

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1094

FINAL READING

Introduced by Judiciary Committee: Seiler, 33, Chairperson; Chambers, 11; Coash, 27; Ebke, 32; Krist, 10; Morfeld, 46; Pansing Brooks, 28; Williams, 36; Campbell, 25; Hadley, 37; Mello, 5.

Read first time January 20, 2016

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal law; to amend sections 27-1101,
2 28-605, 28-626, 29-2256, 29-2267, 47-401, 47-502, 83-187, and
3 83-1,101, Reissue Revised Statutes of Nebraska, sections 28-115,
4 28-1354, 29-2258, and 29-2269, Revised Statutes Cumulative
5 Supplement, 2014, sections 28-106, 28-204, 28-394, 28-514,
6 29-2204.02, 29-2252, 29-2252.01, 29-2260, 29-2262, 29-2263, 29-2266,
7 29-2268, 47-901, 47-903, 47-908, 60-6,197.03, 71-2482, 83-1,100.02,
8 83-1,119, 83-1,122, 83-1,122.01, 83-1,135, 83-1,135.02, and
9 83-4,114, Revised Statutes Supplement, 2015, and section 28-105,
10 Revised Statutes Cumulative Supplement, 2014, as amended by Laws
11 2015, LB605, section 6; to exempt certain proceedings from the
12 Nebraska Evidence Rules; to change sentencing provisions; to provide
13 and change penalties for certain offenses; to provide for
14 applicability of certain changes; to change provisions relating to
15 certain offenses; to change provisions relating to post-release
16 supervision, probation, and parole; to change reporting requirements
17 regarding probation and restrictive housing; to require cooperation
18 by and access to information from the Office of Parole
19 Administration; to provide a minimum sentence of imprisonment for
20 certain offenses; to change provisions relating to the Office of
21 Inspector General of the Nebraska Correctional System Act; to change

1 training requirements for certain parole officers; to change
2 appointment and qualification provisions for the Parole
3 Administrator; to change membership of a restrictive housing work
4 group; to harmonize provisions; to repeal the original sections; and
5 to declare an emergency.

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

1 Section 1. Section 27-1101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 27-1101 (1) The Nebraska Evidence Rules apply to the following
4 courts in the State of Nebraska: Supreme Court, Court of Appeals,
5 district courts, county courts, and juvenile courts. The word judge when
6 used in the rules shall mean any judge of any court to which the rules
7 apply or other officer who is authorized by statute to hold any hearing
8 to which the rules apply.

9 (2) The rules apply generally to all civil and criminal proceedings,
10 including contempt proceedings except those in which the judge may act
11 summarily.

12 (3) The rules with respect to privileges apply at all stages of all
13 actions, cases, and proceedings.

14 (4) The rules, other than those with respect to privileges, do not
15 apply in the following situations:

16 (a) Proceedings before grand juries;

17 (b) Proceedings for extradition or rendition; preliminary
18 examinations or hearings in criminal cases; sentencing, ~~or~~ granting or
19 revoking probation, or imposing custodial sanctions; issuance of warrants
20 for arrest, criminal summonses, and search warrants; and proceedings with
21 respect to release on bail or otherwise;

22 (c) Contested cases before an administrative agency under the
23 Administrative Procedure Act unless a party to the case requests that the
24 agency be bound by the rules of evidence applicable in the district
25 court; or

26 (d) Proceedings before the Nebraska Workers' Compensation Court or
27 the Small Claims Court.

28 Sec. 2. Section 28-105, Revised Statutes Cumulative Supplement,
29 2014, as amended by Laws 2015, LB605, section 6, is amended to read:

30 28-105 (1) For purposes of the Nebraska Criminal Code and any
31 statute passed by the Legislature after the date of passage of the code,

1 felonies are divided into ten classes which are distinguished from one
2 another by the following penalties which are authorized upon conviction:

3 Class I felony Death

4 Class IA felony Life imprisonment

5 Class IB felony Maximum – life imprisonment

6 Minimum – twenty years imprisonment

7 Class IC felony Maximum – fifty years imprisonment

8 Mandatory minimum – five years imprisonment

9 Class ID felony Maximum – fifty years imprisonment

10 Mandatory minimum – three years imprisonment

11 Class II felony Maximum – fifty years imprisonment

12 Minimum – one year imprisonment

13 Class IIA felony Maximum – twenty years imprisonment

14 Minimum – none

15 Class III felony Maximum – four years imprisonment and two years

16 post-release supervision or

17 twenty-five thousand dollars fine, or both

18 Minimum – none for imprisonment and nine months

19 post-release supervision if imprisonment is imposed

20 Class IIIA felony Maximum – three years imprisonment

21 and eighteen months post-release supervision or

22 ten thousand dollars fine, or both

23 Minimum – none for imprisonment and nine months

24 post-release supervision if imprisonment is imposed

25 Class IV felony Maximum – two years imprisonment and twelve

26 months post-release supervision or

27 ten thousand dollars fine, or both

28 Minimum – none for imprisonment and nine months

29 post-release supervision if imprisonment is imposed

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

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

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

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

10 (5) All sentences of post-release supervision shall be served under
11 the jurisdiction of the Office of Probation Administration and shall be
12 subject to conditions imposed pursuant to section 29-2262 and subject to
13 sanctions authorized pursuant to section 21 of this act 29-2266.

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

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

23 (~~8~~ 7) The changes made to the penalties for Class III, IIIA, and IV
24 felonies by Laws 2015, LB605, do not apply to any offense committed prior
25 to August 30, 2015, as provided in section 28-116.

26 Sec. 3. Section 28-106, Revised Statutes Supplement, 2015, is
27 amended to read:

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

1 conviction:
2 Class I misdemeanor..... Maximum – not more than one year
3 imprisonment, or one thousand dollars
4 fine, or both
5 Minimum – none
6 Class II misdemeanor..... Maximum – six months imprisonment, or
7 one thousand dollars fine, or both
8 Minimum – none
9 Class III misdemeanor..... Maximum – three months imprisonment,
10 or five hundred dollars fine, or both
11 Minimum – none
12 Class IIIA misdemeanor..... Maximum – seven days imprisonment, five
13 hundred dollars fine, or both
14 Minimum – none
15 Class IV misdemeanor..... Maximum – no imprisonment, five
16 hundred dollars fine
17 Minimum – none
18 Class V misdemeanor..... Maximum – no imprisonment, one
19 hundred dollars fine
20 Minimum – none
21 Class W misdemeanor..... Driving under the influence or implied
22 consent
23 First conviction
24 Maximum – sixty days imprisonment and
25 five hundred dollars fine
26 Mandatory minimum – seven days
27 imprisonment and five hundred dollars
28 fine
29 Second conviction
30 Maximum – six months imprisonment and

1 five hundred dollars fine
2 Mandatory minimum – thirty days
3 imprisonment and five hundred dollars
4 fine
5 Third conviction
6 Maximum – one year imprisonment and
7 one thousand dollars fine
8 Mandatory minimum – ninety days
9 imprisonment
10 and one thousand dollars fine

11 (2) Sentences of imprisonment in misdemeanor cases shall be served
12 in the county jail, except that such sentences may be served in
13 institutions under the jurisdiction of the Department of Correctional
14 Services if the sentence is to be served concurrently or consecutively
15 with a term for conviction of a felony and the combined sentences total a
16 term of one year or more. A determinate sentence shall be imposed for a
17 misdemeanor if the sentence is to be served concurrently or consecutively
18 with a determinate sentence for a Class III, IIIA, or IV felony.

19 Sec. 4. Section 28-115, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 28-115 (1) Except as provided in subsection (2) of this section, any
22 Any person who commits any of the following criminal offenses against a
23 pregnant woman shall be punished by the imposition of the next higher
24 penalty classification than the penalty classification prescribed for the
25 criminal offense, unless such criminal offense is already punishable as a
26 Class IB felony or higher classification:

- 27 (a) Assault assault in the first degree, section 28-308;
28 (b) Assault ~~assault~~ in the second degree, section 28-309;
29 (c) Assault ~~assault~~ in the third degree, section 28-310;
30 (d) Sexual ~~sexual~~ assault in the first degree, section 28-319;
31 (e) Sexual ~~sexual~~ assault in the second or third degree, section

1 28-320;

2 (f) Sexual assault of a child in the first degree, section
3 28-319.01;

4 (g) Sexual ~~sexual~~ assault of a child in the second or third degree,
5 section 28-320.01;

6 (h) Sexual ~~sexual~~ abuse of an inmate or parolee in the first degree,
7 section 28-322.02;

8 (i) Sexual ~~sexual~~ abuse of an inmate or parolee in the second
9 degree, section 28-322.03;

10 (j) Sexual ~~sexual~~ abuse of a protected individual in the first or
11 second degree, section 28-322.04;

12 (k) Domestic ~~domestic~~ assault in the first, second, or third degree,
13 section 28-323;

14 (l) Assault ~~assault~~ on an officer, an emergency responder, a state
15 correctional employee, a Department of Health and Human Services
16 employee, or a health care professional in the first degree, section
17 28-929;

18 (m) Assault ~~assault~~ on an officer, an emergency responder, a state
19 correctional employee, a Department of Health and Human Services
20 employee, or a health care professional in the second degree, section
21 28-930;

22 (n) Assault ~~assault~~ on an officer, an emergency responder, a state
23 correctional employee, a Department of Health and Human Services
24 employee, or a health care professional in the third degree, section
25 28-931;

26 (o) Assault ~~assault~~ on an officer, an emergency responder, a state
27 correctional employee, a Department of Health and Human Services
28 employee, or a health care professional using a motor vehicle, section
29 28-931.01;

30 (p) Assault ~~assault~~ by a confined person, section 28-932;

31 (q) Confined ~~confined~~ person committing offenses against another

1 person, section 28-933; and

2 (r) Proximately ~~proximately~~ causing serious bodily injury while
3 operating a motor vehicle, section 60-6,198. ~~;~~ ~~and~~

4 ~~sexual assault of a child in the first degree, section 28-319.01.~~

5 (2) The enhancement in subsection (1) of this section does not apply
6 to any criminal offense listed in subsection (1) of this section that is
7 already punishable as a Class I, IA, or IB felony. If any criminal
8 offense listed in subsection (1) of this section is punishable as a Class
9 I misdemeanor, the penalty under this section is a Class IIIA felony.

10 (3 2) The prosecution shall allege and prove beyond a reasonable
11 doubt that the victim was pregnant at the time of the offense.

12 Sec. 5. Section 28-204, Revised Statutes Supplement, 2015, is
13 amended to read:

14 28-204 (1) A person is guilty of being an accessory to felony if
15 with intent to interfere with, hinder, delay, or prevent the discovery,
16 apprehension, prosecution, conviction, or punishment of another for an
17 offense, he or she:

18 (a) Harbors or conceals the other;

19 (b) Provides or aids in providing a weapon, transportation,
20 disguise, or other means of effecting escape or avoiding discovery or
21 apprehension;

22 (c) Conceals or destroys evidence of the crime or tampers with a
23 witness, informant, document, or other source of information, regardless
24 of its admissibility in evidence;

25 (d) Warns the other of impending discovery or apprehension other
26 than in connection with an effort to bring another into compliance with
27 the law;

28 (e) Volunteers false information to a peace officer; or

29 (f) By force, intimidation, or deception, obstructs anyone in the
30 performance of any act which might aid in the discovery, detection,
31 apprehension, prosecution, conviction, or punishment of such person.

1 (2)(a) Accessory to felony is a Class ~~IIA~~ ~~III~~ felony if the actor
2 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
3 knows of the conduct of the other, and the conduct of the other
4 constitutes a Class I, IA, IB, IC, or ID felony.

5 (b) Accessory to felony is a Class IIIA felony if the actor violates
6 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
7 the conduct of the other, and the conduct of the other constitutes a
8 Class II or IIA felony.

9 (c) Accessory to felony is a Class IV felony if the actor violates
10 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
11 the conduct of the other, and the conduct of the other constitutes a
12 Class III or Class IIIA felony.

13 (d) Accessory to felony is a Class I misdemeanor if the actor
14 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
15 knows of the conduct of the other, and the conduct of the other
16 constitutes a Class IV felony.

17 (e) Accessory to felony is a Class IV felony if the actor violates
18 subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor knows of
19 the conduct of the other, and the conduct of the other constitutes a
20 felony of any class other than a Class IV felony.

21 (f) Accessory to felony is a Class I misdemeanor if the actor
22 violates subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor
23 knows of the conduct of the other, and the conduct of the other
24 constitutes a Class IV felony.

25 Sec. 6. Section 28-394, Revised Statutes Supplement, 2015, is
26 amended to read:

27 28-394 (1) A person who causes the death of an unborn child
28 unintentionally while engaged in the operation of a motor vehicle in
29 violation of the law of the State of Nebraska or in violation of any city
30 or village ordinance commits motor vehicle homicide of an unborn child.

