

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 671

Introduced by Pedersen, 39; Cornett, 45; Howard, 9; Kopplin, 3; Kruse, 13; Mines, 18; Pahls, 31; Preister, 5; Rogert, 16; Stuthman, 22; Synowiecki, 7

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to probation and parole; to amend sections  
2 29-2256, 29-2262.03, 29-2262.04, 29-2262.05, 29-2265,  
3 29-2270, 33-107.03, 33-154, 43-250, 43-253, 43-260,  
4 43-260.05, 43-274, 43-286, 43-294, 43-2,108, 43-2,113,  
5 43-707, 43-2411, 43-3505, 43-3507, 47-628, 47-629,  
6 68-1729, 68-1732, 83-170, 83-171, 83-188, 83-195, 83-197,  
7 83-1,101, 83-1,116, 83-1,119, 83-1,120, 83-1,128, and  
8 83-901, Reissue Revised Statutes of Nebraska, and  
9 sections 20-150, 20-151, 24-205, 24-227.01, 25-2407,  
10 28-322, 28-929, 28-930, 28-931, 28-931.01, 29-2246,  
11 29-2248, 29-2252.01, 29-2254, 29-2255, 29-2257, 29-2258,  
12 29-2259, 29-2259.01, 29-2259.02, 29-2260.01, 29-2261,  
13 29-2262, 29-2262.06, 29-2262.07, 29-2263, 29-2266,

1 29-2272, 29-2935, 29-4009, 29-4019, 43-271, 43-3001,  
2 47-623, 47-624, 47-627, 60-6,211.05, 60-6,211.09,  
3 71-961, 71-1228, 81-1401, 81-1848, 83-174.03, 83-174.04,  
4 83-174.05, 83-1,100, 83-1,102, 83-1,103, 83-1,103.01,  
5 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,107,  
6 83-1,107.01, 83-1,107.02, and 83-933, Revised Statutes  
7 Cumulative Supplement, 2006; to change provisions  
8 relating to probation and parole; to combine the  
9 administration of probation and parole; to create  
10 funds and change provisions relating to funds; to  
11 harmonize provisions; to provide operative dates; to  
12 repeal the original sections; and to outright repeal  
13 sections 29-2249, 29-2251, 29-2253, 83-1,100.01, and  
14 83-1,104, Reissue Revised Statutes of Nebraska, and  
15 sections 29-2250 and 29-2252, Revised Statutes Cumulative  
16 Supplement, 2006.

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

1           Section 1. Sections 1 to 22 of this act shall be  
2 known and may be cited as the Office of Probation and Parole  
3 Administration Act.

4           Sec. 2. For purposes of the Office of Probation and  
5 Parole Administration Act:

6           (1) Administrator means the Probation and Parole  
7 Administrator;

8           (2) Chief probation and parole officer means the  
9 probation and parole officer in charge of a probation and parole  
10 district;

11           (3) Committed offender has the definition found in  
12 section 83-170;

13           (4) Court means a district court, county court, or  
14 juvenile court except a separate juvenile court;

15           (5) Juvenile intake probation officer means an employee  
16 of the office who is called upon by a law enforcement officer in  
17 accordance with section 43-250 to make a decision regarding the  
18 furtherance of a juvenile's detention;

19           (6) Juvenile probation officer means any probation and  
20 parole officer who supervises probationers of a separate juvenile  
21 court;

22           (7) Office means the Office of Probation and Parole  
23 Administration;

24           (8) Parole means release by decision of the Board of  
25 Parole from incarceration in an adult correctional facility;

1           (9) Parolee means a person on parole;

2           (10) Probation has the definition found in section  
 3 29-2246;

4           (11) Probation and parole officer means an employee of  
 5 the office who supervises probationers and parolees; and

6           (12) Probationer has the definition found in section  
 7 29-2246.

8           Sec. 3. Section 83-1,100, Revised Statutes Cumulative  
 9 Supplement, 2006, is amended to read:

10           ~~83-1,100~~ There is hereby created within the department  
 11 Department of Correctional Services the Office of Probation and  
 12 Parole Administration. The office shall consist of the Probation  
 13 and Parole Administrator, the field parole and probation service,  
 14 and all other office staff. ~~The office shall be responsible for the~~  
 15 ~~following:~~

16           On and after July 1, 2008, the office shall be  
 17 responsible for supervision of parolees and probationers.

18           On July 1, 2008, all furniture, equipment, books, files,  
 19 and records belonging to the Office of Probation Administration  
 20 and the Office of Parole Administration on such date shall be  
 21 transferred and delivered to the Office of Probation and Parole  
 22 Administration.

23           ~~(1) The administration of parole services in the~~  
 24 ~~community;~~

25           ~~(2) The maintenance of all records and files associated~~

1 with the Board of Parole;

2 ~~(3) The daily supervision and training of staff members~~  
3 ~~of the office; and~~

4 ~~(4) The assessment, evaluation, and supervision of~~  
5 ~~individuals who are subject to lifetime community supervision~~  
6 ~~pursuant to section 83-174.03.~~

7 Nothing in this section shall be construed to prohibit  
8 the office from maintaining daily records and files associated with  
9 the Board of Pardons.

10 Sec. 4. Section 83-1,101, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~83-1,101~~ The Director of Correctional Services with the  
13 consent of the Board of Parole shall, on or before July 1, 2008,  
14 appoint a Probation and Parole Administrator, who shall be a person  
15 with appropriate experience in the field of corrections, or with  
16 training in relevant disciplines at a recognized university.

17 Sec. 5. Section 83-1,102, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~83-1,102~~ The Probation and Parole Administrator shall:

20 (1) Supervise and administer the Office of Parole  
21 Administration office;

22 (2) Establish and maintain policies, standards, and  
23 procedures for the field parole service probation and parole  
24 and the community supervision of sex offenders pursuant to section  
25 83-174.03;

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

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

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

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

23           (7) Be responsible for juvenile intake services,  
24 for presentence and other probation investigations, for the  
25 direct supervision of persons placed on probation, and for

1 nonprobation-based programs and services authorized by an  
2 interlocal agreement pursuant to subdivision (10) of this section;  
3       (8) Organize and conduct training programs for the  
4 district probation and parole officers and other employees;  
5       ~~(8)~~ (9) In consultation with the Community Corrections  
6 Council: (a) Use <sup>7</sup> use the funds provided under section  
7 ~~83-1,107.02~~ 20 of this act to augment operational or personnel  
8 costs associated with the development, implementation, and  
9 evaluation of enhanced parole-based programs and purchase services  
10 to provide such programs aimed at enhancing adult parolee  
11 supervision in the community and treatment needs of parolees.  
12 Such enhanced parole-based programs include, but are not limited  
13 to, specialized units of supervision, related equipment purchases  
14 and training, and programs developed by or through the council  
15 that address a parolee's vocational, educational, mental health,  
16 behavioral, or substance abuse treatment needs; and (b) use  
17 the funds provided under section 18 of this act to augment  
18 operational or personnel costs associated with the development,  
19 implementation, and evaluation of enhanced probation-based programs  
20 and non-probation-based programs and services in which probation  
21 personnel or probation resources are utilized pursuant to an  
22 interlocal agreement authorized by subdivision (10) of this  
23 section and to purchase services to provide such programs aimed  
24 at enhancing adult probationer or non-probation-based program  
25 participant supervision in the community and treatment needs

1 of probationers and non-probation-based program participants.  
2 Enhanced probation-based programs include, but are not limited to,  
3 specialized units of supervision, related equipment purchases and  
4 training, and programs developed by or through the council that  
5 address a probationer's vocational, educational, mental health,  
6 behavioral, or substance abuse treatment needs;

7 (10) Have the authority to enter into interlocal  
8 agreements in which probation resources or probation personnel may  
9 be utilized in conjunction with or as part of non-probation-based  
10 programs and services. Any such interlocal agreement shall comply  
11 with section 8 of this act;

12 (11) Prescribe and furnish such forms for records and  
13 reports as shall be deemed necessary for uniformity, efficiency,  
14 and statistical accuracy;

15 (12) Establish qualifications for employment as a  
16 probation and parole officer in this state. An ex-offender released  
17 from a penal complex or a county jail may be employed to a position  
18 of probation and parole officer. Such ex-offender shall maintain a  
19 record free of arrests, except for minor traffic violations, for  
20 one year immediately preceding his or her employment;

21 (13) Establish and maintain advanced periodic inservice  
22 training requirements for employees of the office;

23 (14) Submit probation and parole officer candidates to  
24 the Supreme Court for statewide certification;

25 (15) Collect, develop, and maintain statistical



1 information concerning parolees, parole practices, probationers,  
 2 probation practices, and the operation of the office;

3 (16) Conduct research for the purpose of evaluating and  
 4 improving the effectiveness of the department;

5 (17) Transmit the report required by section 6 of this  
 6 act;

7 (18) Administer the Interstate Compact for Adult Offender  
 8 Supervision;

9 (19) Maintain all records and files associated with the  
 10 Board of Parole;

11 (20) Adopt and promulgate rules and regulations for  
 12 administration of the office;

13 ~~(9)~~ (21) Ensure that any risk or needs assessment  
 14 instrument utilized by the system be periodically validated; and

15 ~~(10)~~ (22) Exercise all powers and perform all duties  
 16 necessary and proper in carrying out his or her responsibilities.

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

19 ~~29-2252.01~~ On December 31 and June 30 of each fiscal  
 20 year, the administrator shall provide a report to the budget  
 21 division of the Department of Administrative Services and the  
 22 Legislative Fiscal Analyst which shall include, but not be limited  
 23 to:

24 (1) The total number of felony cases supervised by the  
 25 office in the previous six months for both regular and intensive

1 supervision probation;

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

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

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

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

13 ~~(5)~~ (6) The total number of juvenile cases supervised  
14 by the office in the previous six months for both regular and  
15 intensive supervision probation;

16 ~~(6)~~ (7) The total number of predisposition investigations  
17 completed by the office in the previous six months;

18 ~~(7)~~ (8) The total number of presentence investigations  
19 completed by the office in the previous six months; and

20 ~~(8)~~ (9) The total number of juvenile intake screening  
21 interviews conducted and detentions authorized by the office in  
22 the previous six months, using the detention screening instrument  
23 described in section ~~43-260.01.~~ 43-260.

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

1 the administrator.

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

4           ~~29-2254~~ The compact administrator appointed pursuant  
5 to the Interstate Compact for Adult Offender Supervision  
6 shall delegate to the ~~probation~~ administrator authority and  
7 responsibility for:

8           (1) Implementation and administration of the compact as  
9 it affects probationers and parolees; and

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

14           Sec. 8. Section 29-2255, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           ~~29-2255~~ Any interlocal agreement authorized by  
17 subdivision ~~(16)~~ (10) of section ~~29-2252~~ 5 of this act shall  
18 require the political subdivision party to the agreement to  
19 provide sufficient resources to cover all costs associated with the  
20 participation of probation and parole personnel or use of probation  
21 and parole resources other than costs covered by funds provided  
22 pursuant to section ~~29-2262.07~~ 18 of this act or substance abuse  
23 treatment costs covered by funds appropriated to the Community  
24 Corrections Council for such purpose.

25           Sec. 9. Section 29-2256, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~29-2256 Nothing in sections 29-2246 to 29-2268 shall be~~  
3 ~~construed to~~ The Office of Probation and Parole Administration Act  
4 does not prohibit any court or probation the office from utilizing  
5 volunteers from the community for probation ~~supervision~~; ~~PROVIDED,~~  
6 or parole supervision if the volunteer program is supervised by  
7 a full-time probation and parole officer who meets the minimum  
8 qualifications established by the office.

9 Sec. 10. Section 83-1,103, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 ~~83-1,103~~ The field probation and parole service,  
12 consisting of district probation and parole officers and deputy  
13 probation and parole officers working under the direction of the  
14 ~~Parole Administrator or district judge,~~ administrator, shall be  
15 responsible for the investigation, supervision, and assistance  
16 of parolees, probationers, or individuals subject to community  
17 supervision under section 83-174.03. The field probation and  
18 parole service shall be sufficient in size to assure that no  
19 ~~district~~ probation and parole officer carries a case load caseload  
20 larger than is compatible with adequate ~~parole~~ investigation or  
21 supervision.

22 Sec. 11. Section 29-2257, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 ~~29-2257~~ The Nebraska Probation System is established  
25 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~~  
11 ~~have similar responsibilities. No person employed as a probation~~  
12 ~~officer or a parole officer or support staff within the Office~~  
13 ~~of Probation Administration or the Office of Parole Administration~~  
14 ~~on the operative date of this section shall incur a loss of~~  
15 ~~income due to the operation of the Office of Probation and Parole~~  
16 ~~Administration Act.~~

17           This provision for salary equalization shall apply only  
18 to probation and parole officers and support staff and shall  
19 not apply to chief probation and parole officers, the probation  
20 administrator, the chief deputy administrator, the deputy probation  
21 administrator, or any other similarly established management  
22 positions.

23           Sec. 12. Section 29-2258, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

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

1 shall:

2 (1) Conduct juvenile intake interviews and investigations  
3 in accordance with section 43-253 utilizing a standardized juvenile  
4 detention screening instrument described in section ~~43-260.01,~~  
5 43-260;

6 (2) Make presentence and other investigations, as may be  
7 required by law or directed by a court ~~in which he or she is~~  
8 ~~servin,~~ having jurisdiction in the probation and parole district;

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

14 ~~(3)~~ (4) Supervise probationers and parolees in accordance  
15 with the rules and regulations of the office and the directions of  
16 the sentencing court, in the case of a probationer, or of the Board  
17 of Parole, in the case of a parolee;

18 ~~(4)~~ (5) Advise the sentencing court or the board, as  
19 the case may be, in accordance with the Nebraska Probation  
20 Administration Act and such rules and regulations of the office, of  
21 violations of the conditions of probation or parole by individual  
22 probationers or parolees;

23 ~~(5)~~ (6) Advise the sentencing court, in accordance with  
24 the rules and regulations of the office, and the direction of  
25 the court, when the situation of a probationer may require a

1 modification of the conditions of probation or when a probationer's  
2 adjustment is such as to warrant termination of probation;

3 (7) Inform the administrator when, in the opinion of the  
4 chief probation and parole officer, any eligible parolee's conduct  
5 and attitude warrant the parolee's discharge from supervision or  
6 when any parolee's violation of the conditions of parole is of  
7 sufficient seriousness to require action by the Board of Parole;

8 ~~(6)~~ (8) Provide each probationer and parolee with a  
9 statement of the period and conditions of his or her probation or  
10 parole;

11 ~~(7)~~ (9) Whenever necessary, exercise the power of arrest  
12 as provided in ~~section~~ sections 29-2266 and 83-1,119;

13 ~~(8)~~ (10) Establish procedures for the direction and  
14 guidance of deputy probation and parole officers under his or  
15 her jurisdiction and advise such officers in regard to the most  
16 effective performance of their duties;

17 ~~(9)~~ (11) Supervise and evaluate deputy probation and  
18 parole officers under his or her jurisdiction;

19 ~~(10)~~ (12) Delegate such duties and responsibilities to a  
20 deputy probation and parole officer as he or she deems appropriate;

21 ~~(11)~~ (13) Make such reports as required by the  
22 administrator, ~~the judges of the probation district in which he or~~  
23 ~~she serves, or the Supreme Court;~~ or the Board of Parole;

24 ~~(12)~~ (14) Keep accurate and complete accounts of all  
25 money or property collected or received from probationers and

1 parolees and give receipts therefor;

2 ~~(13)~~ (15) Cooperate fully with and render all reasonable  
3 assistance to other probation and parole officers;

4 ~~(14)~~ (16) In counties with a population of less than  
5 twenty-five thousand people, participate in pretrial diversion  
6 programs established pursuant to sections 29-3601 to 29-3604  
7 and juvenile pretrial diversion programs established pursuant to  
8 sections 43-260.02 to 43-260.07 as requested by judges of the  
9 probation and parole district in which he or she serves, except  
10 that participation in such programs shall not require appointment  
11 of additional personnel and shall be consistent with the probation  
12 and parole officer's current caseload;

13 (17) Act as an agent of the court for the purpose of  
14 probation-related activities;

15 ~~(15)~~ (18) Participate, at the direction of the  
16 ~~probation~~ administrator pursuant to an interlocal agreement which  
17 meets the requirements of section ~~29-2255~~, 8 of this act, in  
18 non-probation-based programs and services;

19 ~~(16)~~ (19) Perform such other duties not inconsistent  
20 with the ~~Nebraska~~ Office of Probation and Parole Administration  
21 Act, the Nebraska Treatment and Corrections Act, or the rules and  
22 regulations of the office or as a court may from time to time  
23 direct; and

24 ~~(17)~~ (20) Exercise all powers and perform all duties  
25 necessary and proper to carry out his or her responsibilities.



