

AMENDMENTS TO LB 1130

Introduced by Judiciary.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 21 of this act shall be known
4 and may be cited as the Department of Community Corrections Act.

5 Sec. 2. For purposes of the Department of Community
6 Corrections Act:

7 (1) Chief probation and parole officer means the
8 probation and parole officer in charge of a community corrections
9 district;

10 (2) Committed offender has the definition found in
11 section 83-170;

12 (3) Court means a district court, county court, or
13 juvenile court as defined in section 43-245;

14 (4) Department means the Department of Community
15 Corrections;

16 (5) Director means the Director of Community Corrections;

17 (6) Parole means release by decision of the Board of
18 Parole from incarceration in an adult correctional facility;

19 (7) Parolee means a person on parole;

20 (8) Probation has the definition found in section
21 29-2246;

22 (9) Probation and parole officer means an employee of the
23 department who supervises probationers and parolees; and

1 (10) Probationer has the definition found in section
2 29-2246.

3 Sec. 3. The Department of Community Corrections is
4 created. On and after July 1, 2009, the department shall
5 be responsible for supervision of adult parolees and adult
6 probationers.

7 On July 1, 2009, all furniture, equipment, books, files,
8 and records belonging to the Office of Probation Administration
9 on such date which are not related to juvenile probation and to
10 presentence investigations shall be transferred and delivered to
11 the department. On July 1, 2009, all furniture, equipment, books,
12 files, and records belonging to the Office of Parole Administration
13 on such date shall be transferred and delivered to the department.

14 Sec. 4. The chief executive officer of the Department of
15 Community Corrections shall be known as the Director of Community
16 Corrections. The Governor, after consultation with the Probation
17 and Parole Advisory Board, shall appoint the director, with the
18 approval of a majority of the Legislature, and set the salary of
19 the director on the operative date of this section. The director
20 shall be qualified for the position by appropriate training and
21 experience in the fields of probation, parole, criminal law, and
22 criminal justice. The director may be removed only for cause by the
23 Governor after a hearing, if requested. The director may hire any
24 necessary support staff for the department.

25 Sec. 5. The director shall:

26 (1) Supervise and administer the department;

27 (2) Establish and maintain policies, standards, and

1 procedures for adult probation and parole and the community
2 supervision of sex offenders pursuant to section 83-174.03;

3 (3) Divide the state into community corrections districts
4 consistent with district court judicial districts and appoint
5 chief probation and parole officers, deputy probation and parole
6 officers, if required, and such other employees as may be required
7 to carry out adequate parole supervision of all adult parolees,
8 adequate probation supervision of adult probationers as ordered
9 by district judges, prescribe their powers and duties, and obtain
10 office quarters for staff in each community corrections district as
11 may be necessary;

12 (4) Cooperate with the Board of Parole, the courts, the
13 Community Corrections Council, and all other agencies, public and
14 private, which are concerned with the treatment or welfare of
15 persons on probation or parole;

16 (5) Provide the Board of Parole and district judges with
17 any record of a parolee or probationer which it may require;

18 (6) Make recommendations to the Board of Parole or
19 district judge in cases of violation of the conditions of parole
20 or probation, issue warrants for the arrest of parole or probation
21 violators when so instructed by the board or district judge, notify
22 the Director of Correctional Services of determinations made by the
23 board, and upon instruction of the board, issue certificates of
24 parole and of parole revocation to the facilities and certificates
25 of discharge from parole to parolees;

26 (7) Be responsible for the direct supervision of adults
27 placed on probation, parole, or community supervision pursuant to

1 section 83-174.03;

2 (8) Organize and conduct training programs for probation
3 and parole officers and other employees;

4 (9) In consultation with the Community Corrections
5 Council: (a) Use the funds provided under section 18 of this
6 act to augment operational or personnel costs associated with
7 the development, implementation, and evaluation of enhanced
8 parole-based programs and purchase services to provide such
9 programs aimed at enhancing adult parolee supervision in
10 the community and treatment needs of parolees. Such enhanced
11 parole-based programs include, but are not limited to, specialized
12 units of supervision, related equipment purchases and training,
13 and programs developed by or through the council that address
14 a parolee's vocational, educational, mental health, behavioral,
15 or substance abuse treatment needs; and (b) use the funds
16 provided under section 16 of this act to augment operational or
17 personnel costs associated with the development, implementation,
18 and evaluation of enhanced probation-based programs. Enhanced
19 probation-based programs include, but are not limited to,
20 specialized units of supervision, related equipment purchases and
21 training, and programs developed by or through the council that
22 address a probationer's vocational, educational, mental health,
23 behavioral, or substance abuse treatment needs;

24 (10) Establish qualifications for employment as a
25 probation and parole officer in this state;

26 (11) Establish and maintain advanced periodic inservice
27 training requirements for employees of the department;

1 (12) Collect, develop, and maintain statistical
2 information concerning parolees, parole practices, probationers,
3 probation practices, and the operation of the department;

4 (13) Conduct research for the purpose of evaluating and
5 improving the effectiveness of the department;

6 (14) Transmit the report required by section 6 of this
7 act;

8 (15) Administer the Interstate Compact for Adult Offender
9 Supervision;

10 (16) Maintain all records and files associated with the
11 Board of Parole;

12 (17) Adopt and promulgate rules and regulations for
13 administration of the department;

14 (18) Ensure that any risk or needs assessment instrument
15 utilized by the department be periodically validated; and

16 (19) Exercise all powers and perform all duties necessary
17 and proper in carrying out his or her responsibilities.

18 Sec. 6. Section 29-2252.01, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~29-2252.01~~ On December 31 and June 30 of each fiscal
21 year, the ~~administrator~~ director shall provide a report to the
22 budget division of the Department of Administrative Services and
23 the Legislative Fiscal Analyst which shall include, but not be
24 limited to:

25 (1) The total number of felony cases supervised by the
26 ~~office~~ department in the previous six months for both regular and
27 intensive supervision probation;

1 (2) The total number of misdemeanor cases supervised by
2 the ~~office~~ department in the previous six months for both regular
3 and intensive supervision probation;

4 (3) The felony caseload per probation and parole officer
5 for both regular and intensive supervision probation on the last
6 day of the reporting period;

7 (4) The misdemeanor caseload per probation and parole
8 officer for both regular and intensive supervision probation on the
9 last day of the reporting period; and

10 (5) The parolee caseload per probation and parole officer
11 on the last day of the reporting period.

12 ~~(5) The total number of juvenile cases supervised by the~~
13 ~~office in the previous six months for both regular and intensive~~
14 ~~supervision probation;~~

15 ~~(6) The total number of predisposition investigations~~
16 ~~completed by the office in the previous six months;~~

17 ~~(7) The total number of presentence investigations~~
18 ~~completed by the office in the previous six months; and~~

19 ~~(8) The total number of juvenile intake screening~~
20 ~~interviews conducted and detentions authorized by the office in~~
21 ~~the previous six months, using the detention screening instrument~~
22 ~~described in section 43-260.01.~~

23 Each member of the Legislature shall receive a copy of
24 the report required by this section by making a request for it to
25 the director.

26 Sec. 7. Section 29-2254, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 ~~29-2254~~ The compact administrator appointed pursuant
2 to the Interstate Compact for Adult Offender Supervision shall
3 delegate to the ~~probation administrator~~ director authority and
4 responsibility for:

5 (1) Implementation and administration of the compact as
6 it affects probationers and parolees; and

7 (2) Supervision of probationers and parolees either
8 sentenced to probation or parole within the state and supervised in
9 another state or placed on probation or parole in another state and
10 supervised within this state pursuant to the compact.

11 Sec. 8. Section 83-1,103, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 ~~83-1,103~~ The field ~~parole~~ community corrections service,
14 consisting of ~~district parole~~ chief probation and parole officers
15 and deputy ~~parole~~ probation and parole officers working under the
16 direction of the ~~Parole Administrator or district judge,~~ director
17 shall be responsible for the investigation of parolees, and
18 supervision, and assistance of adult parolees, adult probationers,
19 or individuals subject to community supervision under section
20 83-174.03. The field ~~parole~~ community corrections service shall be
21 sufficient in size to assure that no ~~district parole~~ probation
22 and parole officer carries a ~~ease~~ lead caseload larger than is
23 compatible with adequate ~~parole~~ investigation or supervision.

24 Sec. 9. Section 29-2257, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 ~~29-2257~~ The Nebraska Probation System is established
27 which shall consist of the ~~probation administrator,~~ chief probation

1 ~~officers, probation officers, and support staff. The system shall~~
2 ~~be responsible for juvenile intake services, for presentence and~~
3 ~~other probation investigations, for the direct supervision of~~
4 ~~persons placed on probation, and for non-probation-based programs~~
5 ~~and services authorized by an interlocal agreement pursuant to~~
6 ~~subdivision (16) of section 29-2252. The system shall be sufficient~~
7 ~~in size to assure that no probation officer carries a caseload~~
8 ~~larger than is compatible with adequate probation investigation~~
9 ~~or supervision. Probation and parole officers shall be compensated~~
10 ~~with salaries substantially equal to other state employees who have~~
11 ~~similar responsibilities.~~

12 This provision for salary equalization shall apply only
13 to probation and parole officers and support staff and shall
14 not apply to chief probation and parole officers, the probation
15 administrator, the chief deputy administrator, the deputy probation
16 administrator, or any other similarly established management
17 positions.

18 No person employed by the Nebraska Probation System or
19 the parole system on the operative date of this section shall incur
20 a loss of salary, benefits, including accumulated leave time, or
21 seniority, if applicable, due to the operation of the provisions of
22 this legislative bill.

23 Sec. 10. Section 29-2258, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~29-2258~~ A district probation chief probation and parole
26 officer shall:

27 ~~(1) Conduct juvenile intake interviews and investigations~~

1 in accordance with section 43-253 utilizing a standardized juvenile
2 detention screening instrument described in section 43-260.01;

3 ~~(2) Make presentence and other investigations, as may be~~
4 ~~required by law or directed by a court in which he or she is~~
5 ~~servin;~~

6 (1) Make investigations, prior to a committed offender's
7 release on parole, in cooperation with institutional caseworkers
8 of the Department of Correctional Services and with the Board
9 of Parole, to determine the adequacy of parole plans and make
10 reasonable advance preparation for release on parole;

11 ~~(3) (2) Supervise probationers and parolees in accordance~~
12 ~~with the rules and regulations of the office department and the~~
13 ~~directions of the sentencing court, in the case of a probationer,~~
14 ~~or of the Board of Parole, in the case of a parolee;~~

15 ~~(4) (3) Advise the sentencing court or the Board of~~
16 ~~Parole, as the case may be, in accordance with the Nebraska~~
17 ~~Probation Administration Act and such rules and regulations of the~~
18 ~~office, of violations of the conditions of probation or parole by~~
19 ~~individual probationers or parolees;~~

20 ~~(5) (4) Advise the sentencing court, in accordance with~~
21 ~~the rules and regulations of the office department and the~~
22 ~~direction of the court, when the situation of a probationer~~
23 ~~may require a modification of the conditions of probation or when~~
24 ~~a probationer's adjustment is such as to warrant termination of~~
25 ~~probation;~~

26 (5) Inform the director when, in the opinion of the
27 chief probation and parole officer, any eligible parolee's conduct

1 and attitude warrant the parolee's discharge from supervision or
2 when any parolee's violation of the conditions of parole is of
3 sufficient seriousness to require action by the Board of Parole;

4 (6) Provide each probationer and parolee with a statement
5 of the period and conditions of his or her probation or parole;

6 (7) Whenever necessary, exercise the power of arrest as
7 provided in ~~section~~ sections 29-2266 and 83-1,119;

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

12 (9) Supervise and evaluate deputy probation and parole
13 officers under his or her jurisdiction;

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

16 (11) Make such reports as required by the ~~administrator,~~
17 director, the judges of the ~~probation~~ district in which he or she
18 serves, ~~or the Supreme Court,~~ or the Board of Parole;

19 (12) Keep accurate and complete accounts of all money or
20 property collected or received from probationers and parolees and
21 give receipts therefor;

22 (13) Cooperate fully with and render all reasonable
23 assistance to other probation and parole officers;

24 (14) In counties with a population of less than
25 twenty-five thousand people, participate in pretrial diversion
26 programs established pursuant to sections 29-3601 to 29-3604
27 and juvenile pretrial diversion programs established pursuant

1 ~~to sections 43-260.02 to 43-260.07~~ as requested by judges of
2 the ~~probation~~ district in which he or she serves, except that
3 participation in such programs shall not require appointment of
4 additional personnel and shall be consistent with the probation and
5 parole officer's current caseload;

6 (15) Subject to the requirements of due process of law,
7 and when required by exigent circumstances or as set forth in
8 subdivisions (3), (4), and (11) of this section, communicate on an
9 ex parte basis with the sentencing judge when necessary for the
10 proper supervision of a probationer;

11 ~~(15) Participate,~~ at the direction of the probation
12 administrator pursuant to an interlocal agreement which meets the
13 requirements of section 29-2255, ~~in non-probation-based programs~~
14 ~~and services;~~

15 (16) Perform such other duties not inconsistent with
16 the ~~Nebraska Probation Administration~~ Department of Community
17 Corrections Act, the Nebraska Treatment and Corrections Act, or
18 the rules and regulations of the ~~office~~ Department of Community
19 Corrections or as a court may from time to time direct; and

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

22 Sec. 11. Section 29-2259, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~29-2259~~ (1) The salaries, actual and necessary expenses,
25 and expenses incident to the conduct and maintenance of the ~~office~~
26 department shall be paid by the ~~state.~~ department. Actual and
27 necessary expenses shall be paid as provided in sections 81-1174 to

1 81-1177.

2 ~~(2) The salaries and actual and necessary travel expenses~~
3 ~~of the probation service shall be paid by the state. Actual and~~
4 ~~necessary expenses shall be paid as provided in sections 81-1174 to~~
5 ~~81-1177.~~

6 ~~(3) (2) Except as provided in sections 29-2262 and~~
7 ~~29-2262.04, the costs of drug testing and equipment incident to the~~
8 ~~electronic surveillance of individuals on probation shall be paid~~
9 ~~by the state. department.~~

10 ~~(4) (3) The expenses incident to the conduct and~~
11 ~~maintenance of the principal office within each probation community~~
12 ~~corrections district shall in the first instance be paid by the~~
13 ~~county in which it is located, but such county shall be reimbursed~~
14 ~~for such expenses by all other counties within the probation~~
15 ~~community corrections district to the extent and in the proportions~~
16 ~~determined by the Supreme Court department based upon population,~~
17 ~~number of investigations, and probation cases handled or upon such~~
18 ~~other basis as the Supreme Court director deems fair and equitable.~~

19 ~~(5) (4) Each county shall provide office space and~~
20 ~~necessary facilities equivalent to the office space available to~~
21 ~~the probation service on the operative date of this section for~~
22 ~~probation and parole officers performing their official duties~~
23 ~~and shall bear the costs incident to maintenance of such offices~~
24 ~~office space other than salaries, and travel expenses, and~~
25 ~~data processing and word processing hardware and software that is~~
26 ~~provided on the state computer network.~~

27 ~~(6) (5) The cost of interpreter services for deaf and~~

1 hard of hearing persons and for persons unable to communicate
2 the English language shall be paid by the state with money
3 appropriated to the ~~Supreme Court~~ department. Interpreter services
4 shall include auxiliary aids for deaf and hard of hearing persons
5 as defined in section 20-151 and interpreters to assist persons
6 unable to communicate the English language as defined in section
7 25-2402. Interpreter services shall be provided under this section
8 for the purposes of conducting a presentence investigation and
9 for ongoing supervision by a probation and parole officer of such
10 persons placed on probation or parole.

11 ~~(7)~~ (6) The ~~probation administrator~~ director shall
12 prepare a budget and request for appropriations for the ~~office~~
13 department and shall submit such request to the ~~Supreme Court~~ and
14 ~~with its approval to the appropriate authority in accordance with~~
15 ~~law~~ budget division of the Department of Administrative Services
16 as required pursuant to section 81-132.

17 Sec. 12. (1) The Department of Community Corrections
18 Automation Cash Fund is created. The director shall administer the
19 fund. The fund shall only be used to support automation expenses
20 of the department. Any money in the fund available for investment
21 shall be invested by the state investment officer pursuant to
22 the Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

24 (2) The Department of Community Corrections Education
25 Fund is created. The fund shall consist of money remitted pursuant
26 to sections 24-205 and 33-154 and shall be used to support
27 mandatory training and education for employees of the department.

1 Any money in the fund available for investment shall be invested
2 by the state investment officer pursuant to the Nebraska Capital
3 Expansion Act and the Nebraska State Funds Investment Act.

4 Sec. 13. Section 29-2259.01, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 ~~29-2259.01~~ There is hereby created the Probation
7 The Department of Community Corrections Cash Fund is created.
8 All Seventy-five percent of the funds collected pursuant to
9 subdivisions (2) (m) and (2) (o) of section 29-2262 shall be remitted
10 to the State Treasurer for credit to the fund. Expenditures from
11 the fund shall include, but not be limited to, supplementing
12 any state funds necessary to support the costs of the services
13 for which the funds were collected. On the operative date of
14 this section, seventy-five percent of the money in the Probation
15 Cash Fund shall be transferred to the Department of Community
16 Corrections Cash Fund and twenty-five percent of the money in the
17 Probation Cash Fund on such date shall be transferred to the Court
18 Services Cash Fund. Any money in the fund available for investment
19 shall be invested by the state investment officer pursuant to
20 the Nebraska Capital Expansion Act and the Nebraska State Funds
21 Investment Act.

22 Sec. 14. Section 29-2259.02, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~29-2259.02~~ The State ~~Probation~~ Community Corrections
25 Contractual Services Cash Fund is created. On the operative date
26 of this section, any money in the State Probation Contractual
27 Services Cash Fund shall be transferred to the Court Services

1 Contractual Services Cash Fund. The fund shall consist only of
2 payments received by the ~~state~~ department pursuant to contractual
3 agreements with ~~local~~ political subdivisions for ~~probation services~~
4 ~~provided by the Office of Probation Administration.~~ services
5 provided by the department. The fund shall only be used to
6 pay for ~~probation~~ services provided by the ~~Office of Probation~~
7 ~~Administration~~ department to ~~local~~ political subdivisions which
8 enter into contractual agreements with the ~~Office of Probation~~
9 ~~Administration.~~ department. The fund shall be administered by the
10 ~~probation administrator.~~ director. Any money in the fund available
11 for investment shall be invested by the state investment officer
12 pursuant to the Nebraska Capital Expansion Act and the Nebraska
13 State Funds Investment Act.

14 Sec. 15. Section 29-2262.06, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~29-2262.06~~ (1) Except as otherwise provided in this
17 section, whenever a district court or county court sentences
18 an adult offender to probation, the court shall require the
19 probationer to pay a one-time administrative enrollment fee and
20 thereafter a monthly probation programming fee.

21 ~~(2)~~ Participants in ~~non-probation-based~~ programs or
22 services in which probation personnel or probation resources
23 are utilized pursuant to an interlocal agreement authorized by
24 subdivision ~~(16)~~ of section 29-2252 and in which all or a portion
25 of the costs of such probation personnel or such probation
26 resources are covered by funds provided pursuant to section
27 ~~29-2262.07~~ shall pay the one-time administrative enrollment fee

1 described in subdivision ~~(3)(a)~~ of this section and the monthly
2 probation programming fee described in subdivision ~~(3)(c)~~ of
3 this section. In addition, the provisions of subsections ~~(4)~~,
4 ~~(7)~~, and ~~(10)~~ of this section applicable to probationers apply
5 to participants in non-probation-based programs or services.
6 Any participant in a non-probation-based program or service who
7 defaults on the payment of any such fees may, at the discretion
8 of the court, be subject to removal from such non-probation-based
9 program or service. This subdivision does not preclude a court or
10 other governmental entity from charging additional local fees for
11 participation in such non-probation-based programs and services or
12 other similar non-probation-based programs and services.

13 ~~(3)~~ (2) The court shall establish the administrative
14 enrollment fee and monthly probation programming fees as follows:

15 (a) Adult probationers placed on either probation
16 or intensive supervision probation and participants in
17 non-probation-based programs or services shall pay a one-time
18 administrative enrollment fee of thirty dollars. The fee shall be
19 paid in a lump sum upon the beginning of probation supervision.
20 On July 1, 2009, the State Treasurer shall credit all of such fee
21 to the Court Services Program Cash Fund. ~~or participation in a~~
22 ~~non-probation-based program or service;~~

23 (b) Adult probationers placed on probation shall pay a
24 monthly probation programming fee of twenty-five dollars, not later
25 than the tenth day of each month, for the duration of probation. On
26 July 1, 2009, the State Treasurer shall credit all of such fee to
27 the State Probation Program Cash Fund; and

1 (c) Adult probationers placed on intensive supervision
2 probation and ~~participants in non-probation-based programs or~~
3 ~~services~~ shall pay a monthly probation programming fee of
4 thirty-five dollars, not later than the tenth day of each month,
5 for the duration of probation. On July 1, 2009, the State Treasurer
6 shall credit all of such fee to the State Probation Program Cash
7 Fund. ~~or participation in a non-probation-based program or service.~~

8 ~~(4)~~ (3) The court shall waive payment of the monthly
9 probation programming fees in whole or in part if after a hearing
10 a determination is made that such payment would constitute an
11 undue hardship on the offender due to limited income, employment or
12 school status, or physical or mental handicap. Such waiver shall be
13 in effect only during the period of time that the probationer ~~or~~
14 ~~participant in a non-probation-based program or service~~ is unable
15 to pay his or her monthly probation programming fee.

16 ~~(5)~~ (4) If a probationer defaults in the payment of
17 monthly probation programming fees or any installment thereof, the
18 court may revoke his or her probation for nonpayment, except that
19 probation shall not be revoked nor shall the offender be imprisoned
20 for such nonpayment if the probationer is financially unable to
21 make the payment, if he or she so states to the court in writing
22 under oath, and if the court so finds after a hearing.

23 ~~(6)~~ (5) If the court determines that the default in
24 payment described in subsection ~~(5)~~ (4) of this section was not
25 attributable to a deliberate refusal to obey the order of the court
26 or to failure on the probationer's part to make a good faith effort
27 to obtain the funds required for payment, the court may enter

1 an order allowing the probationer additional time for payment,
2 reducing the amount of each installment, or revoking the fees or
3 the unpaid portion in whole or in part.