31 (2) Except as provided in subsection (3) of this section, motor

1 vehicle homicide of an unborn child is a Class I misdemeanor.

2 (3)(a) If the proximate cause of the death of an unborn child is the
3 operation of a motor vehicle in violation of section 60-6,213 or
4 60-6,214, motor vehicle homicide of an unborn child is a Class IIIA ~~IV~~
5 felony.

6 (b) Except as provided in subdivision (3)(c) of this section, if the
7 proximate cause of the death of an unborn child is the operation of a
8 motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
9 vehicle homicide of an unborn child is a Class IIIA felony and the court
10 shall, as part of the judgment of conviction, order the person not to
11 drive any motor vehicle for any purpose for a period of at least sixty
12 days and not more than fifteen years after the date ordered by the court
13 and shall order that the operator's license of such person be revoked for
14 the same period. The revocation shall not run concurrently with any jail
15 term imposed.

16 (c) If the proximate cause of the death of an unborn child is the
17 operation of a motor vehicle in violation of section 60-6,196 or
18 60-6,197.06 and the defendant has a prior conviction for a violation of
19 section 60-6,196 or a city or village ordinance enacted in conformance
20 with section 60-6,196, motor vehicle homicide of an unborn child is a
21 Class IIA felony and the court shall, as part of the judgment of
22 conviction, order the person not to drive any motor vehicle for any
23 purpose for a period of at least sixty days and not more than fifteen
24 years after the date ordered by the court and shall order that the
25 operator's license of such person be revoked for the same period. The
26 revocation shall not run concurrently with any jail term imposed.

27 (4) The crime punishable under this section shall be treated as a
28 separate and distinct offense from any other offense arising out of acts
29 alleged to have been committed while the person was in violation of this
30 section.

31 Sec. 7. Section 28-514, Revised Statutes Supplement, 2015, is

1 amended to read:

2 28-514 (1) A person who comes into control of property of another
3 that he or she knows to have been lost, mislaid, or delivered under a
4 mistake as to the nature or amount of the property or the identity of the
5 recipient commits theft if, with intent to deprive the owner thereof, he
6 or she fails to take reasonable measures to restore the property to a
7 person entitled to have it.

8 (2) Any person convicted of violating subsection (1) ~~the provisions~~
9 of this section shall, ~~upon conviction thereof,~~ be punished by the
10 penalty prescribed in the next lower classification below the value of
11 the item lost, mislaid, or delivered under a mistake pursuant to section
12 28-518.

13 (3) Any person convicted of violating subsection (1) ~~of pursuant to~~
14 this section when the value of the property is five hundred dollars or
15 less shall be guilty of a Class III misdemeanor for the first conviction,
16 a Class II misdemeanor for the second conviction, and a Class I
17 misdemeanor for the third or subsequent conviction.

18 Sec. 8. Section 28-605, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 28-605 (1) A person commits criminal possession of written
21 instrument forgery devices when:

22 (a) He or she makes or possesses with knowledge of its character any
23 plate, die, or other device, apparatus, equipment, or article
24 specifically designed for use in counterfeiting, unlawfully simulating,
25 or otherwise forging written instruments; or

26 (b) He or she makes or possesses any device, apparatus, equipment,
27 or article capable of or adaptable to a use specified in subdivision (1)
28 (a) of this section, with intent to use it himself or herself, or to aid
29 or permit another to use it, for purposes of forgery; or

30 (c) Illegally possesses a genuine plate, die, or other device used
31 in the production of written instruments, with intent to deceive or harm.

1 (2) Criminal possession of written instrument forgery devices is a
2 Class IV felony.

3 Sec. 9. Section 28-626, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-626 (1) A person commits the offense of criminal possession of a
6 financial transaction forgery device if (a) such person possesses any
7 tool, photographic equipment, printing equipment, or any other device or
8 group or combination of devices adapted, designed, or commonly used for
9 committing or facilitating the commission of an offense involving the
10 unauthorized manufacturing, printing, embossing, or magnetic encoding of
11 a financial transaction device or the altering or addition of any service
12 marks or holographic images to a financial transaction device and (b)
13 intends to use the device or devices possessed or knows that some person
14 intends to use the device or devices possessed in the commission of such
15 an offense.

16 (2) Any person committing the offense of criminal possession of a
17 financial transaction forgery device shall be guilty of a Class IV
18 felony.

19 Sec. 10. Section 28-1354, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 28-1354 For purposes of the Public Protection Act:

22 (1) Enterprise means any individual, sole proprietorship,
23 partnership, corporation, trust, association, or any legal entity, union,
24 or group of individuals associated in fact although not a legal entity,
25 and shall include illicit as well as licit enterprises as well as other
26 entities;

27 (2) Pattern of racketeering activity means a cumulative loss for one
28 or more victims or gains for the enterprise of not less than one thousand
29 five hundred dollars resulting from at least two acts of racketeering
30 activity, one of which occurred after August 30, 2009, and the last of
31 which occurred within ten years, excluding any period of imprisonment,

1 after the commission of a prior act of racketeering activity;

2 (3) Until January 1, 2017, person ~~Person~~ means any individual or
3 entity, as defined in section 21-2014 ~~21-214~~, holding or capable of
4 holding a legal, equitable, or beneficial interest in property. Beginning
5 January 1, 2017, person means any individual or entity, as defined in
6 section 21-214, holding or capable of holding a legal, equitable, or
7 beneficial interest in property;

8 (4) Prosecutor includes the Attorney General of the State of
9 Nebraska, the deputy attorney general, assistant attorneys general, a
10 county attorney, a deputy county attorney, or any person so designated by
11 the Attorney General, a county attorney, or a court of the state to carry
12 out the powers conferred by the act;

13 (5) Racketeering activity includes the commission of, criminal
14 attempt to commit, conspiracy to commit, aiding and abetting in the
15 commission of, aiding in the consummation of, acting as an accessory to
16 the commission of, or the solicitation, coercion, or intimidation of
17 another to commit or aid in the commission of any of the following:

18 (a) Offenses against the person which include: Murder in the first
19 degree under section 28-303; murder in the second degree under section
20 28-304; manslaughter under section 28-305; assault in the first degree
21 under section 28-308; assault in the second degree under section 28-309;
22 assault in the third degree under section 28-310; terroristic threats
23 under section 28-311.01; kidnapping under section 28-313; false
24 imprisonment in the first degree under section 28-314; false imprisonment
25 in the second degree under section 28-315; sexual assault in the first
26 degree under section 28-319; and robbery under section 28-324;

27 (b) Offenses relating to controlled substances which include: To
28 unlawfully manufacture, distribute, deliver, dispense, or possess with
29 intent to manufacture, distribute, deliver, or dispense a controlled
30 substance under subsection (1) of section 28-416; possession of marijuana
31 weighing more than one pound under subsection (12) of section 28-416;

1 possession of money used or intended to be used to facilitate a violation
2 of subsection (1) of section 28-416 prohibited under subsection (17) of
3 section 28-416; any violation of section 28-418; to unlawfully
4 manufacture, distribute, deliver, or possess with intent to distribute or
5 deliver an imitation controlled substance under section 28-445;
6 possession of anhydrous ammonia with the intent to manufacture
7 methamphetamine under section 28-451; and possession of ephedrine,
8 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
9 methamphetamine under section 28-452;

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

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

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

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

29 (f) Offenses involving gambling which include: Promoting gambling in
30 the first degree under section 28-1102; possession of gambling records
31 under section 28-1105; gambling debt collection under section 28-1105.01;

1 and possession of a gambling device under section 28-1107;

2 (g) Offenses relating to firearms, weapons, and explosives which
3 include: Carrying a concealed weapon under section 28-1202;
4 transportation or possession of machine guns, short rifles, or short
5 shotguns under section 28-1203; unlawful possession of a handgun under
6 section 28-1204; unlawful transfer of a firearm to a juvenile under
7 section 28-1204.01; using a deadly weapon to commit a felony or
8 possession of a deadly weapon during the commission of a felony under
9 section 28-1205; possession of a deadly weapon by a prohibited person
10 under section 28-1206; possession of a defaced firearm under section
11 28-1207; defacing a firearm under section 28-1208; unlawful discharge of
12 a firearm under section 28-1212.02; possession, receipt, retention, or
13 disposition of a stolen firearm under section 28-1212.03; unlawful
14 possession of explosive materials in the first degree under section
15 28-1215; unlawful possession of explosive materials in the second degree
16 under section 28-1216; unlawful sale of explosives under section 28-1217;
17 use of explosives without a permit under section 28-1218; obtaining an
18 explosives permit through false representations under section 28-1219;
19 possession of a destructive device under section 28-1220; threatening the
20 use of explosives or placing a false bomb under section 28-1221; using
21 explosives to commit a felony under section 28-1222; using explosives to
22 damage or destroy property under section 28-1223; and using explosives to
23 kill or injure any person under section 28-1224;

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

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

28 (j) Offenses relating to public health and morals which include:
29 Prostitution under section 28-801; pandering under section 28-802;
30 keeping a place of prostitution under section 28-804; labor trafficking,
31 sex trafficking, labor trafficking of a minor, or sex trafficking of a

1 minor under section 28-831; a violation of section 28-1005; and any act
2 relating to the visual depiction of sexually explicit conduct prohibited
3 in the Child Pornography Prevention Act; and

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

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

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

9 (a) Incurred or contracted in gambling activity which was in
10 violation of federal law or the law of the state or which is
11 unenforceable under state or federal law in whole or in part as to
12 principal or interest because of the laws relating to usury; or

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

17 Sec. 11. Section 29-2204.02, Revised Statutes Supplement, 2015, is
18 amended to read:

19 29-2204.02 (1) Except when a term of probation is required by law as
20 provided in subsection (2) of this section or except as otherwise
21 provided in subsection (4) of this section, in imposing a sentence upon
22 an offender for a Class III, IIIA, or IV felony, the court shall:

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

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

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

30 (a) The defendant is concurrently or consecutively sentenced to
31 imprisonment for any felony other than another Class IV felony;

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

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

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

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

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

31 (6 4) If the defendant was under eighteen years of age at the time

1 he or she committed the crime for which he or she was convicted, the
2 court may, in its discretion, instead of imposing the penalty provided
3 for the crime, make such disposition of the defendant as the court deems
4 proper under the Nebraska Juvenile Code.

5 ~~(7)(a) (5)(a)~~ When imposing a determinate sentence upon an offender
6 under this section, the court shall:

7 (i) Advise the offender on the record the time the offender will
8 serve on his or her term of imprisonment before his or her term of post-
9 release supervision assuming that no good time for which the offender
10 will be eligible is lost;~~and~~

11 (ii) Advise the offender on the record the time the offender will
12 serve on his or her term of post-release supervision; and before
13 ~~attaining mandatory release assuming that no good time for which the~~
14 ~~offender will be eligible is lost.~~

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

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

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

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

31 Sec. 12. Section 29-2252, Revised Statutes Supplement, 2015, is

1 amended to read:

2 29-2252 The administrator shall:

3 (1) Supervise and administer the office;

4 (2) Establish and maintain policies, standards, and procedures for
5 the system, with the concurrence of the Supreme Court;

6 (3) Prescribe and furnish such forms for records and reports for the
7 system as shall be deemed necessary for uniformity, efficiency, and
8 statistical accuracy;

9 (4) Establish minimum qualifications for employment as a probation
10 officer in this state and establish and maintain such additional
11 qualifications as he or she deems appropriate for appointment to the
12 system. Qualifications for probation officers shall be established in
13 accordance with subsection (4) of section 29-2253. An ex-offender
14 released from a penal complex or a county jail may be appointed to a
15 position of deputy probation or parole officer. Such ex-offender shall
16 maintain a record free of arrests, except for minor traffic violations,
17 for one year immediately preceding his or her appointment;

18 (5) Establish and maintain advanced periodic inservice training
19 requirements for the system;

20 (6) Cooperate with all agencies, public or private, which are
21 concerned with treatment or welfare of persons on probation;

22 (7) Organize and conduct training programs for probation officers.
23 Training shall include the proper use of a risk and needs assessment,
24 risk-based supervision strategies, relationship skills, cognitive
25 behavioral interventions, community-based resources, criminal risk
26 factors, and targeting criminal risk factors to reduce recidivism and the
27 proper use of a matrix of administrative sanctions, custodial sanctions,
28 and rewards developed pursuant to subdivision (18) of this section. All
29 probation officers employed on or after August 30, 2015, shall complete
30 the training requirements set forth in this subdivision;

31 (8) Collect, develop, and maintain statistical information

1 concerning probationers, probation practices, and the operation of the
2 system and provide the Community Corrections Division of the Nebraska
3 Commission on Law Enforcement and Criminal Justice with the information
4 needed to compile the report required in section 47-624;

5 (9) Interpret the probation program to the public with a view toward
6 developing a broad base of public support;