1           Sec. 13. Section 29-2259, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~29-2259~~ (1) The salaries, actual and necessary expenses,  
4 and expenses incident to the conduct and maintenance of the office  
5 shall be paid by the ~~state~~ office. Actual and necessary expenses  
6 shall be paid as provided in sections 81-1174 to 81-1177.

7           ~~(2)~~ ~~The salaries and actual and necessary travel expenses~~  
8 ~~of the probation service shall be paid by the state.~~ Actual and  
9 necessary expenses shall be paid as provided in sections 81-1174 to  
10 81-1177.

11           ~~(3)~~ (2) Except as provided in sections 29-2262 and  
12 29-2262.04, the costs of drug testing and equipment incident to the  
13 electronic surveillance of individuals on probation shall be paid  
14 by the ~~state~~ office.

15           ~~(4)~~ (3) The expenses incident to the conduct and  
16 maintenance of the principal office within each probation and  
17 parole district shall in the first instance be paid by the county  
18 in which it is located, but such county shall be reimbursed for  
19 such expenses by all other counties within the probation and  
20 parole district to the extent and in the proportions determined  
21 by the ~~Supreme Court~~ office based upon population, number of  
22 investigations, and probation cases handled or upon such other  
23 basis as the ~~Supreme Court~~ administrator deems fair and equitable.

24           ~~(5)~~ (4) Each county shall provide office space and  
25 necessary facilities for the field probation and parole service

1 and probation and parole officers performing their official duties  
2 and shall bear the costs incident to maintenance of such offices  
3 other than salaries, travel expenses, and data processing and word  
4 processing hardware and software that is provided on the state  
5 computer network.

6 ~~(6)~~ (5) The cost of interpreter services for deaf and  
7 hard of hearing persons and for persons unable to communicate the  
8 English language shall be paid by the state with money appropriated  
9 to the ~~Supreme Court~~ office. Interpreter services shall include  
10 auxiliary aids for deaf and hard of hearing persons as defined  
11 in section 20-151 and interpreters to assist persons unable to  
12 communicate the English language as defined in section 25-2402.  
13 Interpreter services shall be provided under this section for the  
14 purposes of conducting a presentence investigation and for ongoing  
15 supervision by a probation and parole officer of such persons  
16 placed on probation or parole.

17 ~~(7)~~ (6) The ~~probation~~ administrator shall prepare a  
18 budget and request for appropriations for the office and shall  
19 submit such request to the ~~Supreme Court~~ and with its approval to  
20 ~~the appropriate authority in accordance with law~~ budget division  
21 of the Department of Administrative Services as required pursuant  
22 to section 81-132.

23 Sec. 14. (1) The Office of Probation and Parole  
24 Administration Automation Cash Fund is created. The administrator  
25 shall administer the fund. The fund shall only be used to support

1 automation expenses of the office. On the operative date of this  
2 section, any money in the Supreme Court Automation Cash Fund  
3 earmarked for probation automation and information technology  
4 expenses for FY2008-09 shall be transferred to the Office of  
5 Probation and Parole Administration Automation Cash Fund. The fund  
6 shall consist of such money and money remitted pursuant to section  
7 33-107.03. Any money in the fund available for investment shall be  
8 invested by the state investment officer pursuant to the Nebraska  
9 Capital Expansion Act and the Nebraska State Funds Investment Act.

10 (2) The Office of Probation and Parole Administration  
11 Education Fund is created. The fund shall consist of money remitted  
12 pursuant to sections 24-205 and 33-154 and shall be used to support  
13 mandatory training and education for employees of the office. Any  
14 money in the fund available for investment shall be invested by the  
15 state investment officer pursuant to the Nebraska Capital Expansion  
16 Act and the Nebraska State Funds Investment Act.

17 Sec. 15. Section 29-2259.01, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~29-2259.01~~ There is hereby created the Probation and  
20 Parole Cash Fund. All funds collected pursuant to subdivisions  
21 (2) (m) and (2) (o) of section 29-2262 shall be remitted to the  
22 State Treasurer for credit to the fund. Expenditures from the fund  
23 shall include, but not be limited to, supplementing any state funds  
24 necessary to support the costs of the services for which the funds  
25 were collected. On the operative date of this section, any money in

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

6           Sec. 16. Section 29-2259.02, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           ~~29-2259.02~~ The State Probation and Parole Contractual  
9 Services Cash Fund is created. On the operative date of this  
10 section, any money in the State Probation Contractual Services  
11 Cash Fund shall be transferred to the State Probation and Parole  
12 Contractual Services Cash Fund. The fund shall consist only of  
13 payments received by the state office pursuant to contractual  
14 agreements with local political subdivisions for ~~probation services~~  
15 ~~provided by the Office of Probation Administration.~~ services  
16 provided by the office. The fund shall only be used to pay  
17 for ~~probation~~ services provided by the Office of Probation  
18 ~~Administration~~ office to local political subdivisions which  
19 enter into contractual agreements with the Office of Probation  
20 ~~Administration.~~ office. The fund shall be administered by the  
21 ~~probation~~ administrator. Any money in the fund available for  
22 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. 17. Section 29-2262.06, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~29-2262.06~~ (1) Except as otherwise provided in this  
3 section, whenever a district court or county court sentences  
4 an adult offender to probation, the court shall require the  
5 probationer to pay a one-time administrative enrollment fee and  
6 thereafter a monthly probation programming fee.

7 (2) Participants in non-probation-based programs or  
8 services in which probation personnel or probation resources  
9 are utilized pursuant to an interlocal agreement authorized by  
10 subdivision ~~(16)~~ (10) of section ~~29-2252~~ 5 of this act and in  
11 which all or a portion of the costs of such probation personnel  
12 or such probation resources are covered by funds provided pursuant  
13 to section ~~29-2262.07~~ 18 of this act shall pay the one-time  
14 administrative enrollment fee described in subdivision (3)(a) of  
15 this section and the monthly probation programming fee described  
16 in subdivision (3)(c) of this section. In addition, the provisions  
17 of subsections (4), (7), and (10) of this section applicable to  
18 probationers apply to participants in non-probation-based programs  
19 or services. Any participant in a non-probation-based program or  
20 service who defaults on the payment of any such fees may, at  
21 the discretion of the court, be subject to removal from such  
22 non-probation-based program or service. This subdivision does  
23 not preclude a court or other governmental entity from charging  
24 additional local fees for participation in such non-probation-based  
25 programs and services or other similar non-probation-based programs

1 and services.

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

4 (a) Adult probationers placed on either probation  
5 or intensive supervision probation and participants in  
6 non-probation-based programs or services shall pay a one-time  
7 administrative enrollment fee of thirty dollars. The fee shall be  
8 paid in a lump sum upon the beginning of probation supervision or  
9 participation in a non-probation-based program or service;

10 (b) Adult probationers placed on probation shall pay a  
11 monthly probation programming fee of twenty-five dollars, not later  
12 than the tenth day of each month, for the duration of probation;  
13 and

14 (c) Adult probationers placed on intensive supervision  
15 probation and participants in non-probation-based programs or  
16 services shall pay a monthly probation programming fee of  
17 thirty-five dollars, not later than the tenth day of each  
18 month, for the duration of probation or participation in a  
19 non-probation-based program or service.

20 (4) The court shall waive payment of the monthly  
21 probation programming fees in whole or in part if after a hearing  
22 a determination is made that such payment would constitute an  
23 undue hardship on the offender due to limited income, employment or  
24 school status, or physical or mental handicap. Such waiver shall be  
25 in effect only during the period of time that the probationer or

1 participant in a non-probation-based program or service is unable  
2 to pay his or her monthly probation programming fee.

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

10 (6) If the court determines that the default in payment  
11 described in subsection (5) of this section was not attributable to  
12 a deliberate refusal to obey the order of the court or to failure  
13 on the probationer's part to make a good faith effort to obtain the  
14 funds required for payment, the court may enter an order allowing  
15 the probationer additional time for payment, reducing the amount  
16 of each installment, or revoking the fees or the unpaid portion in  
17 whole or in part.

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

23 (8) The imposition of monthly probation programming fees  
24 in this section shall be considered separate and apart from the  
25 fees described in subdivisions (2)(m) and (o) of section 29-2262.

1           (9) Any adult probationer received for supervision  
2 pursuant to ~~section 29-2637~~ or the Interstate Compact for  
3 Adult Offender Supervision shall be assessed both a one-time  
4 administrative enrollment fee and monthly probation programming  
5 fees during the period of time the probationer is actively  
6 supervised by Nebraska probation authorities.

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

12           Sec. 18. Section 29-2262.07, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           ~~29-2262.07~~ The Probation Program Cash Fund is created.  
15 All funds collected pursuant to section ~~29-2262.06~~ 17 of this act  
16 shall be remitted to the State Treasurer for credit to the fund.  
17 The fund shall be utilized by the administrator, in consultation  
18 with the Community Corrections Council, for the purposes stated in  
19 ~~subdivision (14) of section 29-2252.~~ section 47-624. Any money in  
20 the fund available for investment shall be invested by the state  
21 investment officer pursuant to the Nebraska Capital Expansion Act  
22 and the Nebraska State Funds Investment Act.

23           Sec. 19. Section 83-1,107.01, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           ~~83-1,107.01~~ (1) Unless otherwise provided by this



1 section, whenever an adult offender is paroled, the board shall  
2 require a parolee to pay a monthly parole programming fee.

3 (2) Parolees under the supervision of the ~~Office of~~  
4 ~~Parole Administration~~ office shall pay a monthly parole programming  
5 fee of twenty-five dollars, not later than the tenth day of  
6 each month, beginning the second month of parole supervision and  
7 continuing for the duration of the parole.

8 (3) The board shall waive payment of the monthly parole  
9 programming fee in whole or in part if after a hearing a  
10 determination is made that such payment would constitute an undue  
11 hardship on the parolee due to limited income, employment or school  
12 status, or physical or mental handicap. Such waiver shall be in  
13 effect only during the period of time that the parolee is unable to  
14 pay his or her monthly parole programming fee.

15 (4) When monthly parole programming fees are waived, in  
16 whole or in part, the probation and parole officer, pursuant to  
17 rules and regulations adopted by the board, may contract with the  
18 parolee to perform approved community service at the rate of five  
19 dollars per hour in lieu of payment of monthly parole programming  
20 fees. A parolee may be required to pay a participation fee in  
21 order to take advantage of community service programs. A parolee  
22 may not accumulate more than three months' advance credit for  
23 community service. The use of community service alternatives does  
24 not preclude the imposition of other intermediate measures.

25 (5) The ~~Office of Parole Administration~~ office with the

1 approval of the Board of Parole shall implement sanctions if a  
2 parolee defaults in the payment of monthly parole programming fees  
3 or any installment thereof as established by subsection (2) of  
4 this section, except that parole shall not be revoked nor shall  
5 the parolee be imprisoned for such nonpayment if the parolee is  
6 financially unable to make the payment.

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

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

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

19 (9) Any adult offender received for supervision pursuant  
20 to ~~section 29-2637 of~~ the Interstate Compact for Adult Offender  
21 Supervision shall be assessed a monthly parole programming fee  
22 during the period of time the offender is actively supervised by  
23 Nebraska probation and parole authorities.

24 (10) A parolee shall pay the fees described in this  
25 section to the ~~Office of Parole Administration,~~ office. The office

1 shall remit all fees to the State Treasurer for credit to the  
2 Parole Program Cash Fund.

3 (11) The board and the office shall adopt and promulgate  
4 rules and regulations to carry out this section.

5 Sec. 20. Section 83-1,107.02, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 ~~83-1,107.02~~ The Parole Program Cash Fund is created. All  
8 funds collected pursuant to section ~~83-1,107.01~~ 19 of this act  
9 shall be remitted to the State Treasurer for credit to the fund.  
10 The fund shall be utilized by the ~~Office of Parole Administration,~~  
11 office, in consultation with the Community Corrections Council, for  
12 the purposes stated in ~~subdivision (8) of section 83-1,102.~~ section  
13 47-624. Any money in the fund available for investment shall be  
14 invested by the state investment officer pursuant to the Nebraska  
15 Capital Expansion Act and the Nebraska State Funds Investment Act.

16 Sec. 21. Section 83-188, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~83-188~~ There is hereby created the Board of Parole.  
19 For administrative purposes only, the board shall be within the  
20 Board of Pardons. Nothing in the Office of Probation and Parole  
21 Administration Act or the Nebraska Treatment and Corrections Act  
22 shall be construed to give the ~~director~~ Director of Correctional  
23 Services, the administrator, or the Board of Pardons any authority,  
24 power, or responsibility over the Board of Parole, its employees,  
25 or the exercise of its functions under the provisions of the act.

1 The employees of the Board of Parole shall be covered by the State  
2 Personnel System.

3 Sec. 22. Section 29-2260.01, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

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

1 additional probation and parole officers to act in the capacity of  
2 juvenile probation intake officers.

3           Sec. 23. Section 20-150, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           20-150 (1) The Legislature hereby finds and declares that  
6 it is the policy of the State of Nebraska to secure the rights  
7 of deaf and hard of hearing persons who cannot readily understand  
8 or communicate in spoken language and who consequently cannot  
9 equally participate in or benefit from proceedings, programs,  
10 and activities of state agencies and law enforcement personnel  
11 unless interpreters are available to assist them. State agencies  
12 and law enforcement personnel shall appoint licensed interpreters  
13 as provided in sections 20-150 to 20-159, except that courts  
14 and probation and parole officials shall appoint interpreters as  
15 provided in sections 20-150 to 20-159 and 25-2401 to 25-2407  
16 and public school districts and educational units shall appoint  
17 qualified educational interpreters.

18           (2) It is the intent of the Legislature that by June  
19 30, 2007, the Commission for the Deaf and Hard of Hearing shall  
20 license and evaluate licensed interpreters. Prior to June 30, 2007,  
21 the commission shall (a) develop licensed interpreter guidelines  
22 for distribution, (b) develop training to implement the guidelines,  
23 (c) adopt and promulgate rules and regulations to implement the  
24 guidelines and requirements for licensed interpreters, and (d)  
25 develop a roster of interpreters as required in section 71-4728.

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

15           Sec. 24. Section 20-151, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           20-151 For purposes of sections 20-150 to 20-159, unless  
18 the context otherwise requires:

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

22           (2) Auxiliary aid includes, but is not limited to, sign  
23 language interpreters, oral interpreters, tactile interpreters,  
24 other interpreters, notetakers, transcription services, written  
25 materials, assistive listening devices, assisted listening systems,

1 videotext displays, and other visual delivery systems;

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

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

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

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

23 (7) State agency means any state entity which receives  
24 appropriations from the Legislature and includes the Legislature,  
25 legislative committees, executive agencies, courts, and probation

1 and parole officials but does not include political subdivisions;  
2 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. 25. 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 FY2008-09 shall be transferred to the  
18 Office of Probation and Parole Administration Education Fund. Any  
19 money in the fund available for investment shall be invested by the  
20 state investment officer pursuant to the Nebraska Capital Expansion  
21 Act and the Nebraska State Funds Investment Act.

22 Sec. 26. Section 24-227.01, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 24-227.01 The Supreme Court Automation Cash Fund is  
25 created. The State Court Administrator shall administer the fund.



