

E AND R AMENDMENTS TO LB 63

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

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

3 Section 1. Section 28-101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-101 Sections 28-101 to 28-1350 and sections 5, 19, and
6 20 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. Section 28-111, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-111 Any person who commits one or more of the
11 following criminal offenses against a person or a person's
12 property because of the person's race, color, religion, ancestry,
13 national origin, gender, sexual orientation, age, or disability
14 or because of the person's association with a person of a
15 certain race, color, religion, ancestry, national origin, gender,
16 sexual orientation, age, or disability shall be punished by the
17 imposition of the next higher penalty classification than the
18 penalty classification prescribed for the criminal offense, unless
19 such criminal offense is already punishable as a Class IB felony
20 or higher classification: Manslaughter, section 28-305; assault
21 in the first degree, section 28-308; assault in the second
22 degree, section 28-309; assault in the third degree, section
23 28-310; terroristic threats, section 28-311.01; stalking, section

1 28-311.03; kidnapping, section 28-313; false imprisonment in the
2 first degree, section 28-314; false imprisonment in the second
3 degree, section 28-315; sexual assault in the first degree,
4 section 28-319; sexual assault in the second or third degree,
5 section 28-320; sexual assault of a child, sections 28-319.01 and
6 28-320.01; arson in the first degree, section 28-502; arson in the
7 second degree, section 28-503; arson in the third degree, section
8 28-504; criminal mischief, section 28-519; unauthorized application
9 of graffiti, section 5 of this act; criminal trespass in the first
10 degree, section 28-520; or criminal trespass in the second degree,
11 section 28-521.

12 Sec. 3. Section 28-308, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-308 (1) A person commits the offense of assault in the
15 first degree if he or she intentionally or knowingly causes serious
16 bodily injury to another person.

17 (2) Assault in the first degree shall be a Class ~~III~~ II
18 felony.

19 Sec. 4. Section 28-309, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 28-309 (1) A person commits the offense of assault in the
22 second degree if he or she:

23 (a) Intentionally or knowingly causes bodily injury to
24 another person with a dangerous instrument;

25 (b) Recklessly causes serious bodily injury to another
26 person with a dangerous instrument; or

27 (c) While during confinement or in legal custody of

1 the Department of Correctional Services or in any county jail,
2 unlawfully strikes or wounds another.

3 (2) Assault in the second degree shall be a Class ~~IIIA~~
4 III felony.

5 Sec. 5. (1) Any person who knowingly and intentionally
6 applies graffiti of any type on any building, public or private,
7 or any other tangible property owned by any person, firm, or
8 corporation or any public entity or instrumentality, without the
9 express permission of the owner or operator of the property,
10 commits the offense of unauthorized application of graffiti.

11 (2) Unauthorized application of graffiti is a Class III
12 misdemeanor for a first offense and a Class IV felony for a second
13 or subsequent offense.

14 (3) Upon conviction of an offense under this section, the
15 court may, in addition to any other punishment imposed, order the
16 defendant to clean up, repair, or replace the damaged property,
17 keep the defaced property or another specified property in the
18 community free of graffiti or other inscribed materials for up to
19 one year, or order a combination of restitution and labor.

20 (4) Upon conviction of an offense under this section, the
21 court may, in addition to any other punishment imposed, order the
22 defendant to undergo counseling.

23 (5) Upon conviction of an offense under this section, the
24 court may, in addition to any other punishment imposed, order the
25 suspension of the defendant's motor vehicle operator's license for
26 up to one year.

27 (6) For purposes of this section, graffiti means any

1 letter, word, name, number, symbol, slogan, message, drawing,
2 picture, writing, or other mark of any kind visible to the public
3 that is drawn, painted, chiseled, scratched, or etched on a rock,
4 tree, wall, bridge, fence, gate, building, or other structure.
5 Graffiti does not include advertising or any other letter, word,
6 name, number, symbol, slogan, message, drawing, picture, writing,
7 or other mark of any kind lawfully placed on property by an owner
8 of the property, a tenant of the property, or an authorized agent
9 for such owner or tenant.