7 (10) Conduct research for the purpose of evaluating and improving
8 the effectiveness of the system. Subject to the availability of funding,
9 the administrator shall contract with an independent contractor or
10 academic institution for evaluation of existing community corrections
11 facilities and programs operated by the office;

12 (11) Adopt and promulgate such rules and regulations as may be
13 necessary or proper for the operation of the office or system. The
14 administrator shall adopt and promulgate rules and regulations for
15 transitioning individuals on probation across levels of supervision and
16 discharging them from supervision consistent with evidence-based
17 practices. The rules and regulations shall ensure supervision resources
18 are prioritized for individuals who are high risk to reoffend, require
19 transitioning individuals down levels of supervision intensity based on
20 assessed risk and months of supervision without a reported major
21 violation, and establish incentives for earning discharge from
22 supervision based on compliance;

23 (12) Transmit a report during each even-numbered year to the Supreme
24 Court on the operation of the office for the preceding two calendar years
25 which shall include a historical analysis of probation officer workload,
26 including participation in non-probation-based programs and services. The
27 report shall be transmitted by the Supreme Court to the Governor and the
28 Clerk of the Legislature. The report submitted to the Clerk of the
29 Legislature shall be submitted electronically;

30 (13) Administer the payment by the state of all salaries, travel,
31 and actual and necessary expenses incident to the conduct and maintenance

1 of the office;

2 (14) Use the funds provided under section 29-2262.07 to augment
3 operational or personnel costs associated with the development,
4 implementation, and evaluation of enhanced probation-based programs and
5 non-probation-based programs and services in which probation personnel or
6 probation resources are utilized pursuant to an interlocal agreement
7 authorized by subdivision (16) of this section and to purchase services
8 to provide such programs aimed at enhancing adult probationer or non-
9 probation-based program participant supervision in the community and
10 treatment needs of probationers and non-probation-based program
11 participants. Enhanced probation-based programs include, but are not
12 limited to, specialized units of supervision, related equipment purchases
13 and training, and programs that address a probationer's vocational,
14 educational, mental health, behavioral, or substance abuse treatment
15 needs;

16 (15) Ensure that any risk or needs assessment instrument utilized by
17 the system be periodically validated;

18 (16) Have the authority to enter into interlocal agreements in which
19 probation resources or probation personnel may be utilized in conjunction
20 with or as part of non-probation-based programs and services. Any such
21 interlocal agreement shall comply with section 29-2255;

22 (17) Collaborate with the Community Corrections Division of the
23 Nebraska Commission on Law Enforcement and Criminal Justice and the
24 Office of Parole Administration to develop rules governing the
25 participation of parolees in community corrections programs operated by
26 the Office of Probation Administration;

27 (18) Develop a matrix of rewards for compliance and positive
28 behaviors and graduated administrative sanctions and custodial sanctions
29 for use in responding to and deterring substance abuse violations and
30 technical violations. As applicable under sections 21 and 22 of this act
31 ~~section 29-2266~~, custodial sanctions of up to thirty days in jail shall

1 be designated as the most severe response to a violation in lieu of
2 revocation and custodial sanctions of up to three days in jail shall be
3 designated as the second most severe response;

4 (19) Adopt and promulgate rules and regulations for the creation of
5 individualized post-release supervision plans, collaboratively with the
6 Department of Correctional Services and county jails, for probationers
7 sentenced to post-release supervision; and

8 (20) Exercise all powers and perform all duties necessary and proper
9 to carry out his or her responsibilities.

10 Each member of the Legislature shall receive an electronic copy of
11 the report required by subdivision (12) of this section by making a
12 request for it to the administrator.

13 Sec. 13. Section 29-2252.01, Revised Statutes Supplement, 2015, is
14 amended to read:

15 29-2252.01 On January 15 and July 15 ~~December 31 and June 30~~ of each
16 fiscal year, the administrator shall provide a report to the budget
17 division of the Department of Administrative Services, the Legislative
18 Fiscal Analyst, and the Supreme Court which shall include, but not be
19 limited to:

20 (1) The total number of felony cases supervised by the office in the
21 previous six months for both regular and intensive supervision probation;

22 (2) The total number of misdemeanor cases supervised by the office
23 in the previous six months for both regular and intensive supervision
24 probation;

25 (3) The felony caseload per officer for both regular and intensive
26 supervision probation on the last day of the reporting period;

27 (4) The misdemeanor caseload per officer for both regular and
28 intensive supervision probation on the last day of the reporting period;

29 (5) The total number of juvenile cases supervised by the office in
30 the previous six months for both regular and intensive supervision
31 probation;

1 (6) The total number of predisposition investigations completed by
2 the office in the previous six months;

3 (7) The total number of presentence investigations completed by the
4 office in the previous six months;

5 (8) The total number of juvenile intake screening interviews
6 conducted and detentions authorized by the office in the previous six
7 months, using the detention screening instrument described in section
8 43-260.01; and

9 (9) The total number of probationers with restitution judgments, the
10 number of restitution payments made to clerks of the court, the average
11 amount of payments, and the total amount of restitution collected.

12 The report submitted to the Legislative Fiscal Analyst shall be
13 submitted electronically.

14 Sec. 14. Section 29-2256, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-2256 Nothing in the Nebraska Probation Administration Act
17 ~~sections 29-2246 to 29-2268~~ shall be construed to prohibit any court or
18 probation office from utilizing volunteers from the community for
19 probation supervision. ~~The ; Provided,~~ the volunteer program shall be is
20 supervised by a full-time probation officer who meets the minimum
21 qualifications established by the office.

22 Sec. 15. Section 29-2258, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 29-2258 A district probation officer shall:

25 (1) Conduct juvenile intake interviews and investigations in
26 accordance with sections 43-253 and 43-260.01 and, beginning October 1,
27 2013, supervise delivery of preadjudication juvenile services under
28 subdivision (6) of section 43-254;

29 (2) Make presentence and other investigations, as may be required by
30 law or directed by a court in which he or she is serving;

31 (3) Supervise probationers in accordance with the rules and

1 regulations of the office and the directions of the sentencing court;

2 (4) Advise the sentencing court, in accordance with the Nebraska
3 Probation Administration Act and such rules and regulations of the
4 office, of violations of the conditions of probation by individual
5 probationers;

6 (5) Advise the sentencing court, in accordance with the rules and
7 regulations of the office and the direction of the court, when the
8 situation of a probationer may require a modification of the conditions
9 of probation or when a probationer's adjustment is such as to warrant
10 termination of probation;

11 (6) Provide each probationer with a statement of the period and
12 conditions of his or her probation;

13 (7) Whenever necessary, exercise the power of arrest as provided in
14 sections 20 and 21 of this act or exercise the power of temporary custody
15 as provided in section ~~29-2266~~ or 43-286.01;

16 (8) Establish procedures for the direction and guidance of deputy
17 probation officers under his or her jurisdiction and advise such officers
18 in regard to the most effective performance of their duties;

19 (9) Supervise and evaluate deputy probation officers under his or
20 her jurisdiction;

21 (10) Delegate such duties and responsibilities to a deputy probation
22 officer as he or she deems appropriate;

23 (11) Make such reports as required by the administrator, the judges
24 of the probation district in which he or she serves, or the Supreme
25 Court;

26 (12) Keep accurate and complete accounts of all money or property
27 collected or received from probationers and give receipts therefor;

28 (13) Cooperate fully with and render all reasonable assistance to
29 other probation officers;

30 (14) In counties with a population of less than twenty-five thousand
31 people, participate in pretrial diversion programs established pursuant

1 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs
2 established pursuant to sections 43-260.02 to 43-260.07 as requested by
3 judges of the probation district in which he or she serves or as
4 requested by a county attorney and approved by the judges of the
5 probation district in which he or she serves, except that participation
6 in such programs shall not require appointment of additional personnel
7 and shall be consistent with the probation officer's current caseload;

8 (15) Participate, at the direction of the probation administrator
9 pursuant to an interlocal agreement which meets the requirements of
10 section 29-2255, in non-probation-based programs and services;

11 (16) Perform such other duties not inconsistent with the Nebraska
12 Probation Administration Act or the rules and regulations of the office
13 as a court may from time to time direct; and

14 (17) Exercise all powers and perform all duties necessary and proper
15 to carry out his or her responsibilities.

16 Sec. 16. Section 29-2260, Revised Statutes Supplement, 2015, is
17 amended to read:

18 29-2260 (1) Whenever a person is adjudicated to be as described in
19 subdivision (1), (2), (3)(b), or (4) of section 43-247, his or her
20 disposition shall be governed by the Nebraska Juvenile Code.

21 (2) Whenever a court considers sentence for an offender convicted of
22 either a misdemeanor or a felony for which mandatory or mandatory minimum
23 imprisonment is not specifically required, the court may withhold
24 sentence of imprisonment unless, having regard to the nature and
25 circumstances of the crime and the history, character, and condition of
26 the offender, the court finds that imprisonment of the offender is
27 necessary for protection of the public because:

28 (a) The risk is substantial that during the period of probation the
29 offender will engage in additional criminal conduct;

30 (b) The offender is in need of correctional treatment that can be
31 provided most effectively by commitment to a correctional facility; or

1 (c) A lesser sentence will depreciate the seriousness of the
2 offender's crime or promote disrespect for law.

3 (3) The following grounds, while not controlling the discretion of
4 the court, shall be accorded weight in favor of withholding sentence of
5 imprisonment:

6 (a) The crime neither caused nor threatened serious harm;

7 (b) The offender did not contemplate that his or her crime would
8 cause or threaten serious harm;

9 (c) The offender acted under strong provocation;

10 (d) Substantial grounds were present tending to excuse or justify
11 the crime, though failing to establish a defense;

12 (e) The victim of the crime induced or facilitated commission of the
13 crime;

14 (f) The offender has compensated or will compensate the victim of
15 his or her crime for the damage or injury the victim sustained;

16 (g) The offender has no history of prior delinquency or criminal
17 activity and has led a law-abiding life for a substantial period of time
18 before the commission of the crime;

19 (h) The crime was the result of circumstances unlikely to recur;

20 (i) The character and attitudes of the offender indicate that he or
21 she is unlikely to commit another crime;

22 (j) The offender is likely to respond affirmatively to probationary
23 treatment; and

24 (k) Imprisonment of the offender would entail excessive hardship to
25 his or her dependents.

26 (4) When an offender who has been convicted of a crime is not
27 sentenced to imprisonment, the court may sentence him or her to
28 probation.

29 ~~(5) For all sentences of imprisonment for Class III, IIIA, or IV~~
30 ~~felonies, other than those imposed consecutively or concurrently with a~~
31 ~~sentence to imprisonment for a Class I, IA, IB, IC, ID, II, or IIA~~

1 ~~felony, the court shall impose a determinate sentence within the~~
2 ~~applicable range in section 28-105, including a period of post-release~~
3 ~~supervision.~~

4 Sec. 17. Section 29-2262, Revised Statutes Supplement, 2015, is
5 amended to read:

6 29-2262 (1) When a court sentences an offender to probation, it
7 shall attach such reasonable conditions as it deems necessary or likely
8 to insure that the offender will lead a law-abiding life. No offender
9 shall be sentenced to probation if he or she is deemed to be a habitual
10 criminal pursuant to section 29-2221.

11 (2) The court may, as a condition of a sentence of probation,
12 require the offender:

13 (a) To refrain from unlawful conduct;

14 (b) ~~To For misdemeanors,~~ to be confined periodically in the county
15 jail or to return to custody after specified hours but not to exceed the
16 lesser of ninety days or the maximum jail term provided by law for the
17 offense;

18 (c) To meet his or her family responsibilities;

19 (d) To devote himself or herself to a specific employment or
20 occupation;

21 (e) To undergo medical or psychiatric treatment and to enter and
22 remain in a specified institution for such purpose;

23 (f) To pursue a prescribed secular course of study or vocational
24 training;

25 (g) To attend or reside in a facility established for the
26 instruction, recreation, or residence of persons on probation;

27 (h) To refrain from frequenting unlawful or disreputable places or
28 consorting with disreputable persons;

29 (i) To possess no firearm or other dangerous weapon if convicted of
30 a felony, or if convicted of any other offense, to possess no firearm or
31 other dangerous weapon unless granted written permission by the court;

1 (j) To remain within the jurisdiction of the court and to notify the
2 court or the probation officer of any change in his or her address or his
3 or her employment and to agree to waive extradition if found in another
4 jurisdiction;

5 (k) To report as directed to the court or a probation officer and to
6 permit the officer to visit his or her home;

7 (l) To pay a fine in one or more payments as ordered;

8 (m) To pay for tests to determine the presence of drugs or alcohol,
9 psychological evaluations, offender assessment screens, and
10 rehabilitative services required in the identification, evaluation, and
11 treatment of offenders if such offender has the financial ability to pay
12 for such services;

13 (n) To perform community service as outlined in sections 29-2277 to
14 29-2279 under the direction of his or her probation officer;

15 (o) To be monitored by an electronic surveillance device or system
16 and to pay the cost of such device or system if the offender has the
17 financial ability;

18 (p) To participate in a community correctional facility or program
19 as provided in the Community Corrections Act;

20 (q) To successfully complete an incarceration work camp program as
21 determined by the Department of Correctional Services;

22 (r) To satisfy any other conditions reasonably related to the
23 rehabilitation of the offender;

24 (s) To make restitution as described in sections 29-2280 and
25 29-2281; or

26 (t) To pay for all costs imposed by the court, including court costs
27 and the fees imposed pursuant to section 29-2262.06.