1 The fund shall only be used to support automation expenses of  
2 the Supreme Court, Court of Appeals, district courts, separate  
3 juvenile courts, and county courts, ~~and Nebraska Probation System~~  
4 from the computer automation budget program. On the operative  
5 date of this section, money shall be transferred from the Supreme  
6 Court Automation Cash Fund to the Office of Probation and Parole  
7 Administration Automation Cash Fund as provided in section 14 of  
8 this act. Any money in the ~~fund~~ Supreme Court Automation Cash Fund  
9 available for investment shall be invested by the state investment  
10 officer pursuant to the Nebraska Capital Expansion Act and the  
11 Nebraska State Funds Investment Act.

12           Sec. 27. Section 25-2407, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

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

1           Sec. 28. Section 28-322, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           28-322 For purposes of sections 28-322 to 28-322.03:

4           (1) Inmate or parolee means any individual confined in  
5 a facility operated by the Department of Correctional Services or  
6 a city or county correctional or jail facility or under parole  
7 supervision; and

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

1 ~~who performs official duties within any facility operated by~~  
2 ~~the Department of Correctional Services or a city or county~~  
3 ~~correctional or jail facility.~~

4           Sec. 29. Section 28-929, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           28-929 (1) A person commits the offense of assault on  
7 an officer in the first degree if he or she intentionally or  
8 knowingly causes serious bodily injury to a peace officer, a  
9 probation and parole officer, or an employee of the Department of  
10 Correctional Services while such officer or employee is engaged in  
11 the performance of his or her official duties.

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

14           Sec. 30. Section 28-930, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           28-930 (1) A person commits the offense of assault on an  
17 officer in the second degree if he or she:

18           (a) Intentionally or knowingly causes bodily injury with  
19 a dangerous instrument to a peace officer, a probation and parole  
20 officer, or an employee of the Department of Correctional Services  
21 while such officer or employee is engaged in the performance of his  
22 or her official duties; or

23           (b) Recklessly causes bodily injury with a dangerous  
24 instrument to a peace officer, a probation and parole officer, or  
25 an employee of the Department of Correctional Services while such

1 officer or employee is engaged in the performance of his or her  
2 official duties.

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

5 Sec. 31. Section 28-931, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

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

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

15 Sec. 32. Section 28-931.01, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

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

25 (2) Assault on an officer using a motor vehicle shall be

1 a Class IIIA felony.

2 Sec. 33. Section 29-2246, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

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

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

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

12 (3) Office means the Office of Probation and Parole  
13 Administration;

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 probation;

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

1           (7) Juvenile probation officer means any probation and  
2 parole officer who supervises probationers of and serves as an  
3 agent of a separate juvenile court;

4           (8) Juvenile intake probation officer ~~means an employee~~  
5 ~~of the system who is called upon by a law enforcement officer in~~  
6 ~~accordance with section 43-250 to make a decision regarding the~~  
7 ~~furtherance of a juvenile's detention,~~ has the definition found in  
8 section 2 of this act;

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

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

13           ~~(11)~~ (10) Administrator means the ~~probation~~  
14 ~~administrator,~~ has the definition found in section 2 of this act;

15 and

16           ~~(12)~~ (11) Non-probation-based program or service means  
17 a program or service established within the district, county,  
18 or juvenile courts and provided to individuals not sentenced to  
19 probation who have been charged with or convicted of a crime  
20 for the purpose of diverting the individual from incarceration  
21 or to provide treatment for issues related to the individual's  
22 criminogenic needs. Non-probation-based programs or services  
23 include, but are not limited to, drug court programs established  
24 pursuant to section 24-1302 and the treatment of problems relating  
25 to substance abuse, mental health, sex offenses, or domestic

1 violence.

2           Sec. 34. Section 29-2248, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           29-2248 The association shall:

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

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

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

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

16           (5) Encourage creation and development of community  
17 resources of value to ~~the probation system;~~ probation;

18           (6) Conduct such other programs of whatever nature of  
19 interest to its members;

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

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

25           Sec. 35. Section 29-2261, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           29-2261 (1) Unless it is impractical to do so, when an  
3 offender has been convicted of a felony other than murder in the  
4 first degree, the court shall not impose sentence without first  
5 ordering a presentence investigation of the offender and according  
6 due consideration to a written report of such investigation. When  
7 an offender has been convicted of murder in the first degree and  
8 (a) a jury renders a verdict finding the existence of one or more  
9 aggravating circumstances as provided in section 29-2520 or (b) (i)  
10 the information contains a notice of aggravation as provided in  
11 section 29-1603 and (ii) the offender waives his or her right to  
12 a jury determination of the alleged aggravating circumstances, the  
13 court shall not commence the sentencing determination proceeding as  
14 provided in section 29-2521 without first ordering a presentence  
15 investigation of the offender and according due consideration to a  
16 written report of such investigation.

17           (2) A court may order a presentence investigation in any  
18 case, except in cases in which an offender has been convicted  
19 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V  
20 misdemeanor, a traffic infraction, or any corresponding city or  
21 village ordinance.

22           (3) The presentence investigation and report shall  
23 include, when available, an analysis of the circumstances attending  
24 the commission of the crime, the offender's history of delinquency  
25 or criminality, physical and mental condition, family situation and



1 background, economic status, education, occupation, and personal  
2 habits, and any other matters that the probation and parole officer  
3 deems relevant or the court directs to be included. All local  
4 and state police agencies and Department of Correctional Services  
5 adult correctional facilities shall furnish to the probation and  
6 parole officer copies of such criminal records, in any such case  
7 referred to the probation and parole officer by the court of proper  
8 jurisdiction, as the probation and parole officer shall require  
9 without cost to the court, the office, or the probation and parole  
10 officer.

11 Such investigation shall also include:

12 (a) Any written statements submitted to the county  
13 attorney by a victim; and

14 (b) Any written statements submitted to the probation and  
15 parole officer by a victim.

16 (4) If there are no written statements submitted to the  
17 probation and parole officer, he or she shall certify to the court  
18 that:

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

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

23 For purposes of subsections (3) and (4) of this section,  
24 the term victim shall be as defined in section 29-119.

25 (5) Before imposing sentence, the court may order the

1 offender to submit to psychiatric observation and examination for  
2 a period of not exceeding sixty days or such longer period as the  
3 court determines to be necessary for that purpose. The offender  
4 may be remanded for this purpose to any available clinic or mental  
5 hospital, or the court may appoint a qualified psychiatrist to make  
6 the examination. The report of the examination shall be submitted  
7 to the court.

8 (6) Any presentence report or psychiatric examination  
9 shall be privileged and shall not be disclosed directly or  
10 indirectly to anyone other than a judge, probation officers  
11 to whom an offender's file is duly transferred, the ~~probation~~  
12 administrator or his or her designee, or others entitled by law  
13 to receive such information, including personnel and mental health  
14 professionals for the Nebraska State Patrol specifically assigned  
15 to sex offender registration and community notification for the  
16 sole purpose of using such report or examination for assessing  
17 risk and for community notification of registered sex offenders.  
18 For purposes of this subsection, mental health professional means  
19 (a) a practicing physician licensed to practice medicine in this  
20 state under the provisions of section 71-102, (b) a practicing  
21 psychologist licensed to engage in the practice of psychology in  
22 this state as provided in section 71-1,206.14, or (c) a practicing  
23 mental health professional licensed or certified in this state as  
24 provided in section 71-1,333. The court may permit inspection of  
25 the report or examination of parts thereof by the offender or his

1 or her attorney, or other person having a proper interest therein,  
2 whenever the court finds it is in the best interest of a particular  
3 offender. The court may allow fair opportunity for an offender to  
4 provide additional information for the court's consideration.

5 (7) If an offender is sentenced to imprisonment, a copy  
6 of the report of any presentence investigation or psychiatric  
7 examination shall be transmitted immediately to the Department of  
8 Correctional Services. Upon request, the Board of Parole or the  
9 ~~Office of Parole Administration~~ office may receive a copy of the  
10 report from the department.

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

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

1                   Sec. 36. Section 29-2262, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3                   29-2262 (1) When a court sentences an offender to  
4 probation, it shall attach such reasonable conditions as it deems  
5 necessary or likely to insure that the offender will lead a  
6 law-abiding life. No offender shall be sentenced to probation if  
7 he or she is deemed to be a habitual criminal pursuant to section  
8 29-2221.

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

11                   (a) To refrain from unlawful conduct;

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

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

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

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

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

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

1                   (h) To refrain from frequenting unlawful or disreputable  
2 places or consorting with disreputable persons;

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

7                   (j) To remain within the jurisdiction of the court and to  
8 notify the court or the probation and parole officer of any change  
9 in his or her address or his or her employment and to agree to  
10 waive extradition if found in another jurisdiction;

11                   (k) To report as directed to the court or a probation and  
12 parole officer and to permit the officer to visit ~~his or her~~ the  
13 offender's home;

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

15                   (m) To pay for tests to determine the presence of drugs  
16 or alcohol, psychological evaluations, offender assessment screens,  
17 and rehabilitative services required in the identification,  
18 evaluation, and treatment of offenders if such offender has the  
19 financial ability to pay for such services;

20                   (n) To perform community service as outlined in sections  
21 29-2277 to 29-2279 under the direction of his or her probation and  
22 parole officer;

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

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

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

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

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

9           (t) To pay for all costs imposed by the court, including  
10 court costs and the fees imposed pursuant to section ~~29-2262.06.~~ 17  
11 of this act.

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

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

19           Sec. 37. Section 29-2262.03, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           29-2262.03 (1) Whenever the court considers the sentence  
22 for an offender convicted of any crime for which a term of  
23 imprisonment of six months or more is possible and mandatory  
24 minimum imprisonment is not specifically required, the court may  
25 withhold the sentence of imprisonment and sentence the offender to

1 intensive supervision probation. The decision whether to sentence  
2 an offender to intensive supervision probation shall be guided by  
3 the criteria for withholding a sentence of imprisonment as set  
4 forth in subsection (2) of this section and subsections (2) and (3)  
5 of section 29-2260.

6 (2) Intensive supervision probation shall be governed  
7 by the laws governing probation except as required by specific  
8 provisions of this section and sections ~~29-2252.01~~, ~~29-2262.02~~,  
9 ~~29-2262.04~~, and 29-2262.02 to 29-2262.05.

10 Sec. 38. Section 29-2262.04, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 29-2262.04 Selected offenders in intensive supervision  
13 probation programs shall receive the highest level of supervision  
14 that is provided to probationers. Such programs may include,  
15 but shall not be limited to, highly restricted activities,  
16 daily contact between the offender and the probation and parole  
17 officer, monitored curfew, home visitation, employment visitation  
18 and monitoring, drug and alcohol screening, treatment referrals  
19 and monitoring, and restitution and community service. Selected  
20 offenders monitored by an electronic device or system shall be  
21 required to pay the cost of such a device or system if the offender  
22 has the financial ability. It is the intent of the Legislature that  
23 such programs shall minimize any risk to the public.

24 Sec. 39. Section 29-2262.05, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   29-2262.05 The ~~Supreme Court~~ office shall establish and  
2 enforce the standards and criteria for the administration of the  
3 intensive supervision probation programs.

4                   Sec. 40. Section 29-2263, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6                   29-2263 (1) When a court has sentenced an offender to  
7 probation, the court shall specify the term of such probation which  
8 shall be not more than five years upon conviction of a felony  
9 or second offense misdemeanor and two years upon conviction of a  
10 first offense misdemeanor. The court, on application of a probation  
11 and parole officer or of the offender or on its own motion, may  
12 discharge an offender at any time.

13                   (2) During the term of probation, the court on  
14 application of a probation and parole officer or of the offender,  
15 or its own motion, may modify or eliminate any of the conditions  
16 imposed on the offender or add further conditions authorized by  
17 section 29-2262. This subsection does not preclude a probation  
18 and parole officer from imposing administrative sanctions with the  
19 offender's full knowledge and consent as authorized by subsection  
20 (2) of section 29-2266.

21                   (3) Upon completion of the term of probation, or the  
22 earlier discharge of the offender, the offender shall be relieved  
23 of any obligations imposed by the order of the court and shall have  
24 satisfied the sentence for his or her crime.

25                   (4) Whenever a probationer disappears or leaves the



1 jurisdiction of the court without permission, the time during which  
2 he or she keeps his or her whereabouts hidden or remains away from  
3 the jurisdiction of the court shall be added to the original term  
4 of probation.

5 Sec. 41. Section 29-2265, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 29-2265 (1) Whenever an offender is placed on probation  
8 and will reside in a location outside the jurisdiction of the  
9 sentencing court, the sentencing court may:

10 (a) Retain jurisdiction over the probationer and the  
11 subject matter of the action; or

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

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

17 (a) Obtain the concurrence of the court to which transfer  
18 is to be made;

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

22 (c) Furnish the chief probation and parole officer ~~of~~  
23 serving the district in which the probationer will reside with a  
24 copy of any presentence investigation.

25 (3) Upon the filing of the transcript in accordance with

1 subdivision (2)(b) of this section, the court making the transfer  
2 shall have no further jurisdiction of the subject matter of the  
3 action or over the probationer. The court to which jurisdiction  
4 is transferred shall immediately enter an order placing the  
5 transferred probationer on probation under such conditions as  
6 it may deem appropriate in accordance with the Nebraska Probation  
7 Administration Act.

8 (4) When a court retains jurisdiction under subdivision  
9 (1)(a) of this section and the probationer will reside in a  
10 different probation and parole district from that of the sentencing  
11 court, the court may notify the chief probation and parole officer  
12 in the probation and parole district in which the probationer  
13 will reside to supervise such probationer under the terms of the  
14 probation order and in accordance with the Nebraska Probation  
15 Administration Act.

16 Sec. 42. Section 29-2266, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 29-2266 (1) For purposes of this section:

19 (a) Administrative sanction means additional probation  
20 requirements imposed upon a probationer by his or her probation  
21 and parole officer, with the full knowledge and consent of  
22 the probationer, designed to hold the probationer accountable  
23 for substance abuse or noncriminal violations of conditions of  
24 probation, including:

25 (i) Counseling or reprimand by his or her probation

1 officer;

2 (ii) Increased supervision contact requirements;

3 (iii) Increased substance abuse testing;

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

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

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

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

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

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

21 (i) Moving traffic violations;

22 (ii) Failure to report to his or her probation and parole  
23 officer;

24 (iii) Leaving the jurisdiction of the court or leaving  
25 the state without the permission of the court or his or her

1 probation and parole officer;

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

4 (v) Failure to notify his or her probation and parole  
5 officer of change of address or employment;

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

8 (vii) Failure to perform community service as directed;  
9 and

10 (viii) Failure to pay fines, court costs, restitution, or  
11 any fees imposed pursuant to section ~~29-2262.06~~ 17 of this act as  
12 directed; and

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

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

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

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

22 (iv) Failure to appear for or complete substance abuse  
23 or mental health treatment evaluations or inpatient or outpatient  
24 treatment.

25 (2) Whenever a probation and parole officer has

1 reasonable cause to believe that a probationer has committed or  
2 is about to commit a substance abuse violation or noncriminal  
3 violation while on probation, but that the probationer will not  
4 attempt to leave the jurisdiction and will not place lives or  
5 property in danger, the probation and parole officer shall either:

6 (a) Impose one or more administrative sanctions with  
7 the approval of his or her chief probation and parole officer  
8 or such chief's designee. The decision to impose administrative  
9 sanctions in lieu of formal revocation proceedings rests with the  
10 probation and parole officer and his or her chief probation and  
11 parole officer or such chief's designee and shall be based upon  
12 the probationer's risk level, the severity of the violation, and  
13 the probationer's response to the violation. If administrative  
14 sanctions are to be imposed, the probationer shall acknowledge  
15 in writing the nature of the violation and agree upon the  
16 administrative sanction. The probationer has the right to decline  
17 to acknowledge the violation; and if he or she declines to  
18 acknowledge the violation, the probation and parole officer shall  
19 take action pursuant to subdivision (2)(b) of this section. A copy  
20 of the report shall be submitted to the county attorney of the  
21 county where probation was imposed; or

22 (b) Submit a written report to the sentencing court,  
23 with a copy to the county attorney of the county where probation  
24 was imposed, outlining the nature of the probation violation and  
25 request that formal revocation proceedings be instituted against

1 the probationer.