4 ~~(7)~~ (6) No probationer or participant in a
5 non-probation-based program or service shall be required to
6 pay more than one monthly probation programming fee per month. This
7 subsection does not preclude local fees as provided in subsection
8 ~~(2)~~ of this section.

9 ~~(8)~~ (7) The imposition of monthly probation programming
10 fees in this section shall be considered separate and apart from
11 the fees described in subdivisions (2)(m) and (o) of section
12 29-2262.

13 ~~(9)~~ (8) Any adult probationer received for supervision
14 pursuant to section 29-2637 or the Interstate Compact for
15 Adult Offender Supervision shall be assessed both a one-time
16 administrative enrollment fee and monthly probation programming
17 fees during the period of time the probationer is actively
18 supervised by Nebraska ~~probation~~ community corrections authorities.

19 ~~(10)~~ (9) The probationer or participant in a
20 non-probation-based program or service shall pay the fees described
21 in this section to the clerk of the court. The clerk of the court
22 shall remit all fees so collected to the State Treasurer for credit
23 to the State Probation Program Cash Fund.

24 Sec. 16. Section 29-2262.07, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 ~~29-2262.07~~ The State Probation Program Cash Fund is
27 created. ~~All~~ The allotted funds collected pursuant to section

1 ~~29-2262.06~~ 15 of this act shall be remitted to the State
2 Treasurer for credit to the fund. The fund shall be utilized
3 by the ~~administrator,~~ director, in consultation with the Community
4 Corrections Council, for the purposes stated in ~~subdivision (14)~~
5 ~~of section 29-2252.~~ section 47-624. On the operative date of this
6 section, eighty percent of the money in the Probation Program Cash
7 Fund shall be transferred to the State Probation Program Cash Fund
8 and twenty percent of the money in the Probation Program Cash Fund
9 shall be transferred to the Court Services Program Cash Fund. Any
10 money in the fund available for investment shall be invested by the
11 state investment officer pursuant to the Nebraska Capital Expansion
12 Act and the Nebraska State Funds Investment Act.

13 Sec. 17. Section 83-1,107.01, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~83-1,107.01~~ (1) Unless otherwise provided by this
16 section, whenever an adult offender is paroled, the ~~board~~ Board of
17 Parole shall require a parolee to pay a monthly parole programming
18 fee.

19 (2) Parolees under the supervision of the ~~Office of~~
20 ~~Parole Administration~~ department shall pay a monthly parole
21 programming fee of twenty-five dollars, not later than the tenth
22 day of each month, beginning the second month of parole supervision
23 and continuing for the duration of the parole.

24 (3) The board shall waive payment of the monthly parole
25 programming fee in whole or in part if after a hearing a
26 determination is made that such payment would constitute an undue
27 hardship on the parolee due to limited income, employment or school

1 status, or physical or mental handicap. Such waiver shall be in
2 effect only during the period of time that the parolee is unable to
3 pay his or her monthly parole programming fee.

4 (4) When monthly parole programming fees are waived, in
5 whole or in part, the probation and parole officer, pursuant to
6 rules and regulations adopted by the board, may contract with the
7 parolee to perform approved community service at the rate of five
8 dollars per hour in lieu of payment of monthly parole programming
9 fees. A parolee may be required to pay a participation fee in
10 order to take advantage of community service programs. A parolee
11 may not accumulate more than three months' advance credit for
12 community service. The use of community service alternatives does
13 not preclude the imposition of other intermediate measures.

14 (5) The ~~Office of Parole Administration~~ department, with
15 the approval of the Board of Parole, shall implement sanctions if
16 a parolee defaults in the payment of monthly parole programming
17 fees or any installment thereof as established by subsection (2)
18 of this section, except that parole shall not be revoked nor shall
19 the parolee be imprisoned for such nonpayment if the parolee is
20 financially unable to make the payment.

21 (6) If the board determines that the default in payment
22 described in subsection (5) of this section was not attributable
23 to a deliberate refusal to obey the order of the board or to
24 failure on the parolee's part to make a good faith effort to obtain
25 the funds required for payment, the board may allow the parolee
26 additional time for payment, reduce the amount of each installment,
27 or revoke the fees or the unpaid portion in whole or in part.

1 (7) No parolee shall be required to pay more than one
2 monthly parole programming fee per month.

3 (8) The imposition of monthly parole programming fees in
4 this section shall be considered separate and apart from specific
5 service delivery fees.

6 (9) Any adult offender received for supervision pursuant
7 to ~~section 29-2637 or~~ the Interstate Compact for Adult Offender
8 Supervision shall be assessed a monthly parole programming fee
9 during the period of time the offender is actively supervised by
10 Nebraska ~~parole~~ community corrections authorities.

11 (10) A parolee shall pay the fees described in this
12 section to the ~~Office of Parole Administration. The office~~
13 department. The department shall remit all fees to the State
14 Treasurer for credit to the Parole Program Cash Fund.

15 (11) The board and the ~~office~~ department shall adopt and
16 promulgate rules and regulations to carry out this section.

17 Sec. 18. Section 83-1,107.02, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 ~~83-1,107.02~~ The Parole Program Cash Fund is created. All
20 funds collected pursuant to section ~~83-1,107.01~~ 17 of this act
21 shall be remitted to the State Treasurer for credit to the fund.
22 The fund shall be utilized by the ~~Office of Parole Administration,~~
23 department, in consultation with the Community Corrections Council,
24 for the purposes stated in ~~subdivision (8) of section 83-1,102-~~
25 section 47-624. Any money in the fund available for investment
26 shall be invested by the state investment officer pursuant to
27 the Nebraska Capital Expansion Act and the Nebraska State Funds

1 Investment Act.

2 Sec. 19. Section 83-188, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~83-188~~ There is hereby created the Board of Parole. For
5 administrative purposes only, the board shall be within the Board
6 of Pardons. Nothing in the Department of Community Corrections Act
7 or the Nebraska Treatment and Corrections Act shall be construed to
8 give the ~~director~~ Director of Correctional Services, the Director
9 of Community Corrections, or the Board of Pardons any authority,
10 power, or responsibility over the Board of Parole, its employees,
11 or the exercise of its functions under the provisions of ~~the either~~
12 act. The employees of the Board of Parole shall be covered by the
13 State Personnel System.

14 Sec. 20. The chairperson of the Board of Parole shall:

15 (a) Supervise the administration and operation of the
16 board;

17 (b) Serve in an advisory capacity to the Director of
18 Community Corrections in administering parole services;

19 (c) Interpret the parole program to the public with a
20 view toward developing a broad base of public support;

21 (d) Conduct research for the purpose of evaluating and
22 improving the effectiveness of the parole system;

23 (e) Recommend parole legislation to the Governor;

24 (f) Adopt and promulgate rules and regulations for the
25 administration and operation of the board;

26 (g) Serve in an advisory capacity to the director with
27 respect to matters relating to employees of the department; and

1 (h) Exercise all other powers and perform all other
2 duties necessary and proper in carrying out his or her
3 responsibilities as chairperson.

4 Sec. 21. (1) The Probation and Parole Advisory Board
5 is created. The Chief Justice of the Supreme Court or his or
6 her designee shall be the chairperson of the advisory board. The
7 advisory board shall have the following members:

8 (a) One county court judge, appointed by the Chief
9 Justice;

10 (b) One district court judge, appointed by the Chief
11 Justice;

12 (c) The Director of Correctional Services;

13 (d) The chairperson of the Board of Parole;

14 (e) The court services administrator; and

15 (f) The Director of Community Corrections.

16 (2) The advisory board shall meet at least twice each
17 year and may meet more often on the call of the Chief Justice,
18 except that the advisory board shall meet at least once each month
19 prior to the appointment of the Director of Community Corrections
20 under section 4 of this act. The advisory board shall monitor
21 the operation, professionalism, and success of the Department of
22 Community Corrections and its employees and ensure open lines of
23 communication between the department and the judiciary.

24 (3) All decisions regarding the budget and allocation of
25 resources of the Department of Community Corrections shall remain
26 with the Director of Community Corrections.

27 (4) The chairperson of the Judiciary Committee of the

1 Legislature shall consult with the advisory board to determine
2 if further legislation is necessary to provide for a seamless
3 transition from the organization of probation and parole services
4 existing on the operative date of this section to the provisions
5 of the Department of Community Corrections Act. If legislation
6 is necessary, the chairperson of the Judiciary Committee shall
7 prepare such legislation for introduction in the One Hundred First
8 Legislature.

9 Sec. 22. Section 20-150, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 20-150 (1) The Legislature hereby finds and declares that
12 it is the policy of the State of Nebraska to secure the rights
13 of deaf and hard of hearing persons who cannot readily understand
14 or communicate in spoken language and who consequently cannot
15 equally participate in or benefit from proceedings, programs,
16 and activities of state agencies and law enforcement personnel
17 unless interpreters are available to assist them. State agencies
18 and law enforcement personnel shall appoint licensed interpreters
19 as provided in sections 20-150 to 20-159, except that courts,
20 court services, and ~~probation~~ community corrections officials shall
21 appoint interpreters as provided in sections 20-150 to 20-159 and
22 25-2401 to 25-2407 and public school districts and educational
23 units shall appoint qualified educational interpreters.

24 (2) It is the intent of the Legislature that by June
25 30, 2007, the Commission for the Deaf and Hard of Hearing shall
26 license and evaluate licensed interpreters. Prior to June 30, 2007,
27 the commission shall (a) develop licensed interpreter guidelines

1 for distribution, (b) develop training to implement the guidelines,
2 (c) adopt and promulgate rules and regulations to implement the
3 guidelines and requirements for licensed interpreters, and (d)
4 develop a roster of interpreters as required in section 71-4728.

5 (3) It is the intent of the Legislature to assure that
6 qualified educational interpreters are provided to deaf and hard
7 of hearing children in kindergarten-through-grade-twelve public
8 school districts and educational service units. Prior to September
9 1, 1998, the State Department of Education, in cooperation with
10 the Commission for the Deaf and Hard of Hearing, shall develop
11 qualified educational interpreter guidelines for distribution as
12 well as a training program to implement the guidelines. By
13 September 1, 2000, the State Department of Education shall adopt
14 and promulgate rules and regulations to implement the guidelines
15 and requirements for qualified educational interpreters, and such
16 rules and regulations shall apply to all qualified educational
17 interpreters employed for the 2001-02 school year and all school
18 years thereafter.

19 Sec. 23. Section 20-151, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 20-151 For purposes of sections 20-150 to 20-159, unless
22 the context otherwise requires:

23 (1) Appointing authority means the state agency or law
24 enforcement personnel required to provide a licensed interpreter
25 pursuant to sections 20-150 to 20-159;

26 (2) Auxiliary aid includes, but is not limited to, sign
27 language interpreters, oral interpreters, tactile interpreters,

1 other interpreters, notetakers, transcription services, written
2 materials, assistive listening devices, assisted listening systems,
3 videotext displays, and other visual delivery systems;

4 (3) Deaf or hard of hearing person means a person whose
5 hearing impairment, with or without amplification, is so severe
6 that he or she may have difficulty in auditorily processing spoken
7 language without the use of an interpreter or a person with a
8 fluctuating or permanent hearing loss which may adversely affect
9 the ability to understand spoken language without the use of an
10 interpreter or other auxiliary aid;

11 (4) Intermediary interpreter means any person, including
12 any deaf or hard of hearing person, who is able to assist in
13 providing an accurate interpretation between spoken English and
14 sign language or between variants of sign language in order to
15 facilitate communication between a deaf or hard of hearing person
16 and an interpreter;

17 (5) Licensed interpreter means a person who demonstrates
18 proficiencies in interpretation or transliteration as required by
19 the rules and regulations adopted and promulgated by the Commission
20 for the Deaf and Hard of Hearing pursuant to subsection (2) of
21 section 20-150 and who holds a license issued by the commission
22 pursuant to section 20-156;

23 (6) Oral interpreter means a person who interprets
24 language through facial expression, body language, and mouthing;

25 (7) State agency means any state entity which receives
26 appropriations from the Legislature and includes the Legislature,
27 legislative committees, executive agencies, courts, court services,

1 and ~~probation~~ community corrections officials but does not include
2 political subdivisions; and

3 (8) Tactile interpreter means a person who interprets for
4 a deaf-blind person. The degree of deafness and blindness will
5 determine the mode of communication to be used for each person.

6 Sec. 24. Section 24-205, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 24-205 The Supreme Court Education Fund is created. The
9 State Court Administrator shall administer the fund. The fund shall
10 consist of money remitted pursuant to section 33-154. The fund
11 shall only be used to aid in supporting the mandatory training and
12 education program for judges and employees of the Supreme Court,
13 Court of Appeals, district courts, separate juvenile courts, and
14 county courts, ~~and Nebraska Probation System~~ as enacted by rule
15 of the Supreme Court. On the operative date of this section, any
16 money in the Supreme Court Education Fund earmarked for probation
17 training and education for FY2009-10 shall be transferred to the
18 Department of Community Corrections Education Fund. Any money in
19 the fund Supreme Court Education Fund available for investment
20 shall be invested by the state investment officer pursuant to
21 the Nebraska Capital Expansion Act and the Nebraska State Funds
22 Investment Act.

23 Sec. 25. Section 24-227.01, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 24-227.01 The Supreme Court Automation Cash Fund is
26 created. The State Court Administrator shall administer the fund.
27 The fund shall only be used to support automation expenses of the

1 Supreme Court, Court of Appeals, district courts, separate juvenile
2 courts, and county courts, ~~and Nebraska Probation System~~ from the
3 computer automation budget program. Any money in the ~~fund~~ Supreme
4 Court Automation Cash Fund available for investment shall be
5 invested by the state investment officer pursuant to the Nebraska
6 Capital Expansion Act and the Nebraska State Funds Investment Act.

7 Sec. 26. Section 25-2407, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 25-2407 Any person who serves as an interpreter for
10 persons unable to communicate the English language in court
11 proceedings or ~~probation~~ community corrections services as provided
12 in subsection ~~(6)~~ (5) of section ~~29-2259~~ 11 of this act or juvenile
13 probation services as provided in subsection (6) of section 43
14 of this act shall meet the standards adopted by the Supreme
15 Court. Such standards shall require that interpreters demonstrate
16 the ability to interpret effectively, accurately, and impartially,
17 both receptively and expressively, using any necessary special
18 vocabulary. A person appointed to interpret for deaf and hard
19 of hearing persons shall be a licensed interpreter as defined in
20 section 20-151 or, if a licensed interpreter is unavailable, an
21 interpreter licensed under the laws of another state.

22 Sec. 27. Section 28-322, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 28-322 For purposes of sections 28-322 to 28-322.03:

25 (1) Inmate or parolee means any individual confined in
26 a facility operated by the Department of Correctional Services or
27 a city or county correctional or jail facility or under parole

1 supervision; and

2 (2) Person means (a) an individual employed by the
3 Department of Correctional Services or by the ~~Office of Parole~~
4 ~~Administration~~, Department of Community Corrections, including any
5 individual working in central administration of the ~~department~~,
6 Department of Correctional Services, any individual working under
7 contract with ~~the~~ either department, any individual who performs
8 official duties within any facility operated by the Department of
9 Correctional Services or a city or county correctional or jail
10 facility, and any individual, other than an inmate's spouse, to
11 whom ~~the~~ either department has authorized or delegated control over
12 an inmate or an inmate's activities, (b) an individual employed
13 by a city or county correctional or jail facility, including
14 any individual working in central administration of the city or
15 county correctional or jail facility, any individual working under
16 contract with the city or county correctional or jail facility,
17 and any individual, other than an inmate's spouse, to whom the
18 city or county correctional or jail facility has authorized or
19 delegated control over an inmate or an inmate's activities, and (c)
20 an individual employed by the Office of ~~Probation Administration~~
21 Court Services who performs official duties within any facility
22 operated by the Department of Correctional Services or a city or
23 county correctional or jail facility.

24 Sec. 28. Section 28-929, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 28-929 (1) A person commits the offense of assault on an
27 officer in the first degree if he or she intentionally or knowingly

1 causes serious bodily injury to a peace officer, a court services
2 officer, a probation and parole officer, or an employee of the
3 Department of Correctional Services, the Department of Community
4 Corrections, or the Office of Court Services while such officer
5 or employee is engaged in the performance of his or her official
6 duties.

7 (2) Assault on an officer in the first degree shall be a
8 Class II felony.

9 Sec. 29. Section 28-930, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 28-930 (1) A person commits the offense of assault on an
12 officer in the second degree if he or she:

13 (a) Intentionally or knowingly causes bodily injury with
14 a dangerous instrument to a peace officer, a court services
15 officer, a probation and parole officer, or an employee of the
16 Department of Correctional Services, the Department of Community
17 Corrections, or the Office of Court Services while such officer
18 or employee is engaged in the performance of his or her official
19 duties; or

20 (b) Recklessly causes bodily injury with a dangerous
21 instrument to a peace officer, a court services officer, a
22 probation and parole officer, or an employee of the Department
23 of Correctional Services, the Department of Community Corrections,
24 or the Office of Court Services while such officer or employee is
25 engaged in the performance of his or her official duties.

26 (2) Assault on an officer in the second degree shall be
27 a Class III felony.

1 Sec. 30. Section 28-931, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-931 (1) A person commits the offense of assault on an
4 officer in the third degree if he or she intentionally, knowingly,
5 or recklessly causes bodily injury to a peace officer, a court
6 services officer, a probation and parole officer, or an employee
7 of the Department of Correctional Services, the Department of
8 Community Corrections, or the Office of Court Services while such
9 officer or employee is engaged in the performance of his or her
10 official duties.

11 (2) Assault on an officer in the third degree shall be a
12 Class IIIA felony.

13 Sec. 31. Section 28-931.01, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 28-931.01 (1) A person commits the offense of assault on
16 an officer using a motor vehicle if he or she intentionally and
17 knowingly causes bodily injury to a peace officer, a court services
18 officer, a probation and parole officer, or an employee of the
19 Department of Correctional Services, the Department of Community
20 Corrections, or the Office of Court Services (a) by using a motor
21 vehicle to run over or to strike such officer or employee or (b) by
22 using a motor vehicle to collide with such officer's or employee's
23 motor vehicle, while such officer or employee is engaged in the
24 performance of his or her duties.

25 (2) Assault on an officer using a motor vehicle shall be
26 a Class IIIA felony.

27 Sec. 32. Sections 32 to 48 of this act shall be known and

1 may be cited as the Court Services Act.

2 Sec. 33. For purposes of the Court Services Act:

3 (1) Administrator means the court services administrator;

4 (2) Court means a district court, county court, or
5 juvenile court as defined in section 43-245;

6 (3) Court services officer includes a chief court
7 services officer, deputy court services officer, juvenile
8 court officer, juvenile intake officer, presentence officer, or
9 problem-solving court officer, who shall carry out duties assigned
10 by the administrator under the act;

11 (4) Juvenile probation means the release by a court,
12 subject to conditions imposed by the court and subject to
13 supervision, of a juvenile adjudicated delinquent or in need
14 of special supervision;

15 (5) Office means the Office of Court Services; and

16 (6) Probationer means a person placed on juvenile
17 probation.

18 Sec. 34. Section 29-2249, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~29-2249~~ The Office of Probation Administration Court
21 Services is hereby created within the judicial branch of government
22 and directly responsible to the Supreme Court. The office shall
23 consist of the ~~probation~~ administrator, the Nebraska Probation
24 System, court services officers, and such other employees as may
25 be necessary to carry out the functions of the Nebraska Probation
26 System. office.

27 Sec. 35. Section 29-2250, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~29-2250~~ The office shall:

3 ~~(1) Supervise and administer the system;~~

4 (1) Be responsible for juvenile intake services, for
5 adult presentence investigations, for juvenile predisposition
6 investigations, for the direct supervision of juveniles placed on
7 probation, and for adult and juvenile non-probation-based programs
8 and services authorized by an interlocal agreement pursuant to
9 subdivision (16) of section 37 of this act;

10 (2) Be sufficient in size to assure that no court
11 services officer carries a caseload larger than is compatible with
12 adequate investigation or supervision;

13 ~~(2) (3) Establish probation policies and standards for~~
14 ~~the system, office, with the concurrence of the Supreme Court; and~~

15 ~~(3) (4) Supervise offenders juvenile probationers placed~~
16 ~~on probation in another state who are within the state pursuant~~
17 ~~to the Interstate Compact for Adult Offender Supervision. on~~
18 ~~Juveniles.~~

19 Sec. 36. Section 29-2251, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~29-2251~~ The Supreme Court shall appoint a probation court
22 services administrator who shall be a person with appropriate
23 ~~experience in the field of probation or with~~ and training in
24 relevant disciplines at a recognized college or university and who
25 shall serve at the pleasure of the Supreme Court.