28 (3) When jail time is imposed as a condition of probation under
29 subdivision (2)(b) of this section, the court shall advise the offender
30 on the record the time the offender will serve in jail assuming no good
31 time for which the offender will be eligible under section 47-502 is lost

1 and assuming none of the jail time imposed as a condition of probation is
2 waived by the court.

3 (4) Jail time may only be imposed as a condition of probation under
4 subdivision (2)(b) of this section if:

5 (a) The court would otherwise sentence the defendant to a term of
6 imprisonment instead of probation; and

7 (b) The court makes a finding on the record that, while probation is
8 appropriate, periodic confinement in the county jail as a condition of
9 probation is necessary because a sentence of probation without a period
10 of confinement would depreciate the seriousness of the offender's crime
11 or promote disrespect for law.

12 (5 3) In all cases in which the offender is guilty of violating
13 section 28-416, a condition of probation shall be mandatory treatment and
14 counseling as provided by such section.

15 (6 4) In all cases in which the offender is guilty of a crime
16 covered by the DNA Identification Information Act, a condition of
17 probation shall be the collecting of a DNA sample pursuant to the act and
18 the paying of all costs associated with the collection of the DNA sample
19 prior to release from probation.

20 Sec. 18. Section 29-2263, Revised Statutes Supplement, 2015, is
21 amended to read:

22 29-2263 (1) Except as provided in subsection (2) of this section,
23 when a court has sentenced an offender to probation, the court shall
24 specify the term of such probation which shall be not more than five
25 years upon conviction of a felony or second offense misdemeanor and two
26 years upon conviction of a first offense misdemeanor. The court, on
27 application of a probation officer or of the probationer or on its own
28 motion, may discharge a probationer at any time.

29 (2) When a court has sentenced an offender to post-release
30 supervision, the court shall specify the term of such post-release
31 supervision as provided in section 28-105. The court, on application of a

1 probation officer or of the probationer or on its own motion, may
2 discharge a probationer at any time.

3 (3) During the term of probation, the court on application of a
4 probation officer or of the probationer, or its own motion, may modify or
5 eliminate any of the conditions imposed on the probationer or add further
6 conditions authorized by section 29-2262. This subsection does not
7 preclude a probation officer from imposing administrative sanctions with
8 the probationer's full knowledge and consent as authorized by sections 20
9 and 21 of this act subsection (2) or (9) of section 29-2266.

10 (4) Upon completion of the term of probation, or the earlier
11 discharge of the probationer, the probationer shall be relieved of any
12 obligations imposed by the order of the court and shall have satisfied
13 the sentence for his or her crime.

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

18 Sec. 19. Section 29-2266, Revised Statutes Supplement, 2015, is
19 amended to read:

20 29-2266 ~~(1)~~ For purposes of sections 20 to 22 of this act this
21 section:

22 (1) Absconding supervision means a probationer has purposely avoided
23 supervision for a period of at least two weeks and reasonable efforts by
24 probation officers and staff to locate the probationer in person have
25 proven unsuccessful;

26 (2 a) Administrative sanction means an additional probation
27 requirement requirements imposed upon a probationer by his or her
28 probation officer, with the full knowledge and consent of the
29 probationer, designed to hold the probationer accountable for violations
30 of conditions of probation, including, but not limited to:

31 (a i) Counseling or reprimand by his or her probation officer;

1 (b ii) Increased supervision contact requirements;

2 (c iii) Increased substance abuse testing;

3 (d iv) Referral for substance abuse or mental health evaluation or
4 other specialized assessment, counseling, or treatment;

5 (e v) Imposition of a designated curfew for a period not to exceed
6 thirty days;

7 (f vi) Community service for a specified number of hours pursuant to
8 sections 29-2277 to 29-2279;

9 (g vii) Travel restrictions to stay within his or her county of
10 residence or employment unless otherwise permitted by the supervising
11 probation officer; and

12 (h viii) Restructuring court-imposed financial obligations to
13 mitigate their effect on the probationer;

14 (3) Custodial sanction means an additional probation requirement
15 imposed upon a probationer designed to hold the probationer accountable
16 for a violation of a condition of probation. A custodial sanction may
17 include up to thirty days in jail as the most severe response and may
18 include up to three days in jail as the second most severe response;

19 (4)(a) (b) Noncriminal violation means a probationer's activities or
20 behaviors which create the opportunity for re-offending or diminish the
21 effectiveness of probation supervision resulting in a violation of an
22 original condition of probation, including:

23 (i) Moving traffic violations;

24 (ii) Failure to report to his or her probation officer;

25 (iii) Leaving the jurisdiction of the court or leaving the state
26 without the permission of the court or his or her probation officer;

27 (iv) Failure to work regularly or attend training or school;

28 (v) Failure to notify his or her probation officer of change of
29 address or employment;

30 (vi) Frequenting places where controlled substances are illegally
31 sold, used, distributed, or administered;

1 (vii) Failure to perform community service as directed; and
2 (viii) Failure to pay fines, court costs, restitution, or any fees
3 imposed pursuant to section 29-2262.06 as directed; and

4 (b) Noncriminal violation does not include absconding supervision;
5 and

6 (5 e) Substance abuse violation means a probationer's activities or
7 behaviors associated with the use of chemical substances or related
8 treatment services resulting in a violation of an original condition of
9 probation, including:

10 (a i) Positive breath test for the consumption of alcohol if the
11 offender is required to refrain from alcohol consumption;

12 (b ii) Positive urinalysis for the illegal use of drugs;

13 (c iii) Failure to report for alcohol testing or drug testing; and

14 (d iv) Failure to appear for or complete substance abuse or mental
15 health treatment evaluations or inpatient or outpatient treatment.

16 ~~(2) Whenever a probation officer has reasonable cause to believe~~
17 ~~that a probationer sentenced for a misdemeanor has committed or is about~~
18 ~~to commit a substance abuse violation or noncriminal violation while on~~
19 ~~probation, but that the probationer will not attempt to leave the~~
20 ~~jurisdiction and will not place lives or property in danger, the~~
21 ~~probation officer shall either:~~

22 ~~(a) Impose one or more administrative sanctions with the approval of~~
23 ~~his or her chief probation officer or such chief's designee. The decision~~
24 ~~to impose administrative sanctions in lieu of formal revocation~~
25 ~~proceedings rests with the probation officer and his or her chief~~
26 ~~probation officer or such chief's designee and shall be based upon the~~
27 ~~probationer's risk level, the severity of the violation, and the~~
28 ~~probationer's response to the violation. If administrative sanctions are~~
29 ~~to be imposed, the probationer shall acknowledge in writing the nature of~~
30 ~~the violation and agree upon the administrative sanction. The probationer~~
31 ~~has the right to decline to acknowledge the violation; and if he or she~~

1 ~~declines to acknowledge the violation, the probation officer shall take~~
2 ~~action pursuant to subdivision (2)(b) of this section. A copy of the~~
3 ~~report shall be submitted to the county attorney of the county where~~
4 ~~probation was imposed; or~~

5 ~~(b) Submit a written report to the sentencing court, with a copy to~~
6 ~~the county attorney of the county where probation was imposed, outlining~~
7 ~~the nature of the probation violation and request that formal revocation~~
8 ~~proceedings be instituted against the probationer.~~

9 ~~(3) Whenever a probation officer has reasonable cause to believe~~
10 ~~that a probationer sentenced for a misdemeanor has violated or is about~~
11 ~~to violate a condition of probation other than a substance abuse~~
12 ~~violation or noncriminal violation and that the probationer will not~~
13 ~~attempt to leave the jurisdiction and will not place lives or property in~~
14 ~~danger, the probation officer shall submit a written report to the~~
15 ~~sentencing court, with a copy to the county attorney of the county where~~
16 ~~probation was imposed, outlining the nature of the probation violation.~~

17 ~~(4) Whenever a probation officer has a reasonable cause to believe~~
18 ~~that a probationer sentenced for a misdemeanor has violated or is about~~
19 ~~to violate a condition of his or her probation and that the probationer~~
20 ~~will attempt to leave the jurisdiction or will place lives or property in~~
21 ~~danger, the probation officer shall arrest the probationer without a~~
22 ~~warrant and may call on any peace officer for assistance. Whenever a~~
23 ~~probationer is arrested, with or without a warrant, he or she shall be~~
24 ~~detained in a jail or other detention facility.~~

25 ~~(5) Immediately after arrest and detention pursuant to subsection~~
26 ~~(4) of this section, the probation officer shall notify the county~~
27 ~~attorney of the county where probation was imposed and submit a written~~
28 ~~report of the reason for such arrest and of any violation of probation.~~
29 ~~After prompt consideration of such written report, the county attorney~~
30 ~~shall:~~

31 ~~(a) Order the probationer's release from confinement; or~~

1 ~~(b) File with the sentencing court a motion or information to revoke~~
2 ~~the probation.~~

3 ~~(6) Whenever a county attorney receives a report from a probation~~
4 ~~officer that a probationer sentenced for a misdemeanor has violated a~~
5 ~~condition of probation, the county attorney may file a motion or~~
6 ~~information to revoke probation.~~

7 ~~(7) Whenever a probation officer has reasonable cause to believe~~
8 ~~that a probationer sentenced for a felony has committed or is about to~~
9 ~~commit a violation while on probation, the probation officer shall~~
10 ~~consider:~~

11 ~~(a) Whether the probation officer is required to arrest the~~
12 ~~probationer pursuant to subsection (10) of this section;~~

13 ~~(b) The probationer's risk level, the severity of the violation, and~~
14 ~~the probationer's response to the violation; and~~

15 ~~(c) Whether to impose administrative sanctions or seek custodial~~
16 ~~sanctions or revocation pursuant to subsection (8) of this section.~~

17 ~~(8) The following sanctions may be imposed or sought by the~~
18 ~~probation officer, with approval from his or her chief probation officer~~
19 ~~or such chief's designee, for felony probationers:~~

20 ~~(a) One or more administrative sanctions;~~

21 ~~(b) A custodial sanction of up to three days in jail or up to thirty~~
22 ~~days in jail, to be imposed by the court. Custodial sanctions may be~~
23 ~~combined with one or more administrative sanctions; or~~

24 ~~(c) Formal revocation proceedings, however formal revocations may~~
25 ~~only be instituted against the probationer for a substance abuse or~~
26 ~~noncriminal violation if the probationer has served ninety days of~~
27 ~~cumulative custodial sanctions during the current probation term.~~

28 ~~(9) If administrative sanctions are to be imposed by the probation~~
29 ~~officer pursuant to subsection (8) of this section, the probationer must~~
30 ~~acknowledge in writing the nature of the violation and agree upon the~~
31 ~~sanction. Prior to acknowledging the violation and agreeing upon the~~

1 ~~sanction, the probationer must be presented with a violation report and~~
2 ~~advised of the right to a hearing before the court on the alleged~~
3 ~~violation. The probationer has the right to decline to acknowledge the~~
4 ~~violation and request a court hearing. If the probationer declines to~~
5 ~~acknowledge the violation, the probation officer shall submit a written~~
6 ~~report to the sentencing court, with a copy to the county attorney of the~~
7 ~~county where probation was imposed, describing the alleged violation or~~
8 ~~violations and requesting that administrative sanctions or a custodial~~
9 ~~sanction of up to thirty days in jail be imposed.~~

10 ~~(10) Whenever a probation officer has reasonable cause to believe~~
11 ~~that a probationer sentenced for a felony has violated or is about to~~
12 ~~violate a condition of his or her probation and that the probationer will~~
13 ~~attempt to leave the jurisdiction or will place lives or property in~~
14 ~~danger, the probation officer shall arrest the probationer without a~~
15 ~~warrant and may call on any peace officer for assistance. Whenever a~~
16 ~~probationer is arrested, with or without a warrant, he or she shall be~~
17 ~~detained in a jail or other detention facility. The probation officer~~
18 ~~shall notify the county attorney of the county where probation was~~
19 ~~imposed and submit a written report of the reason for such arrest and of~~
20 ~~any violation of probation. After prompt consideration of such written~~
21 ~~report, the county attorney shall:~~

22 ~~(a) Order the probationer's release from confinement; or~~

23 ~~(b) File with the sentencing court a motion or information to impose~~
24 ~~administrative or custodial sanctions, or both, or revoke the probation.~~

25 ~~(11) The administrator shall adopt and promulgate rules and~~
26 ~~regulations at the direction of the Supreme Court to ensure prompt court~~
27 ~~review of requests for the imposition of custodial sanctions.~~

28 ~~(12) The administrator shall adopt and promulgate rules and~~
29 ~~regulations to carry out this section.~~

30 Sec. 20. (1) Whenever a probation officer has reasonable cause to
31 believe that a probationer sentenced for a misdemeanor has committed or

1 is about to commit a violation of a condition of probation, the probation
2 officer shall either:

3 (a) Impose one or more administrative sanctions with the approval of
4 his or her chief probation officer or such chief's designee. The decision
5 to impose an administrative sanction in lieu of formal revocation
6 proceedings rests with the probation officer and his or her chief
7 probation officer or such chief's designee and shall be based upon the
8 probationer's risk level, the severity of the violation, and the
9 probationer's response to the violation. If an administrative sanction is
10 to be imposed, the probationer shall acknowledge in writing the nature of
11 the violation and agree upon the administrative sanction. The probationer
12 has the right to decline to acknowledge the violation; and if he or she
13 declines to acknowledge the violation, the probation officer shall take
14 action pursuant to subdivision (1)(b) of this section. The probation
15 officer shall submit a written report to the county attorney of the
16 county where probation was imposed, outlining the nature of the probation
17 violation and the sanction imposed; or

18 (b) Submit a written report to the sentencing court, with a copy to
19 the county attorney of the county where probation was imposed, outlining
20 the nature of the probation violation and request that formal revocation
21 proceedings be initiated against the probationer in accordance with
22 sections 29-2267 and 29-2268.