2 (3) Whenever a probation and parole officer has  
3 reasonable cause to believe that a probationer has violated or is  
4 about to violate a condition of probation other than a substance  
5 abuse violation or noncriminal violation and that the probationer  
6 will not attempt to leave the jurisdiction and will not place  
7 lives or property in danger, the probation and parole officer shall  
8 submit a written report to the sentencing court, with a copy to  
9 the county attorney of the county where probation was imposed,  
10 outlining the nature of the probation violation.

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

20 (5) Immediately after arrest and detention pursuant to  
21 subsection (4) of this section, the probation and parole officer  
22 shall notify the county attorney of the county where probation was  
23 imposed and submit a written report of the reason for such arrest  
24 and of any violation of probation. After prompt consideration of  
25 such written report, the county attorney shall:

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

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

4 (6) Whenever a county attorney receives a report from  
5 a probation and parole officer that a probationer has violated a  
6 condition of probation, the county attorney may file a motion or  
7 information to revoke probation.

8 (7) The administrator shall adopt and promulgate rules  
9 and regulations to carry out this section.

10 Sec. 43. Section 29-2270, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 29-2270 Any individual who is less than nineteen years of  
13 age and who is subject to the supervision of a juvenile probation  
14 officer or ~~an adult~~ a probation and parole officer pursuant to an  
15 order of the district court, county court, or juvenile court shall,  
16 as a condition of probation, be required to:

17 (1) Attend school to obtain vocational training or to  
18 achieve an appropriate educational level as prescribed by the  
19 probation and parole officer after consultation with the school  
20 the individual attends or pursuant to section 29-2272. If the  
21 individual fails to attend school regularly, maintain appropriate  
22 school behavior, or make satisfactory progress as determined by the  
23 probation and parole officer after consultation with the school and  
24 the individual does not meet the requirements of subdivision (2) of  
25 this section, the district court, county court, or juvenile court

1 shall take appropriate action to enforce, modify, or revoke its  
2 order granting probation; or

3 (2) Attend an on-the-job training program or secure and  
4 maintain employment. If the individual fails to attend the program  
5 or maintain employment and does not meet the requirements of  
6 subdivision (1) of this section, the district court, county court,  
7 or juvenile court shall take appropriate action to enforce, modify,  
8 or revoke its order granting probation.

9 Sec. 44. Section 29-2272, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 29-2272 (1) If the individual chooses to meet the  
12 requirements of section 29-2270 by attending a public school and  
13 the individual has previously been expelled from school, prior to  
14 the readmission of the individual to the school, school officials  
15 shall meet with the individual's juvenile probation officer or  
16 probation and parole officer and assist in developing conditions  
17 of probation that will provide specific guidelines for behavior  
18 and consequences for misbehavior at school as well as educational  
19 objectives that must be achieved. The district court, county court,  
20 or juvenile court shall review the conditions of probation for the  
21 individual and may continue the expulsion or return the individual  
22 to school under the agreed conditions.

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

25 (3) The individual shall be screened by the school to



1 which he or she is admitted for possible disabilities and, if the  
2 screening so indicates, be referred for evaluation for possible  
3 placement in a special education program.

4 Sec. 45. Section 29-2935, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 29-2935 For purposes of evaluating the treatment process,  
7 the Office of Probation and Parole Administration, the Department  
8 of Correctional Services, the Board of Parole, and the designated  
9 aftercare treatment programs shall allow appropriate access to data  
10 and information as requested by the Department of Health and Human  
11 Services.

12 Sec. 46. Section 29-4009, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 29-4009 Information obtained under the Sex Offender  
15 Registration Act shall be confidential, except that:

16 (1) Information shall be disclosed to law enforcement  
17 agencies for law enforcement purposes;

18 (2) Information on persons subject to section 83-174.03  
19 shall be disclosed to the Office of Probation and Parole  
20 Administration;

21 (3) Information concerning a defendant who is registered  
22 and reports to be employed with, carrying on a vocation at,  
23 or attending a postsecondary educational institution, shall be  
24 disclosed to the law enforcement agency having responsibility for  
25 the campus where the institution is located. This notification

1 shall go to the affected campus police, if any, and other law  
2 enforcement agency having jurisdiction in the area in which the  
3 institution is located;

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

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

10 (6) Information concerning the address or whereabouts of  
11 the person required to register may be disclosed to the victim or  
12 victims of such person; and

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

19 The release of information authorized by this section  
20 shall conform with the rules and regulations adopted and  
21 promulgated by the Nebraska State Patrol pursuant to section  
22 29-4013.

23 Sec. 47. Section 29-4019, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 29-4019 (1) When sentencing a person convicted of an

1 offense which requires lifetime community supervision upon release  
2 pursuant to section 83-174.03, the sentencing court shall:

3 (a) Provide written notice to the defendant that he or  
4 she shall be subject to lifetime community supervision by the  
5 Office of Probation and Parole Administration upon release from  
6 incarceration or civil commitment. The written notice shall inform  
7 the defendant (i) that he or she shall be subject to lifetime  
8 community supervision by the office upon release and that the  
9 office shall conduct a risk assessment and evaluation to determine  
10 the conditions of community supervision which will minimize, in  
11 the least restrictive manner that is compatible with public safety,  
12 the risk of the defendant committing additional offenses, (ii)  
13 that a violation of any of the conditions of community supervision  
14 imposed by the office may result in the revision of existing  
15 conditions, the addition of new conditions, a recommendation that  
16 civil commitment proceedings should be instituted, or criminal  
17 prosecution, and (iii) of his or her right to challenge the  
18 determination of the conditions of community supervision by the  
19 office and the right to a periodic review of the conditions of  
20 community supervision pursuant to section 83-174.03 to determine if  
21 the conditions are still necessary to protect the public;

22 (b) Require the defendant to read and sign a form stating  
23 that the duty of the defendant to comply with the conditions  
24 of community supervision and his or her rights to challenge the  
25 conditions of community supervision imposed by the office has been

1 explained; and

2 (c) Retain a copy of the written notification signed by  
3 the defendant.

4 (2) Prior to the release of a person serving a sentence  
5 for an offense requiring lifetime community supervision by the  
6 Office of Probation and Parole Administration pursuant to section  
7 83-174.03, the Department of Correctional Services, the Department  
8 of Health and Human Services, or a city or county correctional or  
9 jail facility shall:

10 (a) Provide written notice to the person that he or  
11 she shall be subject to lifetime community supervision by the  
12 office upon release from incarceration. The written notice shall  
13 inform the person (i) that he or she shall be subject to lifetime  
14 community supervision by the office upon release and that the  
15 office shall conduct a risk assessment and evaluation of the  
16 defendant to determine the conditions of community supervision  
17 which will minimize, in the least restrictive manner that is  
18 compatible with public safety, the risk of the person committing  
19 additional offenses, (ii) that a violation of any of the conditions  
20 of community supervision imposed by the office may result in the  
21 revision of existing conditions, the addition of new conditions,  
22 a recommendation that civil commitment proceedings should be  
23 instituted, or criminal prosecution, and (iii) of his or her  
24 right to challenge the determination of the conditions of community  
25 supervision by the office and the right to a periodic review of the

1 conditions of community supervision pursuant to section 83-174.03  
2 to determine if the conditions are still necessary to protect the  
3 public;

4 (b) Require the defendant to read and sign a form stating  
5 that the duty of the defendant to comply with the conditions  
6 of community supervision and his or her right to challenge the  
7 conditions of community supervision imposed by the office has been  
8 explained; and

9 (c) Retain a copy of the written notification signed by  
10 the person.

11 Sec. 48. Section 33-107.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 33-107.03 In addition to all other court costs assessed  
14 according to law, a court automation fee of six dollars shall  
15 be taxed as costs for each case filed in each county court,  
16 separate juvenile court, and district court, including appeals to  
17 such courts, and for each appeal and original action filed in the  
18 Court of Appeals and the Supreme Court. The fees shall be remitted  
19 to the State Treasurer on forms prescribed by the State Treasurer  
20 within ten days after the end of each month. ~~The~~ Until July 1,  
21 2008, the State Treasurer shall credit the fees to the Supreme  
22 Court Automation Cash Fund. On and after July 1, 2008, the State  
23 Treasurer shall credit five dollars and fifty cents of such fee  
24 to the Supreme Court Automation Cash Fund and fifty cents of such  
25 fee to the Office of Probation and Parole Administration Automation

1 Cash Fund.

2           Sec. 49. Section 33-154, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           33-154 In addition to all other court costs assessed  
5 according to law, a training fee of one dollar shall be taxed as  
6 costs for each case filed in each county court and district court,  
7 including appeals to such courts, and for each appeal and original  
8 action filed in the Court of Appeals and the Supreme Court. The  
9 fees shall be remitted to the State Treasurer on forms prescribed  
10 by the State Treasurer within ten days after the end of each month.  
11 The Until July 1, 2008, the State Treasurer shall credit the fees  
12 to the Supreme Court Education Fund. On and after July 1, 2008,  
13 the State Treasurer shall credit ninety cents of such fee to the  
14 Supreme Court Education Fund and ten cents of such fee to the  
15 Office of Probation and Parole Administration Education Fund.

16           Sec. 50. Section 43-250, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-250 A peace officer who takes a juvenile into  
19 temporary custody under section 43-248 shall immediately take  
20 reasonable measures to notify the juvenile's parent, guardian,  
21 custodian, or relative and shall proceed as follows:

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

23           (2) The peace officer shall prepare in triplicate a  
24 written notice requiring the juvenile to appear before the juvenile  
25 court of the county in which such juvenile was taken into custody

1 at a time and place specified in the notice or at the call of the  
2 court. The notice shall also contain a concise statement of the  
3 reasons such juvenile was taken into custody. The peace officer  
4 shall deliver one copy of the notice to such juvenile and require  
5 such juvenile or his or her parent, guardian, other custodian,  
6 or relative, or both, to sign a written promise that such signer  
7 will appear at the time and place designated in the notice. Upon  
8 the execution of the promise to appear, the peace officer shall  
9 immediately release such juvenile. The peace officer shall, as  
10 soon as practicable, file one copy of the notice with the county  
11 attorney and, when required by the juvenile court, also file a copy  
12 of the notice with the juvenile court or the officer appointed by  
13 the court for such purpose;

14 (3) While retaining temporary custody, the peace officer  
15 shall communicate all relevant available information regarding  
16 such juvenile to the juvenile probation officer or probation and  
17 parole officer and shall deliver the juvenile, if necessary, to  
18 the ~~probation officer~~. The ~~probation officer~~ who shall determine  
19 the need for detention of the juvenile as provided in section  
20 43-260.01. Upon determining that the juvenile should be placed in  
21 a secure or nonsecure placement and securing placement in such  
22 secure or nonsecure setting by ~~the probation~~ such officer, the  
23 peace officer shall implement the ~~probation officer's~~ decision to  
24 release or to detain and place the juvenile. When secure detention  
25 of a juvenile is necessary, such detention shall occur within a

1 juvenile detention facility except:

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

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

24 (c) Whenever a juvenile is held in a secure area of  
25 any jail or other facility intended or used for the detention



1 of adults, there shall be no verbal, visual, or physical contact  
2 between the juvenile and any incarcerated adult and there shall be  
3 adequate staff to supervise and monitor the juvenile's activities  
4 at all times. This subdivision shall not apply to a juvenile  
5 charged with a felony as an adult in county or district court if he  
6 or she is sixteen years of age or older;

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

11 (e) If, within the time limits specified in subdivision  
12 (3) (a) or (3) (b) of this section, a felony charge is filed against  
13 the juvenile as an adult in county or district court, he or she may  
14 be securely held in a jail or other facility intended or used for  
15 the detention of adults beyond the specified time limits;

16 (f) A status offender or nonoffender taken into temporary  
17 custody shall not be held in a secure area of a jail or other  
18 facility intended or used for the detention of adults. A status  
19 offender accused of violating a valid court order may be securely  
20 detained in a juvenile detention facility longer than twenty-four  
21 hours if he or she is afforded a detention hearing before a  
22 court within twenty-four hours, excluding nonjudicial days, and if,  
23 prior to a dispositional commitment to secure placement, a public  
24 agency, other than a court or law enforcement agency, is afforded  
25 an opportunity to review the juvenile's behavior and possible

1 alternatives to secure placement and has submitted a written report  
2 to the court; and

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

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

1 juvenile shall be returned to the custody of his or her parent,  
2 guardian, custodian, or relative; or

3 (5) If the peace officer takes the juvenile into  
4 temporary custody pursuant to subdivision (4) of section 43-248,  
5 the peace officer may place the juvenile at a mental health  
6 facility for evaluation and emergency treatment or may deliver  
7 the juvenile to the Department of Health and Human Services as  
8 provided in subdivision (4) of this section. At the time of the  
9 admission or turning the juvenile over to the department, the  
10 peace officer responsible for taking the juvenile into custody  
11 shall execute a written certificate as prescribed by the Department  
12 of Health and Human Services which will indicate that the peace  
13 officer believes the juvenile to be mentally ill and dangerous,  
14 a summary of the subject's behavior supporting such allegations,  
15 and that the harm described in section 71-908 is likely to occur  
16 before proceedings before a juvenile court may be invoked to  
17 obtain custody of the juvenile. A copy of the certificate shall be  
18 forwarded to the county attorney. The peace officer shall notify  
19 the juvenile's parents, guardian, custodian, or relative of the  
20 juvenile's placement.

21 In determining the appropriate temporary placement of a  
22 juvenile under this section, the peace officer shall select the  
23 placement which is least restrictive of the juvenile's freedom so  
24 long as such placement is compatible with the best interests of the  
25 juvenile and the safety of the community.

1           Sec. 51. Section 43-253, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-253 (1) Upon delivery to the juvenile probation  
4 officer or probation and parole officer of a juvenile who has been  
5 taken into temporary custody under sections 43-248 and 43-250, ~~the~~  
6 ~~probation~~ such officer shall immediately investigate the situation  
7 of the juvenile and the nature and circumstances of the events  
8 surrounding his or her being taken into custody. Such investigation  
9 may be by informal means when appropriate.

10           (2) The ~~probation~~ officer's decision to release the  
11 juvenile from custody or place the juvenile in secure or nonsecure  
12 detention shall be based upon the results of the standardized  
13 juvenile detention screening instrument described in section  
14 43-260.01.

15           (3) No juvenile who has been taken into temporary custody  
16 under subdivision (3) of section 43-250 shall be detained in  
17 any secure detention facility for longer than twenty-four hours,  
18 excluding nonjudicial days, after having been taken into custody  
19 unless such juvenile has appeared personally before a court of  
20 competent jurisdiction for a hearing to determine if continued  
21 detention is necessary. If continued secure detention is ordered,  
22 such detention shall be in a juvenile detention facility, except  
23 that a juvenile charged with a felony as an adult in county or  
24 district court may be held in an adult jail as set forth in  
25 subdivision (3)(e) of section 43-250.

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

15           (5) The court may admit such juvenile to bail by bond  
16 in such amount and on such conditions and security as the court,  
17 in its sole discretion, shall determine, or the court may proceed  
18 as provided in section 43-254. In no case shall the court or the  
19 juvenile probation officer or probation and parole officer release  
20 such juvenile if it appears that further detention or placement of  
21 such juvenile is a matter of immediate and urgent necessity for the  
22 protection of such juvenile or the person or property of another or  
23 if it appears that such juvenile is likely to flee the jurisdiction  
24 of the court.

25           Sec. 52. Section 43-260, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-260 The Office of Probation and Parole Administration  
3 shall prepare and distribute to juvenile probation officers and  
4 probation and parole officers a standardized juvenile detention  
5 screening instrument. The types of risk factors to be included  
6 as well as the format of this standardized juvenile detention  
7 screening instrument shall be determined by the office. The  
8 standardized juvenile detention screening instrument shall be used  
9 as an assessment tool statewide by ~~probation~~ officers under section  
10 43-260.01 in order to determine if detention of the juvenile  
11 is necessary and, if so, whether secure or nonsecure detention  
12 is indicated. ~~Probation officers~~ Officers trained to administer  
13 the juvenile detention screening instrument shall act as juvenile  
14 intake probation officers. Only duly trained ~~probation~~ officers  
15 shall be authorized to administer the juvenile detention screening  
16 instrument.