26 Sec. 37. Section 29-2252, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 ~~29-2252~~ The administrator shall:

2 (1) Supervise and administer the office;

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

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

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

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

21 (6) Cooperate with all agencies, public or private, which
22 are concerned with treatment or welfare of persons ~~on probation;~~ in
23 the court services system;

24 (7) Organize and conduct training programs for ~~probation~~
25 ~~officers;~~ employees of the office;

26 (8) Collect, develop, and maintain statistical
27 information concerning ~~probationers, probation practices,~~ the court

1 services system and the operation of the ~~system~~, office;

2 (9) Interpret the juvenile probation program to the
3 public with a view toward developing a broad base of public
4 support;

5 (10) Conduct research for the purpose of evaluating and
6 improving the effectiveness of the ~~system~~, office;

7 (11) Adopt and promulgate such rules and regulations as
8 may be necessary or proper for the operation of the office; ~~or~~
9 ~~system~~;

10 (12) Transmit a report during each even-numbered year
11 to the Supreme Court on the operation of the office for the
12 preceding two calendar years which shall include a historical
13 analysis of ~~probation officer~~ workload, including participation
14 in non-probation-based programs and services. The report shall be
15 transmitted by the Supreme Court to the Governor and the Clerk of
16 the Legislature;

17 (13) Administer the payment by the state of all salaries,
18 travel, and actual and necessary expenses incident to the conduct
19 and maintenance of the office;

20 (14) ~~In consultation with the Community Corrections~~
21 ~~Council~~, use Use the funds provided under ~~section 29-2262.07~~
22 sections 15 and 16 of this act to augment operational or
23 personnel costs associated with the development, implementation,
24 and evaluation of ~~enhanced probation-based~~ court services programs
25 and non-probation-based programs and services in which ~~probation~~
26 court services personnel or probation resources are utilized
27 pursuant to an interlocal agreement authorized by subdivision (16)

1 of this section and to purchase services to provide such programs
2 aimed at ~~enhancing adult probationer or non-probation-based~~ program
3 participant supervision in the community and treatment needs of
4 ~~probationers and non-probation-based~~ program participants. ~~Enhanced~~
5 ~~probation-based~~ Court services programs include, but are not
6 limited to, specialized units of supervision, related equipment
7 purchases and training, and programs developed by or through
8 the council that address a probationer's vocational, educational,
9 mental health, behavioral, or substance abuse treatment needs;

10 (15) Ensure that any risk or needs assessment instrument
11 utilized by the ~~system~~ office be periodically validated;

12 (16) Have the authority to enter into interlocal
13 agreements in which probation resources or probation personnel may
14 be utilized in conjunction with or as part of non-probation-based
15 programs and services. Any such interlocal agreement shall comply
16 with section ~~29-2255~~, 40 of this act; and

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

19 Each member of the Legislature shall receive a copy of
20 the report required by subdivision (12) of this section by making a
21 request for it to the administrator.

22 Sec. 38. On December 31 and June 30 of each fiscal year,
23 the administrator shall provide a report to the Supreme Court and
24 the Legislative Fiscal Analyst which shall include, but not be
25 limited to:

26 (1) The total number of juvenile cases supervised by the
27 office in the previous six months for both regular and intensive

1 supervision probation;

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

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

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

10 Sec. 39. Section 29-2253, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~29-2253~~ (1) The administrator, with the concurrence of
13 the Supreme Court, shall ~~divide the state into probation districts~~
14 ~~and may from time to time alter the boundaries of such districts~~
15 ~~in order to maintain the most economical, efficient, and effective~~
16 ~~utilization of the system.~~ create and provide court services in
17 judicial districts based on district court judicial districts as
18 they existed on the operative date of this section.

19 (2) The administrator shall appoint ~~temporary and~~
20 ~~permanent probation~~ court services officers and employees for each
21 ~~probation~~ judicial district created under this section as may be
22 required to provide adequate probation services.

23 (3) The administrator shall appoint a chief ~~probation~~
24 court services officer with the concurrence of the majority of
25 all judges within a ~~probation~~ judicial district created under this
26 section.

27 (4) The administrator shall, with the concurrence of all

1 the majority of the separate juvenile court judges within each
2 separate juvenile court, (a) appoint for each separate juvenile
3 court a chief juvenile ~~probation~~ court officer, any deputy juvenile
4 ~~probation~~ court officers required, and such other employees as may
5 be required to provide adequate juvenile probation services for
6 such court and (b) set the salaries of such officers and employees.
7 The chief juvenile court officer and deputy juvenile ~~probation~~
8 court officers shall be selected with reference to experience
9 and understanding of problems of family life and child welfare,
10 juvenile delinquency, community organizations, and training in the
11 recognition and treatment of behavior disorders.

12 (5) The administrator may direct a ~~probation~~ juvenile
13 court officer of one ~~probation~~ judicial district created under this
14 section to temporarily act as ~~probation~~ juvenile court officer for
15 a court in another ~~probation~~ judicial district created under this
16 section, and such ~~probation~~ juvenile court officer while so serving
17 shall have all the powers and responsibilities as if he or she
18 were serving in the ~~probation~~ judicial district created under this
19 section to which he or she was originally appointed.

20 (6) The administrator, with the concurrence of the
21 Supreme Court, shall designate the location of the principal office
22 of the system within each ~~probation~~ judicial district created under
23 this section.

24 Sec. 40. Any interlocal agreement authorized by
25 subdivision (16) of section 37 of this act shall require the
26 political subdivision which is party to the agreement to provide
27 sufficient resources to cover all costs associated with the

1 participation of court services personnel or use of court services
2 resources other than costs covered by funds provided pursuant to
3 section 16 of this act.

4 Sec. 41. Nothing in the Court Services Act shall be
5 construed to prohibit any court from utilizing volunteers from the
6 community for juvenile court supervision or non-probation-based
7 program participant supervision if the volunteer program is
8 supervised by a full-time court services officer who meets the
9 minimum qualifications established by the office.

10 Sec. 42. A chief court services officer shall:

11 (1) Conduct juvenile intake interviews and investigations
12 in accordance with section 43-253 utilizing a standardized juvenile
13 detention screening instrument described in section 43-260.01;

14 (2) Make presentence and predisposition investigations as
15 may be required by law or directed by a court in which he or she
16 is serving;

17 (3) Supervise juvenile probationers in accordance with
18 the rules and regulations of the office and the directions of the
19 court;

20 (4) Advise the court, in accordance with the Court
21 Services Act and rules and regulations of the office, of violations
22 of the conditions of probation by individual probationers;

23 (5) Advise the court, in accordance with the rules and
24 regulations of the office and the direction of the court, when
25 the situation of a probationer may require a modification of the
26 conditions of probation or when a probationer's adjustment is such
27 as to warrant termination of probation;

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

3 (7) Whenever necessary, exercise the power of arrest as
4 provided in section 29-2266;

5 (8) Establish procedures for the direction and guidance
6 of deputy juvenile court officers under his or her jurisdiction and
7 advise such officers in regard to the most effective performance of
8 their duties;

9 (9) Supervise and evaluate all court services officers
10 under his or her jurisdiction;

11 (10) Delegate such duties and responsibilities to court
12 services officers as he or she deems appropriate;

13 (11) Make such reports as required by the administrator,
14 the judges of the judicial district created under section 39 of
15 this act in which he or she serves, or the Supreme Court;

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

19 (13) Cooperate fully with and render all reasonable
20 assistance to other juvenile court officers;

21 (14) In counties with a population of less than
22 twenty-five thousand people, participate in juvenile pretrial
23 diversion programs established pursuant to sections 43-260.02 to
24 43-260.07 as requested by judges of the judicial district created
25 under section 39 of this act in which he or she serves, except
26 that participation in such programs shall not require appointment
27 of additional personnel and shall be consistent with the juvenile

1 court officer's current caseload;

2 (15) Participate, at the direction of the administrator
3 pursuant to an interlocal agreement which meets the requirements
4 of section 40 of this act, in non-probation-based programs and
5 services;

6 (16) Perform such other duties not inconsistent with the
7 Court Services Act or the rules and regulations of the office as a
8 court may from time to time direct; and

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

11 Sec. 43. (1) The salaries, actual and necessary expenses,
12 and expenses incident to the conduct and maintenance of the office
13 shall be paid by the state with funds appropriated to the Supreme
14 Court. Actual and necessary expenses shall be paid as provided in
15 sections 81-1174 to 81-1177.

16 (2) The salaries and actual and necessary travel expenses
17 of juvenile probation and presentence investigation shall be paid
18 by the state with funds appropriated to the Supreme Court. Actual
19 and necessary expenses shall be paid as provided in sections
20 81-1174 to 81-1177.

21 (3) Except as provided in sections 29-2262 and
22 29-2262.04, the costs of drug testing and equipment incident to the
23 electronic surveillance of individuals on juvenile probation shall
24 be paid by the state with funds appropriated to the Supreme Court.

25 (4) The expenses incident to the conduct and maintenance
26 of the principal office within each judicial district created under
27 section 39 of this act shall in the first instance be paid by the

1 county in which it is located, but such county shall be reimbursed
2 for such expenses by all other counties within such judicial
3 district to the extent and in the proportions determined by the
4 Supreme Court based upon population, number of investigations, and
5 cases handled or upon such other basis as the Supreme Court deems
6 fair and equitable.

7 (5) Each county shall provide office space and necessary
8 facilities for court officers performing their official duties and
9 shall bear the costs incident to maintenance of such offices other
10 than salaries and travel expenses.

11 (6) The cost of interpreter services for deaf and hard of
12 hearing persons and for persons unable to communicate the English
13 language shall be paid by the state with money appropriated to
14 the Supreme Court. Interpreter services shall include auxiliary
15 aids for deaf and hard of hearing persons as defined in section
16 20-151 and interpreters to assist persons unable to communicate
17 the English language as defined in section 25-2402. Interpreter
18 services shall be provided under this section for the purposes of
19 conducting a presentence investigation and for ongoing supervision
20 by a juvenile court officer of juvenile probationers.

21 (7) The administrator shall prepare a budget and request
22 for appropriations for the office and shall submit such request
23 to the Supreme Court and with its approval to the appropriate
24 authority in accordance with law.

25 Sec. 44. The Court Services Cash Fund is created.
26 Twenty-five percent of the funds collected pursuant to subdivisions
27 (2) (m) and (2) (o) of section 29-2262 shall be remitted to the

1 State Treasurer for credit to the fund. Expenditures from the fund
2 shall include, but not be limited to, supplementing any state funds
3 necessary to support the costs of the services for which the funds
4 were collected. Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 Sec. 45. The Court Services Contractual Services Cash
9 Fund is created. The fund shall consist only of payments received
10 by the state pursuant to contractual agreements with political
11 subdivisions for court services provided by the office. The fund
12 shall only be used to pay for court services provided by the
13 office to political subdivisions which enter into contractual
14 agreements with the office. The fund shall be administered by
15 the administrator. Any money in the fund available for investment
16 shall be invested by the state investment officer pursuant to
17 the Nebraska Capital Expansion Act and the Nebraska State Funds
18 Investment Act.

19 Sec. 46. The Court Services Program Cash Fund is created.
20 The fund shall consist of fees remitted pursuant to section 15 of
21 this act for credit to the fund. Any money in the fund available
22 for investment shall be invested by the state investment officer
23 pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act.

25 Sec. 47. Whenever a person is adjudicated to be as
26 described in subdivision (1), (2), (3)(b), or (4) of section
27 43-247, his or her disposition shall be governed by the Nebraska

1 Juvenile Code.

2 Sec. 48. Section 29-2260.01, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~29-2260.01~~ It is the intent of the Legislature to
5 ensure that a consistent and objective method of juvenile intake
6 occur throughout the state for juveniles held in temporary
7 custody by a law enforcement officer, in accordance with section
8 43-250, to avoid either inappropriate or unnecessary detention of
9 juveniles which may result in inordinately high detention rates,
10 overcrowding of local detention facilities, excessive detention
11 costs for counties, and adverse consequences for the juvenile,
12 the juvenile's family, or the community. Juvenile intake services
13 shall be administered by ~~probation~~ court services officers acting
14 as juvenile ~~probation~~ intake officers and shall be available to
15 all juvenile courts in the state, both county courts sitting
16 as juvenile courts and separate juvenile courts. Such ~~probation~~
17 court services officers shall be appointed by the ~~probation~~
18 administrator and designated within respective ~~probation~~ judicial
19 districts created under section 39 of this act based upon the need
20 for such services as the ~~probation~~ administrator determines. In
21 order to adequately provide juvenile intake services statewide and
22 in accordance with the Juvenile Detention and Probation Services
23 Implementation Team Interim Report and Recommendations filed with
24 the Legislature December 15, 2000, it is the intent of the
25 Legislature to appropriate funds to the system to provide seven
26 additional ~~probation~~ court services officers to act in the capacity
27 of juvenile ~~probation~~ intake officers.

1 Sec. 49. Section 29-2246, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 29-2246 For purposes of the Nebraska Probation
4 Administration Act and sections ~~43-2,123.01~~ and ~~83-1,102~~ to
5 ~~83-1,104,~~ section 43-2,123.01, unless the context otherwise
6 requires:

7 (1) Association means the Nebraska District Court Judges
8 Association;

9 (2) Court means a district court, county court, or
10 juvenile court as defined in section 43-245;

11 ~~(3) Office means the Office of Probation Administration;~~
12 Juvenile probation has the definition found in section 33 of this
13 act;

14 (4) Probation means a sentence under which a person found
15 guilty of a crime upon verdict or plea or adjudicated delinquent or
16 in need of special supervision is released by a court subject to
17 conditions imposed by the court and subject to supervision;

18 (5) Probationer means a ~~person sentenced to~~ an adult or a
19 juvenile placed on probation;

20 (6) Probation and parole officer means an employee of
21 the system who supervises probationers and conducts presentence,
22 predisposition, or other investigations as may be required by law
23 or directed by a court in which he or she is serving or performs
24 such other duties as authorized pursuant to section 29-2258, except
25 unpaid volunteers from the community, has the definition found in
26 section 2 of this act;

27 (7) Juvenile probation Court services officer means

1 any probation officer who supervises probationers of a separate
2 juvenile court; has the definition found in section 33 of this act;

3 ~~(8) Juvenile intake probation officer means an employee~~
4 ~~of the system who is called upon by a law enforcement officer in~~
5 ~~accordance with section 43-250 to make a decision regarding the~~
6 ~~furtherance of a juvenile's detention;~~

7 ~~(9) (8) Chief probation and parole officer means the~~
8 ~~probation officer in charge of a probation district; has the~~
9 ~~definition found in section 2 of this act; and~~

10 ~~(10) System means the Nebraska Probation System;~~

11 ~~(11) Administrator means the probation administrator; and~~

12 ~~(12) (9) Non-probation-based program or service means~~
13 ~~a program or service established within the district, county,~~
14 ~~or juvenile courts and provided to individuals not sentenced to~~
15 ~~probation who have been charged with or convicted of a crime~~
16 ~~for the purpose of diverting the individual from incarceration~~
17 ~~or to provide treatment for issues related to the individual's~~
18 ~~criminogenic needs. Non-probation-based programs or services~~
19 ~~include, but are not limited to, drug court programs established~~
20 ~~pursuant to section 24-1302 and the treatment of problems relating~~
21 ~~to substance abuse, mental health, sex offenses, or domestic~~
22 ~~violence. Participants in non-probation-based programs or services~~
23 ~~in which court services personnel or resources are utilized~~
24 ~~pursuant to an interlocal agreement authorized under subdivision~~
25 ~~(16) of section 37 of this act and in which all or a portion of the~~
26 ~~costs of such personnel or resources are covered by funds provided~~
27 ~~from the Court Services Program Cash Fund shall be subject to the~~

1 fees and other provisions of section 15 of this act which are
2 applicable to adult probationers.

3 Sec. 50. Section 29-2248, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 29-2248 The association shall:

6 (1) Encourage development and implementation of uniform
7 criteria for sentencing criminals;

8 (2) Participate in planning and presenting institutes and
9 seminars for all judges in this state who sentence criminals or
10 juveniles to discuss problems related to sentencing criminals or
11 juveniles;

12 (3) Participate in planning and presenting orientation
13 programs for new judges, such programs to include discussions of
14 sentencing alternatives, procedures, and purposes;

15 (4) Visit from time to time correctional facilities of
16 this state;

17 (5) Encourage creation and development of community
18 resources of value to ~~the probation system;~~ probation and court
19 services;

20 (6) Conduct such other programs of whatever nature of
21 interest to its members;

22 (7) Exercise all powers and perform all duties necessary
23 and proper to carry out its responsibilities; and

24 (8) Participate in planning and presenting institutes and
25 seminars for all county employees who work in the judicial branch
26 of government.

27 Sec. 51. Section 29-2260, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

6 ~~(2)~~ (1) Whenever a court considers sentence for an
7 offender convicted of either a misdemeanor or a felony for which
8 mandatory or mandatory minimum imprisonment is not specifically
9 required, the court may withhold sentence of imprisonment unless,
10 having regard to the nature and circumstances of the crime and the
11 history, character, and condition of the offender, the court finds
12 that imprisonment of the offender is necessary for protection of
13 the public because:

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

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

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

21 ~~(3)~~ (2) The following grounds, while not controlling the
22 discretion of the court, shall be accorded weight in favor of
23 withholding sentence of imprisonment:

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

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

27 (c) The offender acted under strong provocation;

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

3 (e) The victim of the crime induced or facilitated
4 commission of the crime;

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

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

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

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

15 (j) The offender is likely to respond affirmatively to
16 probationary treatment; and

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

19 ~~(4)~~ (3) When an offender who has been convicted of a
20 crime is not sentenced to imprisonment, the court may sentence him
21 or her to probation.

22 Sec. 52. Section 29-2261, Revised Statutes Supplement,
23 2007, is amended to read:

24 29-2261 (1) Unless it is impractical to do so, when an
25 offender has been convicted of a felony other than murder in the
26 first degree, the court shall not impose sentence without first
27 ordering a presentence investigation of the offender and according

1 due consideration to a written report of such investigation. When
2 an offender has been convicted of murder in the first degree and
3 (a) a jury renders a verdict finding the existence of one or more
4 aggravating circumstances as provided in section 29-2520 or (b) (i)
5 the information contains a notice of aggravation as provided in
6 section 29-1603 and (ii) the offender waives his or her right to
7 a jury determination of the alleged aggravating circumstances, the
8 court shall not commence the sentencing determination proceeding as
9 provided in section 29-2521 without first ordering a presentence
10 investigation of the offender and according due consideration to a
11 written report of such investigation.

12 (2) A court may order a presentence investigation in any
13 case, except in cases in which an offender has been convicted
14 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
15 misdemeanor, a traffic infraction, or any corresponding city or
16 village ordinance.

17 (3) The presentence investigation and report shall
18 include, when available, an analysis of the circumstances attending
19 the commission of the crime, the offender's history of delinquency
20 or criminality, physical and mental condition, family situation and
21 background, economic status, education, occupation, and personal
22 habits, and any other matters that the ~~probation~~ court services
23 officer deems relevant or the court directs to be included. All
24 local and state police agencies and Department of Correctional
25 Services adult correctional facilities shall furnish to the
26 ~~probation officer~~ court services officer copies of such criminal
27 records, in any such case referred to the ~~probation officer~~ court

1 services officer by the court of proper jurisdiction, as the
2 ~~probation officer~~ court services officer shall require without cost
3 to the court or the ~~probation officer~~ court services officer.

4 Such investigation shall also include:

5 (a) Any written statements submitted to the county
6 attorney by a victim; and

7 (b) Any written statements submitted to the ~~probation~~
8 ~~officer~~ court services officer by a victim.

9 (4) If there are no written statements submitted to the
10 ~~probation officer~~, court services officer, he or she shall certify
11 to the court that:

12 (a) He or she has attempted to contact the victim; and

13 (b) If he or she has contacted the victim, such officer
14 offered to accept the written statements of the victim or to reduce
15 such victim's oral statements to writing.

16 For purposes of subsections (3) and (4) of this section,
17 ~~the term~~ victim shall be as defined has the definition found in
18 section 29-119.

19 (5) Before imposing sentence, the court may order the
20 offender to submit to psychiatric observation and examination for
21 a period of not exceeding sixty days or such longer period as the
22 court determines to be necessary for that purpose. The offender
23 may be remanded for this purpose to any available clinic or mental
24 hospital, or the court may appoint a qualified psychiatrist to make
25 the examination. The report of the examination shall be submitted
26 to the court.

27 (6) Any presentence report or psychiatric examination

1 shall be privileged and shall not be disclosed directly or
2 indirectly to anyone other than a judge, ~~probation officers court~~
3 services officer or probation and parole officer to whom an
4 offender's file is duly transferred, the ~~probation court services~~
5 administrator or his or her designee, or others entitled by law
6 to receive such information, including personnel and mental health
7 professionals for the Nebraska State Patrol specifically assigned
8 to sex offender registration and community notification for the
9 sole purpose of using such report or examination for assessing
10 risk and for community notification of registered sex offenders.
11 For purposes of this subsection, mental health professional means
12 (a) a practicing physician licensed to practice medicine in this
13 state under the Uniform Licensing Law or the Medicine and Surgery
14 Practice Act, (b) a practicing psychologist licensed to engage in
15 the practice of psychology in this state as provided in the Uniform
16 Licensing Law or section 38-3111, or (c) a practicing mental health
17 professional licensed or certified in this state as provided in the
18 Uniform Licensing Law or the Mental Health Practice Act. The court
19 may permit inspection of the report or examination of parts thereof
20 by the offender or his or her attorney, or other person having
21 a proper interest therein, whenever the court finds it is in the
22 best interest of a particular offender. The court may allow fair
23 opportunity for an offender to provide additional information for
24 the court's consideration.

25 (7) If an offender is sentenced to imprisonment, a copy
26 of the report of any presentence investigation or psychiatric
27 examination shall be transmitted immediately to the Department of

1 Correctional Services by the chief court services officer. Upon
2 request, the Board of Parole or the ~~Office of Parole Administration~~
3 Department of Community Corrections may receive a copy of the
4 report from the ~~department.~~ Department of Correctional Services.

5 (8) Notwithstanding subsection (6) of this section, the
6 Nebraska Commission on Law Enforcement and Criminal Justice under
7 the direction and supervision of the Chief Justice of the Supreme
8 Court shall have access to presentence investigations and reports
9 for the sole purpose of carrying out the study required under
10 subdivision (7) of section 81-1425. The commission shall treat such
11 information as confidential, and nothing identifying any individual
12 shall be released by the commission.

13 (9) Notwithstanding subsection (6) of this section, the
14 Supreme Court or an agent of the Supreme Court acting under the
15 direction and supervision of the Chief Justice shall have access to
16 psychiatric examinations and presentence investigations and reports
17 for research purposes. The Supreme Court and its agent shall
18 treat such information as confidential and nothing identifying any
19 individual shall be released.

20 Sec. 53. Section 29-2262, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 29-2262 (1) When a court sentences an offender to
23 probation, it shall attach such reasonable conditions as it deems
24 necessary or likely to insure that the offender will lead a
25 law-abiding life. No offender shall be sentenced to probation if
26 he or she is deemed to be a habitual criminal pursuant to section
27 29-2221.