23 (2) Whenever a probation officer has reasonable cause to believe
24 that a probationer sentenced for a misdemeanor has violated or is about
25 to violate a condition of his or her probation and that the probationer
26 will attempt to leave the jurisdiction or will place lives or property in
27 danger, the probation officer shall arrest the probationer without a
28 warrant and may call on any peace officer for assistance. Whenever a
29 probationer is arrested, with or without a warrant, he or she shall be
30 detained in a jail or other detention facility.

31 (3) Immediately after arrest and detention pursuant to subsection

1 (2) of this section, the probation officer shall notify the county
2 attorney of the county where probation was imposed and submit a written
3 report of the reason for such arrest and of any violation of probation.
4 After prompt consideration of such written report, the county attorney
5 shall:

6 (a) Notify the probation officer and the jail or detention facility,
7 in writing, that he or she does not intend to file a motion to revoke
8 probation, and authorize the release of the probationer from confinement;
9 or

10 (b) File with the sentencing court a motion or information to revoke
11 probation in accordance with sections 29-2267 and 29-2268.

12 (4) Whenever a county attorney receives a report from a probation
13 officer that a probationer sentenced for a misdemeanor has violated a
14 condition of probation, the county attorney may file a motion or
15 information to revoke probation in accordance with sections 29-2267 and
16 29-2268.

17 (5) The administrator shall adopt and promulgate rules and
18 regulations to carry out this section.

19 Sec. 21. (1) Whenever a probation officer has reasonable cause to
20 believe that a probationer sentenced for a felony has committed or is
21 about to commit a violation while on probation, the probation officer
22 shall consider:

23 (a) Whether the probation officer is required to arrest the
24 probationer pursuant to subsection (2) of this section;

25 (b) The probationer's risk level, the severity of the violation, and
26 the probationer's response to the violation;

27 (c) Whether to impose administrative sanctions or seek custodial
28 sanctions; or

29 (d) Whether to seek revocation of probation.

30 (2) Whenever a probation officer has reasonable cause to believe
31 that a probationer sentenced for a felony has violated or is about to

1 violate a condition of his or her probation and that the probationer will
2 attempt to leave the jurisdiction or will place lives or property in
3 danger, the probation officer shall arrest the probationer without a
4 warrant and may call on any peace officer for assistance. Whenever a
5 probationer is arrested, with or without a warrant, he or she shall be
6 detained in a jail or other detention facility.

7 (3) Whenever a probation officer has reasonable cause to believe
8 that a probationer sentenced for a felony has committed or is about to
9 commit a violation of a condition of probation, the probation officer
10 shall:

11 (a) Impose one or more administrative sanctions with the approval of
12 his or her chief probation officer or such chief's designee. The decision
13 to impose an administrative sanction rests with the probation officer and
14 his or her chief probation officer or such chief's designee and shall be
15 based upon the probationer's risk level, the severity of the violation,
16 and the probationer's response to the violation. If an administrative
17 sanction is to be imposed, the probationer shall acknowledge in writing
18 the nature of the violation and agree upon the administrative sanction.
19 The probationer has the right to decline to acknowledge the violation;
20 and if he or she declines to acknowledge the violation, the probation
21 officer shall take action pursuant to subdivision (3)(b) or (c) of this
22 section. The probation officer shall submit a written report to the
23 county attorney of the county where probation was imposed, outlining the
24 nature of the probation violation and the sanction imposed;

25 (b) Seek the imposition of a custodial sanction with the approval of
26 his or her chief probation officer or such chief's designee. The decision
27 to impose a custodial sanction rests with the court and shall be based
28 upon the probationer's risk level, the severity of the violation, and the
29 probationer's response to the violation. If a custodial sanction is to be
30 imposed, the probationer shall acknowledge in writing the nature of the
31 violation and agree upon the custodial sanction. The probationer has the

1 right to decline to acknowledge the violation; and if he or she declines
2 to acknowledge the violation, the probation officer shall take action in
3 accordance with section 22 of this act. If the probationer acknowledges
4 the violation and agrees upon the custodial sanction, the probation
5 officer shall take action in accordance with subsection (1) of section 22
6 of this act and shall submit a written report to the county attorney of
7 the county where probation was imposed, outlining the nature of the
8 probation violation and the sanction to be imposed; or

9 (c) Submit a written report to the sentencing court, with a copy to
10 the county attorney of the county where probation was imposed, outlining
11 the nature of the probation violation and request that formal revocation
12 proceedings be initiated against the probationer in accordance with
13 sections 29-2267 and 29-2268.

14 (4) Immediately after arrest and detention pursuant to subsection
15 (2) of this section, the probation officer shall notify the county
16 attorney of the county where probation was imposed and submit a written
17 report of the reason for such arrest and of any violation of probation.
18 After prompt consideration of such written report, the county attorney
19 shall:

20 (a) Notify the probation officer and the jail or detention facility,
21 in writing, that he or she does not intend to file a motion to revoke
22 probation, and authorize the release of the probationer from confinement;
23 or

24 (b) File with the sentencing court a motion or information to revoke
25 probation in accordance with sections 29-2267 and 29-2268.

26 (5) Whenever a county attorney receives a report from a probation
27 officer that a probationer sentenced for a felony has violated a
28 condition of probation, the county attorney may file a motion or
29 information to revoke probation in accordance with sections 29-2267 and
30 29-2268.

31 (6) The administrator shall adopt and promulgate rules and

1 regulations to carry out this section, including, but not limited to,
2 rules and regulations to ensure prompt court review of requests for the
3 imposition of custodial sanctions.

4 Sec. 22. (1) Whenever a probation officer seeks to impose a
5 custodial sanction and the probationer acknowledges the violation, agrees
6 to the custodial sanction, and waives the hearing, the probation officer
7 shall submit a written report to the sentencing court outlining the
8 nature of the violation and the sanction to be imposed. Upon receiving
9 the probation officer's report, the court shall issue a commitment order
10 accordingly.

11 (2) Whenever a probation officer seeks to impose a custodial
12 sanction and the probationer declines to acknowledge the violation, the
13 probation officer shall submit a written report to the sentencing court
14 outlining the nature of the violation and the sanction to be imposed. The
15 probationer is entitled to a prompt consideration of such charge by the
16 sentencing court. Except as provided in subsection (1) of this section,
17 the court shall not impose a custodial sanction on a probationer unless
18 the violation of probation is established at a hearing by a preponderance
19 of the evidence.

20 (3) Prior to the custodial sanction hearing, the probation officer
21 shall provide the probationer written notice of the grounds on which the
22 request to impose a custodial sanction is based. The probationer has the
23 right to hear and controvert the evidence against him or her, to offer
24 evidence in his or her defense, and to be represented by counsel. The
25 right to hear and controvert the evidence does not include a right to
26 confront witnesses. The right to offer evidence includes, but is not
27 limited to, the right to submit affidavits and reports for consideration
28 by the court and the right to testify and call witnesses.

29 (4) The county attorney of the county where probation was imposed
30 may appear at and participate in a custodial sanction hearing to offer
31 evidence, call witnesses, and cross examine witnesses. The court shall

1 receive the affidavit and report of the probation officer as evidence and
2 may receive additional affidavits and reports related to the requested
3 sanction or sanctions.

4 (5) After a custodial sanction hearing, if the court determines that
5 a custodial sanction should be imposed, the court shall issue a
6 commitment order accordingly. The decision to impose a custodial sanction
7 shall be based upon the probationer's risk level, the severity of the
8 violation, and the probationer's response to the violation, and shall be
9 made in accordance with the procedure in this section, relevant court
10 rules, and the matrix of rewards and graduated sanctions developed by the
11 administrator. A custodial sanction may be combined with one or more
12 administrative sanctions.

13 Sec. 23. Section 29-2267, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 29-2267 (1) Whenever a motion or information to revoke probation is
16 filed, the probationer shall be entitled to a prompt consideration of
17 such charge by the sentencing court. The court shall not revoke probation
18 or increase the probation requirements imposed ~~thereby~~ on the
19 probationer, except after a hearing upon proper notice where the
20 violation of probation is established by clear and convincing evidence.

21 (2) The probationer shall have the right to receive, prior to the
22 hearing, a copy of the information or written notice of the grounds on
23 which the information is based. The probationer shall have the right to
24 hear and controvert the evidence against him or her, to offer evidence in
25 his or her defense, and to be represented by counsel.

26 (3) For a probationer convicted of a felony, revocation proceedings
27 may only be instituted in response to a substance abuse or noncriminal
28 violation if the probationer has served ninety days of cumulative
29 custodial sanctions during the current probation term.

30 Sec. 24. Section 29-2268, Revised Statutes Supplement, 2015, is
31 amended to read:

1 29-2268 (1) If the court finds that the probationer, other than a
2 probationer serving a term of post-release supervision, did violate a
3 condition of his or her probation, it may revoke the probation and impose
4 on the offender such new sentence as might have been imposed originally
5 for the crime of which he or she was convicted.

6 (2) If the court finds that a probationer serving a term of post-
7 release supervision did violate a condition of his or her post-release
8 supervision, it may revoke the post-release supervision and impose on the
9 offender a term of imprisonment up to the remaining period of post-
10 release supervision. The term shall be served in an institution under the
11 jurisdiction of the Department of Correctional Services or in county jail
12 subject to subsection (2) of section 28-105.

13 (3) If the court finds that the probationer did violate a condition
14 of his or her probation, but is of the opinion that revocation is not
15 appropriate, the court may order that:

16 (a) The probationer receive a reprimand and warning;

17 (b) Probation supervision and reporting be intensified;

18 (c) The probationer be required to conform to one or more additional
19 conditions of probation which may be imposed in accordance with the
20 Nebraska Probation Administration Act ~~provisions of sections 29-2246 to~~
21 ~~29-2268; and~~

22 (d) A custodial sanction be imposed on a probationer convicted of a
23 felony, subject to the provisions of section 22 of this act; and

24 (e) ~~d~~) The probationer's term of probation be extended, subject to
25 the provisions of section 29-2263.

26 Sec. 25. Section 29-2269, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 29-2269 Sections 29-2246 to 29-2269 and sections 20 to 22 of this
29 act shall be known and may be cited as the Nebraska Probation
30 Administration Act.

31 Sec. 26. Section 47-401, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 47-401 (1) Any person sentenced to or confined in a city or county
3 jail upon conviction for a misdemeanor, a felony, contempt, or nonpayment
4 of any fine or forfeiture or as the result of a custodial sanction
5 imposed in response to a parole or probation violation may be granted the
6 privilege of leaving the jail during necessary and reasonable hours for
7 any of the following purposes:

8 (a) Seeking employment;

9 (b) Working at his or her employment;

10 (c) Conducting such person's own business or other self-employed
11 occupation, including housekeeping and attending to the needs of such
12 person's family;

13 (d) Attending any high school, college, university, or other
14 educational or vocational training program or institution;

15 (e) Serious illness or death of a member of such person's immediate
16 family;

17 (f) Medical treatment; ~~or~~

18 (g) Outpatient or inpatient treatment for alcohol or substance
19 abuse; or -

20 (h) Engaging in other rehabilitative activities, including, but not
21 limited to, attending a program or service provided at a reporting
22 center.