17           Sec. 53. Section 43-260.05, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-260.05 A juvenile pretrial diversion program may:

20           (1) Provide screening services to the court and county  
21 attorney or city attorney to help identify likely candidates for  
22 the program;

23           (2) Establish goals for diverted juvenile offenders and  
24 monitor performance of the goals;

25           (3) Perform chemical dependency assessments of diverted

1 juvenile offenders when indicated, make appropriate referrals for  
2 treatment, and monitor treatment and aftercare;

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

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

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

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

12 (8) Provide accurate information on how diverted juvenile  
13 offenders perform in the program to the juvenile courts, county  
14 attorneys, city attorneys, defense attorneys, juvenile probation  
15 officers, and probation and parole officers.

16 Sec. 54. Section 43-271, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 43-271 (1)(a) A juvenile taken into custody pursuant to  
19 sections 43-248, 43-250, and 43-253 shall be brought before the  
20 court for adjudication as soon as possible after the petition is  
21 filed. On the return of the summons or other process, or mailing  
22 of the notice in lieu of summons, or as soon thereafter as legally  
23 may be, the court shall proceed to hear and dispose of the case as  
24 provided in section 43-279.

25 (b) The hearing as to a juvenile in custody of the

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

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

12 Sec. 55. Section 43-274, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

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



1 the Interest of ....., a Juvenile Under Eighteen Years of  
2 Age, inserting the juvenile's name in the blank.

3 (2) In all cases involving violation of a city or village  
4 ordinance, the city attorney or village prosecutor may file a  
5 petition in juvenile court. If such a petition is filed, for  
6 purposes of such proceeding, references in the Nebraska Juvenile  
7 Code to county attorney shall be construed to include a city  
8 attorney or village prosecutor.

9 (3) The county attorney or city attorney may offer  
10 pretrial diversion to the juvenile in accordance with a juvenile  
11 pretrial diversion program established pursuant to sections  
12 43-260.02 to 43-260.07.

13 (4)(a) If a juvenile appears to be a juvenile described  
14 in subdivision (1), (2), (3)(b), or (4) of section 43-247 because  
15 of a nonviolent act or acts, the county attorney may offer  
16 mediation to the juvenile and the victim of the juvenile's act. If  
17 both the juvenile and the victim agree to mediation, the juvenile,  
18 his or her parent, guardian, or custodian, and the victim shall  
19 sign a mediation consent form and select a mediator or approved  
20 center from the roster made available pursuant to section 25-2908.  
21 The county attorney shall refer the juvenile and the victim to  
22 such mediator or approved center. The mediation sessions shall  
23 occur within thirty days after the date the mediation referral is  
24 made unless an extension is approved by the county attorney. The  
25 juvenile or his or her parent, guardian, or custodian shall pay

1 the mediation fees. The fee shall be determined by the mediator in  
2 private practice or by the approved center. A juvenile shall not be  
3 denied services at an approved center because of an inability to  
4 pay.

5 (b) Terms of the agreement shall specify monitoring,  
6 completion, and reporting requirements. The county attorney, the  
7 court, or the ~~probation office~~ Office of Probation and Parole  
8 Administration shall be notified by the designated monitor if the  
9 juvenile does not complete the agreement within the agreement's  
10 specified time.

11 (c) Terms of the agreement may include one or more of the  
12 following:

13 (i) Participation by the juvenile in certain community  
14 service programs;

15 (ii) Payment of restitution by the juvenile to the  
16 victim;

17 (iii) Reconciliation between the juvenile and the victim;  
18 and

19 (iv) Any other areas of agreement.

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

24 (e) If a mediation agreement is reached and the agreement  
25 does not violate public policy, the agreement shall be approved

1 by the county attorney. If the agreement is not approved and  
2 the victim agrees to return to mediation (i) the juvenile may be  
3 referred back to mediation with suggestions for changes needed in  
4 the agreement to meet approval or (ii) the county attorney may  
5 proceed with the filing of a criminal charge or juvenile court  
6 petition. If the juvenile agrees to return to mediation but the  
7 victim does not agree to return to mediation, the county attorney  
8 may consider the juvenile's willingness to return to mediation when  
9 determining whether or not to file a criminal charge or a juvenile  
10 court petition.

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

15 Sec. 56. Section 43-286, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-286 (1) When any juvenile is adjudicated to be a  
18 juvenile described in subdivision (1), (2), or (4) of section  
19 43-247:

20 (a) The court may continue the dispositional portion of  
21 the hearing, from time to time upon such terms and conditions as  
22 the court may prescribe, including an order of restitution of any  
23 property stolen or damaged or an order requiring the juvenile to  
24 participate in community service programs, if such order is in  
25 the interest of the juvenile's reformation or rehabilitation, and,

1 subject to the further order of the court, may:

2 (i) Place the juvenile on probation subject to the  
3 supervision of a juvenile probation officer or probation and parole  
4 officer;

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

8 (iii) Cause the juvenile to be placed in a suitable  
9 family home or institution, subject to the supervision of the  
10 ~~probation~~ officer. If the court has committed the juvenile to the  
11 care and custody of the Department of Health and Human Services,  
12 the department shall pay the costs of the suitable family home or  
13 institution which are not otherwise paid by the juvenile's parents.

14 Under subdivision (1)(a) of this section, upon a  
15 determination by the court that there are no parental, private, or  
16 other public funds available for the care, custody, and maintenance  
17 of a juvenile, the court may order a reasonable sum for the care,  
18 custody, and maintenance of the juvenile to be paid out of a  
19 fund which shall be appropriated annually by the county where the  
20 petition is filed until a suitable provision may be made for the  
21 juvenile without such payment; or

22 (b) The court may commit such juvenile to the Office  
23 of Juvenile Services, but a juvenile under the age of twelve  
24 years shall not be placed at the Youth Rehabilitation and  
25 Treatment Center-Geneva or the Youth Rehabilitation and Treatment

1 Center-Kearney unless he or she has violated the terms of probation  
2 or has committed an additional offense and the court finds that the  
3 interests of the juvenile and the welfare of the community demand  
4 his or her commitment. This minimum age provision shall not apply  
5 if the act in question is murder or manslaughter.

6 (2) When any juvenile is found by the court to be a  
7 juvenile described in subdivision (3)(b) of section 43-247, the  
8 court may enter such order as it is empowered to enter under  
9 subdivision (1)(a) of this section or enter an order committing or  
10 placing the juvenile to the care and custody of the Department of  
11 Health and Human Services.

12 (3) Beginning July 15, 1998, when any juvenile is  
13 adjudicated to be a juvenile described in subdivision (1), (2),  
14 (3)(b), or (4) of section 43-247 because of a nonviolent act or  
15 acts and the juvenile has not previously been adjudicated to be  
16 such a juvenile because of a violent act or acts, the court may,  
17 with the agreement of the victim, order the juvenile to attend  
18 juvenile offender and victim mediation with a mediator or at an  
19 approved center selected from the roster made available pursuant to  
20 section 25-2908.

21 (4)(a) When a juvenile is placed on probation or under  
22 the supervision of the court and it is alleged that the juvenile is  
23 again a juvenile described in subdivision (1), (2), (3)(b), or (4)  
24 of section 43-247, a petition may be filed and the same procedure  
25 followed and rights given at a hearing on the original petition. If

1 an adjudication is made that the allegations of the petition are  
2 true, the court may make any disposition authorized by this section  
3 for such adjudications.

4 (b) When a juvenile is placed on probation or under  
5 the supervision of the court for conduct under subdivision (1),  
6 (2), (3)(b), or (4) of section 43-247 and it is alleged that the  
7 juvenile has violated a term of probation or supervision or that  
8 the juvenile has violated an order of the court, a motion to revoke  
9 probation or supervision or to change the disposition may be filed  
10 and proceedings held as follows:

11 (i) The motion shall set forth specific factual  
12 allegations of the alleged violations and a copy of such motion  
13 shall be served on all persons required to be served by sections  
14 43-262 to 43-267;

15 (ii) The juvenile shall be entitled to a hearing before  
16 the court to determine the validity of the allegations. At such  
17 hearing the juvenile shall be entitled to those rights relating  
18 to counsel provided by section 43-272 and those rights relating  
19 to detention provided by sections 43-254 to 43-256. The juvenile  
20 shall also be entitled to speak and present documents, witnesses,  
21 or other evidence on his or her own behalf. He or she may confront  
22 persons who have given adverse information concerning the alleged  
23 violations, may cross-examine such persons, and may show that he  
24 or she did not violate the conditions of his or her probation or,  
25 if he or she did, that mitigating circumstances suggest that the

1 violation does not warrant revocation. The revocation hearing shall  
2 be held within a reasonable time after the juvenile is taken into  
3 custody;

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

8 (iv) The juvenile shall be given a preliminary hearing  
9 in all cases when the juvenile is confined, detained, or otherwise  
10 significantly deprived of his or her liberty as a result of his  
11 or her alleged violation of probation. Such preliminary hearing  
12 shall be held before an impartial person other than his or her  
13 juvenile probation officer or probation and parole officer or any  
14 person directly involved with the case. If, as a result of such  
15 preliminary hearing, probable cause is found to exist, the juvenile  
16 shall be entitled to a hearing before the court in accordance with  
17 this subsection;

18 (v) If the juvenile is found by the court to have  
19 violated the terms of his or her probation, the court may modify  
20 the terms and conditions of the probation order, extend the period  
21 of probation, or enter any order of disposition that could have  
22 been made at the time the original order of probation was entered;  
23 and

24 (vi) In cases when the court revokes probation, it shall  
25 enter a written statement as to the evidence relied on and the

1 reasons for revocation.

2           Sec. 57. Section 43-294, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-294 The custodian appointed by a juvenile court shall  
5 have charge of the person of the juvenile and the right to make  
6 decisions affecting the person of the juvenile, including medical,  
7 dental, surgical, or psychiatric treatment, except that consent  
8 to a juvenile marrying or joining the armed forces of the United  
9 States may be given by a custodian, other than the Department of  
10 Health and Human Services, with approval of the juvenile court,  
11 or by the department, as to juveniles in its custody, without  
12 further court authority. The authority of a custodian appointed by  
13 a juvenile court shall terminate when the individual under legal  
14 custody reaches nineteen years of age, is legally adopted, or the  
15 authority is terminated by order of the juvenile court. When an  
16 adoption has been granted by a court of competent jurisdiction as  
17 to any such juvenile, such fact shall be reported immediately by  
18 such custodian to the juvenile court. If the adoption is denied  
19 the jurisdiction over the juvenile shall immediately revert to the  
20 court which authorized placement of the juvenile for adoption. Any  
21 association or individual receiving the care or custody of any  
22 such juvenile shall be subject to visitation or inspection by the  
23 Department of Health and Human Services, or any juvenile probation  
24 officer of or probation and parole officer serving such court or  
25 any person appointed by the court for such purpose, and the court



1 may at any time require from such association or person a report  
2 or reports containing such information or statements as the judge  
3 shall deem proper or necessary to be fully advised as to the care,  
4 maintenance, and moral and physical training of the juvenile, as  
5 well as the standing and ability of such association or individual  
6 to care for such juvenile. The custodian so appointed by the court  
7 shall have standing as a party in that case to file any pleading  
8 or motion, to be heard by the court with regard to such filings,  
9 and to be granted any review or relief requested in such filings  
10 consistent with Chapter 43, article 2.

11           Sec. 58. Section 43-2,108, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-2,108 (1) The juvenile court judge shall keep a minute  
14 book in which he or she shall enter minutes of all proceedings of  
15 the court in each case, including appearances, findings, orders,  
16 decrees, and judgments, and any evidence which he or she feels it  
17 is necessary and proper to record. Juvenile court legal records  
18 shall be deposited in files and shall include the petition,  
19 summons, notice, certificates or receipts of mailing, minutes of  
20 the court, findings, orders, decrees, judgments, and motions.

21           (2) Except as provided in subsection (3) of this section,  
22 the medical, psychological, psychiatric, and social welfare reports  
23 and the records of juvenile probation officers as they relate to  
24 individual proceedings in the juvenile court shall not be open  
25 to inspection, without order of the court. Such records shall be

1 made available to a district court of this state or the District  
2 Court of the United States on the order of a judge thereof for the  
3 confidential use of such judge or his or her juvenile probation  
4 officer or probation and parole officer as to matters pending  
5 before such court but shall not be made available to parties or  
6 their counsel, ~~and~~ and such district court records shall be made  
7 available to a county court or separate juvenile court upon request  
8 of the county judge or separate juvenile judge for the confidential  
9 use of such judge and ~~his or her probation~~ officer as to matters  
10 pending before such court, but shall not be made available by such  
11 judge to the parties or their counsel.

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

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

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

23 (5)(a) Any records concerning a juvenile court petition  
24 filed pursuant to subdivision (3)(c) of section 43-247 shall  
25 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. 59. Section 43-2,113, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

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

1 as specifically provided by law.

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

13 (3) All orders issued by a separate juvenile court or a  
14 county court which provide for child support or spousal support as  
15 defined in section 42-347 shall be governed by sections 42-347 to  
16 42-381 and 43-290 relating to such support. Certified copies of  
17 such orders shall be filed by the clerk of the separate juvenile  
18 or county court with the clerk of the district court who shall  
19 maintain a record as provided in subsection (6) of section 42-364.  
20 There shall be no fee charged for the filing of such certified  
21 copies.

22 Sec. 60. Section 43-707, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-707 The Department of Health and Human Services shall  
25 have the power and it shall be its duty:

1           (1) To promote the enforcement of laws for the protection  
2 and welfare of children born out of wedlock, mentally and  
3 physically handicapped children, and dependent, neglected, and  
4 delinquent children, except laws the administration of which is  
5 expressly vested in some other state department or division, and  
6 to take the initiative in all matters involving such children when  
7 adequate provision therefor has not already been made;

8           (2) To visit and inspect public and private institutions,  
9 agencies, societies, or persons caring for, receiving, placing out,  
10 or handling children;

11           (3) To prescribe the form of reports required by law  
12 to be made to the department by public officers, agencies, and  
13 institutions;

14           (4) To exercise general supervision over the  
15 administration and enforcement of all laws governing the  
16 placing out and adoption of children;

17           (5) To advise with judges and ~~probation officers~~ of  
18 courts of domestic relations and juvenile courts of the several  
19 counties, juvenile probation officers, and probation and parole  
20 officers of probation and parole districts serving such courts,  
21 with a view to encouraging, standardizing, and coordinating the  
22 work of such courts and officers throughout the state; and

23           (6) To regulate the issuance of certificates or licenses  
24 to such institutions, agencies, societies, or persons and to revoke  
25 such licenses or certificates for good cause shown. If a license is

1 refused or revoked, the refusal or revocation may be appealed, and  
2 the appeal shall be in accordance with the Administrative Procedure  
3 Act.