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

3 (a) To refrain from unlawful conduct;

4 (b) To be confined periodically in the county jail or to
5 return to custody after specified hours but not to exceed (i) for
6 misdemeanors, the lesser of ninety days or the maximum jail term
7 provided by law for the offense and (ii) for felonies, one hundred
8 eighty days;

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

10 (d) To devote himself or herself to a specific employment
11 or occupation;

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

14 (f) To pursue a prescribed secular course of study or
15 vocational training;

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

18 (h) To refrain from frequenting unlawful or disreputable
19 places or consorting with disreputable persons;

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

24 (j) To remain within the jurisdiction of the court and to
25 notify the court, the court services officer, or the probation and
26 parole officer of any change in his or her address or his or her
27 employment and to agree to waive extradition if found in another

1 jurisdiction;

2 (k) To report as directed to the court, the court
3 services officer, or a probation and parole officer and to permit
4 the officer to visit ~~his or her~~ the offender's home;

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

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

11 (n) To perform community service as outlined in sections
12 29-2277 to 29-2279 under the direction of his or her ~~probation~~
13 court services officer or probation and parole officer;

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

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

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

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

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

25 (t) To pay for all costs imposed by the court, including
26 court costs and the fees imposed pursuant to section ~~29-2262.06. 15~~
27 of this act.

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

4 (4) In all cases in which the offender is guilty of
5 a crime covered by the DNA Identification Information Act, a
6 condition of probation shall be the collecting of a DNA sample
7 pursuant to the act prior to release on probation.

8 Sec. 54. Section 29-2262.03, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 29-2262.03 (1) Whenever the court considers the sentence
11 for an offender convicted of any crime for which a term of
12 imprisonment of six months or more is possible and mandatory
13 minimum imprisonment is not specifically required, the court may
14 withhold the sentence of imprisonment and sentence the offender to
15 intensive supervision probation. The decision whether to sentence
16 an offender to intensive supervision probation shall be guided by
17 the criteria for withholding a sentence of imprisonment as set
18 forth in subsection (2) of this section and subsections (1) and (2)
19 ~~and (3)~~ of section 29-2260.

20 (2) Intensive supervision probation shall be governed
21 by the laws governing probation except as required by specific
22 provisions of this section and sections ~~29-2252.01, 29-2262.02,~~
23 ~~29-2262.04,~~ and 29-2262.02 to 29-2262.05 and section 6 of this act.

24 Sec. 55. Section 29-2262.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 29-2262.04 Selected offenders in intensive supervision
27 probation programs shall receive the highest level of supervision

1 that is provided to probationers. Such programs may include,
2 but shall not be limited to, highly restricted activities, daily
3 contact between the offender and the court services officer or the
4 probation and parole officer, monitored curfew, home visitation,
5 employment visitation and monitoring, drug and alcohol screening,
6 treatment referrals and monitoring, and restitution and community
7 service. Selected offenders monitored by an electronic device or
8 system shall be required to pay the cost of such a device or system
9 if the offender has the financial ability. It is the intent of
10 the Legislature that such programs shall minimize any risk to the
11 public.

12 Sec. 56. Section 29-2262.05, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2262.05 (1) The ~~Supreme Court~~ Department of Community
15 Corrections shall establish and enforce the standards and criteria
16 for the administration of the adult intensive supervision probation
17 programs.

18 (2) The Office of Court Services shall establish and
19 enforce the standards and criteria for the administration of the
20 juvenile intensive supervision probation program.

21 Sec. 57. Section 29-2263, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 29-2263 (1) When a court has sentenced an adult offender
24 to probation, the court shall specify the term of such probation
25 which shall be not more than five years upon conviction of a felony
26 or second offense misdemeanor and two years upon conviction of a
27 first offense misdemeanor. The court, on application of a court

1 services officer or a probation and parole officer, on application
2 ~~of the~~ an adult offender, or on its own motion, may discharge an
3 adult offender or a juvenile at any time.

4 (2) During the term of probation, the court on
5 application of a court services officer or a probation and parole
6 officer, on application ~~of~~ the offender, or on its own motion,
7 may modify or eliminate any of the conditions imposed on the
8 adult offender or the juvenile or add further conditions authorized
9 by section 29-2262. This subsection does not preclude a court
10 services officer or a probation and parole officer from imposing
11 administrative sanctions with the offender's full knowledge and
12 consent as authorized by subsection (2) of section 29-2266.

13 (3) Upon completion of the term of probation, or the
14 earlier discharge of the adult offender, ~~the offender~~ or the
15 juvenile, he or she shall be relieved of any obligations imposed by
16 the order of the court and shall have satisfied the sentence for
17 his or her crime.

18 (4) Whenever a probationer disappears or leaves the
19 jurisdiction of the court without permission, the time during which
20 he or she keeps his or her whereabouts hidden or remains away from
21 the jurisdiction of the court shall be added to the original term
22 of probation.

23 Sec. 58. Section 29-2265, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 29-2265 (1) Whenever an offender is placed on probation
26 and will reside in a location outside the jurisdiction of the
27 sentencing court, the sentencing court may:

1 (a) Retain jurisdiction over the probationer and the
2 subject matter of the action; or

3 (b) Transfer jurisdiction over the probationer and the
4 subject matter of the action to an appropriate court in the
5 judicial district in which the probationer will reside.

6 (2) When a court determines to transfer jurisdiction
7 under subdivision (1)(b) of this section, it shall:

8 (a) Obtain the concurrence of the court to which transfer
9 is to be made;

10 (b) File a certified transcript of the action out of
11 which the probationer's conviction arose with the clerk of the
12 court to which jurisdiction is transferred; and

13 (c) Furnish the chief probation and parole officer ef
14 or chief court services officer serving the district in which
15 the probationer will reside with a copy of any presentence or
16 predisposition investigation.

17 (3) Upon the filing of the transcript in accordance with
18 subdivision (2)(b) of this section, the court making the transfer
19 shall have no further jurisdiction of the subject matter of the
20 action or over the probationer. The court to which jurisdiction
21 is transferred shall immediately enter an order placing the
22 transferred probationer on probation under such conditions as
23 it may deem appropriate in accordance with the Nebraska Probation
24 Administration Act.

25 (4) When a court retains jurisdiction under subdivision
26 (1)(a) of this section and the probationer will reside in a
27 different judicial district created under section 39 of this

1 ~~act or community corrections probation~~ district from that of the
2 sentencing court, the court may notify the chief court services
3 officer or chief probation and parole officer in the judicial
4 district created under such section or community corrections
5 ~~probation~~ district in which the probationer will reside to
6 supervise such probationer under the terms of the probation order
7 and in accordance with the Nebraska Probation Administration Act.

8 Sec. 59. Section 29-2266, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 29-2266 (1) For purposes of this section:

11 (a) Administrative sanction means additional probation
12 requirements imposed upon a probationer by his or her court
13 services officer or probation and parole officer, with the
14 full knowledge and consent of the probationer, designed to hold
15 the probationer accountable for substance abuse or noncriminal
16 violations of conditions of probation, including:

17 (i) Counseling or reprimand by his or her court services
18 officer or probation and parole officer;

19 (ii) Increased supervision contact requirements;

20 (iii) Increased substance abuse testing;

21 (iv) Referral for substance abuse or mental health
22 evaluation or other specialized assessment, counseling, or
23 treatment;

24 (v) Imposition of a designated curfew for a period not to
25 exceed thirty days;

26 (vi) Community service for a specified number of hours
27 pursuant to sections 29-2277 to 29-2279;

1 (vii) Travel restrictions to stay within his or her
2 county of residence or employment unless otherwise permitted by the
3 supervising court services officer or probation and parole officer;
4 and

5 (viii) Restructuring court-imposed financial obligations
6 to mitigate their effect on the probationer;

7 (b) Noncriminal violation means a probationer's
8 activities or behaviors which create the opportunity for
9 re-offending or diminish the effectiveness of probation supervision
10 resulting in a violation of an original condition of probation,
11 including:

12 (i) Moving traffic violations;

13 (ii) Failure to report to his or her court services
14 officer or probation and parole officer;

15 (iii) Leaving the jurisdiction of the court or leaving
16 the state without the permission of the court or his or her court
17 services officer or probation and parole officer;

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

20 (v) Failure to notify his or her court services officer
21 or probation and parole officer of change of address or employment;

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

24 (vii) Failure to perform community service as directed;
25 and

26 (viii) Failure to pay fines, court costs, restitution, or
27 any fees imposed pursuant to section ~~29-2262.06~~ 15 of this act as

1 directed; and

2 (c) Substance abuse violation means a probationer's
3 activities or behaviors associated with the use of chemical
4 substances or related treatment services resulting in a violation
5 of an original condition of probation, including:

6 (i) Positive breath test for the consumption of alcohol
7 if the offender is required to refrain from alcohol consumption;

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

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

11 (iv) Failure to appear for or complete substance abuse
12 or mental health treatment evaluations or inpatient or outpatient
13 treatment.

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

21 (a) Impose one or more administrative sanctions with
22 the approval of his or her chief court services officer or
23 chief probation and parole officer or such chief's designee. The
24 decision to impose administrative sanctions in lieu of formal
25 revocation proceedings rests with the court services officer or
26 probation and parole officer and his or her chief ~~probation~~
27 court services officer or chief probation and parole officer or

1 such chief's designee and shall be based upon the probationer's
2 risk level, the severity of the violation, and the probationer's
3 response to the violation. If administrative sanctions are to be
4 imposed, the probationer shall acknowledge in writing the nature
5 of the violation and agree upon the administrative sanction. The
6 probationer has the right to decline to acknowledge the violation;
7 and if he or she declines to acknowledge the violation, the court
8 services officer or probation and parole officer shall take action
9 pursuant to subdivision (2)(b) of this section. A copy of the
10 report shall be submitted to the county attorney of the county
11 where probation was imposed; or

12 (b) Submit a written report to the sentencing court,
13 with a copy to the county attorney of the county where probation
14 was imposed, outlining the nature of the probation violation and
15 request that formal revocation proceedings be instituted against
16 the probationer.

17 (3) Whenever a court services officer or probation and
18 parole officer has reasonable cause to believe that a probationer
19 other than a status offender as defined in section 43-245 has
20 violated or is about to violate a condition of probation other than
21 a substance abuse violation or noncriminal violation and that the
22 probationer will not attempt to leave the jurisdiction and will not
23 place lives or property in danger, the court services officer or
24 probation and parole officer shall submit a written report to the
25 sentencing court, with a copy to the county attorney of the county
26 where probation was imposed, outlining the nature of the probation
27 violation.

1 (4) Whenever a court services officer or probation and
2 parole officer has a reasonable cause to believe that a probationer
3 has violated or is about to violate a condition of his or her
4 probation and that the probationer will attempt to leave the
5 jurisdiction or will place lives or property in danger, the court
6 services officer or probation and parole officer shall arrest the
7 probationer without a warrant and may call on any peace officer for
8 assistance. Whenever a probationer is arrested, with or without a
9 warrant, he or she shall be detained in a jail or other detention
10 facility.

11 (5) Immediately after arrest and detention pursuant to
12 subsection (4) of this section, the court services officer or
13 probation and parole officer shall notify the county attorney of
14 the county where probation was imposed and submit a written report
15 of the reason for such arrest and of any violation of probation.
16 After prompt consideration of such written report, the county
17 attorney shall:

- 18 (a) Order the probationer's release from confinement; or
19 (b) File with the sentencing court a motion or
20 information to revoke the probation.

21 (6) Whenever a county attorney receives a report from
22 a court services officer or probation and parole officer that
23 a probationer has violated a condition of probation, the county
24 attorney may file a motion or information to revoke probation.

25 (7) The Director of Community Corrections and the
26 court services administrator shall adopt and promulgate rules and
27 regulations to carry out this section.

1 Sec. 60. Section 29-2270, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-2270 Any individual who is less than nineteen years of
4 age and who is subject to the supervision of a ~~juvenile probation~~
5 court services officer as defined in section 29-2246 or an ~~adult~~
6 ~~probation~~ a probation and parole officer as defined in such section
7 pursuant to an order of the district court, county court, or
8 juvenile court shall, as a condition of probation, be required to:

9 (1) Attend school to obtain vocational training or to
10 achieve an appropriate educational level as prescribed by the court
11 services officer or probation and parole officer after consultation
12 with the school the individual attends or pursuant to section
13 29-2272. If the individual fails to attend school regularly,
14 maintain appropriate school behavior, or make satisfactory progress
15 as determined by the court services officer or probation and parole
16 officer after consultation with the school and the individual does
17 not meet the requirements of subdivision (2) of this section,
18 the district court, county court, or juvenile court shall take
19 appropriate action to enforce, modify, or revoke its order granting
20 probation; or

21 (2) Attend an on-the-job training program or secure and
22 maintain employment. If the individual fails to attend the program
23 or maintain employment and does not meet the requirements of
24 subdivision (1) of this section, the district court, county court,
25 or juvenile court shall take appropriate action to enforce, modify,
26 or revoke its order granting probation.

27 Sec. 61. Section 29-2272, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 29-2272 (1) If the individual chooses to meet the
3 requirements of section 29-2270 by attending a public school and
4 the individual has previously been expelled from school, prior to
5 the readmission of the individual to the school, school officials
6 shall meet with the individual's ~~probation~~ court services officer
7 or probation and parole officer, as such terms are defined in
8 section 29-2246, and assist in developing conditions of probation
9 that will provide specific guidelines for behavior and consequences
10 for misbehavior at school as well as educational objectives that
11 must be achieved. The district court, county court, or juvenile
12 court shall review the conditions of probation for the individual
13 and may continue the expulsion or return the individual to school
14 under the agreed conditions.

15 (2) The school board may expel the individual for
16 subsequent actions as provided in section 79-267.

17 (3) The individual shall be screened by the school to
18 which he or she is admitted for possible disabilities and, if the
19 screening so indicates, be referred for evaluation for possible
20 placement in a special education program.

21 Sec. 62. Section 29-2935, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 29-2935 For purposes of evaluating the treatment process,
24 the ~~Office of Parole Administration,~~ Department of Community
25 Corrections, the Department of Correctional Services, the Board
26 of Parole, and the designated aftercare treatment programs shall
27 allow appropriate access to data and information as requested by

1 the Department of Health and Human Services.

2 Sec. 63. Section 29-4009, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 29-4009 Information obtained under the Sex Offender
5 Registration Act shall be confidential, except that:

6 (1) Information shall be disclosed to law enforcement
7 agencies for law enforcement purposes;

8 (2) Information on persons subject to section 83-174.03
9 shall be disclosed to the ~~Office of Parole Administration;~~
10 Department of Community Corrections;

11 (3) Information concerning a defendant who is registered
12 and reports to be employed with, carrying on a vocation at,
13 or attending a postsecondary educational institution, shall be
14 disclosed to the law enforcement agency having responsibility for
15 the campus where the institution is located. This notification
16 shall go to the affected campus police, if any, and other law
17 enforcement agency having jurisdiction in the area in which the
18 institution is located;

19 (4) Information may be disclosed to governmental
20 agencies conducting confidential background checks for employment,
21 volunteer, licensure, or certification purposes;

22 (5) Information may be disclosed to health care providers
23 who serve children or vulnerable adults for the purpose of
24 conducting confidential background checks for employment;

25 (6) Information concerning the address or whereabouts of
26 the person required to register may be disclosed to the victim or
27 victims of such person; and

1 (7) The Nebraska State Patrol, any law enforcement
2 agency, and any probation ~~or~~ and parole officer may release
3 relevant information that is necessary to protect the public
4 concerning a specific person required to register, except that the
5 identity of a victim of an offense that requires registration shall
6 not be released.

7 The release of information authorized by this section
8 shall conform with the rules and regulations adopted and
9 promulgated by the Nebraska State Patrol pursuant to section
10 29-4013.

11 Sec. 64. Section 29-4019, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 29-4019 (1) When sentencing a person convicted of an
14 offense which requires lifetime community supervision upon release
15 pursuant to section 83-174.03, the sentencing court shall:

16 (a) Provide written notice to the defendant that he or
17 she shall be subject to lifetime community supervision by the
18 ~~Office of Parole Administration~~ Department of Community Corrections
19 upon release from incarceration or civil commitment. The written
20 notice shall inform the defendant (i) that he or she shall be
21 subject to lifetime community supervision by the ~~office~~ department
22 upon release and that the ~~office~~ department shall conduct a risk
23 assessment and evaluation to determine the conditions of community
24 supervision which will minimize, in the least restrictive manner
25 that is compatible with public safety, the risk of the defendant
26 committing additional offenses, (ii) that a violation of any of
27 the conditions of community supervision imposed by the ~~office~~

1 department may result in the revision of existing conditions, the
2 addition of new conditions, a recommendation that civil commitment
3 proceedings should be instituted, or criminal prosecution, and
4 (iii) of his or her right to challenge the determination of the
5 conditions of community supervision by the ~~office~~ department and
6 the right to a periodic review of the conditions of community
7 supervision pursuant to section 83-174.03 to determine if the
8 conditions are still necessary to protect the public;

9 (b) Require the defendant to read and sign a form stating
10 that the duty of the defendant to comply with the conditions
11 of community supervision and his or her rights to challenge
12 the conditions of community supervision imposed by the ~~office~~
13 department has been explained; and

14 (c) Retain a copy of the written notification signed by
15 the defendant.

16 (2) Prior to the release of a person serving a sentence
17 for an offense requiring lifetime community supervision by the
18 ~~Office of Parole Administration~~ Department of Community Corrections
19 pursuant to section 83-174.03, the Department of Correctional
20 Services, the Department of Health and Human Services, or a city or
21 county correctional or jail facility shall:

22 (a) Provide written notice to the person that he or
23 she shall be subject to lifetime community supervision by the
24 ~~office~~ Department of Community Corrections upon release from
25 incarceration. The written notice shall inform the person (i) that
26 he or she shall be subject to lifetime community supervision by
27 the ~~office~~ department upon release and that the ~~office~~ department

1 shall conduct a risk assessment and evaluation of the defendant
2 to determine the conditions of community supervision which will
3 minimize, in the least restrictive manner that is compatible
4 with public safety, the risk of the person committing additional
5 offenses, (ii) that a violation of any of the conditions of
6 community supervision imposed by the ~~office~~ department may result
7 in the revision of existing conditions, the addition of new
8 conditions, a recommendation that civil commitment proceedings
9 should be instituted, or criminal prosecution, and (iii) of his
10 or her right to challenge the determination of the conditions of
11 community supervision by the ~~office~~ department and the right to a
12 periodic review of the conditions of community supervision pursuant
13 to section 83-174.03 to determine if the conditions are still
14 necessary to protect the public;

15 (b) Require the defendant to read and sign a form stating
16 that the duty of the defendant to comply with the conditions
17 of community supervision and his or her right to challenge
18 the conditions of community supervision imposed by the ~~office~~
19 department has been explained; and

20 (c) Retain a copy of the written notification signed by
21 the person.

22 Sec. 65. Section 33-154, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 33-154 In addition to all other court costs assessed
25 according to law, a training fee of one dollar shall be taxed as
26 costs for each case filed in each county court and district court,
27 including appeals to such courts, and for each appeal and original

1 action filed in the Court of Appeals and the Supreme Court. The
2 fees shall be remitted to the State Treasurer on forms prescribed
3 by the State Treasurer within ten days after the end of each month.
4 ~~The~~ Until July 1, 2009, the State Treasurer shall credit the fees
5 to the Supreme Court Education Fund. On and after July 1, 2009,
6 the State Treasurer shall credit ninety cents of such fee to the
7 Supreme Court Education Fund and ten cents of such fee to the
8 Department of Community Corrections Education Fund.

9 Sec. 66. Section 43-250, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-250 A peace officer who takes a juvenile into
12 temporary custody under section 43-248 shall immediately take
13 reasonable measures to notify the juvenile's parent, guardian,
14 custodian, or relative and shall proceed as follows:

15 (1) The peace officer shall release such juvenile;

16 (2) The peace officer shall prepare in triplicate a
17 written notice requiring the juvenile to appear before the juvenile
18 court of the county in which such juvenile was taken into custody
19 at a time and place specified in the notice or at the call of the
20 court. The notice shall also contain a concise statement of the
21 reasons such juvenile was taken into custody. The peace officer
22 shall deliver one copy of the notice to such juvenile and require
23 such juvenile or his or her parent, guardian, other custodian,
24 or relative, or both, to sign a written promise that such signer
25 will appear at the time and place designated in the notice. Upon
26 the execution of the promise to appear, the peace officer shall
27 immediately release such juvenile. The peace officer shall, as

1 soon as practicable, file one copy of the notice with the county
2 attorney and, when required by the juvenile court, also file a copy
3 of the notice with the juvenile court or the officer appointed by
4 the court for such purpose;

5 (3) While retaining temporary custody, the peace officer
6 shall communicate all relevant available information regarding such
7 juvenile to the ~~probation~~ juvenile court officer of the Office of
8 Court Services and shall deliver the juvenile, if necessary, to
9 the ~~probation~~ officer. ~~The probation officer~~ who shall determine
10 the need for detention of the juvenile as provided in section
11 43-260.01. Upon determining that the juvenile should be placed in
12 a secure or nonsecure placement and securing placement in such
13 secure or nonsecure setting by ~~the probation~~ such officer, the
14 peace officer shall implement the ~~probation officer's~~ decision to
15 release or to detain and place the juvenile. When secure detention
16 of a juvenile is necessary, such detention shall occur within a
17 juvenile detention facility except:

18 (a) When a juvenile described in subdivision (1) or
19 (2) of section 43-247, except for a status offender, is taken
20 into temporary custody within a metropolitan statistical area and
21 where no juvenile detention facility is reasonably available, the
22 juvenile may be delivered, for temporary custody not to exceed
23 six hours, to a secure area of a jail or other facility intended
24 or used for the detention of adults solely for the purposes of
25 identifying the juvenile and ascertaining his or her health and
26 well-being and for safekeeping while awaiting transport to an
27 appropriate juvenile placement or release to a responsible party;

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

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

21 (d) If a juvenile is under sixteen years of age or is a
22 juvenile as described in subdivision (3) of section 43-247, he or
23 she shall not be placed within a secure area of a jail or other
24 facility intended or used for the detention of adults;

25 (e) If, within the time limits specified in subdivision
26 (3) (a) or (3) (b) of this section, a felony charge is filed against
27 the juvenile as an adult in county or district court, he or she may

1 be securely held in a jail or other facility intended or used for
2 the detention of adults beyond the specified time limits;

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

15 (g) A juvenile described in subdivision (1) or (2) of
16 section 43-247, except for a status offender, may be held in a
17 secure area of a jail or other facility intended or used for the
18 detention of adults for up to six hours before and six hours after
19 any court appearance;

20 (4) When a juvenile is taken into temporary custody
21 pursuant to subdivision (3) of section 43-248, the peace officer
22 shall deliver the custody of such juvenile to the Department of
23 Health and Human Services which shall make a temporary placement of
24 the juvenile in the least restrictive environment consistent with
25 the best interests of the juvenile as determined by the department.
26 The department shall supervise such placement and, if necessary,
27 consent to any necessary emergency medical, psychological, or

1 psychiatric treatment for such juvenile. The department shall have
2 no other authority with regard to such temporary custody until or
3 unless there is an order by the court placing the juvenile in the
4 custody of the department. If the peace officer delivers temporary
5 custody of the juvenile pursuant to this subdivision, the peace
6 officer shall make a full written report to the county attorney
7 within twenty-four hours of taking such juvenile into temporary
8 custody. If a court order of temporary custody is not issued
9 within forty-eight hours of taking the juvenile into custody,
10 the temporary custody by the department shall terminate and the
11 juvenile shall be returned to the custody of his or her parent,
12 guardian, custodian, or relative; or

13 (5) If the peace officer takes the juvenile into
14 temporary custody pursuant to subdivision (4) of section 43-248,
15 the peace officer may place the juvenile at a mental health
16 facility for evaluation and emergency treatment or may deliver
17 the juvenile to the Department of Health and Human Services as
18 provided in subdivision (4) of this section. At the time of the
19 admission or turning the juvenile over to the department, the
20 peace officer responsible for taking the juvenile into custody
21 shall execute a written certificate as prescribed by the Department
22 of Health and Human Services which will indicate that the peace
23 officer believes the juvenile to be mentally ill and dangerous,
24 a summary of the subject's behavior supporting such allegations,
25 and that the harm described in section 71-908 is likely to occur
26 before proceedings before a juvenile court may be invoked to
27 obtain custody of the juvenile. A copy of the certificate shall be

1 forwarded to the county attorney. The peace officer shall notify
2 the juvenile's parents, guardian, custodian, or relative of the
3 juvenile's placement.