23 (2) Any person sentenced to or confined in a city or county jail
24 upon conviction for a misdemeanor or nonpayment of any fine or forfeiture
25 or as the result of a custodial sanction imposed in response to a parole
26 or probation violation may be granted the privilege of serving the
27 sentence or a part of the sentence at a house of correction, community
28 residential center, work release center, halfway house, or other place of
29 confinement properly designated as a jail facility in accordance with
30 this section and sections 15-259, 47-117, 47-207, and 47-409.

31 (3) Any person sentenced to or confined in a city or county jail

1 upon conviction for a misdemeanor, a felony, contempt, or nonpayment of
2 any fine or forfeiture or as the result of a custodial sanction imposed
3 in response to a parole or probation violation may be granted the
4 privilege of serving all or part of the sentence under house arrest. For
5 purposes of this subsection, house arrest means restricting an offender
6 to a specific residence except for authorized periods of absence for
7 employment or for medical, educational, or other reasons approved by the
8 court. House arrest may be monitored by electronic surveillance devices
9 or systems.

10 Sec. 27. Section 47-502, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 47-502 Any person sentenced to or confined in a city or county jail,
13 including any person serving a custodial sanction imposed in response to
14 a parole or probation violation, shall, after the fifteenth day of his or
15 her confinement, have his or her remaining term reduced one day for each
16 day of his or her sentence or sanction during which he or she has not
17 committed any breach of discipline or other violation of jail
18 regulations.

19 Sec. 28. Section 47-901, Revised Statutes Supplement, 2015, is
20 amended to read:

21 47-901 Sections 47-901 to 47-918 and section 31 of this act shall be
22 known and may be cited as the Office of Inspector General of the Nebraska
23 Correctional System Act.

24 Sec. 29. Section 47-903, Revised Statutes Supplement, 2015, is
25 amended to read:

26 47-903 For purposes of the Office of Inspector General of the
27 Nebraska Correctional System Act, the following definitions apply:

28 (1) Administrator means a person charged with administration of a
29 program, an office, or a division of the department or administration of
30 a private agency;

31 (2) Department means the Department of Correctional Services;

1 (3) Director means the Director of Correctional Services;

2 (4) Inspector General means the Inspector General of the Nebraska
3 Correctional System appointed under section 47-904;

4 (5) Malfeasance means a wrongful act that the actor has no legal
5 right to do or any wrongful conduct that affects, interrupts, or
6 interferes with performance of an official duty;

7 (6) Management means supervision of subordinate employees;

8 (7) Misfeasance means the improper performance of some act that a
9 person may lawfully do;

10 (8) Obstruction means hindering an investigation, preventing an
11 investigation from progressing, stopping or delaying the progress of an
12 investigation, or making the progress of an investigation difficult or
13 slow;

14 (9) Office means the office of Inspector General of the Nebraska
15 Correctional System and includes the Inspector General and other
16 employees of the office;

17 (10) Office of Parole Administration means the office created
18 pursuant to section 83-1,100;

19 (11) (10) Private agency means an entity that contracts with the
20 department or contracts to provide services to another entity that
21 contracts with the department; and

22 (12) (11) Record means any recording in written, audio, electronic
23 transmission, or computer storage form, including, but not limited to, a
24 draft, memorandum, note, report, computer printout, notation, or message,
25 and includes, but is not limited to, medical records, mental health
26 records, case files, clinical records, financial records, and
27 administrative records.

28 Sec. 30. Section 47-908, Revised Statutes Supplement, 2015, is
29 amended to read:

30 47-908 All employees of the department, all employees of the Office
31 of Parole Administration, and all owners, operators, managers,

1 supervisors, and employees of private agencies shall cooperate with the
2 office. Cooperation includes, but is not limited to, the following:

3 (1) Provision of full access to and production of records and
4 information. Providing access to and producing records and information
5 for the office is not a violation of confidentiality provisions under any
6 statute, rule, or regulation if done in good faith for purposes of an
7 investigation under the Office of Inspector General of the Nebraska
8 Correctional System Act;

9 (2) Fair and honest disclosure of records and information reasonably
10 requested by the office in the course of an investigation under the act;

11 (3) Encouraging employees to fully comply with reasonable requests
12 of the office in the course of an investigation under the act;

13 (4) Prohibition of retaliation by owners, operators, or managers
14 against employees for providing records or information or filing or
15 otherwise making a complaint to the office;

16 (5) Not requiring employees to gain supervisory approval prior to
17 filing a complaint with or providing records or information to the
18 office;

19 (6) Provision of complete and truthful answers to questions posed by
20 the office in the course of an investigation; and

21 (7) Not willfully interfering with or obstructing the investigation.

22 Sec. 31. The Office of Parole Administration shall provide the
23 Public Counsel and the Inspector General with direct computer access to
24 all computerized records, reports, and documents maintained by the office
25 in connection with administration of the Nebraska parole system, except
26 that access for the Public Counsel and the Inspector General to a
27 parolee's medical or mental health records shall be subject to the
28 parolee's consent.

29 Sec. 32. Section 60-6,197.03, Revised Statutes Supplement, 2015, is
30 amended to read:

31 60-6,197.03 Any person convicted of a violation of section 60-6,196

1 or 60-6,197 shall be punished as follows:

2 (1) Except as provided in subdivision (2) of this section, if such
3 person has not had a prior conviction, such person shall be guilty of a
4 Class W misdemeanor, and the court shall, as part of the judgment of
5 conviction, order that the operator's license of such person be revoked
6 for a period of six months from the date ordered by the court. The
7 revocation order shall require that the person apply for an ignition
8 interlock permit pursuant to section 60-6,211.05 for the revocation
9 period and have an ignition interlock device installed on any motor
10 vehicle he or she operates during the revocation period. Such revocation
11 shall be administered upon sentencing, upon final judgment of any appeal
12 or review, or upon the date that any probation is revoked.

13 If the court places such person on probation or suspends the
14 sentence for any reason, the court shall, as one of the conditions of
15 probation or sentence suspension, order that the operator's license of
16 such person be revoked for a period of sixty days from the date ordered
17 by the court. The court shall order that during the period of revocation
18 the person apply for an ignition interlock permit pursuant to section
19 60-6,211.05. Such order of probation or sentence suspension shall also
20 include, as one of its conditions, the payment of a five-hundred-dollar
21 fine;

22 (2) If such person has not had a prior conviction and, as part of
23 the current violation, had a concentration of fifteen-hundredths of one
24 gram or more by weight of alcohol per one hundred milliliters of his or
25 her blood or fifteen-hundredths of one gram or more by weight of alcohol
26 per two hundred ten liters of his or her breath, such person shall be
27 guilty of a Class W misdemeanor, and the court shall, as part of the
28 judgment of conviction, revoke the operator's license of such person for
29 a period of one year from the date ordered by the court. The revocation
30 order shall require that the person apply for an ignition interlock
31 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the

1 revocation period and have an ignition interlock device installed on any
2 motor vehicle he or she operates during the revocation period. Such
3 revocation shall be administered upon sentencing, upon final judgment of
4 any appeal or review, or upon the date that any probation is revoked.

5 If the court places such person on probation or suspends the
6 sentence for any reason, the court shall, as one of the conditions of
7 probation or sentence suspension, order that the operator's license of
8 such person be revoked for a period of one year from the date ordered by
9 the court. The revocation order shall require that the person apply for
10 an ignition interlock permit pursuant to subdivision (1)(b) of section
11 60-6,197.01 for the revocation period and have an ignition interlock
12 device installed on any motor vehicle he or she operates during the
13 revocation period. Such revocation shall be administered upon sentencing,
14 upon final judgment of any appeal or review, or upon the date that any
15 probation is revoked. Such order of probation or sentence suspension
16 shall also include, as conditions, the payment of a five-hundred-dollar
17 fine and either confinement in the city or county jail for two days or
18 the imposition of not less than one hundred twenty hours of community
19 service;

20 (3) Except as provided in subdivision (5) of this section, if such
21 person has had one prior conviction, such person shall be guilty of a
22 Class W misdemeanor, and the court shall, as part of the judgment of
23 conviction, order that the operator's license of such person be revoked
24 for a period of eighteen months from the date ordered by the court. The
25 revocation order shall require that the person not drive for a period of
26 forty-five days and that the person apply for an ignition interlock
27 permit and have an ignition interlock device installed on any motor
28 vehicle he or she owns or operates for at least one year. The court shall
29 also issue an order pursuant to subdivision (1)(b) of section
30 60-6,197.01. If the person has an ignition interlock device installed as
31 required under this subdivision, the person shall not be eligible for

1 reinstatement of his or her operator's license until he or she has had
2 the ignition interlock device installed for the period ordered by the
3 court. The revocation shall be administered upon sentencing, upon final
4 judgment of any appeal or review, or upon the date that any probation is
5 revoked.

6 If the court places such person on probation or suspends the
7 sentence for any reason, the court shall, as one of the conditions of
8 probation or sentence suspension, order that the operator's license of
9 such person be revoked for a period of eighteen months from the date
10 ordered by the court. The revocation order shall require that the person
11 not drive for a period of forty-five days and that the person apply for
12 an ignition interlock permit and installation of an ignition interlock
13 device for not less than a one-year period pursuant to section
14 60-6,211.05. The court shall also issue an order pursuant to subdivision
15 (1)(b) of section 60-6,197.01. If the person has an ignition interlock
16 device installed as required under this subdivision, the person shall not
17 be eligible for reinstatement of his or her operator's license until he
18 or she has had the ignition interlock device installed for the period
19 ordered by the court. The order of probation or sentence suspension shall
20 also include, as conditions, the payment of a five-hundred-dollar fine
21 and either confinement in the city or county jail for ten days or the
22 imposition of not less than two hundred forty hours of community service;

23 (4) Except as provided in subdivision (6) of this section, if such
24 person has had two prior convictions, such person shall be guilty of a
25 Class W misdemeanor, and the court shall, as part of the judgment of
26 conviction, order that the operator's license of such person be revoked
27 for a period of fifteen years from the date ordered by the court and
28 shall issue an order pursuant to section 60-6,197.01. Such orders shall
29 be administered upon sentencing, upon final judgment of any appeal or
30 review, or upon the date that any probation is revoked.

31 If the court places such person on probation or suspends the

1 sentence for any reason, the court shall, as one of the conditions of
2 probation or sentence suspension, order that the operator's license of
3 such person be revoked for a period of at least two years but not more
4 than fifteen years from the date ordered by the court. The revocation
5 order shall require that the person not drive for a period of forty-five
6 days, after which the court may order that during the period of
7 revocation the person apply for an ignition interlock permit and
8 installation of an ignition interlock device issued pursuant to section
9 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of
10 section 60-6,197.01. Such order of probation or sentence suspension shall
11 also include, as conditions, the payment of a one-thousand-dollar fine
12 and confinement in the city or county jail for thirty days;

13 (5) If such person has had one prior conviction and, as part of the
14 current violation, had a concentration of fifteen-hundredths of one gram
15 or more by weight of alcohol per one hundred milliliters of his or her
16 blood or fifteen-hundredths of one gram or more by weight of alcohol per
17 two hundred ten liters of his or her breath or refused to submit to a
18 test as required under section 60-6,197, such person shall be guilty of a
19 Class I misdemeanor, and the court shall, as part of the judgment of
20 conviction, order payment of a one-thousand-dollar fine and revoke the
21 operator's license of such person for a period of at least eighteen
22 months but not more than fifteen years from the date ordered by the court
23 and shall issue an order pursuant to section 60-6,197.01. Such revocation
24 and order shall be administered upon sentencing, upon final judgment of
25 any appeal or review, or upon the date that any probation is revoked. The
26 court shall also sentence such person to serve at least ninety days'
27 imprisonment in the city or county jail or an adult correctional
28 facility.

29 If the court places such person on probation or suspends the
30 sentence for any reason, the court shall, as one of the conditions of
31 probation or sentence suspension, order that the operator's license of

1 such person be revoked for a period of at least eighteen months but not
2 more than fifteen years from the date ordered by the court. The
3 revocation order shall require that the person not drive for a period of
4 forty-five days and that during the period of revocation the person apply
5 for an ignition interlock permit and installation of an ignition
6 interlock device for not less than a one-year period issued pursuant to
7 section 60-6,211.05. The court shall also issue an order pursuant to
8 subdivision (1)(b) of section 60-6,197.01. If the person has an ignition
9 interlock device installed as required under this subdivision, the person
10 shall not be eligible for reinstatement of his or her operator's license
11 until he or she has had the ignition interlock device installed for the
12 period ordered by the court. The order of probation or sentence
13 suspension shall also include, as conditions, the payment of a one-
14 thousand-dollar fine and confinement in the city or county jail for
15 thirty days;

16 (6) If such person has had two prior convictions and, as part of the
17 current violation, had a concentration of fifteen-hundredths of one gram
18 or more by weight of alcohol per one hundred milliliters of his or her
19 blood or fifteen-hundredths of one gram or more by weight of alcohol per
20 two hundred ten liters of his or her breath or refused to submit to a
21 test as required under section 60-6,197, such person shall be guilty of a
22 Class IIIA felony, and the court shall, as part of the judgment of
23 conviction, revoke the operator's license of such person for a period of
24 fifteen years from the date ordered by the court and shall issue an order
25 pursuant to section 60-6,197.01. Such revocation and order shall be
26 administered upon sentencing, upon final judgment of any appeal or
27 review, or upon the date that any probation is revoked. The court shall
28 also sentence such person to serve at least one hundred eighty days'
29 imprisonment in the city or county jail or an adult correctional
30 facility.