4 Sec. 61. Section 43-2411, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-2411 (1) The Nebraska Coalition for Juvenile Justice  
7 is created. As provided in the federal act, there shall be no less  
8 than fifteen nor more than thirty-three members of the coalition.  
9 The coalition members shall be appointed by the Governor and shall  
10 include:

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

12 (b) The Director of Health and Human Services or his or  
13 her designee;

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

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

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

19 (f) The ~~probation administrator~~ Probation and Parole  
20 Administrator of the Office of Probation and Parole Administration  
21 or his or her designee;

22 (g) One county commissioner or supervisor;

23 (h) One police chief;

24 (i) One sheriff;

25 (j) One separate juvenile court judge;

- 1           (k) One county court judge;
- 2           (l) One representative of mental health professionals who
- 3 works directly with juveniles;
- 4           (m) Three representatives, one from each congressional
- 5 district, from community-based, private nonprofit organizations who
- 6 work with juvenile offenders and their families;
- 7           (n) One volunteer who works with juvenile offenders or
- 8 potential juvenile offenders;
- 9           (o) One person who works with an alternative to
- 10 incarceration program for juveniles;
- 11           (p) The director or his or her designee from a youth
- 12 rehabilitation and treatment center;
- 13           (q) The director or his or her designee from a secure
- 14 youth confinement facility;
- 15           (r) The director or his or her designee from a staff
- 16 secure youth confinement facility;
- 17           (s) At least five members who are under twenty-four years
- 18 of age when appointed;
- 19           (t) One person who works directly with juveniles who have
- 20 learning or emotional difficulties or are abused or neglected;
- 21           (u) One member of the Nebraska Commission on Law
- 22 Enforcement and Criminal Justice;
- 23           (v) One county attorney; and
- 24           (w) One public defender.
- 25           (2) The terms of members appointed pursuant to



1 subdivisions (1)(g) through (1)(w) of this section shall be three  
2 years, except that the terms of the initial members of the  
3 coalition shall be staggered so that one-third of the members  
4 are appointed for terms of one year, one-third for terms of two  
5 years, and one-third for terms of three years, as determined by  
6 the Governor. A majority of the coalition members, including the  
7 chairperson, shall not be full-time employees of federal, state,  
8 or local government. At least one-fifth of the coalition members  
9 shall be under the age of twenty-four at the time of appointment.  
10 Any vacancy on the coalition shall be filled by appointment  
11 by the Governor. The coalition shall select a chairperson, a  
12 vice-chairperson, and such other officers as it deems necessary.

13 (3) Members of the coalition shall be reimbursed for  
14 their actual and necessary expenses pursuant to sections 81-1174 to  
15 81-1177.

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

20 Sec. 62. Section 43-3001, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 43-3001 (1) Notwithstanding any other provision of law  
23 regarding the confidentiality of records and when not prohibited  
24 by the federal Privacy Act of 1974, as amended, juvenile court  
25 records and any other pertinent information that may be in the

1 possession of school districts, county attorneys, the Attorney  
2 General, law enforcement agencies, child advocacy centers, state  
3 probation and parole personnel, ~~state parole personnel~~, youth  
4 detention facilities, medical personnel, treatment or placement  
5 programs, the Department of Health and Human Services, the  
6 Department of Correctional Services, the State Foster Care Review  
7 Board, child abuse and neglect investigation teams, child abuse  
8 and neglect treatment teams, or other multidisciplinary teams for  
9 abuse, neglect, or delinquency concerning a child who is in the  
10 custody of the state may be shared with individuals and agencies  
11 who have been identified in a court order authorized by this  
12 section.

13 (2) In any judicial proceeding concerning a child who is  
14 currently, or who may become at the conclusion of the proceeding, a  
15 ward of the court or state or under the supervision of the court,  
16 an order may be issued which identifies individuals and agencies  
17 who shall be allowed to receive otherwise confidential information  
18 concerning the child for legitimate and official purposes. The  
19 individuals and agencies who may be identified in the court  
20 order are the child's attorney or guardian ad litem, the parents'  
21 attorney, foster parents, appropriate school personnel, county  
22 attorneys, the Attorney General, authorized court personnel, law  
23 enforcement agencies, state probation ~~personnel~~, state and parole  
24 personnel, youth detention facilities, medical personnel, treatment  
25 or placement programs, the Department of Health and Human Services,

1 the Office of Juvenile Services, the Department of Correctional  
2 Services, the State Foster Care Review Board, child abuse and  
3 neglect investigation teams, child abuse and neglect treatment  
4 teams, and other multidisciplinary teams for abuse, neglect, or  
5 delinquency. Unless the order otherwise states, the order shall be  
6 effective until the child leaves the custody of the state or until  
7 a new order is issued.

8 (3) All information acquired by an individual or agency  
9 pursuant to this section shall be confidential and shall not  
10 be disclosed except to other persons who have a legitimate and  
11 official interest in the information and are identified in the  
12 court order issued pursuant to this section with respect to the  
13 child in question. A person who receives such information or  
14 who cooperates in good faith with other individuals and agencies  
15 identified in the appropriate court order by providing information  
16 or records about a child shall be immune from any civil or criminal  
17 liability. The provisions of this section granting immunity from  
18 liability shall not be extended to any person alleged to have  
19 committed an act of child abuse or neglect.

20 (4) Any person who publicly discloses information  
21 received pursuant to this section shall be guilty of a Class III  
22 misdemeanor.

23 Sec. 63. Section 43-3505, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-3505 Each county may:

1           (1) Establish a local juvenile justice advisory committee  
2 for the purpose of meeting quarterly to discuss trends and issues  
3 related to juvenile offenders and service needs. Such committee  
4 should include representation from the courts, law enforcement,  
5 community service providers, schools, detention or shelter care,  
6 county elected and administrative officials, probation and parole  
7 officials, health and human services representatives, and state  
8 officials or agency representatives. The committee should discuss  
9 state and local policy initiatives, use of detention and other  
10 regional services, commitment to state custody, and impacts  
11 of policy initiatives and trends on county juvenile justice  
12 systems. Notwithstanding any other provision of law regarding  
13 the confidentiality of records, information from the various  
14 representative agencies can be shared about juveniles under their  
15 supervision for the purposes of this subdivision. The information  
16 shared shall be in the form of statistical data which does not  
17 disclose the identity of any particular individual;

18           (2) Collect and review data on an ongoing basis to  
19 understand the service needs of the juvenile offender population;  
20 and

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

23           Sec. 64. Section 43-3507, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-3507 (1) The Legislature finds that there is a need

1 for additional secure detention and detention services, including  
2 transportation services, for juveniles in the state. The need can  
3 be met by enhancing and expanding the existing secure detention  
4 facilities and detention services as needed in the future and  
5 by constructing new juvenile detention facilities to serve the  
6 southeastern, central, and west central areas of the state.

7 (2) The Legislature further finds that in order for  
8 juvenile probation officers and probation and parole officers  
9 to adequately perform the function of providing juvenile intake  
10 services statewide, existing juvenile probation staff resources  
11 need to be expanded and, additionally, program services that  
12 enhance a juvenile's successful reintegration into the community  
13 need to readily be available and at the disposal of juvenile  
14 probation.

15 (3) The Legislature further finds that juvenile diversion  
16 programs should be available throughout the state as a means  
17 of providing consequences without the formal involvement of the  
18 courts.

19 Sec. 65. Section 47-623, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 47-623 (1) The council shall include the following voting  
22 members:

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

25 (b) The Director of Correctional Services;

1 (c) The chairperson of the Board of Parole;  
2 (d) The Probation and Parole Administrator; and  
3 (e) Nine members appointed by the Governor with the  
4 approval of a majority of the Legislature, consisting of: One  
5 representative from a list of persons nominated by the Nebraska  
6 Criminal Defense Attorneys Association; one representative from  
7 a list of persons nominated by the Nebraska County Attorneys  
8 Association; one full-time officer or employee of a law enforcement  
9 agency; one mental health and substance abuse professional; from  
10 each congressional district, one provider of community-based  
11 behavioral health services; and two at-large members.

12 (2) The council shall include the following nonvoting  
13 members:

14 (a) The State Court Administrator;  
15 ~~(b) The probation administrator;~~  
16 ~~(e) (b) Two members of the Legislature, appointed by the~~  
17 Executive Board of the Legislative Council;  
18 ~~(d) (c) Two judges of the district court, appointed by~~  
19 the Chief Justice of the Supreme Court; and  
20 ~~(e) (d) The Director of Health and Human Services or his~~  
21 or her designee.

22 (3) The terms of office for members initially appointed  
23 under subdivision (1) (e) of this section shall be three years. Upon  
24 completion of the initial terms of such members, the Governor shall  
25 appoint (a) a representative from law enforcement, a mental health

1 and substance abuse professional, and one at-large member for  
2 terms of one year, (b) a representative of the Nebraska Criminal  
3 Defense Attorneys Association, one provider of community-based  
4 behavioral health services from the first congressional district,  
5 one provider of community-based behavioral health services from the  
6 third congressional district, and one at-large member for terms  
7 of two years, and (c) a representative of the Nebraska County  
8 Attorneys Association and a provider of community-based behavioral  
9 health services from the second congressional district for terms of  
10 three years. Succeeding appointees shall be appointed for terms of  
11 three years. An appointee to a vacancy occurring from an unexpired  
12 term shall serve out the term of his or her predecessor. Members  
13 whose terms have expired shall continue to serve until their  
14 successors have been appointed and qualified.

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

17 (5) The members of the council shall be reimbursed for  
18 their actual and necessary expenses incurred while engaged in  
19 the performance of their official duties as provided in sections  
20 81-1174 to 81-1177.

21 Sec. 66. Section 47-624, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 47-624 The council shall:

24 (1) Develop standards for eligible community correctional  
25 facilities and programs in which offenders can participate, taking

1 into consideration the following factors:

2 (a) Qualifications of staff;

3 (b) Suitability of programs;

4 (c) Offender needs;

5 (d) Probation population;

6 (e) Parole population; and

7 (f) Other applicable criminal justice data;

8 (2) Develop and implement a plan to establish statewide  
9 operation and use of a continuum of community correctional  
10 facilities and programs;

11 (3) Develop, in consultation with the ~~probation~~  
12 ~~administrator and the~~ Probation and Parole Administrator, standards  
13 for the use of community correctional facilities and programs by  
14 the ~~Nebraska Probation System and the parole system;~~ Office of  
15 Probation and Parole Administration;

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

18 (5) Analyze and mandate the consistent use of offender  
19 risk assessment tools;

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

22 (7) Educate the courts and the Board of Parole about  
23 the availability and use of community correctional facilities and  
24 programs;

25 (8) Enter into contracts, if necessary, for carrying out



1 the purposes of the Community Corrections Act;

2 (9) In order to ensure adequate funding for substance  
3 abuse treatment programs for probationers and parolees, consult  
4 with the ~~probation~~ administrator as provided in section ~~29-2262.07~~  
5 18 of this act and develop or assist with the development of  
6 programs as provided in ~~subdivision (14) of section 29-2252;~~  
7 section 5 of this act;

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

13 ~~(11) (10) If necessary to perform the duties of the~~  
14 ~~council, hire, contract for, or otherwise obtain the services of~~  
15 ~~consultants, researchers, aides, and other necessary support staff;~~

16 ~~(12) (11) Study substance abuse treatment services in and~~  
17 ~~related to the criminal justice system, recommend improvements, and~~  
18 ~~evaluate the implementation of improvements;~~

19 ~~(13) (12) Study, develop, and implement minimum standards~~  
20 ~~for the development and use of community correctional facilities~~  
21 ~~and programs;~~

22 ~~(14) (13) Develop and implement a plan for statewide use~~  
23 ~~of community correctional facilities and programs;~~

24 ~~(15) (14) Grant funds to entities including local~~  
25 ~~governmental agencies, nonprofit organizations, and behavioral~~

1 health services which will support the intent of the act; and  
2 ~~(16)~~ (15) Perform such other duties as may be necessary  
3 to carry out the policy of the state established in the act.

4 Sec. 67. Section 47-627, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 47-627 The executive director of the Nebraska Commission  
7 on Law Enforcement and Criminal Justice shall develop and maintain  
8 a uniform crime data analysis system in Nebraska which shall  
9 include, but need not be limited to, the number of offenses,  
10 arrests, charges, probation admissions, probation violations,  
11 probation discharges, admissions to and discharges from the  
12 Department of Correctional Services, parole reviews, parole  
13 hearings, releases on parole, parole violations, and parole  
14 discharges. The data shall be categorized by statutory crime. The  
15 data shall be collected from the Board of Parole, the State Court  
16 Administrator, the Department of Correctional Services, the Office  
17 of Probation and Parole Administration, ~~the Office of Probation~~  
18 ~~Administration~~, the Nebraska State Patrol, counties, local law  
19 enforcement, and any other entity associated with criminal justice.  
20 The council, the director, and the Supreme Court shall have access  
21 to such data to implement the Community Corrections Act and to  
22 develop guidelines pursuant to section 47-630.

23 Sec. 68. Section 47-628, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 47-628 (1) A sentencing judge may sentence an offender

1 to probation conditioned upon community correctional programming  
2 pursuant to section 47-630 and the guidelines developed by the  
3 Supreme Court.

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

10 (3) The Office of Probation and Parole Administration  
11 shall utilize community correctional facilities and programs as  
12 appropriate with respect to probation.

13 Sec. 69. Section 47-629, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 47-629 (1) The Board of Parole may parole an offender to  
16 a community correctional facility or program pursuant to guidelines  
17 developed by the council.

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

22 Sec. 70. Section 60-6,211.05, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 60-6,211.05 (1) If an order of probation is granted  
25 under section 60-6,196 or 60-6,197, as such sections existed prior

1 to July 16, 2004, or section 60-6,196 or 60-6,197 and sections  
2 60-6,197.02 and 60-6,197.03, as such sections existed on or after  
3 July 16, 2004, the court may order the defendant to install an  
4 ignition interlock device of a type approved by the Director of  
5 Motor Vehicles on each motor vehicle operated by the defendant.  
6 The device shall, without tampering or the intervention of another  
7 person, prevent the defendant from operating the motor vehicle when  
8 the defendant has an alcohol concentration greater than the levels  
9 prescribed in section 60-6,196.

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

18 (3) Any order issued by the court pursuant to this  
19 section shall not take effect until the defendant is eligible  
20 to operate a motor vehicle pursuant to subsection (2) of section  
21 60-498.02.

22 (4) If the court orders an ignition interlock device or  
23 the Board of Pardons orders an ignition interlock device under  
24 section 83-1,127.02, the court or the Board of Pardons shall order  
25 the Department of Motor Vehicles to issue to the defendant a

1 restricted Class O license as provided in section 60-4,118.06 which  
2 indicates that the defendant is only allowed to operate a motor  
3 vehicle equipped with an ignition interlock device. Such court  
4 order shall remain in effect for a period of time as determined by  
5 the court not to exceed the maximum term of revocation which the  
6 court could have imposed according to the nature of the violation.  
7 Such Board of Pardons order shall remain in effect for a period  
8 of time not to exceed any period of revocation the applicant is  
9 subject to at the time the application for a license reinstatement  
10 is made.

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

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

23 (7) If a person ordered to use a continuous alcohol  
24 monitoring device and abstain from alcohol use pursuant to a court  
25 order as provided in subsection (2) of this section violates the

1 provisions of such court order by removing, tampering with, or  
2 otherwise bypassing the continuous alcohol monitoring device or by  
3 consuming alcohol while required to use such device, he or she  
4 shall have his or her Class O license revoked and be unable to  
5 apply for license reinstatement for the duration of the revocation  
6 period imposed by the court.

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

10 Sec. 71. Section 60-6,211.09, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 60-6,211.09 The Office of Probation and Parole  
13 Administration shall adopt and promulgate rules and regulations  
14 to approve the use of continuous alcohol monitoring devices by  
15 individuals sentenced to probation for violating section 60-6,196  
16 or 60-6,197.

17 Sec. 72. Section 68-1729, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 68-1729 The Governor shall commission a study of creating  
20 human services regions with boundaries which are common to all  
21 state agencies. The study shall review the effectiveness of the  
22 boundaries of the human services regions existing on July 16,  
23 1994. The Governor shall assign this study to the Commissioner  
24 of Education, the Director of Health and Human Services, the  
25 Director of Regulation and Licensure, the Director of Finance and

1 Support, the Director of Economic Development, the Director of  
2 Labor, the Director of Administrative Services, the Director of  
3 Correctional Services, the Tax Commissioner, the Probation and  
4 Parole Administrator, the executive director of the Nebraska  
5 Commission on Law Enforcement and Criminal Justice, and the  
6 Director of Policy Research. The study shall also allow for  
7 participation of other persons from the public and private sectors  
8 representing all geographical areas of Nebraska.

