 The department shall supervise such placement and, if necessary,
8 consent to any necessary emergency medical, psychological, or
9 psychiatric treatment for such juvenile. The department shall have no
10 other authority with regard to such temporary custody until or unless
11 there is an order by the court placing the juvenile in the custody of
12 the department. If the peace officer delivers temporary custody of
13 the juvenile pursuant to this subsection, the peace officer shall
14 make a full written report to the county attorney within twenty-four
15 hours of taking such juvenile into temporary custody. If a court
16 order of temporary custody is not issued within forty-eight hours of
17 taking the juvenile into custody, the temporary custody by the
18 department shall terminate and the juvenile shall be returned to the
19 custody of his or her parent, guardian, custodian, or relative.

20 (3) If the peace officer takes the juvenile into
21 temporary custody pursuant to subdivision (3) of section 43-248, the
22 peace officer may place the juvenile at a mental health facility for
23 evaluation and emergency treatment or may deliver the juvenile to the
24 Department of Health and Human Services as provided in subsection (2)
25 of this section. At the time of the admission or turning the juvenile

1 over to the department, the peace officer responsible for taking the
2 juvenile into custody shall execute a written certificate as
3 prescribed by the Department of Health and Human Services which will
4 indicate that the peace officer believes the juvenile to be mentally
5 ill and dangerous, a summary of the subject's behavior supporting
6 such allegations, and that the harm described in section 71-908 is
7 likely to occur before proceedings before a juvenile court may be
8 invoked to obtain custody of the juvenile. A copy of the certificate
9 shall be forwarded to the county attorney. The peace officer shall
10 notify the juvenile's parents, guardian, custodian, or relative of
11 the juvenile's placement.

12 (4) When a juvenile is taken into temporary custody
13 pursuant to subdivision (6) of section 43-248, the peace officer
14 shall deliver the juvenile to the enrolled school of such juvenile.

15 (5) A juvenile taken into custody pursuant to a legal
16 warrant of arrest shall be delivered to a probation officer who shall
17 determine the need for detention of the juvenile as provided in
18 section 43-260.01. If detention is not required, the juvenile may be
19 released without bond if such release is in the best interests of the
20 juvenile, the safety of the community is not at risk, and the court
21 that issued the warrant is notified that the juvenile had been taken
22 into custody and was released.

23 (6) In determining the appropriate temporary placement of
24 a juvenile under this section, the peace officer shall select the
25 placement which is least restrictive of the juvenile's freedom so

1 long as such placement is compatible with the best interests of the
2 juvenile and the safety of the community.

3 Sec. 13. The Nebraska Commission on Law Enforcement and
4 Criminal Justice shall establish and maintain a central repository
5 for the collection and analysis of information regarding the offenses
6 of labor trafficking, labor trafficking of a minor, sex trafficking,
7 and sex trafficking of a minor. Upon establishing such a repository,
8 the commission shall develop a procedure to monitor, record,
9 classify, and analyze information relating to such offenses.

10 Sec. 14. Original sections 27-804, 28-801, 28-801.01,
11 28-804, 28-805, 28-830, and 28-831, Reissue Revised Statutes of
12 Nebraska, and sections 28-707, 28-802, 28-1354, 43-248, and 43-250,
13 Revised Statutes Cumulative Supplement, 2012, are repealed.

14 Sec. 15. The following section is outright repealed:
15 Section 28-832, Reissue Revised Statutes of Nebraska.