31 If the court places such person on probation or suspends the

1 sentence for any reason, the court shall, as one of the conditions of
2 probation or sentence suspension, order that the operator's license of
3 such person be revoked for a period of at least five years but not more
4 than fifteen years from the date ordered by the court. The revocation
5 order shall require that the person not drive for a period of forty-five
6 days, after which the court may order that during the period of
7 revocation the person apply for an ignition interlock permit and
8 installation of an ignition interlock device issued pursuant to section
9 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of
10 section 60-6,197.01. Such order of probation or sentence suspension shall
11 also include, as conditions, the payment of a one-thousand-dollar fine,
12 confinement in the city or county jail for sixty days, and, upon release
13 from such confinement, the use of a continuous alcohol monitoring device
14 and abstention from alcohol use at all times for no less than sixty days;

15 (7) Except as provided in subdivision (8) of this section, if such
16 person has had three prior convictions, such person shall be guilty of a
17 Class IIIA felony, and the court shall, as part of the judgment of
18 conviction, order that the operator's license of such person be revoked
19 for a period of fifteen years from the date ordered by the court and
20 shall issue an order pursuant to section 60-6,197.01. Such orders shall
21 be administered upon sentencing, upon final judgment of any appeal or
22 review, or upon the date that any probation is revoked. The court shall
23 also sentence such person to serve at least one hundred eighty days'
24 imprisonment in the city or county jail or an adult correctional
25 facility.

26 If the court places such person on probation or suspends the
27 sentence for any reason, the court shall, as one of the conditions of
28 probation or sentence suspension, order that the operator's license of
29 such person be revoked for a period of fifteen years from the date
30 ordered by the court. The revocation order shall require that the person
31 not drive for a period of forty-five days, after which the court may

1 order that during the period of revocation the person apply for an
2 ignition interlock permit and installation of an ignition interlock
3 device issued pursuant to section 60-6,211.05 and shall issue an order
4 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
5 probation or sentence suspension shall also include, as conditions, the
6 payment of a two-thousand-dollar fine, confinement in the city or county
7 jail for ninety days, and, upon release from such confinement, the use of
8 a continuous alcohol monitoring device and abstention from alcohol use at
9 all times for no less than ninety days;

10 (8) If such person has had three prior convictions and, as part of
11 the current violation, had a concentration of fifteen-hundredths of one
12 gram or more by weight of alcohol per one hundred milliliters of his or
13 her blood or fifteen-hundredths of one gram or more by weight of alcohol
14 per two hundred ten liters of his or her breath or refused to submit to a
15 test as required under section 60-6,197, such person shall be guilty of a
16 Class IIA felony, with a minimum sentence of one year of imprisonment,
17 and the court shall, as part of the judgment of conviction, revoke the
18 operator's license of such person for a period of fifteen years from the
19 date ordered by the court and shall issue an order pursuant to section
20 60-6,197.01. Such revocation and order shall be administered upon
21 sentencing, upon final judgment of any appeal or review, or upon the date
22 that any probation is revoked.

23 If the court places such person on probation or suspends the
24 sentence for any reason, the court shall, as one of the conditions of
25 probation or sentence suspension, order that the operator's license of
26 such person be revoked for a period of fifteen years from the date
27 ordered by the court. The revocation order shall require that the person
28 not drive for a period of forty-five days, after which the court may
29 order that during the period of revocation the person apply for an
30 ignition interlock permit and installation of an ignition interlock
31 device issued pursuant to section 60-6,211.05 and shall issue an order

1 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
2 probation or sentence suspension shall also include, as conditions, the
3 payment of a two-thousand-dollar fine, confinement in the city or county
4 jail for one hundred twenty days, and, upon release from such
5 confinement, the use of a continuous alcohol monitoring device and
6 abstention from alcohol use at all times for no less than one hundred
7 twenty days;

8 (9) Except as provided in subdivision (10) of this section, if such
9 person has had four or more prior convictions, such person shall be
10 guilty of a Class IIA felony with a minimum sentence of two years'
11 imprisonment, and the court shall, as part of the judgment of conviction,
12 order that the operator's license of such person be revoked for a period
13 of fifteen years from the date ordered by the court and shall issue an
14 order pursuant to section 60-6,197.01. Such orders shall be administered
15 upon sentencing, upon final judgment of any appeal or review, or upon the
16 date that any probation is revoked.

17 If the court places such person on probation or suspends the
18 sentence for any reason, the court shall, as one of the conditions of
19 probation or sentence suspension, order that the operator's license of
20 such person be revoked for a period of fifteen years from the date
21 ordered by the court. The revocation order shall require that the person
22 not drive for a period of forty-five days, after which the court may
23 order that during the period of revocation the person apply for an
24 ignition interlock permit and installation of an ignition interlock
25 device issued pursuant to section 60-6,211.05 and shall issue an order
26 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
27 probation or sentence suspension shall also include, as conditions, the
28 payment of a two-thousand-dollar fine, confinement in the city or county
29 jail for one hundred eighty days, and, upon release from such
30 confinement, the use of a continuous alcohol monitoring device and
31 abstention from alcohol use at all times for no less than one hundred

1 eighty days; and

2 (10) If such person has had four or more prior convictions and, as
3 part of the current violation, had a concentration of fifteen-hundredths
4 of one gram or more by weight of alcohol per one hundred milliliters of
5 his or her blood or fifteen-hundredths of one gram or more by weight of
6 alcohol per two hundred ten liters of his or her breath or refused to
7 submit to a test as required under section 60-6,197, such person shall be
8 guilty of a Class II felony with a minimum sentence of two years'
9 imprisonment and the court shall, as part of the judgment of conviction,
10 revoke the operator's license of such person for a period of fifteen
11 years from the date ordered by the court and shall issue an order
12 pursuant to section 60-6,197.01. Such revocation and order shall be
13 administered upon sentencing, upon final judgment of any appeal or
14 review, or upon the date that any probation is revoked.

15 If the court places such person on probation or suspends the
16 sentence for any reason, the court shall, as one of the conditions of
17 probation or sentence suspension, order that the operator's license of
18 such person be revoked for a period of fifteen years from the date
19 ordered by the court. The revocation order shall require that the person
20 not drive for a period of forty-five days, after which the court may
21 order that during the period of revocation the person apply for an
22 ignition interlock permit and installation of an ignition interlock
23 device issued pursuant to section 60-6,211.05 and shall issue an order
24 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
25 probation or sentence suspension shall also include, as conditions, the
26 payment of a two-thousand-dollar fine, confinement in the city or county
27 jail for one hundred eighty days, and, upon release from such
28 confinement, the use of a continuous alcohol monitoring device and
29 abstention from alcohol use at all times for no less than one hundred
30 eighty days.

31 Sec. 33. Section 71-2482, Revised Statutes Supplement, 2015, is

1 amended to read:

2 71-2482 Any person violating any of the provisions of section
3 71-2478, 71-2480, or 71-2481 is guilty of a Class III misdemeanor. Any
4 person, for a second or subsequent violation of any of the provisions of
5 section 71-2480 or 71-2481, is guilty of a Class II misdemeanor.

6 Sec. 34. Section 83-187, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 83-187 (1) When a person committed to the department is released
9 from a facility, ~~either on parole,~~ on post-release supervision, or upon
10 final discharge, the person shall be returned any personal possessions
11 taken upon confinement, and the chief executive officer of the facility
12 shall furnish the person with a written notice as required in section
13 83-1,118, clothing appropriate for the season of the year, a
14 transportation ticket to the place where he or she will reside, if within
15 the continental limits of the United States or if not, the state may
16 purchase transportation to the nearest United States border en route to
17 such residence, and such sum of money as may be prescribed by the
18 regulations of the department to enable the person to meet his or her
19 immediate needs. If at the time of release the person is too ill or
20 feeble or otherwise unable to use public means of transportation, the
21 chief executive officer may make special arrangements for transportation
22 to the place where the person will reside.

23 (2) At the time of release, the person shall also be paid his or her
24 earnings and any accrued interest thereon set aside in the wage fund.
25 Such earnings and interest shall be paid either in a lump sum or
26 otherwise as determined by the chief executive officer to be in the best
27 interest of the person. No less than one-third of such fund shall be paid
28 upon release, and the entire fund shall be paid within six months of the
29 person's release.

30 (3) The department shall send a copy of the release or discharge to
31 the court which committed the person and also to the sheriff of the

1 county in which the court is located and, when such county contains a
2 city of the metropolitan class, to the police department of such city.

3 Sec. 35. Section 83-1,100.02, Revised Statutes Supplement, 2015, is
4 amended to read:

5 83-1,100.02 (1) For purposes of this section:

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

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

10 (ii) Substance abuse testing requirements and frequency;

11 (iii) Contact restrictions;

12 (iv) Curfew restrictions;

13 (v) Access to available programs and treatment, with priority given
14 to moderate-risk and high-risk parolees; and

15 (vi) Severity of graduated responses to violations of supervision
16 conditions; and

17 (b) Risk and needs assessment means an actuarial tool that has been
18 validated in Nebraska to determine the likelihood of the parolee engaging
19 in future criminal behavior.

20 (2) The Office of Parole Administration shall establish an evidence-
21 based process that utilizes a risk and needs assessment to measure
22 criminal risk factors and specific individual needs.

23 (3) The risk and needs assessment shall be performed at the
24 commencement of the parole term and every six months thereafter by office
25 staff trained and certified in the use of the risk and needs assessment.

26 (4) The office shall test the validity of the risk and needs
27 assessment at least every five years.

28 (5) Based on the results of the risk and needs assessment, the
29 office shall determine levels of supervision to target parolee criminal
30 risk and need factors by focusing sanction, program, and treatment
31 resources on moderate-risk and high-risk parolees.

1 (6) The office shall provide training to its parole officers on use
2 of a risk and needs assessment, risk-based supervision strategies,
3 relationship skills, cognitive behavioral interventions, community-based
4 resources, criminal risk factors, targeting criminal risk factors to
5 reduce recidivism, and proper use of a matrix of administrative
6 sanctions, custodial sanctions, and rewards developed pursuant to section
7 83-1,119. All parole officers employed on August 30, 2015, shall complete
8 the training requirements set forth in this subsection on or before
9 January 1, 2017 ~~July 1, 2016~~. Each parole officer hired on or after
10 August 30, 2015, shall complete the training requirements set forth in
11 this subsection within one year after his or her hire date.

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

15 Sec. 36. Section 83-1,101, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 83-1,101 ~~The Director of Correctional Services with the consent of~~
18 ~~the~~ Board of Parole shall appoint a Parole Administrator. The Parole
19 Administrator ~~, who~~ shall be a person with appropriate experience and
20 training, including, but not limited to, familiarity with the
21 implementation of evidence-based processes for utilizing risk and needs
22 assessments to measure criminal risk factors and specific individual
23 needs in the field of corrections, or with training in relevant
24 disciplines at a recognized university.

25 Sec. 37. Section 83-1,119, Revised Statutes Supplement, 2015, is
26 amended to read:

27 83-1,119 (1) For purposes of this section:

28 (a) Absconding parole supervision means a parolee has purposely
29 avoided supervision for a period of at least two weeks and reasonable
30 efforts by a parole officer and staff to locate the parolee in person
31 have proven unsuccessful;

1 (b a) Administrative sanction means additional parole requirements
2 imposed upon a parolee by his or her parole officer, with the full
3 knowledge and consent of the parolee, designed to hold the parolee
4 accountable for substance abuse or technical violations of conditions of
5 parole, including, but not limited to:

6 (i) Counseling or reprimand by the adult parole administration of
7 the department;

8 (ii) Increased supervision contact requirements;

9 (iii) Increased substance abuse testing;

10 (iv) Referral for substance abuse or mental health evaluation or
11 other specialized assessment, counseling, or treatment;

12 (v) Imposition of a designated curfew for a period to be determined
13 by the adult parole administration; and

14 (vi) Travel restrictions to stay within his or her county of
15 residence or employment unless otherwise permitted by the adult parole
16 administration;

17 (c b) Contract facility means a county jail that contracts with the
18 department to house parolees or other offenders under the jurisdiction of
19 the department;

20 (d e) Substance abuse violation means a parolee's activities or
21 behaviors associated with the use of chemical substances or related
22 treatment services resulting in a violation of an original condition of
23 parole, including:

24 (i) Positive breath test for the consumption of alcohol if the
25 parolee is required to refrain from alcohol consumption;

26 (ii) Positive urinalysis for the illegal use of drugs;

27 (iii) Failure to report for alcohol testing or drug testing; and

28 (iv) Failure to appear for or complete substance abuse or mental
29 health treatment evaluations or inpatient or outpatient treatment; and

30 (e f) Technical violation means a parolee's activities or behaviors
31 which create the opportunity for re-offending or diminish the

1 effectiveness of parole supervision resulting in a violation of an
2 original condition of parole and includes , ~~including, but not limited~~
3 ~~to~~:

- 4 (i) Moving traffic violations;
- 5 (ii) Failure to report to his or her parole officer;
- 6 (iii) Leaving the state without the permission of the Board of
7 Parole;
- 8 (iv) Failure to work regularly or attend training or school;
- 9 (v) Failure to notify his or her parole officer of change of address
10 or employment;
- 11 (vi) Frequenting places where controlled substances are illegally
12 sold, used, distributed, or administered; and
- 13 (vii) Failure to pay fines, court costs, restitution, or any fees
14 imposed pursuant to section 83-1,107.01 as directed.