4 In determining the appropriate temporary placement of a
5 juvenile under this section, the peace officer shall select the
6 placement which is least restrictive of the juvenile's freedom so
7 long as such placement is compatible with the best interests of the
8 juvenile and the safety of the community.

9 Sec. 67. Section 43-253, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-253 (1) Upon delivery to the ~~probation~~ juvenile court
12 officer of the Office of Court Services of a juvenile who has
13 been taken into temporary custody under sections 43-248 and 43-250,
14 the ~~probation~~ juvenile court officer shall immediately investigate
15 the situation of the juvenile and the nature and circumstances of
16 the events surrounding his or her being taken into custody. Such
17 investigation may be by informal means when appropriate.

18 (2) The ~~probation~~ juvenile court officer's decision to
19 release the juvenile from custody or place the juvenile in secure
20 or nonsecure detention shall be based upon the results of the
21 standardized juvenile detention screening instrument described in
22 section 43-260.01.

23 (3) No juvenile who has been taken into temporary custody
24 under subdivision (3) of section 43-250 shall be detained in
25 any secure detention facility for longer than twenty-four hours,
26 excluding nonjudicial days, after having been taken into custody
27 unless such juvenile has appeared personally before a court of

1 competent jurisdiction for a hearing to determine if continued
2 detention is necessary. If continued secure detention is ordered,
3 such detention shall be in a juvenile detention facility, except
4 that a juvenile charged with a felony as an adult in county or
5 district court may be held in an adult jail as set forth in
6 subdivision (3)(e) of section 43-250.

7 (4) When the ~~probation~~ juvenile court officer deems it
8 to be in the best interests of the juvenile, ~~the probation officer~~
9 he or she shall immediately release such juvenile to the custody
10 of his or her parent. If the juvenile has both a custodial and a
11 noncustodial parent and the ~~probation~~ juvenile court officer deems
12 that release of the juvenile to the custodial parent is not in the
13 best interests of the juvenile, ~~the probation officer~~ he or she
14 shall, if it is deemed to be in the best interests of the juvenile,
15 attempt to contact the noncustodial parent, if any, of the juvenile
16 and to release the juvenile to such noncustodial parent. If such
17 release is not possible or not deemed to be in the best interests
18 of the juvenile, the ~~probation~~ juvenile court officer may release
19 the juvenile to the custody of a legal guardian, a responsible
20 relative, or another responsible person.

21 (5) The court may admit such juvenile to bail by bond in
22 such amount and on such conditions and security as the court, in
23 its sole discretion, shall determine, or the court may proceed as
24 provided in section 43-254. In no case shall the court or ~~probation~~
25 the juvenile court officer release such juvenile if it appears that
26 further detention or placement of such juvenile is a matter of
27 immediate and urgent necessity for the protection of such juvenile

1 or the person or property of another or if it appears that such
2 juvenile is likely to flee the jurisdiction of the court.

3 Sec. 68. Section 43-260, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-260 The Office of ~~Probation Administration~~ Court
6 Services shall prepare and distribute to ~~probation~~ juvenile court
7 officers of the office a standardized juvenile detention screening
8 instrument. The types of risk factors to be included as well
9 as the format of this standardized juvenile detention screening
10 instrument shall be determined by the office. The standardized
11 juvenile detention screening instrument shall be used as an
12 assessment tool statewide by ~~probation~~ officers under section
13 43-260.01 in order to determine if detention of the juvenile is
14 necessary and, if so, whether secure or nonsecure detention is
15 indicated. ~~Probation~~ Juvenile court officers trained to administer
16 the juvenile detention screening instrument shall act as juvenile
17 intake ~~probation~~ officers. Only duly trained juvenile probation
18 officers shall be authorized to administer the juvenile detention
19 screening instrument.

20 Sec. 69. Section 43-260.05, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-260.05 A juvenile pretrial diversion program may:

23 (1) Provide screening services to the court and county
24 attorney or city attorney to help identify likely candidates for
25 the program;

26 (2) Establish goals for diverted juvenile offenders and
27 monitor performance of the goals;

1 (3) Perform chemical dependency assessments of diverted
2 juvenile offenders when indicated, make appropriate referrals for
3 treatment, and monitor treatment and aftercare;

4 (4) Provide individual, group, and family counseling
5 services;

6 (5) Oversee the payment of victim restitution by diverted
7 juvenile offenders;

8 (6) Assist diverted juvenile offenders in identifying and
9 contacting appropriate community resources;

10 (7) Provide educational services to diverted juvenile
11 offenders to enable them to earn a high school diploma or general
12 education development diploma; and

13 (8) Provide accurate information on how diverted juvenile
14 offenders perform in the program to the juvenile courts, county
15 attorneys, city attorneys, defense attorneys, and ~~probation~~
16 juvenile court officers of the Office of Court Services.

17 Sec. 70. Section 43-271, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 43-271 (1)(a) A juvenile taken into custody pursuant to
20 sections 43-248, 43-250, and 43-253 shall be brought before the
21 court for adjudication as soon as possible after the petition is
22 filed. On the return of the summons or other process, or mailing
23 of the notice in lieu of summons, or as soon thereafter as legally
24 may be, the court shall proceed to hear and dispose of the case as
25 provided in section 43-279.

26 (b) The hearing as to a juvenile in custody of the
27 ~~probation~~ juvenile court officer of the Office of Court Services

1 or the court shall be held as soon as possible but, in all cases,
2 within a six-month period after the petition is filed, and as to
3 a juvenile not in such custody as soon as practicable but, in all
4 cases, within a six-month period after the petition is filed. The
5 computation of the six-month period provided for in this section
6 shall be made as provided in section 29-1207, as applicable.

7 (2) Any juvenile taken into custody pursuant to sections
8 43-248, 43-250, and 43-253 may request a detention review hearing.
9 The detention review hearing shall be conducted within forty-eight
10 hours after the request.

11 Sec. 71. Section 43-274, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-274 (1) The county attorney, having knowledge of a
14 juvenile in his or her county who appears to be a juvenile
15 described in subdivision (1), (2), (3), or (4) of section 43-247,
16 may file with the clerk of the court having jurisdiction in
17 the matter a petition in writing specifying which subdivision of
18 section 43-247 is alleged, setting forth the facts verified by
19 affidavit, and requesting the court to determine whether support
20 will be ordered pursuant to section 43-290. Allegations under
21 subdivisions (1), (2), and (4) of section 43-247 shall be made
22 with the same specificity as a criminal complaint. It shall be
23 sufficient if the affidavit is based upon information and belief.
24 Such petition and all subsequent proceedings shall be entitled In
25 the Interest of, a Juvenile Under Eighteen Years of
26 Age, inserting the juvenile's name in the blank.

27 (2) In all cases involving violation of a city or village

1 ordinance, the city attorney or village prosecutor may file a
2 petition in juvenile court. If such a petition is filed, for
3 purposes of such proceeding, references in the Nebraska Juvenile
4 Code to county attorney shall be construed to include a city
5 attorney or village prosecutor.

6 (3) The county attorney or city attorney may offer
7 pretrial diversion to the juvenile in accordance with a juvenile
8 pretrial diversion program established pursuant to sections
9 43-260.02 to 43-260.07.

10 (4)(a) If a juvenile appears to be a juvenile described
11 in subdivision (1), (2), (3)(b), or (4) of section 43-247 because
12 of a nonviolent act or acts, the county attorney may offer
13 mediation to the juvenile and the victim of the juvenile's act. If
14 both the juvenile and the victim agree to mediation, the juvenile,
15 his or her parent, guardian, or custodian, and the victim shall
16 sign a mediation consent form and select a mediator or approved
17 center from the roster made available pursuant to section 25-2908.
18 The county attorney shall refer the juvenile and the victim to
19 such mediator or approved center. The mediation sessions shall
20 occur within thirty days after the date the mediation referral is
21 made unless an extension is approved by the county attorney. The
22 juvenile or his or her parent, guardian, or custodian shall pay
23 the mediation fees. The fee shall be determined by the mediator in
24 private practice or by the approved center. A juvenile shall not be
25 denied services at an approved center because of an inability to
26 pay.

27 (b) Terms of the agreement shall specify monitoring,

1 completion, and reporting requirements. The county attorney, the
2 court, or the ~~probation office~~ Office of Court Services shall
3 be notified by the designated monitor if the juvenile does not
4 complete the agreement within the agreement's specified time.

5 (c) Terms of the agreement may include one or more of the
6 following:

7 (i) Participation by the juvenile in certain community
8 service programs;

9 (ii) Payment of restitution by the juvenile to the
10 victim;

11 (iii) Reconciliation between the juvenile and the victim;
12 and

13 (iv) Any other areas of agreement.

14 (d) If no mediation agreement is reached, the mediator
15 or approved center will report that fact to the county attorney
16 within forty-eight hours of the final mediation session excluding
17 nonjudicial days.

18 (e) If a mediation agreement is reached and the agreement
19 does not violate public policy, the agreement shall be approved
20 by the county attorney. If the agreement is not approved and
21 the victim agrees to return to mediation (i) the juvenile may be
22 referred back to mediation with suggestions for changes needed in
23 the agreement to meet approval or (ii) the county attorney may
24 proceed with the filing of a criminal charge or juvenile court
25 petition. If the juvenile agrees to return to mediation but the
26 victim does not agree to return to mediation, the county attorney
27 may consider the juvenile's willingness to return to mediation when

1 determining whether or not to file a criminal charge or a juvenile
2 court petition.

3 (f) If the juvenile meets the terms of an approved
4 mediation agreement, the county attorney shall not file a criminal
5 charge or juvenile court petition against the juvenile for the acts
6 for which the juvenile was referred to mediation.

7 Sec. 72. Section 43-286, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-286 (1) When any juvenile is adjudicated to be a
10 juvenile described in subdivision (1), (2), or (4) of section
11 43-247:

12 (a) The court may continue the dispositional portion of
13 the hearing, from time to time upon such terms and conditions as
14 the court may prescribe, including an order of restitution of any
15 property stolen or damaged or an order requiring the juvenile to
16 participate in community service programs, if such order is in
17 the interest of the juvenile's reformation or rehabilitation, and,
18 subject to the further order of the court, may:

19 (i) Place the juvenile on probation subject to the
20 supervision of a ~~probation~~ juvenile court officer of the Office of
21 Court Services;

22 (ii) Permit the juvenile to remain in his or her own home
23 or be placed in a suitable family home, subject to the supervision
24 of the ~~probation~~ officer; or

25 (iii) Cause the juvenile to be placed in a suitable
26 family home or institution, subject to the supervision of the
27 ~~probation~~ officer. If the court has committed the juvenile to the

1 care and custody of the Department of Health and Human Services,
2 the department shall pay the costs of the suitable family home or
3 institution which are not otherwise paid by the juvenile's parents.

4 Under subdivision (1)(a) of this section, upon a
5 determination by the court that there are no parental, private, or
6 other public funds available for the care, custody, and maintenance
7 of a juvenile, the court may order a reasonable sum for the care,
8 custody, and maintenance of the juvenile to be paid out of a
9 fund which shall be appropriated annually by the county where the
10 petition is filed until a suitable provision may be made for the
11 juvenile without such payment; or

12 (b) The court may commit such juvenile to the Office
13 of Juvenile Services, but a juvenile under the age of twelve
14 years shall not be placed at the Youth Rehabilitation and
15 Treatment Center-Geneva or the Youth Rehabilitation and Treatment
16 Center-Kearney unless he or she has violated the terms of probation
17 or has committed an additional offense and the court finds that the
18 interests of the juvenile and the welfare of the community demand
19 his or her commitment. This minimum age provision shall not apply
20 if the act in question is murder or manslaughter.

21 (2) When any juvenile is found by the court to be a
22 juvenile described in subdivision (3)(b) of section 43-247, the
23 court may enter such order as it is empowered to enter under
24 subdivision (1)(a) of this section or enter an order committing or
25 placing the juvenile to the care and custody of the Department of
26 Health and Human Services.

27 (3) Beginning July 15, 1998, when any juvenile is

1 adjudicated to be a juvenile described in subdivision (1), (2),
2 (3) (b), or (4) of section 43-247 because of a nonviolent act or
3 acts and the juvenile has not previously been adjudicated to be
4 such a juvenile because of a violent act or acts, the court may,
5 with the agreement of the victim, order the juvenile to attend
6 juvenile offender and victim mediation with a mediator or at an
7 approved center selected from the roster made available pursuant to
8 section 25-2908.

9 (4) (a) When a juvenile is placed on probation or under
10 the supervision of the court and it is alleged that the juvenile is
11 again a juvenile described in subdivision (1), (2), (3) (b), or (4)
12 of section 43-247, a petition may be filed and the same procedure
13 followed and rights given at a hearing on the original petition. If
14 an adjudication is made that the allegations of the petition are
15 true, the court may make any disposition authorized by this section
16 for such adjudications.

17 (b) When a juvenile is placed on probation or under
18 the supervision of the court for conduct under subdivision (1),
19 (2), (3) (b), or (4) of section 43-247 and it is alleged that the
20 juvenile has violated a term of probation or supervision or that
21 the juvenile has violated an order of the court, a motion to revoke
22 probation or supervision or to change the disposition may be filed
23 and proceedings held as follows:

24 (i) The motion shall set forth specific factual
25 allegations of the alleged violations and a copy of such motion
26 shall be served on all persons required to be served by sections
27 43-262 to 43-267;

1 (ii) The juvenile shall be entitled to a hearing before
2 the court to determine the validity of the allegations. At such
3 hearing the juvenile shall be entitled to those rights relating
4 to counsel provided by section 43-272 and those rights relating
5 to detention provided by sections 43-254 to 43-256. The juvenile
6 shall also be entitled to speak and present documents, witnesses,
7 or other evidence on his or her own behalf. He or she may confront
8 persons who have given adverse information concerning the alleged
9 violations, may cross-examine such persons, and may show that he
10 or she did not violate the conditions of his or her probation or,
11 if he or she did, that mitigating circumstances suggest that the
12 violation does not warrant revocation. The revocation hearing shall
13 be held within a reasonable time after the juvenile is taken into
14 custody;

15 (iii) The hearing shall be conducted in an informal
16 manner and shall be flexible enough to consider evidence, including
17 letters, affidavits, and other material, that would not be
18 admissible in an adversarial criminal trial;

19 (iv) The juvenile shall be given a preliminary hearing
20 in all cases when the juvenile is confined, detained, or otherwise
21 significantly deprived of his or her liberty as a result of his or
22 her alleged violation of probation. Such preliminary hearing shall
23 be held before an impartial person other than his or her juvenile
24 probation officer or any person directly involved with the case.
25 If, as a result of such preliminary hearing, probable cause is
26 found to exist, the juvenile shall be entitled to a hearing before
27 the court in accordance with this subsection;

1 (v) If the juvenile is found by the court to have
2 violated the terms of his or her probation, the court may modify
3 the terms and conditions of the probation order, extend the period
4 of probation, or enter any order of disposition that could have
5 been made at the time the original order of probation was entered;
6 and

7 (vi) In cases when the court revokes probation, it shall
8 enter a written statement as to the evidence relied on and the
9 reasons for revocation.

10 Sec. 73. Section 43-294, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-294 The custodian appointed by a juvenile court shall
13 have charge of the person of the juvenile and the right to make
14 decisions affecting the person of the juvenile, including medical,
15 dental, surgical, or psychiatric treatment, except that consent
16 to a juvenile marrying or joining the armed forces of the United
17 States may be given by a custodian, other than the Department of
18 Health and Human Services, with approval of the juvenile court,
19 or by the department, as to juveniles in its custody, without
20 further court authority. The authority of a custodian appointed by
21 a juvenile court shall terminate when the individual under legal
22 custody reaches nineteen years of age, is legally adopted, or the
23 authority is terminated by order of the juvenile court. When an
24 adoption has been granted by a court of competent jurisdiction as
25 to any such juvenile, such fact shall be reported immediately by
26 such custodian to the juvenile court. If the adoption is denied
27 the jurisdiction over the juvenile shall immediately revert to the

1 court which authorized placement of the juvenile for adoption. Any
2 association or individual receiving the care or custody of any
3 such juvenile shall be subject to visitation or inspection by the
4 Department of Health and Human Services, or any ~~probation~~ juvenile
5 court officer of serving such court or any person appointed by
6 the court for such purpose, and the court may at any time require
7 from such association or person a report or reports containing
8 such information or statements as the judge shall deem proper
9 or necessary to be fully advised as to the care, maintenance,
10 and moral and physical training of the juvenile, as well as the
11 standing and ability of such association or individual to care for
12 such juvenile. The custodian so appointed by the court shall have
13 standing as a party in that case to file any pleading or motion,
14 to be heard by the court with regard to such filings, and to be
15 granted any review or relief requested in such filings consistent
16 with Chapter 43, article 2.

17 Sec. 74. Section 43-2,108, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-2,108 (1) The juvenile court judge shall keep a minute
20 book in which he or she shall enter minutes of all proceedings of
21 the court in each case, including appearances, findings, orders,
22 decrees, and judgments, and any evidence which he or she feels it
23 is necessary and proper to record. Juvenile court legal records
24 shall be deposited in files and shall include the petition,
25 summons, notice, certificates or receipts of mailing, minutes of
26 the court, findings, orders, decrees, judgments, and motions.

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

1 the medical, psychological, psychiatric, and social welfare reports
2 and the records of juvenile probation officers as they relate to
3 individual proceedings in the juvenile court shall not be open
4 to inspection, without order of the court. Such records shall be
5 made available to a district court of this state or the District
6 Court of the United States on the order of a judge thereof for the
7 confidential use of such judge or his or her ~~probation~~ juvenile
8 court officer of the Office of Court Services as to matters pending
9 before such court but shall not be made available to parties or
10 their counsel, + and such district court records shall be made
11 available to a county court or separate juvenile court upon request
12 of the county judge or separate juvenile judge for the confidential
13 use of such judge and his ~~or her~~ ~~probation~~ juvenile court officer
14 as to matters pending before such court, but shall not be made
15 available by such judge to the parties or their counsel.

16 (3) As used in this subsection, confidential record
17 information shall mean all docket records, other than the
18 pleadings, orders, decrees, and judgments; case files and records;
19 reports and records of ~~probation~~ juvenile court officers; and
20 information supplied to the court of jurisdiction in such cases
21 by any individual or any public or private institution, agency,
22 facility, or clinic, which is compiled by, produced by, and in the
23 possession of any court. In all cases under subdivision (3)(a)
24 of section 43-247, access to all confidential record information
25 in such cases shall be granted only as follows: (a) The court
26 of jurisdiction may, subject to applicable federal and state
27 regulations, disseminate such confidential record information to

1 any individual, or public or private agency, institution, facility,
2 or clinic which is providing services directly to the juvenile and
3 such juvenile's parents or guardian and his or her immediate family
4 who are the subject of such record information; (b) the court of
5 jurisdiction may disseminate such confidential record information,
6 with the consent of persons who are subjects of such information,
7 or by order of such court after showing of good cause, to any
8 law enforcement agency upon such agency's specific request for
9 such agency's exclusive use in the investigation of any protective
10 service case or investigation of allegations under subdivision
11 (3) (a) of section 43-247, regarding the juvenile or such juvenile's
12 immediate family, who are the subject of such investigation; and
13 (c) the court of jurisdiction may disseminate such confidential
14 record information to any court, which has jurisdiction of the
15 juvenile who is the subject of such information upon such court's
16 request.

17 (4) Nothing in subsection (3) of this section shall be
18 construed to restrict the dissemination of confidential record
19 information between any individual or public or private agency,
20 institute, facility, or clinic, except any such confidential record
21 information disseminated by the court of jurisdiction pursuant to
22 this section shall be for the exclusive and private use of those to
23 whom it was released and shall not be disseminated further without
24 order of such court.

25 (5) (a) Any records concerning a juvenile court petition
26 filed pursuant to subdivision (3) (c) of section 43-247 shall
27 remain confidential except as may be provided otherwise by law.

1 Such records shall be accessible to (i) the juvenile except as
2 provided in subdivision (b) of this subsection, (ii) the juvenile's
3 counsel, (iii) the juvenile's parent or guardian, and (iv) persons
4 authorized by an order of a judge or court.