10 Sec. 6. Section 28-929, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 28-929 (1) A person commits the offense of assault on an
13 officer in the first degree if he or she intentionally or knowingly
14 causes serious bodily injury to a peace officer, a probation
15 officer, or an employee of the Department of Correctional Services
16 while such officer or employee is engaged in the performance of his
17 or her official duties.

18 (2) Assault on an officer in the first degree shall be a
19 Class ~~II~~ ID felony.

20 Sec. 7. Section 28-930, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 28-930 (1) A person commits the offense of assault on an
23 officer in the second degree if he or she:

24 (a) Intentionally or knowingly causes bodily injury with
25 a dangerous instrument to a peace officer, a probation officer, or
26 an employee of the Department of Correctional Services while such
27 officer or employee is engaged in the performance of his or her

1 official duties; or

2 (b) Recklessly causes bodily injury with a dangerous
3 instrument to a peace officer, a probation officer, or an employee
4 of the Department of Correctional Services while such officer or
5 employee is engaged in the performance of his or her official
6 duties.

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

9 Sec. 8. Section 28-1201, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 28-1201 For purposes of sections 28-1201 to ~~28-1212,~~
12 28-1212.03 and section 19 of this act, unless the context otherwise
13 requires:

14 (1) Firearm ~~shall mean~~ means any weapon which is designed
15 to or may readily be converted to expel any projectile by the
16 action of an explosive or frame or receiver of any such weapon;

17 (2) Fugitive from justice ~~shall mean~~ means any person who
18 has fled or is fleeing from any peace officer to avoid prosecution
19 or incarceration for a felony;

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

23 ~~(3)~~ (4) Juvenile shall mean means any person under the
24 age of eighteen years;

25 ~~(4)~~ (5) Knife shall mean means any dagger, dirk, knife,
26 or stiletto with a blade over three and one-half inches in length
27 or any other dangerous instrument capable of inflicting cutting,

1 stabbing, or tearing wounds;

2 ~~(5)~~ (6) Knuckles and brass or iron knuckles ~~shall mean~~
3 means any instrument that consists of finger rings or guards made
4 of a hard substance and that is designed, made, or adapted for the
5 purpose of inflicting serious bodily injury or death by striking a
6 person with a fist enclosed in the knuckles;

7 ~~(6)~~ (7) Machine gun ~~shall mean~~ means any firearm,
8 whatever its size and usual designation, that shoots automatically
9 more than one shot, without manual reloading, by a single function
10 of the trigger;

11 ~~(7)~~ (8) Short rifle ~~shall mean~~ means a rifle having a
12 barrel less than sixteen inches long or an overall length of less
13 than twenty-six inches; and

14 ~~(8)~~ (9) Short shotgun ~~shall mean~~ means a shotgun having
15 a barrel or barrels less than eighteen inches long or an overall
16 length of less than twenty-six inches.

17 Sec. 9. Section 28-1202, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-1202 (1)(a) Except as otherwise provided in this
20 section, any person who carries a weapon or weapons concealed on or
21 about his or her person, such as a ~~revolver, pistol, bowie knife,~~
22 ~~dirk or knife with a dirk blade attachment,~~ handgun, a knife, brass
23 or iron knuckles, or any other deadly weapon, commits the offense
24 of carrying a concealed weapon.

25 (b) It is an affirmative defense that the defendant was
26 engaged in any lawful business, calling, or employment at the time
27 he or she was carrying any weapon or weapons and the circumstances

1 in which such person was placed at the time were such as to justify
2 a prudent person in carrying the weapon or weapons for the defense
3 of his or her person, property, or family.

4 (2) This section does not apply to a person who is the
5 holder of a valid permit issued under the Concealed Handgun Permit
6 Act if the concealed weapon the defendant is carrying is a handgun,
7 as defined in section 69-2429.