9           Sec. 73. Section 68-1732, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           68-1732 It is the intent of the Legislature that  
12 the Department of Health and Human Services Regulation and  
13 Licensure, the Department of Health and Human Services, the  
14 State Department of Education, the Department of Labor, the  
15 Department of Health and Human Services Finance and Support, the  
16 Office of Probation and Parole Administration, the Department of  
17 Correctional Services, and the Department of Economic Development  
18 will have integrated programs and policies when serving a common  
19 customer. Organizational mergers and operating agreements shall be  
20 developed within state government which bring together the state's  
21 community-based child-serving and family-serving resources in the  
22 areas of health care services, social services, mental health  
23 services, developmental disabilities services, juvenile justice,  
24 and education. Such actions shall eliminate the need for the public  
25 to understand the differing roles, responsibilities, and services

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

2           Sec. 74. Section 71-961, Revised Statutes Cumulative  
3 Supplement, 2006, 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 Regulation  
13 and Licensure upon delivery of a subpoena from the department  
14 in connection with a licensing or licensure investigation by  
15 the department, (h) individuals authorized to receive notice of  
16 the release of a sex offender pursuant to section 83-174, (i)  
17 the Nebraska State Patrol or the Department of Health and Human  
18 Services pursuant to section 69-2409.01, or (j) the Office of  
19 Probation and Parole Administration if the subject meets the  
20 requirements for lifetime community supervision pursuant to section  
21 83-174.03.

22           (2) Upon application by the county attorney or by the  
23 administrator of the treatment facility where the subject is in  
24 custody and upon a showing of good cause therefor, a judge of  
25 the district court of the county where the mental health board



1 proceedings were held or of the county where the treatment facility  
2 is located may order that the records not be made available to  
3 the subject if, in the judgment of the court, the availability of  
4 such records to the subject will adversely affect his or her mental  
5 illness or personality disorder and the treatment thereof.

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

13 Sec. 75. Section 71-1228, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-1228 (1) The Director of Regulation and Licensure  
16 shall establish a working group to study sex offender treatment  
17 and management services and recommend improvements. The working  
18 group shall include a member of the Legislature appointed by  
19 the Executive Board of the Legislative Council and the following  
20 persons appointed by the Governor: A representative of the Nebraska  
21 Health and Human Services System; a representative of the courts;  
22 a representative of the Department of Correctional Services;  
23 a representative of the ~~Nebraska Probation System~~, Office of  
24 Probation and Parole Administration; a representative of the Board  
25 of Parole; a representative of law enforcement; a representative

1 of private providers of sex offender treatment; a representative  
2 of victim advocates; a licensed psychologist; a licensed alcohol  
3 and drug counselor; and a person required to be registered under  
4 the Sex Offender Registration Act who is participating in a  
5 sex offender treatment program. Other interested persons may be  
6 appointed in a nonvoting capacity as needed.

7 (2) The working group shall study sex offender treatment  
8 and management on the state level to determine future legislative  
9 and executive actions necessary to improve sex offender treatment  
10 and management within the State of Nebraska based upon the  
11 recommendations of the Governor's Working Group on the Management  
12 and Treatment of Sex Offenders report issued in August of 2001,  
13 with regard to the following:

14 (a) Credentialing of professionals who provide sex  
15 offender assessment or treatment, including psychologists,  
16 psychiatrists, licensed mental health professionals, licensed  
17 clinical social workers, and medical personnel;

18 (b) Creating mandated treatment standards for  
19 sex-offender-specific treatment as a component of a comprehensive  
20 approach to sex offender management; and

21 (c) Providing increased training opportunities for all  
22 professionals involved in the treatment and management of sex  
23 offenders.

24 (3) The Director of Regulation and Licensure, in  
25 consultation with the working group, shall submit a report of such

1 study to the Legislature and the Governor on or before December 1,  
2 2006. The working group terminates on December 1, 2006.

3 Sec. 76. Section 81-1401, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 81-1401 For purposes of sections 81-1401 to 81-1414,  
6 unless the context otherwise requires:

7 (1) Commission means the Nebraska Commission on Law  
8 Enforcement and Criminal Justice;

9 (2) Council means the Nebraska Police Standards Advisory  
10 Council;

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

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

17 (5)(a) Law enforcement officer means any person who  
18 is responsible for the prevention or detection of crime or the  
19 enforcement of the penal, traffic, or highway laws of the state or  
20 any political subdivision of the state for more than one hundred  
21 hours per year and is authorized by law to make arrests and  
22 includes, but is not limited to:

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

25 (ii) A county sheriff;

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

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

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

10 (b) Law enforcement officer does not include employees of  
11 the Department of Correctional Services, ~~probation officers under~~  
12 ~~the Nebraska Probation System,~~ and parole officers appointed by the  
13 Probation and Parole Administrator, employees of the Department of  
14 Property Assessment and Taxation under section 77-704, or employees  
15 of the Department of Revenue under section 77-366; and

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

22 (6) Director means the director of the Nebraska Law  
23 Enforcement Training Center;

24 (7) Training academy means the training center or  
25 such other council-approved law enforcement training facility

1 operated and maintained by a law enforcement agency which offers  
2 certification training that meets or exceeds the certification  
3 training curriculum of the training center;

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

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

11 Sec. 77. Section 81-1848, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 81-1848 (1) Victims as defined in section 29-119 shall  
14 have the following rights:

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

23 (b) To receive from the county attorney advance  
24 reasonable notice of any scheduled court proceedings and notice of  
25 any changes in that schedule;

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

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

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

12           (ii) The final disposition of the case;

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

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

17           (v) The address and telephone number of the probation  
18 and parole district office which is to prepare the presentence  
19 investigation report;

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

24           (vii) The victim's right to submit a written impact  
25 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

1 the person an unnecessary trip to court;

2 (c) To receive protection from harm and threats of  
3 harm arising out of their cooperation with law enforcement and  
4 prosecution efforts and to be provided with information as to the  
5 level of protection available;

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

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

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

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

23 (h) To be provided with appropriate employer intercession  
24 services to insure that employers of victims and witnesses will  
25 cooperate with the criminal justice process in order to minimize



1 an employee's loss of pay and other benefits resulting from court  
2 appearances;

3 (i) To be entitled to a speedy disposition of the case  
4 in which they are involved as a victim or witness in order to  
5 minimize the length of time they must endure the stress of their  
6 responsibilities in connection with the matter;

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

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

14 Sec. 78. Section 83-170, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 83-170 As used in the Nebraska Treatment and Corrections  
17 Act, unless the context otherwise requires:

18 (1) Administrator shall mean the Probation and Parole  
19 Administrator;

20 (2) Board shall mean the Board of Parole;

21 (3) Committed offender shall mean any person who, under  
22 any provision of law, is sentenced or committed to a facility  
23 operated by the department or is sentenced or committed to the  
24 department other than a person adjudged to be as described in  
25 subdivision (1), (2), (3)(b), or (4) of section 43-247 by a

1 juvenile court;

2 (4) Department shall mean the Department of Correctional  
3 Services;

4 (5) Director shall mean the Director of Correctional  
5 Services;

6 (6) Facility shall mean any prison, reformatory, training  
7 school, reception center, community guidance center, group home, or  
8 other institution operated by the department;

9 (7) Good time shall mean any reduction of sentence  
10 granted pursuant to sections 83-1,107 and 83-1,108;

11 (8) Maximum term shall mean the maximum sentence provided  
12 by law or the maximum sentence imposed by a court, whichever is  
13 shorter;

14 (9) Minimum term shall mean the minimum sentence provided  
15 by law or the minimum sentence imposed by a court, whichever is  
16 longer;

17 (10) Pardon authority shall mean the power to remit  
18 fines and forfeitures and to grant respites, reprieves, pardons, or  
19 commutations;

20 (11) Parole term shall mean the time from release on  
21 parole to the completion of the maximum term, reduced by good time;  
22 and

23 (12) Person committed to the department shall mean any  
24 person sentenced or committed to a facility within the department.

25 Sec. 79. Section 83-171, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           83-171 There is hereby created a Department of  
3 Correctional Services which shall:

4           (1) Maintain and administer facilities required for the  
5 custody, control, correctional treatment, and rehabilitation of  
6 persons committed to the department and for the safekeeping of such  
7 other persons as may be remanded to the department in accordance  
8 with law;

9           (2) ~~Supervise~~ Through the Office of Probation and Parole  
10 Administration, supervise persons committed to the department  
11 on parole and administer probation and parole services in the  
12 facilities and in the community; and

13           (3) Develop policies and programs for the correctional  
14 treatment and rehabilitation of persons committed to the  
15 department.

16           Sec. 80. Section 83-174.03, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           83-174.03 (1) Any individual who, on or after July 14,  
19 2006, (a) is convicted of or completes a term of incarceration for  
20 an offense requiring registration under section 29-4003 and has a  
21 previous conviction for a registerable offense, (b) is convicted  
22 of sexual assault of a child in the first degree pursuant to  
23 section 28-319.01, or (c) is convicted of or completes a term  
24 of incarceration for an aggravated offense as defined in section  
25 29-4005, shall, upon completion of his or her term of incarceration

1 or release from civil commitment, be supervised in the community by  
2 the Office of Probation and Parole Administration for the remainder  
3 of his or her life.

4 (2) Notice shall be provided to the ~~Office of Parole~~  
5 ~~Administration~~ office by an agency or political subdivision which  
6 has custody of an individual required to be supervised in the  
7 community pursuant to subsection (1) of this section at least sixty  
8 days prior to the release of such individual from custody.

9 (3) Individuals required to be supervised in the  
10 community pursuant to subsection (1) of this section shall  
11 undergo a risk assessment and evaluation by the ~~Office of Parole~~  
12 ~~Administration~~ office to determine the conditions of community  
13 supervision to be imposed to best protect the public from the risk  
14 that the individual will reoffend.

15 (4) Conditions of community supervision imposed on an  
16 individual by the ~~Office of Parole Administration~~ office may  
17 include the following:

18 (a) Drug and alcohol testing if the conviction resulting  
19 in the imposition of community supervision involved the use of  
20 drugs or alcohol;

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

23 (c) Requirements to report regularly to the individual's  
24 community supervision officer;

25 (d) Requirements to reside at a specified location and

1 notify the individual's community supervision officer of any change  
2 in address or employment;

3 (e) A requirement to allow the ~~Office of Parole~~  
4 ~~Administration~~ office access to medical records from the  
5 individual's current and former providers of treatment;

6 (f) A requirement that the individual submit himself or  
7 herself to available medical, psychological, psychiatric, or other  
8 treatment, including, but not limited to, polygraph examinations;  
9 or

10 (g) Any other conditions designed to minimize the risk of  
11 recidivism, including, but not limited to, the use of electronic  
12 monitoring, which are not unduly restrictive.

13 Sec. 81. Section 83-174.04, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 83-174.04 An individual who violates one or more of the  
16 conditions of community supervision established for him or her  
17 pursuant to section 83-174.03 shall undergo a review by the Office  
18 of Probation and Parole Administration to evaluate the risk posed  
19 to the public by the violation in question. The office may take any  
20 of the following actions in response to a violation of conditions  
21 of community supervision:

22 (1) Revise or impose additional conditions of community  
23 supervision in order to minimize the risk to the public from the  
24 continued presence of the individual in the community;

25 (2) Forward to the Attorney General or the county

1 attorney in the county where the individual resides a request  
2 to initiate a criminal prosecution for failure to comply with the  
3 terms of community supervision; or

4 (3) Forward to the county attorney or Attorney General a  
5 recommendation that civil commitment proceedings be instituted with  
6 respect to the individual.

7 Sec. 82. Section 83-174.05, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 83-174.05 Failure to comply with the conditions of  
10 community supervision imposed by the Office of Probation and  
11 Parole Administration is a Class IV felony for the first offense  
12 and a Class III felony for any subsequent offense.

13 Sec. 83. Section 83-195, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 83-195 In the performance of its duties, the Board of  
16 Parole, or any member thereof, shall have the power to issue  
17 subpoenas, to compel the attendance of witnesses and the production  
18 of books, papers, and other documents pertinent to the subject  
19 of an inquiry, and to administer oaths and take the testimony  
20 of persons under oath. Subpoenas so issued may be served by any  
21 sheriff, constable, police officer, probation and parole officer,  
22 or peace officer in the same manner as similar process in the  
23 district court. Any person who knowingly testifies falsely, submits  
24 any false affidavit or deposition, fails to appear when subpoenaed,  
25 or fails or refuses to produce such material pursuant to the

1 subpoena shall be subject to the same orders and penalties to  
2 which a person before the district court is subject. Any district  
3 court of this state, upon application by the board, may compel  
4 the attendance of such witnesses, the production of such material,  
5 and the giving of testimony before the board by an attachment  
6 for contempt or otherwise in the same manner as production of  
7 evidence may be compelled before such court. Every person shall  
8 attend as a witness when subpoenaed anywhere within the state and  
9 shall be entitled to the same fees, if requested, as a witness  
10 in the district court and mileage as provided in section 81-1176.  
11 ~~for state employees.~~ Fees, mileage, and actual expense, if any,  
12 necessarily incurred in securing the attendance of witnesses shall  
13 be paid by the board.

14           Sec. 84. Section 83-197, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           83-197 The Board of Parole shall have the power to  
17 direct the ~~Director of Correctional Services~~ Probation and Parole  
18 Administrator to keep records concerning committed offenders which  
19 the board deems pertinent to its functions.

20           Sec. 85. Section 83-1,103.01, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           83-1,103.01 A probation and parole officer assigned by  
23 the administrator to supervise individuals subject to lifetime  
24 community supervision pursuant to section 83-174.03 shall:

25           (1) Make investigations, prior to an individual subject

1 to community supervision being released from incarceration, in  
2 cooperation with institutional caseworkers at prisons, mental  
3 health facilities, and county jails, to determine the community  
4 supervision conditions necessary to protect the public and make  
5 reasonable advance preparation for release into the community;

6 (2) Assist individuals subject to community supervision  
7 to comply with the conditions of supervision and to make a  
8 successful adjustment in the community;

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

11 (4) Make reports as required by the administrator to  
12 determine the effectiveness of community supervision in protecting  
13 the public or the progress of an individual subject to community  
14 supervision;

15 (5) Cooperate with social welfare agencies and treatment  
16 providers to ensure that individuals subject to community  
17 supervision receive any necessary services or treatment;

18 (6) Inform the administrator when, in the opinion of the  
19 community supervision officer, an individual is in violation of  
20 the conditions of his or her community supervision, and whenever  
21 necessary exercise the power of arrest as provided in section  
22 ~~83-1,102,~~ 5 of this act;

23 (7) Conduct periodic reviews of the conditions of  
24 community supervision imposed on an individual as required by the  
25 administrator; and



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

3           Sec. 86. Section 83-1,103.02, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           83-1,103.02 (1) Prior to the release from incarceration  
6 of an individual subject to lifetime community supervision  
7 pursuant to section 83-174.03, the Office of Probation and Parole  
8 Administration shall:

9           (a) Notify the individual in writing that he or she is  
10 subject to community supervision upon completion of his or her  
11 criminal sentence;

12           (b) Inform the individual subject to community  
13 supervision of the process by which conditions of community  
14 supervision are determined and his or her right to submit relevant  
15 information to the office for consideration when establishing the  
16 conditions of supervision;

17           (c) Determine the individual's risk of recidivism if  
18 released into the community, utilizing a validated risk assessment  
19 tool;

20           (d) After considering the information required in  
21 subdivision (e) of this subsection, determine the conditions of  
22 supervision which will most effectively minimize the risk of the  
23 individual committing another sex offense. The conditions shall be  
24 the least restrictive conditions available, in terms of the effect  
25 on the individual's personal freedom, which minimize the risk of

1 recidivism and are compatible with public safety; and

2 (e) In determining the conditions of supervision to be  
3 imposed, the office shall consider the following:

4 (i) A report prepared by the institutional caseworkers  
5 relating to the individual's personality, social history, and  
6 adjustment to authority and including any recommendations which the  
7 staff of the facility may make;

8 (ii) All official reports of the individual's prior  
9 criminal record, including reports and records of earlier probation  
10 and parole experiences;

11 (iii) The presentence investigation report;

12 (iv) The reports of any physical, mental, and psychiatric  
13 examinations of the individual;

14 (v) Any relevant information which may be submitted by  
15 the individual, his or her attorney, the victim of the crime, or  
16 other persons; and

17 (vi) Such other relevant information concerning the  
18 individual as may be reasonably available.