5 (b) Upon application by the county attorney or by the
6 director of the facility where the juvenile is placed and upon
7 a showing of good cause therefor, a judge of the juvenile court
8 having jurisdiction over the juvenile or of the county where the
9 facility is located may order that the records shall not be made
10 available to the juvenile if, in the judgment of the court, the
11 availability of such records to the juvenile will adversely affect
12 the juvenile's mental state and the treatment thereof.

13 Sec. 75. Section 43-2,113, Revised Statutes Supplement,
14 2007, is amended to read:

15 43-2,113 (1) In counties where a separate juvenile court
16 is established, the county board of the county shall provide
17 suitable rooms and offices for the accommodation of the judge
18 of the separate juvenile court and the officers and employees
19 appointed by such judge or by the ~~probation~~ court services
20 administrator. ~~pursuant to subsection (4) of section 29-2253.~~
21 Such separate juvenile court and the judge, officers, and employees
22 of such court shall have the same and exclusive jurisdiction,
23 powers, and duties that are prescribed in the Nebraska Juvenile
24 Code, concurrent jurisdiction under section 83-223, and such other
25 jurisdiction, powers, and duties as specifically provided by law.

26 (2) A juvenile court created in a separate juvenile court
27 judicial district or a county court sitting as a juvenile court in

1 all other counties shall have and exercise jurisdiction within such
2 juvenile court judicial district or county court judicial district
3 with the county court and district court in all matters arising
4 under Chapter 42, article 3, when the care, support, custody,
5 or control of minor children under the age of eighteen years
6 is involved. Such cases shall be filed in the county court and
7 district court and may, with the consent of the juvenile judge, be
8 transferred to the docket of the separate juvenile court or county
9 court.

10 (3) All orders issued by a separate juvenile court or a
11 county court which provide for child support or spousal support as
12 defined in section 42-347 shall be governed by sections 42-347 to
13 42-381 and 43-290 relating to such support. Certified copies of
14 such orders shall be filed by the clerk of the separate juvenile
15 or county court with the clerk of the district court who shall
16 maintain a record as provided in subsection (4) of section 42-364.
17 There shall be no fee charged for the filing of such certified
18 copies.

19 Sec. 76. Section 43-707, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-707 The Department of Health and Human Services shall
22 have the power and it shall be its duty:

23 (1) To promote the enforcement of laws for the protection
24 and welfare of children born out of wedlock, mentally and
25 physically handicapped children, and dependent, neglected, and
26 delinquent children, except laws the administration of which is
27 expressly vested in some other state department or division, and

1 to take the initiative in all matters involving such children when
2 adequate provision therefor has not already been made;

3 (2) To visit and inspect public and private institutions,
4 agencies, societies, or persons caring for, receiving, placing out,
5 or handling children;

6 (3) To prescribe the form of reports required by law
7 to be made to the department by public officers, agencies, and
8 institutions;

9 (4) To exercise general supervision over the
10 administration and enforcement of all laws governing the
11 placing out and adoption of children;

12 (5) To advise with judges and ~~probation~~ juvenile court
13 officers of courts of domestic relations and juvenile courts of the
14 several counties, with a view to encouraging, standardizing, and
15 coordinating the work of such courts and officers throughout the
16 state; and

17 (6) To regulate the issuance of certificates or licenses
18 to such institutions, agencies, societies, or persons and to revoke
19 such licenses or certificates for good cause shown. If a license is
20 refused or revoked, the refusal or revocation may be appealed, and
21 the appeal shall be in accordance with the Administrative Procedure
22 Act.

23 Sec. 77. Section 43-2411, Revised Statutes Supplement,
24 2007, is amended to read:

25 43-2411 (1) The Nebraska Coalition for Juvenile Justice
26 is created. As provided in the federal act, there shall be no less
27 than fifteen nor more than thirty-three members of the coalition.

1 The coalition members shall be appointed by the Governor and shall
2 include:

3 (a) The Administrator of the Office of Juvenile Services;

4 (b) The chief executive officer of the Department of
5 Health and Human Services or his or her designee;

6 (c) The Commissioner of Education or his or her designee;

7 (d) The executive director of the Nebraska Commission on
8 Law Enforcement and Criminal Justice or his or her designee;

9 (e) The Executive Director of the Nebraska Association of
10 County Officials or his or her designee;

11 (f) The ~~probation~~ court services administrator of the
12 ~~Office of Probation Administration~~ or his or her designee;

13 (g) One county commissioner or supervisor;

14 (h) One police chief;

15 (i) One sheriff;

16 (j) One separate juvenile court judge;

17 (k) One county court judge;

18 (l) One representative of mental health professionals who
19 works directly with juveniles;

20 (m) Three representatives, one from each congressional
21 district, from community-based, private nonprofit organizations who
22 work with juvenile offenders and their families;

23 (n) One volunteer who works with juvenile offenders or
24 potential juvenile offenders;

25 (o) One person who works with an alternative to
26 incarceration program for juveniles;

27 (p) The director or his or her designee from a youth

1 rehabilitation and treatment center;

2 (q) The director or his or her designee from a secure
3 youth confinement facility;

4 (r) The director or his or her designee from a staff
5 secure youth confinement facility;

6 (s) At least five members who are under twenty-four years
7 of age when appointed;

8 (t) One person who works directly with juveniles who have
9 learning or emotional difficulties or are abused or neglected;

10 (u) One member of the Nebraska Commission on Law
11 Enforcement and Criminal Justice;

12 (v) One county attorney; and

13 (w) One public defender.

14 (2) The terms of members appointed pursuant to
15 subdivisions (1)(g) through (1)(w) of this section shall be three
16 years, except that the terms of the initial members of the
17 coalition shall be staggered so that one-third of the members
18 are appointed for terms of one year, one-third for terms of two
19 years, and one-third for terms of three years, as determined by
20 the Governor. A majority of the coalition members, including the
21 chairperson, shall not be full-time employees of federal, state,
22 or local government. At least one-fifth of the coalition members
23 shall be under the age of twenty-four at the time of appointment.
24 Any vacancy on the coalition shall be filled by appointment
25 by the Governor. The coalition shall select a chairperson, a
26 vice-chairperson, and such other officers as it deems necessary.

27 (3) Members of the coalition shall be reimbursed for

1 their actual and necessary expenses pursuant to sections 81-1174 to
2 81-1177.

3 (4) The coalition may appoint task forces or
4 subcommittees to carry out its work. Task force and subcommittee
5 members shall have knowledge of, responsibility for, or interest in
6 an area related to the duties of the coalition.

7 Sec. 78. Section 43-3001, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 43-3001 (1) Notwithstanding any other provision of law
10 regarding the confidentiality of records and when not prohibited
11 by the federal Privacy Act of 1974, as amended, juvenile court
12 records and any other pertinent information that may be in the
13 possession of school districts, county attorneys, the Attorney
14 General, law enforcement agencies, child advocacy centers, ~~state~~
15 ~~probation~~ juvenile probation personnel, community corrections
16 ~~personnel, state parole personnel,~~ youth detention facilities,
17 medical personnel, treatment or placement programs, the Department
18 of Health and Human Services, the Department of Correctional
19 Services, the Department of Community Corrections, the State Foster
20 Care Review Board, child abuse and neglect investigation teams,
21 child abuse and neglect treatment teams, or other multidisciplinary
22 teams for abuse, neglect, or delinquency concerning a child who is
23 in the custody of the state may be shared with individuals and
24 agencies who have been identified in a court order authorized by
25 this section.

26 (2) In any judicial proceeding concerning a child who is
27 currently, or who may become at the conclusion of the proceeding,

1 a ward of the court or state or under the supervision of the
2 court, an order may be issued which identifies individuals and
3 agencies who shall be allowed to receive otherwise confidential
4 information concerning the child for legitimate and official
5 purposes. The individuals and agencies who may be identified
6 in the court order are the child's attorney or guardian ad
7 litem, the parents' attorney, foster parents, appropriate school
8 personnel, county attorneys, the Attorney General, authorized court
9 personnel, law enforcement agencies, ~~state probation personnel,~~
10 ~~state parole~~ community corrections personnel, juvenile probation
11 personnel, youth detention facilities, medical personnel, treatment
12 or placement programs, the Department of Health and Human Services,
13 the Office of Juvenile Services, the Department of Correctional
14 Services, the Department of Community Corrections, the State
15 Foster Care Review Board, child abuse and neglect investigation
16 teams, child abuse and neglect treatment teams, and other
17 multidisciplinary teams for abuse, neglect, or delinquency. Unless
18 the order otherwise states, the order shall be effective until
19 the child leaves the custody of the state or until a new order
20 is issued.

21 (3) All information acquired by an individual or agency
22 pursuant to this section shall be confidential and shall not
23 be disclosed except to other persons who have a legitimate and
24 official interest in the information and are identified in the
25 court order issued pursuant to this section with respect to the
26 child in question. A person who receives such information or
27 who cooperates in good faith with other individuals and agencies

1 identified in the appropriate court order by providing information
2 or records about a child shall be immune from any civil or criminal
3 liability. The provisions of this section granting immunity from
4 liability shall not be extended to any person alleged to have
5 committed an act of child abuse or neglect.

6 (4) Any person who publicly discloses information
7 received pursuant to this section shall be guilty of a Class III
8 misdemeanor.

9 Sec. 79. Section 43-3505, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-3505 Each county may:

12 (1) Establish a local juvenile justice advisory committee
13 for the purpose of meeting quarterly to discuss trends and issues
14 related to juvenile offenders and service needs. Such committee
15 should include representation from the courts, law enforcement,
16 community service providers, schools, detention or shelter care,
17 county elected and administrative officials, juvenile probation
18 officials, community corrections ~~probation~~ officials, health and
19 human services representatives, and state officials or agency
20 representatives. The committee should discuss state and local
21 policy initiatives, use of detention and other regional services,
22 commitment to state custody, and impacts of policy initiatives
23 and trends on county juvenile justice systems. Notwithstanding any
24 other provision of law regarding the confidentiality of records,
25 information from the various representative agencies can be shared
26 about juveniles under their supervision for the purposes of this
27 subdivision. The information shared shall be in the form of

1 statistical data which does not disclose the identity of any
2 particular individual;

3 (2) Collect and review data on an ongoing basis to
4 understand the service needs of the juvenile offender population;
5 and

6 (3) Compile, review, and forward county level data
7 collected pursuant to section 43-3506.

8 Sec. 80. Section 43-3507, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-3507 (1) The Legislature finds that there is a need
11 for additional secure detention and detention services, including
12 transportation services, for juveniles in the state. The need can
13 be met by enhancing and expanding the existing secure detention
14 facilities and detention services as needed in the future and
15 by constructing new juvenile detention facilities to serve the
16 southeastern, central, and west central areas of the state.

17 (2) The Legislature further finds that in order for
18 ~~probation officers~~ court services officers as defined in section
19 33 of this act to adequately perform the function of providing
20 juvenile intake services statewide, existing ~~probation~~ staff
21 resources of the Office of Court Services need to be expanded and,
22 additionally, program services that enhance a juvenile's successful
23 reintegration into the community need to readily be available and
24 at the disposal of juvenile probation.

25 (3) The Legislature further finds that juvenile diversion
26 programs should be available throughout the state as a means
27 of providing consequences without the formal involvement of the

1 courts.

2 Sec. 81. Section 47-623, Revised Statutes Supplement,
3 2007, is amended to read:

4 47-623 (1) The council shall include the following voting
5 members:

6 (a) The executive director of the Nebraska Commission on
7 Law Enforcement and Criminal Justice;

8 (b) The Director of Correctional Services;

9 (c) The chairperson of the Board of Parole;

10 (d) ~~The Parole Administrator;~~ Director of Community
11 Corrections; and

12 (e) Nine members appointed by the Governor with the
13 approval of a majority of the Legislature, consisting of: One
14 representative from a list of persons nominated by the Nebraska
15 Criminal Defense Attorneys Association; one representative from
16 a list of persons nominated by the Nebraska County Attorneys
17 Association; one full-time officer or employee of a law enforcement
18 agency; one mental health and substance abuse professional; from
19 each congressional district, one provider of community-based
20 behavioral health services; and two at-large members.

21 (2) The council shall include the following nonvoting
22 members:

23 (a) The State Court Administrator;

24 (b) ~~The probation administrator;~~ The court services
25 administrator;

26 (c) Two members of the Legislature, appointed by the
27 Executive Board of the Legislative Council;

1 (d) Two judges of the district court, appointed by the
2 Chief Justice of the Supreme Court; and

3 (e) The chief executive officer of the Department of
4 Health and Human Services or his or her designee.

5 (3) The terms of office for members initially appointed
6 under subdivision (1)(e) of this section shall be three years. Upon
7 completion of the initial terms of such members, the Governor shall
8 appoint (a) a representative from law enforcement, a mental health
9 and substance abuse professional, and one at-large member for
10 terms of one year, (b) a representative of the Nebraska Criminal
11 Defense Attorneys Association, one provider of community-based
12 behavioral health services from the first congressional district,
13 one provider of community-based behavioral health services from the
14 third congressional district, and one at-large member for terms
15 of two years, and (c) a representative of the Nebraska County
16 Attorneys Association and a provider of community-based behavioral
17 health services from the second congressional district for terms of
18 three years. Succeeding appointees shall be appointed for terms of
19 three years. An appointee to a vacancy occurring from an unexpired
20 term shall serve out the term of his or her predecessor. Members
21 whose terms have expired shall continue to serve until their
22 successors have been appointed and qualified.

23 (4) The council shall by majority vote elect a
24 chairperson from among the members of the council.

25 (5) The members of the council shall be reimbursed for
26 their actual and necessary expenses incurred while engaged in
27 the performance of their official duties as provided in sections

1 81-1174 to 81-1177.

2 Sec. 82. Section 47-624, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 47-624 The council shall:

5 (1) Develop standards for eligible community correctional
6 facilities and programs in which offenders can participate, taking
7 into consideration the following factors:

8 (a) Qualifications of staff;

9 (b) Suitability of programs;

10 (c) Offender needs;

11 (d) Probation population;

12 (e) Parole population; and

13 (f) Other applicable criminal justice data;

14 (2) Develop and implement a plan to establish statewide
15 operation and use of a continuum of community correctional
16 facilities and programs;

17 (3) Develop, in consultation with the ~~probation~~
18 ~~administrator and the Parole Administrator,~~ Department of Community
19 Corrections, standards for the use of community correctional
20 facilities and programs by the ~~Nebraska Probation System and the~~
21 ~~parole system,~~ Department of Community Corrections;

22 (4) Develop, recommend, and review sentencing guidelines
23 for adoption by the Supreme Court as set forth in section 47-630;

24 (5) Analyze and mandate the consistent use of offender
25 risk assessment tools;

26 (6) Develop standards for eligibility of probationers and
27 parolees in certain community correctional facilities and programs;

1 (7) Educate the courts and the Board of Parole about
2 the availability and use of community correctional facilities and
3 programs;

4 (8) Enter into contracts, if necessary, for carrying out
5 the purposes of the Community Corrections Act;

6 (9) In order to ensure adequate funding for substance
7 abuse treatment programs for probationers and parolees, consult
8 with the ~~probation administrator~~ Director of Community Corrections
9 as provided in section ~~29-2262.07~~ 17 of this act and develop or
10 assist with the development of programs as provided in ~~subdivision~~
11 ~~(14) of section 29-2252,~~ section 5 of this act;

12 ~~(10)~~ In order to ensure adequate funding for substance
13 abuse treatment programs for parolees, consult with the Office
14 of Parole Administration as provided in section ~~83-1,107.02~~ and
15 develop or assist with the development of programs as provided in
16 subdivision ~~(8)~~ of section ~~83-1,102~~;

17 ~~(11)~~ (10) If necessary to perform the duties of the
18 council, hire, contract for, or otherwise obtain the services of
19 consultants, researchers, aides, and other necessary support staff;

20 ~~(12)~~ (11) Study substance abuse treatment services in and
21 related to the criminal justice system, recommend improvements, and
22 evaluate the implementation of improvements;

23 ~~(13)~~ (12) Study, develop, and implement minimum standards
24 for the development and use of community correctional facilities
25 and programs;

26 ~~(14)~~ (13) Develop and implement a plan for statewide use
27 of community correctional facilities and programs;

1 ~~(15)~~ (14) Grant funds to entities including local
2 governmental agencies, nonprofit organizations, and behavioral
3 health services which will support the intent of the act; and

4 ~~(16)~~ (15) Perform such other duties as may be necessary
5 to carry out the policy of the state established in the act.

6 Sec. 83. Section 47-627, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 47-627 The executive director of the Nebraska Commission
9 on Law Enforcement and Criminal Justice shall develop and maintain
10 a uniform crime data analysis system in Nebraska which shall
11 include, but need not be limited to, the number of offenses,
12 arrests, charges, probation admissions, probation violations,
13 probation discharges, admissions to and discharges from the
14 Department of Correctional Services, parole reviews, parole
15 hearings, releases on parole, parole violations, and parole
16 discharges. The data shall be categorized by statutory crime. The
17 data shall be collected from the Board of Parole, the State Court
18 Administrator, the Department of Correctional Services, the ~~Office~~
19 ~~of Parole Administration, the Office of Probation Administration,~~
20 Department of Community Corrections, the Nebraska State Patrol,
21 counties, local law enforcement, and any other entity associated
22 with criminal justice. The council, the director, and the Supreme
23 Court shall have access to such data to implement the Community
24 Corrections Act and to develop guidelines pursuant to section
25 47-630.

26 Sec. 84. Section 47-628, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 47-628 (1) A sentencing judge may sentence an offender
2 to probation conditioned upon community correctional programming
3 pursuant to section 47-630 and the guidelines developed by the
4 Supreme Court.

5 (2) A sentence to a community correctional program or
6 facility shall be imposed as a condition of probation pursuant to
7 the Nebraska Probation Administration Act. The court may modify
8 the sentence of an offender serving a sentence in a community
9 correctional program in the same manner as if the offender had been
10 placed on probation.

11 (3) ~~The Office of Probation Administration~~ Department
12 of Community Corrections shall utilize community correctional
13 facilities and programs as appropriate with respect to probation.

14 Sec. 85. Section 47-629, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 47-629 (1) The Board of Parole may parole an offender to
17 a community correctional facility or program pursuant to guidelines
18 developed by the council.

19 (2) ~~The Department of Correctional Services and the~~
20 ~~Office of Parole Administration~~ Department of Community Corrections
21 shall utilize community correctional facilities and programs as
22 appropriate with respect to parole.

23 Sec. 86. Section 60-6,211.05, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 60-6,211.05 (1) If an order of probation is granted
26 under section 60-6,196 or 60-6,197, as such sections existed prior
27 to July 16, 2004, or section 60-6,196 or 60-6,197 and sections

1 60-6,197.02 and 60-6,197.03, as such sections existed on or after
2 July 16, 2004, the court may order the defendant to install an
3 ignition interlock device of a type approved by the Director of
4 Motor Vehicles on each motor vehicle operated by the defendant.
5 The device shall, without tampering or the intervention of another
6 person, prevent the defendant from operating the motor vehicle when
7 the defendant has an alcohol concentration greater than the levels
8 prescribed in section 60-6,196.

9 (2) If the court orders installation of an ignition
10 interlock device pursuant to subsection (1) of this section, the
11 court may also order the use of a continuous alcohol monitoring
12 device and abstention from alcohol use at all times. The device
13 shall, without tampering or the intervention of another person,
14 test and record the alcohol consumption level of the defendant on a
15 periodic basis and transmit such information to ~~probation~~ community
16 corrections authorities.

17 (3) Any order issued by the court pursuant to this
18 section shall not take effect until the defendant is eligible
19 to operate a motor vehicle pursuant to subsection (2) of section
20 60-498.02.

21 (4) If the court orders an ignition interlock device or
22 the Board of Pardons orders an ignition interlock device under
23 section 83-1,127.02, the court or the Board of Pardons shall order
24 the Department of Motor Vehicles to issue to the defendant a
25 restricted Class O license as provided in section 60-4,118.06 which
26 indicates that the defendant is only allowed to operate a motor
27 vehicle equipped with an ignition interlock device. Such court

1 order shall remain in effect for a period of time as determined by
2 the court not to exceed the maximum term of revocation which the
3 court could have imposed according to the nature of the violation.
4 Such Board of Pardons order shall remain in effect for a period
5 of time not to exceed any period of revocation the applicant is
6 subject to at the time the application for a license reinstatement
7 is made.

8 (5) A person who tampers with or circumvents an ignition
9 interlock device installed under a court order while the order is
10 in effect or who operates a motor vehicle which is not equipped
11 with an ignition interlock device in violation of a court order
12 made pursuant to this section shall be guilty of a Class II
13 misdemeanor.

14 (6) Any person restricted to operating a motor vehicle
15 equipped with an ignition interlock device, pursuant to a Board of
16 Pardons order, who operates upon the highways of this state a motor
17 vehicle without such device or if the device has been disabled,
18 bypassed, or altered in any way, shall be punished as provided in
19 subsection (3) of section 83-1,127.02.

20 (7) If a person ordered to use a continuous alcohol
21 monitoring device and abstain from alcohol use pursuant to a court
22 order as provided in subsection (2) of this section violates the
23 provisions of such court order by removing, tampering with, or
24 otherwise bypassing the continuous alcohol monitoring device or by
25 consuming alcohol while required to use such device, he or she
26 shall have his or her Class O license revoked and be unable to
27 apply for license reinstatement for the duration of the revocation

1 period imposed by the court.

2 (8) The director shall adopt and promulgate rules and
3 regulations to approve ignition interlock devices and the means of
4 installation of the devices.

5 Sec. 87. Section 60-6,211.09, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 60-6,211.09 ~~The Office of Probation Administration~~
8 Department of Community Corrections shall adopt and promulgate
9 rules and regulations to approve the use of continuous alcohol
10 monitoring devices by individuals sentenced to probation for
11 violating section 60-6,196 or 60-6,197.

12 Sec. 88. Section 68-1732, Revised Statutes Supplement,
13 2007, is amended to read:

14 68-1732 It is the intent of the Legislature that the
15 Department of Health and Human Services, the State Department
16 of Education, the Department of Labor, ~~the Office of Probation~~
17 ~~Administration,~~ Department of Community Corrections, the Office of
18 Court Services, the Office of Juvenile Services, the Department of
19 Correctional Services, and the Department of Economic Development
20 will have integrated programs and policies when serving a common
21 customer. Organizational mergers and operating agreements shall be
22 developed within state government which bring together the state's
23 community-based child-serving and family-serving resources in the
24 areas of health care services, social services, mental health
25 services, developmental disabilities services, juvenile justice,
26 and education. Such actions shall eliminate the need for the public
27 to understand the differing roles, responsibilities, and services

1 of the agencies enumerated in this section and their affiliates.