8 (3) Carrying a concealed weapon is a Class I misdemeanor.

9 (4) In the case of a second or subsequent conviction
10 under this section, carrying a concealed weapon is a Class IV
11 felony.

12 Sec. 10. Section 28-1204, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-1204 (1) Any person under the age of eighteen
15 years who possesses a ~~pistol, revolver, or any other form of~~
16 ~~short-barreled hand firearm~~ handgun commits the offense of unlawful
17 possession of a ~~revolver.~~ handgun.

18 (2) ~~The provisions of this~~ This section shall ~~does~~
19 not apply to the issuance of ~~such firearms~~ handguns to members
20 of the armed forces of the United States, active or reserve,
21 National Guard of this state, or Reserve Officers Training Corps,
22 when on duty or training, or to the temporary loan of ~~pistols,~~
23 ~~revolvers, or any other form of short-barreled firearms~~ handguns
24 for instruction under the immediate supervision of a parent or
25 guardian or adult instructor.

26 (3) Unlawful possession of a ~~revolver~~ handgun is a Class
27 ~~III~~ I misdemeanor.

1 Sec. 11. Section 28-1204.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-1204.01 (1) Any person who knowingly and intentionally
4 does or attempts to sell, provide, loan, deliver, or in any other
5 way transfer the possession of a firearm to a juvenile commits the
6 offense of unlawful transfer of a firearm to a juvenile. The county
7 attorney shall have a copy of the petition served upon the owner of
8 the firearm, if known, in person or by registered or certified mail
9 at his or her last-known address.

10 (2) This section ~~shall~~ does not apply to the transfer
11 of a firearm, other than the ~~types specified in section 28-1204 a~~
12 handgun, to a juvenile:

13 (a) From a person related to such juvenile within the
14 second degree of consanguinity or affinity if the transfer of
15 physical possession of such firearm does not occur until such time
16 as express permission has been obtained from the juvenile's parent
17 or guardian;

18 (b) For a legitimate and lawful sporting purpose; or

19 (c) Who is under direct adult supervision in an
20 appropriate educational program.

21 (3) This section ~~shall apply~~ applies to the transfer
22 of ~~any firearm described in section 28-1204, a handgun~~ except as
23 specifically provided in subsection (2) of section 28-1204.

24 (4) Unlawful transfer of a firearm to a juvenile is a
25 Class ~~IV~~ III felony.

26 Sec. 12. Section 28-1204.04, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 28-1204.04 (1) Any person who possesses a firearm in a
2 school, on school grounds, in a school-owned vehicle, or at a
3 school-sponsored activity or athletic event shall be guilty of the
4 offense of unlawful possession of a firearm on school grounds.
5 Unlawful possession of a firearm on school grounds is a Class ~~II~~
6 ~~misdemeanor~~. IV felony. This subsection shall not apply to (a)
7 the issuance of firearms to or possession by members of the armed
8 forces of the United States, active or reserve, National Guard of
9 this state, or Reserve Officers Training Corps or peace officers
10 or other duly authorized law enforcement officers when on duty
11 or training, (b) firearms which may lawfully be possessed by the
12 person receiving instruction, for instruction under the immediate
13 supervision of an adult instructor, or (c) firearms contained
14 within a private vehicle operated by a nonstudent adult which are
15 not loaded and (i) are encased or (ii) are in a locked firearm
16 rack that is on a motor vehicle. For purposes of this subsection,
17 encased shall mean enclosed in a case that is expressly made for
18 the purpose of containing a firearm and that is completely zipped,
19 snapped, buckled, tied, or otherwise fastened with no part of the
20 firearm exposed.

21 (2) Any firearm possessed in violation of subsection (1)
22 of this section in a school, on school grounds, in a school-owned
23 vehicle, or at a school-sponsored activity or athletic event shall
24 be confiscated without warrant by a peace officer or may be
25 confiscated without warrant by school administrative or teaching
26 personnel. Any firearm confiscated by school administrative or
27 teaching personnel shall be delivered to a peace officer as soon as

1 practicable.