19 (2) Upon completion of the risk assessment and the  
20 determination of the conditions of community supervision and  
21 no later than thirty days prior to the completion of the  
22 individual's criminal sentence, the Office of Probation and Parole  
23 Administration shall issue a certificate of community supervision  
24 to the individual containing the conditions of community  
25 supervision he or she will be required to comply with upon the

1 completion of his or her criminal sentence. The administrator shall  
2 include with the certificate written information on how to appeal  
3 the determination of the conditions of community supervision.

4           Sec. 87. Section 83-1,103.03, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           83-1,103.03    The Office of Probation and Parole  
7 Administration shall review the conditions of community supervision  
8 imposed on an individual pursuant to section 83-174.03 on an annual  
9 basis and shall provide the individual the opportunity to submit  
10 written materials to the office for consideration during such  
11 review.

12           If the office determines, after reviewing the  
13 individual's conduct while under supervision and any other relevant  
14 facts, that one or more of the conditions of community supervision  
15 imposed upon the individual is no longer necessary to reduce the  
16 risk of the individual reoffending or is no longer the least  
17 restrictive condition compatible with public safety, the office  
18 shall revise the conditions of community supervision so that the  
19 individual's freedom is not unnecessarily restricted.

20           Sec. 88. Section 83-1,103.04, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           83-1,103.04 (1) Whenever a determination or revision of  
23 the conditions of community supervision is made by the Office of  
24 Probation and Parole Administration, the individual subject to the  
25 conditions shall be entitled to an appeal. The appeal shall be

1 heard by the district court in the county where the individual  
2 resides. The individual shall be informed of his or her right  
3 to request counsel, and if counsel is requested the court shall  
4 determine if the individual is indigent. If the court finds the  
5 individual to be indigent, it shall appoint counsel from the public  
6 defender's office to represent the individual during the appeal.

7 (2) In an appeal contesting the determination or revision  
8 of the conditions of community supervision, the burden of proof  
9 shall be on the individual subject to community supervision to  
10 show by clear and convincing evidence (a) that the conditions in  
11 question will not reduce the risk of the individual reoffending or  
12 otherwise protect the public or (b) that the condition is overly  
13 restrictive of the individual's freedom and a less restrictive  
14 condition is available which is equally or more effective in  
15 reducing the risk of the individual reoffending.

16 Sec. 89. Section 83-1,107, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 83-1,107 (1)(a) Within sixty days after initial  
19 classification and assignment of any offender committed to  
20 the department, all available information regarding such  
21 committed offender shall be reviewed and a committed offender  
22 department-approved personalized program plan document shall  
23 be drawn up. The document shall specifically describe the  
24 department-approved personalized program plan and the specific  
25 goals the department expects the committed offender to achieve.

1 The document shall also contain a realistic schedule for  
2 completion of the department-approved personalized program plan.  
3 The department-approved personalized program plan shall be fully  
4 explained to the committed offender. The department shall provide  
5 programs to allow compliance by the committed offender with the  
6 department-approved personalized program plan.

7 Programming may include, but is not limited to:

- 8 (i) Academic and vocational education, including teaching  
9 such classes by qualified offenders;  
10 (ii) Substance abuse treatment;  
11 (iii) Mental health and psychiatric treatment, including  
12 criminal personality programming;  
13 (iv) Constructive, meaningful work programs; and  
14 (v) Any other program deemed necessary and appropriate by  
15 the department.

16 (b) A modification in the department-approved  
17 personalized program plan may be made to account for the  
18 increased or decreased abilities of the committed offender or the  
19 availability of any program. Any modification shall be made only  
20 after notice is given to the committed offender. The department may  
21 not impose disciplinary action upon any committed offender solely  
22 because of the committed offender's failure to comply with the  
23 department-approved personalized program plan, but such failure may  
24 be considered by the board in its deliberations on whether or not  
25 to grant parole to a committed offender.

1           (2) The department shall reduce the term of a committed  
2 offender by six months for each year of the offender's term and pro  
3 rata for any part thereof which is less than a year.

4           The total reductions shall be credited from the date of  
5 sentence, which shall include any term of confinement prior to  
6 sentence and commitment as provided pursuant to section 83-1,106,  
7 and shall be deducted from the maximum term, to determine the date  
8 when discharge from the custody of the state becomes mandatory.

9           (3) While the offender is in the custody of the  
10 department, reductions of terms granted pursuant to subsection  
11 (2) of this section may be forfeited, withheld, and restored by the  
12 chief executive officer of the facility with the approval of the  
13 director after the offender has been notified regarding the charges  
14 of misconduct.

15           (4) The department shall make treatment programming  
16 available to committed offenders as provided in section 83-1,110.01  
17 and shall include continuing participation in such programming as  
18 part of each offender's parolee personalized program plan.

19           (5)(a) Within thirty days after any committed offender  
20 has been paroled, all available information regarding such parolee  
21 shall be reviewed and a parolee personalized program plan document  
22 shall be drawn up and approved by the Office of Probation and  
23 Parole Administration. The document shall specifically describe  
24 the approved personalized program plan and the specific goals  
25 the office expects the parolee to achieve. The document shall

1 also contain a realistic schedule for completion of the approved  
2 personalized program plan. The approved personalized program plan  
3 shall be fully explained to the parolee. During the term of parole,  
4 the parolee shall comply with the approved personalized program  
5 plan and the office shall provide programs to allow compliance by  
6 the parolee with the approved personalized program plan.

7           Programming may include, but is not limited to:

8           (i) Academic and vocational education;

9           (ii) Substance abuse treatment;

10           (iii) Mental health and psychiatric treatment, including  
11 criminal personality programming;

12           (iv) Constructive, meaningful work programs;

13           (v) Community service programs; and

14           (vi) Any other program deemed necessary and appropriate  
15 by the office.

16           (b) A modification in the approved personalized program  
17 plan may be made to account for the increased or decreased  
18 abilities of the parolee or the availability of any program.  
19 Any modification shall be made only after notice is given to  
20 the parolee. Intentional failure to comply with the approved  
21 personalized program plan by any parolee as scheduled for any year,  
22 or pro rata part thereof, shall cause disciplinary action to be  
23 taken by the office resulting in the forfeiture of up to a maximum  
24 of three months' good time for the scheduled year.

25           (6) While the offender is in the custody of the

1 board, reductions of terms granted pursuant to subsection (2)  
2 of this section may be forfeited, withheld, and restored by the  
3 administrator with the approval of the director after the offender  
4 has been notified regarding the charges of misconduct or breach of  
5 the conditions of parole. In addition, the board may recommend such  
6 forfeitures of good time to the director.

7 (7) Good time or other reductions of sentence granted  
8 under the provisions of any law prior to July 1, 1996, may be  
9 forfeited, withheld, or restored in accordance with the terms of  
10 the Nebraska Treatment and Corrections Act.

11 Sec. 90. Section 83-1,116, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 83-1,116 (1) When a committed offender is released on  
14 parole, the board shall require as a condition of parole that  
15 the offender refrain from engaging in criminal conduct and may  
16 require the offender to submit to periodic testing for drug and  
17 alcohol use. The board may also require, either at the time  
18 of the offender's release on parole or at any time while the  
19 offender remains on parole, that the offender conform to any of the  
20 following conditions of parole:

21 (a) Meet specified family responsibilities;

22 (b) Devote himself or herself to an approved employment;

23 (c) Remain in the geographic limits fixed in the  
24 certificate of parole unless granted written permission to leave  
25 such limits;



1 (d) Report, as directed, to his or her ~~district~~ probation  
2 and parole officer;

3 (e) Reside at the place fixed in the certificate of  
4 parole and notify his or her ~~district~~ probation and parole officer  
5 of any change in address or employment;

6 (f) Submit himself or herself to available medical,  
7 psychological, psychiatric, or other treatment;

8 (g) Refrain from associating with persons known to him  
9 or her to be engaged in criminal activities or, without permission  
10 of his or her ~~district~~ probation and parole officer, with persons  
11 known to him or her to have been convicted of a crime; and

12 (h) Satisfy any other conditions specially related to  
13 the cause of ~~his or her~~ the parolee's offense and not unduly  
14 restrictive of his or her liberty or conscience.

15 (2) Before release on parole, a parolee shall be provided  
16 with a certificate of parole setting forth the conditions of the  
17 parole.

18 Sec. 91. Section 83-1,119, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 83-1,119 (1) Whenever a probation and parole officer has  
21 reasonable cause to believe that a parolee has violated or is  
22 about to violate a condition of parole but that the parolee will  
23 not attempt to leave the jurisdiction and will not place lives  
24 or property in danger, the probation and parole officer shall  
25 submit a written report to the Board of Parole which may, on the

1 basis of such report and such further investigation as it may deem  
2 appropriate:

3 (a) Dismiss the charge of violation;

4 (b) Determine whether the parolee violated the conditions  
5 of his or her parole;

6 (c) Revoke his or her parole in accordance with the  
7 Nebraska Treatment and Corrections Act; or

8 (d) Issue a warrant for the arrest of the parolee.

9 (2) Whenever a probation and parole officer has  
10 reasonable cause to believe that a parolee has violated or is about  
11 to violate a condition of parole and that the parolee will attempt  
12 to leave the jurisdiction or will place lives or property in  
13 danger, the probation and parole officer shall arrest the parolee  
14 without a warrant and call on any peace officer to assist him or  
15 her in doing so.

16 (3) Whenever a parolee is arrested with or without a  
17 warrant, he or she shall be detained in a local jail or other  
18 detention facility. Immediately after such arrest and detention,  
19 the probation and parole officer shall notify the Board of Parole  
20 and submit a written report of the reason for such arrest. A  
21 complete investigation shall be made by the ~~parole administration~~  
22 Probation and Parole Administrator and submitted to the ~~parole~~  
23 ~~board.~~ Board of Parole. After prompt consideration of such  
24 written report, the board shall order the parolee's release from  
25 detention or continued confinement to await a final decision on the

1 revocation of parole.

2           Sec. 92. Section 83-1,120, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           83-1,120 Whenever a parolee is charged with a violation  
5 of ~~his~~ parole, he or she shall be entitled to a prompt hearing  
6 on such charge by the Board of Parole, which in no event shall  
7 occur more than thirty days after receipt of the probation and  
8 parole officer's written report. At such hearing, the parolee shall  
9 be permitted to be present, to testify, to produce witnesses,  
10 to cross-examine adverse witnesses, and to introduce such other  
11 evidence as may be pertinent. The parolee shall be informed of  
12 his or her right to request counsel at such hearing, and if he  
13 the parolee thereafter makes such request, based on a timely and  
14 colorable claim (1) that he or she has not committed the alleged  
15 violation of the conditions upon which he or she is at liberty,  
16 or (2) that, even if the violation is a matter of public record  
17 or is uncontested, there are substantial reasons which justified  
18 or mitigated the violation and make revocation inappropriate and  
19 that the reasons are complex or otherwise difficult to develop  
20 or present, and upon consideration of whether or not the parolee  
21 appears to be capable of speaking effectively for himself or  
22 herself, the board in the exercise of a sound discretion may  
23 provide counsel unless retained counsel is available to the  
24 parolee. In every case when a request for counsel is refused,  
25 the grounds for refusal shall be stated in the record.

1           Sec. 93. Section 83-1,128, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           83-1,128 In the performance of official duties, the Board  
4 of Pardons or any member thereof shall have the power to issue  
5 subpoenas, to compel the attendance of witnesses and the production  
6 of books, papers, and other documents pertinent to the subject  
7 of an inquiry, and to administer oaths and take the testimony  
8 of persons under oath. Subpoenas so issued may be served by any  
9 sheriff, constable, police officer, probation and parole officer,  
10 or peace officer in the same manner as similar process in the  
11 district court. Any person who knowingly testifies falsely, submits  
12 any false affidavit or deposition, fails to appear when subpoenaed,  
13 or fails or refuses to produce such material pursuant to the  
14 subpoena shall be subject to the same orders and penalties to  
15 which a person before the district court is subject. Any district  
16 court of this state, upon application by the board, may compel  
17 the attendance of such witnesses, the production of such material,  
18 and the giving of testimony before the board by an attachment  
19 for contempt or otherwise in the same manner as production of  
20 evidence may be compelled before such court. Every person shall  
21 attend as a witness when subpoenaed anywhere within the state and  
22 shall be entitled to the same fees, if requested, as a witness  
23 in the district court and mileage as provided in section 81-1176.  
24 ~~for state employees.~~ Fees, mileage, and actual expense, if any,  
25 necessarily incurred in securing the attendance of witnesses shall

1 be paid by the board.

2           Sec. 94. Section 83-901, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           83-901 The purpose of sections 49-617, 68-621, 72-249,  
5 72-1302 to 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01,  
6 83-108, 83-108.04, 83-112, 83-134, 83-135, 83-139, 83-140, 83-144,  
7 83-145, 83-147 to 83-150, 83-153 to 83-156, 83-170 to 83-173,  
8 83-186, ~~83-188~~, 83-443, and 83-901 to 83-916 is to establish  
9 an agency of state government for the custody, study, care,  
10 discipline, training, and treatment of persons in the correctional  
11 and detention institutions and for the study, training, and  
12 treatment of persons under the supervision of other correctional  
13 services of the state so that they may be prepared for lawful  
14 community living. Correctional services shall be so diversified  
15 in program and personnel as to facilitate individualization of  
16 treatment.

17           Sec. 95. Section 83-933, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           83-933 The Office of Probation and Parole Administration  
20 shall be within the Division of Community-Centered Services.  
21 Subject to the supervision of the assistant director of the  
22 division, the Probation and Parole Administrator shall be charged  
23 with the administration of probation and parole services in the  
24 community pursuant to ~~the provisions of section 83-1,102, 5 of this~~  
25 act, implementation and administration of the Interstate Compact

1 for Adult Offender Supervision, ~~as it affects parolees,~~ community  
2 supervision of sex offenders pursuant to section 83-174.03, and  
3 supervision of parolees either paroled in Nebraska and supervised  
4 in another state or paroled in another state and supervised in  
5 Nebraska, pursuant to the compact.

6           Sec. 96. Sections 4 and 98 of this act become operative  
7 on their effective date. The other sections of this act become  
8 operative on July 1, 2008.

9           Sec. 97. Original sections 29-2256, 29-2262.03,  
10 29-2262.04, 29-2262.05, 29-2265, 29-2270, 33-107.03, 33-154,  
11 43-250, 43-253, 43-260, 43-260.05, 43-274, 43-286, 43-294,  
12 43-2,108, 43-2,113, 43-707, 43-2411, 43-3505, 43-3507, 47-628,  
13 47-629, 68-1729, 68-1732, 83-170, 83-171, 83-188, 83-195, 83-197,  
14 83-1,116, 83-1,119, 83-1,120, 83-1,128, and 83-901, Reissue  
15 Revised Statutes of Nebraska, and sections 20-150, 20-151, 24-205,  
16 24-227.01, 25-2407, 28-322, 28-929, 28-930, 28-931, 28-931.01,  
17 29-2246, 29-2248, 29-2252.01, 29-2254, 29-2255, 29-2257, 29-2258,  
18 29-2259, 29-2259.01, 29-2259.02, 29-2260.01, 29-2261, 29-2262,  
19 29-2262.06, 29-2262.07, 29-2263, 29-2266, 29-2272, 29-2935,  
20 29-4009, 29-4019, 43-271, 43-3001, 47-623, 47-624, 47-627,  
21 60-6,211.05, 60-6,211.09, 71-961, 71-1228, 81-1401, 81-1848,  
22 83-174.03, 83-174.04, 83-174.05, 83-1,100, 83-1,102, 83-1,103,  
23 83-1,103.01, 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,107,  
24 83-1,107.01, 83-1,107.02, and 83-933, Revised Statutes Cumulative  
25 Supplement, 2006, are repealed.

1                   Sec. 98. Original section 83-1,101, Reissue Revised  
2 Statutes of Nebraska, is repealed.

3                   Sec. 99. The following sections are outright repealed:  
4 Sections 29-2249, 29-2251, 29-2253, 83-1,100.01, and 83-1,104,  
5 Reissue Revised Statutes of Nebraska, and sections 29-2250 and  
6 29-2252, Revised Statutes Cumulative Supplement, 2006.