2 Sec. 89. Section 71-961, Revised Statutes Supplement,
3 2007, is amended to read:

4 71-961 (1) All records kept on any subject shall remain
5 confidential except as otherwise provided by law. Such records
6 shall be accessible to (a) the subject, except as otherwise
7 provided in subsection (2) of this section, (b) the subject's legal
8 counsel, (c) the subject's guardian or conservator, if any, (d)
9 the mental health board having jurisdiction over the subject, (e)
10 persons authorized by an order of a judge or court, (f) persons
11 authorized by written permission of the subject, (g) agents or
12 employees of the Department of Health and Human Services upon
13 delivery of a subpoena from the department in connection with
14 a licensing or licensure investigation by the department, (h)
15 individuals authorized to receive notice of the release of a sex
16 offender pursuant to section 83-174, (i) the Nebraska State Patrol
17 or the department pursuant to section 69-2409.01, or (j) the ~~Office~~
18 ~~of Parole Administration~~ Department of Community Corrections if the
19 subject meets the requirements for lifetime community supervision
20 pursuant to section 83-174.03.

21 (2) Upon application by the county attorney or by the
22 administrator of the treatment facility where the subject is in
23 custody and upon a showing of good cause therefor, a judge of
24 the district court of the county where the mental health board
25 proceedings were held or of the county where the treatment facility
26 is located may order that the records not be made available to
27 the subject if, in the judgment of the court, the availability of

1 such records to the subject will adversely affect his or her mental
2 illness or personality disorder and the treatment thereof.

3 (3) When a subject is absent without authorization from
4 a treatment facility or program described in section 71-939 or
5 71-1223 and is considered to be dangerous to others, the subject's
6 name and description and a statement that the subject is believed
7 to be considered dangerous to others may be disclosed in order to
8 aid in the subject's apprehension and to warn the public of such
9 danger.

10 Sec. 90. Section 81-1401, Revised Statutes Supplement,
11 2007, is amended to read:

12 81-1401 For purposes of sections 81-1401 to 81-1414,
13 unless the context otherwise requires:

14 (1) Commission means the Nebraska Commission on Law
15 Enforcement and Criminal Justice;

16 (2) Council means the Nebraska Police Standards Advisory
17 Council;

18 (3) Handgun means any firearm with a barrel less than
19 sixteen inches in length or any firearm designed to be held and
20 fired by the use of a single hand;

21 (4) Law enforcement agency means the police department
22 or the town marshal in incorporated municipalities, the office of
23 sheriff in unincorporated areas, and the Nebraska State Patrol;

24 (5) (a) Law enforcement officer means any person who
25 is responsible for the prevention or detection of crime or the
26 enforcement of the penal, traffic, or highway laws of the state or
27 any political subdivision of the state for more than one hundred

1 hours per year and is authorized by law to make arrests and
2 includes, but is not limited to:

3 (i) A full-time or part-time member of the Nebraska State
4 Patrol;

5 (ii) A county sheriff;

6 (iii) A full-time or part-time employee of a county
7 sheriff's office;

8 (iv) A full-time or part-time employee of a municipal or
9 village police agency; or

10 (v) A full-time employee of an organized and paid
11 fire department of any city of the metropolitan class who is
12 an authorized arson investigator and whose duties consist of
13 determining the cause, origin, and circumstances of fires or
14 explosions while on duty in the course of an investigation;

15 (b) Law enforcement officer does not include employees of
16 the Department of Correctional Services, probation ~~officers under~~
17 ~~the Nebraska Probation System,~~ and parole officers, court services
18 officers as defined in section 33 of this act, appointed by the
19 ~~Parole Administrator,~~ or employees of the Department of Revenue
20 under section 77-366; and

21 (c) A law enforcement officer shall possess a valid law
22 enforcement officer certificate or diploma, as established by the
23 council, in order to be vested with the authority of this section,
24 but this subdivision does not prohibit an individual from receiving
25 a conditional appointment as an officer pursuant to subsection (2)
26 of section 81-1414;

27 (6) Director means the director of the Nebraska Law

1 Enforcement Training Center;

2 (7) Training academy means the training center or
3 such other council-approved law enforcement training facility
4 operated and maintained by a law enforcement agency which offers
5 certification training that meets or exceeds the certification
6 training curriculum of the training center;

7 (8) Training center means the Nebraska Law Enforcement
8 Training Center; and

9 (9) Training school means a public or private institution
10 of higher education, including the University of Nebraska, the
11 Nebraska state colleges, and the community colleges of this
12 state, that offers training in a council-approved pre-certification
13 course.

14 Sec. 91. Section 81-1848, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 81-1848 (1) Victims as defined in section 29-119 shall
17 have the following rights:

18 (a) To examine information which is a matter of public
19 record and collected by criminal justice agencies on individuals
20 consisting of identifiable descriptions and notations of issuance
21 of arrest warrants, arrests, detentions, indictments, charges by
22 information, and other formal criminal charges. Such information
23 shall include any disposition arising from such arrests, charges,
24 sentencing, correctional supervision, and release, but shall not
25 include intelligence or investigative information;

26 (b) To receive from the county attorney advance
27 reasonable notice of any scheduled court proceedings and notice of

1 any changes in that schedule;

2 (c) To be present throughout the entire trial of the
3 defendant, unless the victim is to be called as a witness or the
4 court finds sequestration of the victim necessary for a fair trial.
5 If the victim is to be called as a witness, the court may order the
6 victim to be sequestered;

7 (d) To be notified by the county attorney by any
8 means reasonably calculated to give prompt actual notice of the
9 following:

10 (i) The crimes for which the defendant is charged, the
11 defendant's bond, and the time and place of any scheduled court
12 proceedings;

13 (ii) The final disposition of the case;

14 (iii) The crimes for which the defendant was convicted;

15 (iv) The victim's right to make a written or oral impact
16 statement to be used in the ~~probation~~ court services officer's
17 preparation of a presentence investigation report concerning the
18 defendant;

19 (v) The address and telephone number of the ~~probation~~
20 court services office which is to prepare the presentence
21 investigation report;

22 (vi) That a presentence investigation report and any
23 statement by the victim included in such report will be made
24 available to the defendant unless exempted from disclosure by order
25 of the court; and

26 (vii) The victim's right to submit a written impact
27 statement at the sentencing proceeding or to read his or her impact

1 statement submitted pursuant to subdivision (1)(d)(iv) of this
2 section at the sentencing proceeding;

3 (e) To be notified by the county attorney by any means
4 reasonably calculated to give prompt actual notice of the time and
5 place of any subsequent judicial proceedings if the defendant was
6 acquitted on grounds of insanity;

7 (f) To be notified as provided in section 81-1850, to
8 testify before the Board of Parole or submit a written statement
9 for consideration by the board, and to be notified of the decision
10 of and any action taken by the board; and

11 (g) To submit a written statement for consideration at
12 any conditional release proceedings, Board of Parole proceedings,
13 pardon proceedings, or commutation proceedings. Conditional release
14 proceeding means a proceeding convened pursuant to a Department
15 of Correctional Services' decision to grant a furlough from
16 incarceration for twenty-four hours or longer or a release into
17 community-based programs, including educational release and work
18 release.

19 (2) Victims and witnesses of crimes shall have the
20 following rights:

21 (a) To be informed on all writs of subpoena or notices
22 to appear that they are entitled to apply for and may receive a
23 witness fee;

24 (b) To be notified that a court proceeding to which they
25 have been subpoenaed will not go on as scheduled in order to save
26 the person an unnecessary trip to court;

27 (c) To receive protection from harm and threats of

1 harm arising out of their cooperation with law enforcement and
2 prosecution efforts and to be provided with information as to the
3 level of protection available;

4 (d) To be informed of financial assistance and other
5 social services available as a result of being a witness or a
6 victim of a crime, including information on how to apply for the
7 assistance and services;

8 (e) To be informed of the procedure to be followed in
9 order to apply for and receive any witness fee to which they are
10 entitled;

11 (f) To be provided, whenever possible, a secure waiting
12 area during court proceedings that does not require them to be
13 in close proximity to defendants and families and friends of
14 defendants;

15 (g) To have any stolen or other personal property
16 expeditiously returned by law enforcement agencies when no longer
17 needed as evidence. If feasible, all such property, except weapons,
18 currency, contraband, property subject to evidentiary analysis, and
19 property the ownership of which is disputed, shall be returned to
20 the person within ten days after being taken;

21 (h) To be provided with appropriate employer intercession
22 services to insure that employers of victims and witnesses will
23 cooperate with the criminal justice process in order to minimize
24 an employee's loss of pay and other benefits resulting from court
25 appearances;

26 (i) To be entitled to a speedy disposition of the case
27 in which they are involved as a victim or witness in order to

1 minimize the length of time they must endure the stress of their
2 responsibilities in connection with the matter;

3 (j) To be informed by the county attorney of the final
4 disposition of a felony case in which they were involved and to be
5 notified pursuant to section 81-1850 whenever the defendant in such
6 case is released from custody; and

7 (k) To have the family members of all homicide victims
8 afforded all of the rights under subsection (2) of this section and
9 services analogous to those provided under section 81-1847.

10 Sec. 92. Section 83-170, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-170 ~~As used in~~ For purposes of the Nebraska Treatment
13 and Corrections Act, unless the context otherwise requires:

14 ~~(1) Administrator shall mean the Parole Administrator;~~

15 ~~(2) (1) Board shall mean~~ means the Board of Parole;

16 ~~(3) (2) Committed offender shall mean~~ means any person
17 who, under any provision of law, is sentenced or committed to a
18 facility operated by the department or is sentenced or committed
19 to the department other than a person adjudged to be as described
20 in subdivision (1), (2), (3)(b), or (4) of section 43-247 by a
21 juvenile court;

22 ~~(4) (3) Department shall mean~~ means the Department of
23 Correctional Services;

24 ~~(5) (4) Director shall mean~~ means the Director of
25 Correctional Services;

26 ~~(6) (5) Facility shall mean~~ means any prison,
27 reformatory, training school, reception center, community guidance

1 center, group home, or other institution operated by the
2 department;

3 ~~(7)~~ (6) Good time ~~shall mean~~ means any reduction of
4 sentence granted pursuant to sections 83-1,107 and 83-1,108;

5 ~~(8)~~ (7) Maximum term ~~shall mean~~ means the maximum
6 sentence provided by law or the maximum sentence imposed by a
7 court, whichever is shorter;

8 ~~(9)~~ (8) Minimum term ~~shall mean~~ means the minimum
9 sentence provided by law or the minimum sentence imposed by a
10 court, whichever is longer;

11 ~~(10)~~ (9) Pardon authority ~~shall mean~~ means the power
12 to remit fines and forfeitures and to grant respites, reprieves,
13 pardons, or commutations;

14 ~~(11)~~ (10) Parole term ~~shall mean~~ means the time from
15 release on parole to the completion of the maximum term, reduced by
16 good time; and

17 ~~(12)~~ (11) Person committed to the department ~~shall mean~~
18 means any person sentenced or committed to a facility within the
19 department.

20 Sec. 93. Section 83-171, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-171 There is hereby created a the Department of
23 Correctional Services which shall:

24 (1) Maintain and administer facilities required for the
25 custody, control, correctional treatment, and rehabilitation of
26 persons committed to the department and for the safekeeping of such
27 other persons as may be remanded to the department in accordance

1 with law;

2 (2) Supervise persons committed to the department; ~~en~~
3 ~~parole and administer parole services in the facilities and in the~~
4 ~~community;~~ and

5 (3) Develop policies and programs for the correctional
6 treatment and rehabilitation of persons committed to the
7 department.

8 Sec. 94. Section 83-174.03, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 83-174.03 (1) Any individual who, on or after July 14,
11 2006, (a) is convicted of or completes a term of incarceration for
12 an offense requiring registration under section 29-4003 and has a
13 previous conviction for a registerable offense, (b) is convicted
14 of sexual assault of a child in the first degree pursuant to
15 section 28-319.01, or (c) is convicted of or completes a term
16 of incarceration for an aggravated offense as defined in section
17 29-4005, shall, upon completion of his or her term of incarceration
18 or release from civil commitment, be supervised in the community
19 by the ~~Office of Parole Administration~~ Department of Community
20 Corrections for the remainder of his or her life.

21 (2) Notice shall be provided to the ~~Office of Parole~~
22 ~~Administration~~ Department of Community Corrections by an agency or
23 political subdivision which has custody of an individual required
24 to be supervised in the community pursuant to subsection (1) of
25 this section at least sixty days prior to the release of such
26 individual from custody.

27 (3) Individuals required to be supervised in the

1 community pursuant to subsection (1) of this section shall
2 undergo a risk assessment and evaluation by the ~~Office of Parole~~
3 ~~Administration~~ Department of Community Corrections to determine the
4 conditions of community supervision to be imposed to best protect
5 the public from the risk that the individual will reoffend.

6 (4) Conditions of community supervision imposed on an
7 individual by the ~~Office of Parole Administration~~ Department of
8 Community Corrections may include the following:

9 (a) Drug and alcohol testing if the conviction resulting
10 in the imposition of community supervision involved the use of
11 drugs or alcohol;

12 (b) Restrictions on employment and leisure activities
13 necessary to minimize interaction with potential victims;

14 (c) Requirements to report regularly to the individual's
15 ~~community supervision probation and parole~~ officer;

16 (d) Requirements to reside at a specified location and
17 notify the individual's ~~community supervision probation and parole~~
18 officer of any change in address or employment;

19 (e) A requirement to allow the ~~Office of Parole~~
20 ~~Administration~~ Department of Community Corrections access to
21 medical records from the individual's current and former providers
22 of treatment;

23 (f) A requirement that the individual submit himself or
24 herself to available medical, psychological, psychiatric, or other
25 treatment, including, but not limited to, polygraph examinations;
26 or

27 (g) Any other conditions designed to minimize the risk of

1 recidivism, including, but not limited to, the use of electronic
2 monitoring, which are not unduly restrictive.

3 Sec. 95. Section 83-174.04, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 83-174.04 An individual who violates one or more of the
6 conditions of community supervision established for him or her
7 pursuant to section 83-174.03 shall undergo a review by the ~~Office~~
8 ~~of Parole Administration~~ Department of Community Corrections to
9 evaluate the risk posed to the public by the violation in question.
10 The ~~office~~ Department of Community Corrections may take any of
11 the following actions in response to a violation of conditions of
12 community supervision:

13 (1) Revise or impose additional conditions of community
14 supervision in order to minimize the risk to the public from the
15 continued presence of the individual in the community;

16 (2) Forward to the Attorney General or the county
17 attorney in the county where the individual resides a request
18 to initiate a criminal prosecution for failure to comply with the
19 terms of community supervision; or

20 (3) Forward to the county attorney or Attorney General a
21 recommendation that civil commitment proceedings be instituted with
22 respect to the individual.

23 Sec. 96. Section 83-174.05, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 83-174.05 Failure to comply with the conditions
26 of community supervision imposed by the ~~Office of Parole~~
27 ~~Administration~~ Department of Community Corrections is a Class IV

1 felony for the first offense and a Class III felony for any
2 subsequent offense.

3 Sec. 97. Section 83-189, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-189 The Board of Parole shall consist of five
6 full-time members to be appointed by the Governor. The members
7 of the board shall be of good character and judicious temperament.
8 The members of the board shall have all the powers and duties
9 of board members commencing on the date of appointment. The
10 appointments shall be subject to confirmation by the Legislature at
11 its next regular session following the appointments. At least one
12 member of the board shall be of an ethnic minority group, at least
13 one member shall be female, and at least one member shall have a
14 professional background in corrections.

15 One of the five members of the board shall be designated
16 as chairperson by the Governor. In addition to the chairperson's
17 duties as a member of the board as prescribed in ~~subsection (1) of~~
18 section 83-192, he or she shall supervise the administration and
19 operation of the board and shall carry out the duties prescribed in
20 ~~subsection (2) of such section 20 of this act.~~

21 Sec. 98. Section 83-192, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 83-192 ~~(1)~~ The Board of Parole shall:

24 ~~(a)~~ (1) Determine the time of release on parole of
25 committed offenders eligible for such release;

26 ~~(b)~~ (2) Fix the conditions of parole, revoke parole,
27 issue or authorize the issuance of warrants for the arrest of

1 parole violators, and impose other sanctions short of revocation
2 for violation of conditions of parole;

3 ~~(e)~~ (3) Determine the time of discharge from parole;

4 ~~(d)~~ (4) Visit and inspect any facility, state or local,
5 for the detention of persons charged with or convicted of an
6 offense and for the safekeeping of such other persons as may be
7 remanded to such facility in accordance with law;

8 ~~(e)~~ (5) Within two years after July 1, 2006, implement
9 the utilization of a validated risk and needs assessment in
10 coordination with the Department of Correctional Services and
11 the Office of Parole Administration. The assessment shall be
12 prepared and completed by the ~~department~~ Department of Correctional
13 Services, the Department of Community Corrections, or the office
14 for use by the board in determining release on parole;

15 ~~(f)~~ (6) Review the record of every committed offender as
16 follows:

17 ~~(i)~~ (a) If a committed offender has a parole eligibility
18 date within five years of his or her date of incarceration, his or
19 her record shall be reviewed annually;

20 ~~(ii)~~ (b) If a committed offender has a parole eligibility
21 date which is more than five but not more than ten years from his
22 or her date of incarceration, his or her record shall be reviewed
23 during the first year of incarceration, and when he or she is
24 within three years of his or her earliest parole eligibility date,
25 his or her record shall be reviewed annually;

26 ~~(iii)~~ (c) If a committed offender has a parole
27 eligibility date which is more than ten but not more than thirty

1 years from his or her date of incarceration, his or her record
2 shall be reviewed during the first year of incarceration, every
3 five years thereafter until he or she is within five years of his
4 or her earliest parole eligibility date, and annually thereafter;

5 ~~(iv)~~ (d) If a committed offender has a parole eligibility
6 date which is more than thirty years from his or her date of
7 incarceration, his or her record shall be reviewed during his or
8 her first, tenth, and twentieth year of incarceration, and when
9 he or she is within five years of his or her earliest parole
10 eligibility date, his or her record shall be reviewed annually; and

11 ~~(v)~~ (e) If a committed offender is serving a minimum life
12 sentence, his or her record shall be reviewed during the first
13 year of incarceration and every ten years thereafter until such
14 time as the sentence is commuted. If such sentence is commuted, the
15 committed offender's record shall be reviewed annually when he or
16 she is within five years of his or her earliest parole eligibility
17 date.

18 Such review shall include the circumstances of the
19 offense, the presentence investigation report, the committed
20 offender's previous social history and criminal record, his or
21 her conduct, employment, and attitude during commitment, and the
22 reports of such physical and mental examinations as have been made.
23 The board shall meet with such committed offender and counsel him
24 or her concerning his or her progress and prospects for future
25 parole.

26 The review schedule shall be based on court-imposed
27 sentences or statutory minimum sentences, whichever are greater.

1 Nothing in such schedule shall prohibit the board from reviewing a
2 committed offender's case at any time;

3 ~~(g) (7)~~ Appoint and remove all employees of the board as
4 prescribed by the State Personnel System and delegate appropriate
5 powers and duties to them; and

6 ~~(h) (8)~~ Exercise all powers and perform all duties
7 necessary and proper in carrying out its responsibilities of the
8 board under the Nebraska Treatment and Corrections Act.

9 ~~(2) The chairperson of the board shall:~~

10 ~~(a) Supervise the administration and operation of the~~
11 ~~board;~~

12 ~~(b) Serve in an advisory capacity to the director in~~
13 ~~administering parole services within any facility and in the~~
14 ~~community;~~

15 ~~(c) Interpret the parole program to the public with a~~
16 ~~view toward developing a broad base of public support;~~

17 ~~(d) Conduct research for the purpose of evaluating and~~
18 ~~improving the effectiveness of the parole system;~~

19 ~~(e) Recommend parole legislation to the Governor;~~

20 ~~(f) Adopt and promulgate rules and regulations for the~~
21 ~~administration and operation of the board; and~~

22 ~~(g) Exercise all other powers and perform all other~~
23 ~~duties necessary and proper in carrying out his or her~~
24 ~~responsibilities as chairperson.~~

25 ~~(3) The provisions of this section shall not prohibit a~~
26 ~~committed offender from requesting that the board review his or her~~
27 ~~record, except that the board shall not be required to review a~~

1 ~~committed offender's record more than once a year.~~

2 Sec. 99. Section 83-195, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-195 In the performance of its duties, the Board of
5 Parole, or any member thereof, shall have the power to issue
6 subpoenas, to compel the attendance of witnesses and the production
7 of books, papers, and other documents pertinent to the subject
8 of an inquiry, and to administer oaths and take the testimony
9 of persons under oath. Subpoenas so issued may be served by any
10 sheriff, constable, police officer, probation and parole officer,
11 or peace officer in the same manner as similar process in the
12 district court. Any person who knowingly testifies falsely, submits
13 any false affidavit or deposition, fails to appear when subpoenaed,
14 or fails or refuses to produce such material pursuant to the
15 subpoena shall be subject to the same orders and penalties to
16 which a person before the district court is subject. Any district
17 court of this state, upon application by the board, may compel
18 the attendance of such witnesses, the production of such material,
19 and the giving of testimony before the board by an attachment
20 for contempt or otherwise in the same manner as production of
21 evidence may be compelled before such court. Every person shall
22 attend as a witness when subpoenaed anywhere within the state and
23 shall be entitled to the same fees, if requested, as a witness
24 in the district court and mileage as provided in section 81-1176.
25 ~~for state employees.~~ Fees, mileage, and actual expense, if any,
26 necessarily incurred in securing the attendance of witnesses shall
27 be paid by the board.

1 Sec. 100. Section 83-197, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-197 The Board of Parole shall have the power to
4 direct the Director of Correctional Services and the Department
5 of Community Corrections to keep records concerning committed
6 offenders which the board deems pertinent to its functions.