15 Technical violation does not include absconding parole supervision.

16 (2) The Office of Parole Administration shall develop a matrix of
17 rewards for compliance and positive behaviors and graduated
18 administrative sanctions and custodial sanctions for use in responding to
19 and deterring substance abuse violations and technical violations. A
20 custodial sanction of thirty days in a correctional facility or a
21 contract facility shall be designated as the most severe response to a
22 violation in lieu of revocation.

23 (3) Whenever a parole officer has reasonable cause to believe that a
24 parolee has committed or is about to commit a substance abuse violation
25 or technical violation while on parole, but that the parolee will not
26 attempt to leave the jurisdiction and will not place lives or property in
27 danger, the parole officer shall either:

28 (a) Impose one or more administrative sanctions based upon the
29 parolee's risk level, the severity of the violation, and the parolee's
30 response to the violation. If administrative sanctions are to be imposed,
31 the parolee shall acknowledge in writing the nature of the violation and

1 agree upon the administrative sanction. The parolee has the right to
2 decline to acknowledge the violation. If he or she declines to
3 acknowledge the violation, the parole officer shall take action pursuant
4 to subdivision (3)(b) of this section. A copy of the report shall be
5 submitted to the Board of Parole; or

6 (b) Submit a written report to the Board of Parole, outlining the
7 nature of the parole violation, and request the imposition of a custodial
8 sanction of up to thirty days in a correctional facility or a contract
9 facility. On the basis of the report and such further investigation as
10 the board may deem appropriate, the board shall determine whether and how
11 the parolee violated the conditions of parole and may:

12 (i) Dismiss the charge of violation; or

13 (ii) If the board finds a violation justifying a custodial sanction,
14 issue a warrant if necessary and impose a custodial sanction of up to
15 thirty days in a correctional facility or a contract facility.

16 (4) Whenever a parole officer has reasonable cause to believe that a
17 parolee has violated or is about to violate a condition of parole by a
18 violation other than a substance abuse violation or a technical violation
19 and the parole officer has reasonable cause to believe that the parolee
20 will not attempt to leave the jurisdiction and will not place lives or
21 property in danger, the parole officer shall submit a written report to
22 the Board of Parole which may, on the basis of such report and such
23 further investigation as it may deem appropriate:

24 (a) Dismiss the charge of violation;

25 (b) Determine whether the parolee violated the conditions of his or
26 her parole;

27 (c) Impose a custodial sanction of up to thirty days in a
28 correctional facility or a contract facility;

29 (d) Revoke his or her parole in accordance with the Nebraska
30 Treatment and Corrections Act; or

31 (e) Issue a warrant for the arrest of the parolee.

1 (5) Whenever a parole officer has reasonable cause to believe that a
2 parolee has violated or is about to violate a condition of parole and
3 that the parolee will attempt to leave the jurisdiction or will place
4 lives or property in danger, the parole officer shall arrest the parolee
5 without a warrant and call on any peace officer to assist him or her in
6 doing so.

7 (6) Whenever a parolee is arrested with or without a warrant, he or
8 she shall be detained in a local jail or other detention facility.
9 Immediately after such arrest and detention, the parole officer shall
10 notify the Board of Parole and submit a written report of the reason for
11 such arrest. A complete investigation shall be made by the parole
12 administration and submitted to the board. After prompt consideration of
13 such written report, the board shall order the parolee's release from
14 detention or continued confinement to await a final decision on
15 imposition of a custodial sanction or the revocation of parole.

16 (7) The Board of Parole shall adopt and promulgate rules and
17 regulations necessary to carry out this section.

18 Sec. 38. Section 83-1,122, Revised Statutes Supplement, 2015, is
19 amended to read:

20 83-1,122 (1) If the board finds that the parolee has engaged in
21 criminal conduct, the board may order revocation of the parolee's parole.

22 (2) If the board finds that the parolee did violate a condition of
23 parole but is of the opinion that revocation of parole is not
24 appropriate, the board may order that:

25 (a) The parolee receive a reprimand and warning;

26 (b) Parole supervision and reporting be intensified;

27 (c) Good time granted pursuant to section 83-1,108 be forfeited or
28 withheld;

29 (d) The parolee serve a custodial sanction of up to thirty days in a
30 correctional facility or a contract facility as defined in section
31 83-1,119; or

1 (e) The parolee be required to conform to one or more additional
2 conditions of parole which may be imposed in accordance with the Nebraska
3 Treatment and Corrections Act.

4 (3) Cumulative custodial sanctions ~~of thirty days~~ in a correctional
5 facility or a contract facility under this section and section 83-1,119
6 shall not exceed sixty days. If a parolee has previously received sixty
7 days of cumulative two thirty-day custodial sanctions before the current
8 violation, the board shall either order revocation of the parolee's
9 parole or one or more of the other sanctions described in subsection (2)
10 of this section.

11 (4) Time spent in custodial sanctions under this section and section
12 83-1,119 shall be credited to the parolee's sentence.

13 Sec. 39. A parolee serving a custodial sanction in a correctional
14 facility or contract facility may be granted the privilege of leaving the
15 facility during necessary and reasonable hours for any of the following
16 purposes:

17 (1) Seeking employment;

18 (2) Working at his or her employment;

19 (3) Conducting such person's own business or other self-employed
20 occupation, including housekeeping and attending to the needs of such
21 person's family;

22 (4) Attending any high school, college, university, or other
23 educational or vocational training program or institution;

24 (5) Serious illness or death of a member of such person's immediate
25 family;

26 (6) Medical treatment;

27 (7) Outpatient or inpatient treatment for alcohol or substance
28 abuse; or

29 (8) Engaging in other rehabilitative activities.

30 Sec. 40. Section 83-1,122.01, Revised Statutes Supplement, 2015, is
31 amended to read:

1 83-1,122.01 (1) The board does not have jurisdiction over a person
2 who is committed to the department in accordance with section 29-2204.02
3 for a Class III, IIIA, or IV felony committed on or after August 30,
4 2015, unless the person is also committed to the department in accordance
5 with section 29-2204 for (a) a sentence of imprisonment for a Class III,
6 IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence
7 of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony The
8 ~~board shall not have jurisdiction over persons who are committed to the~~
9 ~~department in accordance with section 29-2204.02 unless the defendant is~~
10 ~~also sentenced for an offense in accordance with section 29-2204.~~

11 (2) The board does not have jurisdiction over a person committed to
12 the department for a misdemeanor sentence imposed consecutively or
13 concurrently with a Class III, IIIA, or IV felony sentence for an offense
14 committed on or after August 30, 2015, unless the person is also
15 committed to the department in accordance with section 29-2204 for (a) a
16 sentence of imprisonment for a Class III, IIIA, or IV felony committed
17 prior to August 30, 2015, or (b) a sentence of imprisonment for a Class
18 I, IA, IB, IC, ID, II, or IIA felony.

19 Sec. 41. Section 83-1,135, Revised Statutes Supplement, 2015, is
20 amended to read:

21 83-1,135 Sections 83-170 to 83-1,135.02 and section 39 of this act
22 shall be known and may be cited as the Nebraska Treatment and Corrections
23 Act.

24 Sec. 42. Section 83-1,135.02, Revised Statutes Supplement, 2015, is
25 amended to read:

26 83-1,135.02 (1) It is the intent of the Legislature that the changes
27 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
28 with respect to parole eligibility apply to all committed offenders under
29 sentence and not on parole on May 24, 2003, and to all persons sentenced
30 on and after such date.

31 (2) It is the intent of the Legislature that the changes made to

1 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
2 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
3 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
4 sentence, on parole, or on probation on August 30, 2015, and to all
5 persons sentenced on and after such date.

6 (3) It is the intent of the Legislature that the changes made to
7 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
8 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
9 this legislative bill and sections 20, 21, 22, and 39 of this act apply
10 to all committed offenders under sentence, on parole, or on probation on
11 or after the effective date of this act and to all persons sentenced on
12 and after such date.

13 Sec. 43. Section 83-4,114, Revised Statutes Supplement, 2015, is
14 amended to read:

15 83-4,114 (1) There shall be no corporal punishment or disciplinary
16 restrictions on diet.

17 (2) Disciplinary restrictions on clothing, bedding, mail,
18 visitations, use of toilets, washbowls, or scheduled showers shall be
19 imposed only for abuse of such privilege or facility and only as
20 authorized by written directives, guidance documents, and operational
21 manuals.

22 (3) No person shall be placed in solitary confinement.

23 (4) The director shall issue an annual report on or before September
24 15 to the Governor and the Clerk of the Legislature. The report to the
25 Clerk of the Legislature shall be issued electronically. For all inmates
26 who were held in restrictive housing during the prior year, the report
27 shall contain the race, gender, age, and length of time each inmate has
28 continuously been held in restrictive housing. The report shall also
29 contain:

30 (a) The number of inmates held in restrictive housing;

31 (b) The reason or reasons each inmate was held in restrictive

1 housing;

2 (c) The number of inmates held in restrictive housing who have been
3 diagnosed with a mental illness or behavioral disorder ~~as defined in~~
4 ~~section 71-907~~ and the type of mental illness or behavioral disorder by
5 inmate;

6 (d) The number of inmates who were released from restrictive housing
7 directly to parole or into the general public and the reason for such
8 release;

9 (e) The number of inmates who were placed in restrictive housing for
10 his or her own safety and the underlying circumstances for each
11 placement;

12 (f) To the extent reasonably ascertainable, comparable statistics
13 for the nation and each of the states that border Nebraska pertaining to
14 subdivisions (4)(a) through (e) of this section; and

15 (g) The mean and median length of time for all inmates held in
16 restrictive housing.

17 (5)(a) There is hereby established within the department a long-term
18 restrictive housing work group. The work group shall consist of:

19 (i) The director and all deputy directors. The director shall serve
20 as the chairperson of the work group;

21 ~~(ii) The director of health services within the department;~~

22 (ii ~~iii~~) The behavioral health administrator within the department;

23 (iii ~~iv~~) Two employees of the department who currently work with
24 inmates held in restrictive housing;

25 (iv ~~v~~) Additional department staff as designated by the director;
26 and

27 (v ~~vi~~) Four members as follows appointed by the Governor:

28 (A) Two representatives from a nonprofit prisoners' rights advocacy
29 group, including at least one former inmate; and

30 (B) Two mental health professionals independent from the department
31 with particular knowledge of prisons and conditions of confinement.

1 (b) The work group shall advise the department on policies and
2 procedures related to the proper treatment and care of offenders in long-
3 term restrictive housing.

4 (c) The director shall convene the work group's first meeting no
5 later than September 15, 2015, and the work group shall meet at least
6 semiannually thereafter. The chairperson shall schedule and convene the
7 work group's meetings.

8 (d) The director shall provide the work group with quarterly updates
9 on the department's policies related to the work group's subject matter.

10 Sec. 44. Original sections 27-1101, 28-605, 28-626, 29-2256,
11 29-2267, 47-401, 47-502, 83-187, and 83-1,101, Reissue Revised Statutes
12 of Nebraska, sections 28-115, 28-1354, 29-2258, and 29-2269, Revised
13 Statutes Cumulative Supplement, 2014, sections 28-106, 28-204, 28-394,
14 28-514, 29-2204.02, 29-2252, 29-2252.01, 29-2260, 29-2262, 29-2263,
15 29-2266, 29-2268, 47-901, 47-903, 47-908, 60-6,197.03, 71-2482,
16 83-1,100.02, 83-1,119, 83-1,122, 83-1,122.01, 83-1,135, 83-1,135.02, and
17 83-4,114, Revised Statutes Supplement, 2015, and section 28-105, Revised
18 Statutes Cumulative Supplement, 2014, as amended by Laws 2015, LB605,
19 section 6, are repealed.

20 Sec. 45. Since an emergency exists, this act takes effect when
21 passed and approved according to law.