7 Sec. 101. Section 83-1,103.01, Revised Statutes
8 Cumulative Supplement, 2006, is amended to read:

9 83-1,103.01 A probation and parole officer assigned by
10 ~~the administrator~~ to supervise individuals subject to lifetime
11 community supervision pursuant to section 83-174.03 shall:

12 (1) Make investigations, prior to an individual subject
13 to community supervision being released from incarceration, in
14 cooperation with institutional caseworkers at prisons, mental
15 health facilities, and county jails, to determine the community
16 supervision conditions necessary to protect the public and make
17 reasonable advance preparation for release into the community;

18 (2) Assist individuals subject to community supervision
19 to comply with the conditions of supervision and to make a
20 successful adjustment in the community;

21 (3) Supervise individuals subject to community
22 supervision by keeping informed of their conduct and condition;

23 (4) Make reports as required by the administrator to
24 determine the effectiveness of community supervision in protecting
25 the public or the progress of an individual subject to community
26 supervision;

27 (5) Cooperate with social welfare agencies and treatment

1 providers to ensure that individuals subject to community
2 supervision receive any necessary services or treatment;

3 (6) Inform the ~~administrator~~ Director of Community
4 Corrections when, in the opinion of the ~~community supervision~~
5 probation and parole officer, an individual is in violation of
6 the conditions of his or her community supervision, and whenever
7 necessary exercise the power of arrest as provided in section
8 ~~83-1,102,~~ 5 of this act;

9 (7) Conduct periodic reviews of the conditions of
10 community supervision imposed on an individual as required by the
11 ~~administrator,~~ Director of Community Corrections; and

12 (8) Exercise all powers and perform all duties necessary
13 and proper in carrying out his or her responsibilities.

14 Sec. 102. Section 83-1,103.02, Revised Statutes
15 Cumulative Supplement, 2006, is amended to read:

16 83-1,103.02 (1) Prior to the release from incarceration
17 of an individual subject to lifetime community supervision
18 pursuant to section 83-174.03, the ~~Office of Parole Administration~~
19 Department of Community Corrections shall:

20 (a) Notify the individual in writing that he or she is
21 subject to community supervision by the Department of Community
22 Corrections upon completion of his or her criminal sentence;

23 (b) Inform the individual subject to community
24 supervision of the process by which conditions of community
25 supervision are determined and his or her right to submit relevant
26 information to the ~~office~~ Department of Community Corrections for
27 consideration when establishing the conditions of supervision;

1 (c) Determine the individual's risk of recidivism if
2 released into the community, utilizing a validated risk assessment
3 tool;

4 (d) After considering the information required in
5 subdivision (e) of this subsection, determine the conditions of
6 supervision which will most effectively minimize the risk of the
7 individual committing another sex offense. The conditions shall be
8 the least restrictive conditions available, in terms of the effect
9 on the individual's personal freedom, which minimize the risk of
10 recidivism and are compatible with public safety; and

11 (e) In determining the conditions of supervision to
12 be imposed, the ~~office~~ Department of Community Corrections shall
13 consider the following:

14 (i) A report prepared by the institutional caseworkers
15 relating to the individual's personality, social history, and
16 adjustment to authority and including any recommendations which the
17 staff of the facility may make;

18 (ii) All official reports of the individual's prior
19 criminal record, including reports and records of earlier probation
20 and parole experiences;

21 (iii) The presentence investigation report;

22 (iv) The reports of any physical, mental, and psychiatric
23 examinations of the individual;

24 (v) Any relevant information which may be submitted by
25 the individual, his or her attorney, the victim of the crime, or
26 other persons; and

27 (vi) Such other relevant information concerning the

1 individual as may be reasonably available.

2 (2) Upon completion of the risk assessment and the
3 determination of the conditions of community supervision and
4 no later than thirty days prior to the completion of the
5 individual's criminal sentence, the ~~Office of Parole Administration~~
6 Department of Community Corrections shall issue a certificate of
7 community supervision to the individual containing the conditions
8 of community supervision he or she will be required to comply
9 with upon the completion of his or her criminal sentence. The
10 ~~administrator~~ Director of Community Corrections shall include
11 with the certificate written information on how to appeal the
12 determination of the conditions of community supervision.

13 Sec. 103. Section 83-1,103.03, Revised Statutes
14 Cumulative Supplement, 2006, is amended to read:

15 83-1,103.03 The ~~Office of Parole Administration~~
16 Department of Community Corrections shall review the conditions of
17 community supervision imposed on an individual pursuant to section
18 83-174.03 on an annual basis and shall provide the individual the
19 opportunity to submit written materials to the ~~office~~ Department of
20 Community Corrections for consideration during such review.

21 If the ~~office~~ Department of Community Corrections
22 determines, after reviewing the individual's conduct while under
23 supervision and any other relevant facts, that one or more of the
24 conditions of community supervision imposed upon the individual
25 is no longer necessary to reduce the risk of the individual
26 reoffending or is no longer the least restrictive condition
27 compatible with public safety, the ~~office~~ Department of Community

1 Corrections shall revise the conditions of community supervision so
2 that the individual's freedom is not unnecessarily restricted.

3 Sec. 104. Section 83-1,103.04, Revised Statutes
4 Cumulative Supplement, 2006, is amended to read:

5 83-1,103.04 (1) Whenever a determination or revision of
6 the conditions of community supervision is made by the ~~Office~~
7 ~~of Parole Administration,~~ Department of Community Corrections,
8 the individual subject to the conditions shall be entitled to
9 an appeal. The appeal shall be heard by the district court in
10 the county where the individual resides. The individual shall
11 be informed of his or her right to request counsel, and if
12 counsel is requested the court shall determine if the individual
13 is indigent. If the court finds the individual to be indigent,
14 it shall appoint counsel from the public defender's office to
15 represent the individual during the appeal.

16 (2) In an appeal contesting the determination or revision
17 of the conditions of community supervision, the burden of proof
18 shall be on the individual subject to community supervision to
19 show by clear and convincing evidence (a) that the conditions in
20 question will not reduce the risk of the individual reoffending or
21 otherwise protect the public or (b) that the condition is overly
22 restrictive of the individual's freedom and a less restrictive
23 condition is available which is equally or more effective in
24 reducing the risk of the individual reoffending.

25 Sec. 105. Section 83-1,107, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 83-1,107 (1) (a) Within sixty days after initial

1 classification and assignment of any offender committed to
2 the department, all available information regarding such
3 committed offender shall be reviewed and a committed offender
4 department-approved personalized program plan document shall
5 be drawn up. The document shall specifically describe the
6 department-approved personalized program plan and the specific
7 goals the department expects the committed offender to achieve.
8 The document shall also contain a realistic schedule for
9 completion of the department-approved personalized program plan.
10 The department-approved personalized program plan shall be fully
11 explained to the committed offender. The department shall provide
12 programs to allow compliance by the committed offender with the
13 department-approved personalized program plan.

14 Programming may include, but is not limited to:

15 (i) Academic and vocational education, including teaching
16 such classes by qualified offenders;

17 (ii) Substance abuse treatment;

18 (iii) Mental health and psychiatric treatment, including
19 criminal personality programming;

20 (iv) Constructive, meaningful work programs; and

21 (v) Any other program deemed necessary and appropriate by
22 the department.

23 (b) A modification in the department-approved
24 personalized program plan may be made to account for the
25 increased or decreased abilities of the committed offender or the
26 availability of any program. Any modification shall be made only
27 after notice is given to the committed offender. The department may

1 not impose disciplinary action upon any committed offender solely
2 because of the committed offender's failure to comply with the
3 department-approved personalized program plan, but such failure may
4 be considered by the board in its deliberations on whether or not
5 to grant parole to a committed offender.

6 (2) The department shall reduce the term of a committed
7 offender by six months for each year of the offender's term and pro
8 rata for any part thereof which is less than a year.

9 The total reductions shall be credited from the date of
10 sentence, which shall include any term of confinement prior to
11 sentence and commitment as provided pursuant to section 83-1,106,
12 and shall be deducted from the maximum term, to determine the date
13 when discharge from the custody of the state becomes mandatory.

14 (3) While the offender is in the custody of the
15 department, reductions of terms granted pursuant to subsection
16 (2) of this section may be forfeited, withheld, and restored by the
17 chief executive officer of the facility with the approval of the
18 director after the offender has been notified regarding the charges
19 of misconduct.

20 (4) The department shall make treatment programming
21 available to committed offenders as provided in section 83-1,110.01
22 and shall include continuing participation in such programming as
23 part of each offender's parolee personalized program plan.

24 (5)(a) Within thirty days after any committed offender
25 has been paroled, all available information regarding such
26 parolee shall be reviewed and a parolee personalized program plan
27 document shall be drawn up and approved by the ~~Office of Parole~~

1 ~~Administration.~~ Department of Community Corrections. The document
2 shall specifically describe the approved personalized program
3 plan and the specific goals the ~~office~~ Department of Community
4 Corrections expects the parolee to achieve. The document shall
5 also contain a realistic schedule for completion of the approved
6 personalized program plan. The approved personalized program plan
7 shall be fully explained to the parolee. During the term of
8 parole, the parolee shall comply with the approved personalized
9 program plan and the ~~office~~ Department of Community Corrections
10 shall provide programs to allow compliance by the parolee with the
11 approved personalized program plan.

12 Programming may include, but is not limited to:

13 (i) Academic and vocational education;

14 (ii) Substance abuse treatment;

15 (iii) Mental health and psychiatric treatment, including
16 criminal personality programming;

17 (iv) Constructive, meaningful work programs;

18 (v) Community service programs; and

19 (vi) Any other program deemed necessary and appropriate
20 by the ~~office.~~ Department of Community Corrections.

21 (b) A modification in the approved personalized program
22 plan may be made to account for the increased or decreased
23 abilities of the parolee or the availability of any program.

24 Any modification shall be made only after notice is given to
25 the parolee. Intentional failure to comply with the approved
26 personalized program plan by any parolee as scheduled for any year,
27 or pro rata part thereof, shall cause disciplinary action to be

1 taken by the ~~office~~ Department of Community Corrections resulting
2 in the forfeiture of up to a maximum of three months' good time for
3 the scheduled year.

4 (6) While the offender is in the custody of the
5 board, reductions of terms granted pursuant to subsection (2)
6 of this section may be forfeited, withheld, and restored by
7 the ~~administrator with the approval of the director~~ Director
8 of Community Corrections after the offender has been notified
9 regarding the charges of misconduct or breach of the conditions of
10 parole. In addition, the board may recommend such forfeitures of
11 good time to the ~~director~~ Director of Community Corrections.

12 (7) Good time or other reductions of sentence granted
13 under the provisions of any law prior to July 1, 1996, may be
14 forfeited, withheld, or restored in accordance with the terms of
15 the Nebraska Treatment and Corrections Act.

16 Sec. 106. Section 83-1,109, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 83-1,109 The chief executive officer of a facility shall
19 regularly report all good time and all forfeitures, withholdings,
20 and restorations of good time to the director. On the basis of such
21 report, the director shall inform the board and the ~~administrator~~
22 Director of Community Corrections of all committed offenders who
23 are expected to become eligible for release on parole within the
24 next three months.

25 Sec. 107. Section 83-1,116, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 83-1,116 (1) When a committed offender is released on

1 parole, the board shall require as a condition of parole that
2 the offender refrain from engaging in criminal conduct and may
3 require the offender to submit to periodic testing for drug and
4 alcohol use. The board may also require, either at the time
5 of the offender's release on parole or at any time while the
6 offender remains on parole, that the offender conform to any of the
7 following conditions of parole:

8 (a) Meet specified family responsibilities;

9 (b) Devote himself or herself to an approved employment;

10 (c) Remain in the geographic limits fixed in the
11 certificate of parole unless granted written permission to leave
12 such limits;

13 (d) Report, as directed, to his or her ~~district~~ probation
14 and parole officer;

15 (e) Reside at the place fixed in the certificate of
16 parole and notify his or her ~~district~~ probation and parole officer
17 of any change in address or employment;

18 (f) Submit himself or herself to available medical,
19 psychological, psychiatric, or other treatment;

20 (g) Refrain from associating with persons known to him
21 or her to be engaged in criminal activities or, without permission
22 of his or her ~~district~~ probation and parole officer, with persons
23 known to him or her to have been convicted of a crime; and

24 (h) Satisfy any other conditions specially related to
25 the cause of his ~~or her~~ the parolee's offense and not unduly
26 restrictive of his or her liberty or conscience.

27 (2) Before release on parole, a parolee shall be provided

1 with a certificate of parole setting forth the conditions of the
2 parole.

3 Sec. 108. Section 83-1,119, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-1,119 (1) Whenever a probation and parole officer has
6 reasonable cause to believe that a parolee has violated or is
7 about to violate a condition of parole but that the parolee will
8 not attempt to leave the jurisdiction and will not place lives
9 or property in danger, the probation and parole officer shall
10 submit a written report to the Board of Parole which may, on the
11 basis of such report and such further investigation as it may deem
12 appropriate:

13 (a) Dismiss the charge of violation;

14 (b) Determine whether the parolee violated the conditions
15 of his or her parole;

16 (c) Revoke his or her parole in accordance with the
17 Nebraska Treatment and Corrections Act; or

18 (d) Issue a warrant for the arrest of the parolee.

19 (2) Whenever a probation and parole officer has
20 reasonable cause to believe that a parolee has violated or is about
21 to violate a condition of parole and that the parolee will attempt
22 to leave the jurisdiction or will place lives or property in
23 danger, the probation and parole officer shall arrest the parolee
24 without a warrant and call on any peace officer to assist him or
25 her in doing so.

26 (3) Whenever a parolee is arrested with or without a
27 warrant, he or she shall be detained in a local jail or other

1 detention facility. Immediately after such arrest and detention,
2 the probation and parole officer shall notify the Board of Parole
3 and submit a written report of the reason for such arrest. A
4 complete investigation shall be made by the ~~parole administration~~
5 Director of Community Corrections and submitted to the ~~parole~~
6 ~~board.~~ Board of Parole. After prompt consideration of such
7 written report, the board shall order the parolee's release from
8 detention or continued confinement to await a final decision on the
9 revocation of parole.

10 Sec. 109. Section 83-1,120, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-1,120 Whenever a parolee is charged with a violation
13 of ~~his~~ parole, he or she shall be entitled to a prompt hearing
14 on such charge by the Board of Parole, which in no event shall
15 occur more than thirty days after receipt of the probation and
16 parole officer's written report. At such hearing, the parolee shall
17 be permitted to be present, to testify, to produce witnesses,
18 to cross-examine adverse witnesses, and to introduce such other
19 evidence as may be pertinent. The parolee shall be informed of
20 his or her right to request counsel at such hearing, and if ~~he~~
21 the parolee thereafter makes such request, based on a timely and
22 colorable claim (1) that he or she has not committed the alleged
23 violation of the conditions upon which he or she is at liberty,
24 or (2) that, even if the violation is a matter of public record
25 or is uncontested, there are substantial reasons which justified
26 or mitigated the violation and make revocation inappropriate and
27 that the reasons are complex or otherwise difficult to develop

1 or present, and upon consideration of whether or not the parolee
2 appears to be capable of speaking effectively for himself or
3 herself, the board in the exercise of a sound discretion may
4 provide counsel unless retained counsel is available to the
5 parolee. In every case when a request for counsel is refused,
6 the grounds for refusal shall be stated in the record.

7 Sec. 110. Section 83-1,125, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 83-1,125 (1) If a warrant or detainer is placed against
10 a committed offender by a court, the Department of Community
11 Corrections parole agency of another jurisdiction, or other
12 authority of this or any other jurisdiction, the ~~administrator~~
13 Director of Correctional Services shall inquire before such
14 offender becomes eligible for parole whether the authority
15 concerned intends to execute or withdraw the warrant or detainer
16 when the offender is released.

17 (2) If the authority notifies the ~~administrator~~ Director
18 of Correctional Services that it intends to execute the warrant or
19 detainer when the offender is released, the ~~administrator~~ Director
20 of Correctional Services shall advise the authority concerned of
21 the sentence under which the offender is held, the time of parole
22 eligibility, any decision of the board relating to the offender,
23 and the nature of the offender's adjustment during imprisonment and
24 shall give reasonable notice to such authority of the offender's
25 release date.

26 (3) The board may parole an offender who is eligible for
27 release to a warrant or detainer. If an offender is paroled to

1 such a warrant or detainer, the board may provide, as a condition
2 of release, that if the charge or charges on which the warrant or
3 detainer is based are dismissed, or are satisfied after conviction
4 and sentence, prior to the expiration of the offender's parole
5 term, the authority to whose warrant or detainer the offender is
6 released shall return the offender to serve the remainder of the
7 parole term or such part as the board may determine.

8 (4) If a person paroled to a warrant or detainer is
9 thereafter sentenced and placed on probation, or released on parole
10 in another jurisdiction, prior to the expiration of the parole
11 term less good time in this state, the board may permit the person
12 to serve the remainder of the parole term or such part as the
13 board may determine concurrently with the person's new probation
14 or parole term. Such concurrent terms may be served in either
15 of the two jurisdictions, and supervision shall be administered
16 in accordance with the Interstate Compact for Adult Offender
17 Supervision.

18 Sec. 111. Section 83-1,128, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 83-1,128 In the performance of official duties, the Board
21 of Pardons or any member thereof shall have the power to issue
22 subpoenas, to compel the attendance of witnesses and the production
23 of books, papers, and other documents pertinent to the subject
24 of an inquiry, and to administer oaths and take the testimony
25 of persons under oath. Subpoenas so issued may be served by any
26 sheriff, constable, police officer, probation and parole officer,
27 or peace officer in the same manner as similar process in the

1 district court. Any person who knowingly testifies falsely, submits
2 any false affidavit or deposition, fails to appear when subpoenaed,
3 or fails or refuses to produce such material pursuant to the
4 subpoena shall be subject to the same orders and penalties to
5 which a person before the district court is subject. Any district
6 court of this state, upon application by the board, may compel
7 the attendance of such witnesses, the production of such material,
8 and the giving of testimony before the board by an attachment
9 for contempt or otherwise in the same manner as production of
10 evidence may be compelled before such court. Every person shall
11 attend as a witness when subpoenaed anywhere within the state and
12 shall be entitled to the same fees, if requested, as a witness
13 in the district court and mileage as provided in section 81-1176.
14 ~~for state employees.~~ Fees, mileage, and actual expense, if any,
15 necessarily incurred in securing the attendance of witnesses shall
16 be paid by the board.

17 Sec. 112. Section 83-901, Revised Statutes Supplement,
18 2007, is amended to read:

19 83-901 The purpose of ~~sections 49-617, 68-621, 72-249,~~
20 ~~72-1302 to 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01,~~
21 ~~83-108, 83-108.04, 83-112, 83-135, 83-139, 83-140, 83-144, 83-145,~~
22 ~~83-147 to 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186,~~
23 ~~83-188, 83-443,~~ the Nebraska Treatment and Corrections Act and
24 sections 83-901 to 83-916 is to establish an agency of state
25 government for the custody, study, care, discipline, training, and
26 treatment of persons in the correctional and detention institutions
27 and for the study, training, and treatment of persons under the

1 supervision of other correctional services of the state so that
2 they may be prepared for lawful community living. Correctional
3 services shall be so diversified in program and personnel as to
4 facilitate individualization of treatment.

5 Sec. 113. Section 83-932, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 83-932 The Division of Community-Centered Services shall:

8 ~~(1) Coordinate all adult parole programs and services in~~
9 ~~the state and supervise the administration of such programs and~~
10 ~~services;~~

11 ~~(2) (1) Cooperate with the Division of Adult Services in~~
12 ~~the coordination of volunteer programs in the adult correctional~~
13 ~~facilities;~~

14 ~~(3) (2) Coordinate and supervise community educational~~
15 ~~programs to increase community awareness and understanding of the~~
16 ~~community rehabilitative programs of the division; and~~

17 ~~(4) (3) Perform all duties necessary to carry out the~~
18 ~~provisions of this section.~~

19 Sec. 114. Sections 4, 21, and 116 of this act become
20 operative on their effective date. The other sections of this act
21 become operative on July 1, 2009.

22 Sec. 115. Original sections 29-2249, 29-2251, 29-2253,
23 29-2260, 29-2262.03, 29-2262.04, 29-2262.05, 29-2265, 29-2270,
24 33-154, 43-250, 43-253, 43-260, 43-260.05, 43-274, 43-286, 43-294,
25 43-2,108, 43-707, 43-3505, 43-3507, 47-628, 47-629, 83-170,
26 83-171, 83-188, 83-189, 83-195, 83-197, 83-1,109, 83-1,116,
27 83-1,119, 83-1,120, 83-1,128, and 83-932, Reissue Revised

1 Statutes of Nebraska, sections 20-150, 20-151, 24-205, 24-227.01,
2 25-2407, 28-322, 28-929, 28-930, 28-931, 28-931.01, 29-2246,
3 29-2248, 29-2250, 29-2252, 29-2252.01, 29-2254, 29-2257, 29-2258,
4 29-2259, 29-2259.01, 29-2259.02, 29-2260.01, 29-2262, 29-2262.06,
5 29-2262.07, 29-2263, 29-2266, 29-2272, 29-2935, 29-4009, 29-4019,
6 43-271, 43-3001, 47-624, 47-627, 60-6,211.05, 60-6,211.09, 81-1848,
7 83-174.03, 83-174.04, 83-174.05, 83-192, 83-1,103, 83-1,103.01,
8 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,107, 83-1,107.01,
9 83-1,107.02, and 83-1,125, Revised Statutes Cumulative Supplement,
10 2006, and sections 29-2261, 43-2,113, 43-2411, 47-623, 68-1732,
11 71-961, 81-1401, and 83-901, Revised Statutes Supplement, 2007, are
12 repealed.

13 Sec. 116. Original section 83-1,101, Reissue Revised
14 Statutes of Nebraska, is repealed.

15 Sec. 117. The following sections are outright repealed:
16 Sections 29-2249.04, 29-2255, 29-2256, 83-1,100.01, 83-1,101, and
17 83-1,104, Reissue Revised Statutes of Nebraska, sections 71-1228,
18 83-1,100, and 83-1,102, Revised Statutes Cumulative Supplement,
19 2006, and sections 47-635, 47-636, 47-637, 47-638, and 47-639,
20 Revised Statutes Supplement, 2007.