2 (3) Any firearm confiscated by or given to a peace
3 officer pursuant to subsection (2) of this section shall be
4 declared a common nuisance and shall be held by the peace officer
5 prior to his or her delivery of the firearm to the property
6 division of the law enforcement agency which employs the peace
7 officer. The property division of such law enforcement agency shall
8 hold such firearm for as long as the firearm is needed as evidence.
9 After the firearm is no longer needed as evidence, it shall be
10 destroyed in such manner as the court may direct.

11 (4) Whenever a firearm is confiscated and held pursuant
12 to this section or section 28-1204.02, the peace officer who
13 received such firearm shall cause to be filed within ten days after
14 the confiscation a petition for destruction of such firearm. The
15 petition shall be filed in the district court of the county in
16 which the confiscation is made. The petition shall describe the
17 firearm held, state the name of the owner, if known, allege the
18 essential elements of the violation which caused the confiscation,
19 and conclude with a prayer for disposition and destruction in such
20 manner as the court may direct. At any time after the confiscation
21 of the firearm and prior to court disposition, the owner of the
22 firearm seized may petition the district court of the county in
23 which the confiscation was made for possession of the firearm. The
24 court shall release the firearm to such owner only if the claim
25 of ownership can reasonably be shown to be true and either (a)
26 the owner of the firearm can show that the firearm was taken from
27 his or her property or place of business unlawfully or without

1 the knowledge and consent of the owner and that such property
2 or place of business is different from that of the person from
3 whom the firearm was confiscated or (b) the owner of the firearm
4 is acquitted of the charge of unlawful possession of a ~~revolver~~
5 handgun in violation of section 28-1204, unlawful transfer of
6 a firearm to a juvenile, or unlawful possession of a firearm
7 on school grounds. No firearm having significant antique value
8 or historical significance as determined by the Nebraska State
9 Historical Society shall be destroyed. If a firearm has significant
10 antique value or historical significance, it shall be sold at
11 auction and the proceeds deposited in the permanent school fund.
12 remitted to the State Treasurer for distribution in accordance with
13 Article VII, section 5, of the Constitution of Nebraska.

14 Sec. 13. Section 28-1205, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-1205 ~~(1)~~ (1)(a) Any person who uses a firearm, a
17 knife, brass or iron knuckles, or any other deadly weapon to commit
18 any felony which may be prosecuted in a court of this state ~~or who~~
19 ~~unlawfully possesses a firearm, a knife, brass or iron knuckles, or~~
20 ~~any other deadly weapon during the commission of any felony which~~
21 ~~may be prosecuted in a court of this state commits the offense of~~
22 ~~using~~ use of a deadly weapon to commit a felony.

23 ~~(2)(a)~~ (b) Use of a deadly weapon, other than a firearm,
24 to commit a felony is a Class ~~III~~ II felony.

25 ~~(b)~~ (c) Use of a deadly weapon, which is a firearm, to
26 commit a felony is a Class ~~II~~ IC felony.

27 (2)(a) Any person who possesses a firearm, a knife, brass

1 or iron knuckles, or a destructive device during the commission of
2 any felony which may be prosecuted in a court of this state commits
3 the offense of possession of a deadly weapon during the commission
4 of a felony.

5 (b) Possession of a deadly weapon, other than a firearm,
6 during the commission of a felony is a Class III felony.

7 (c) Possession of a deadly weapon, which is a firearm,
8 during the commission of a felony is a Class II felony.

9 (3) The crimes defined in this section shall be treated
10 as separate and distinct offenses from the felony being committed,
11 and sentences imposed under this section shall be consecutive to
12 any other sentence imposed.

13 (4) Possession of a deadly weapon may be proved through
14 evidence demonstrating either actual or constructive possession of
15 a firearm, a knife, brass or iron knuckles, or a destructive device
16 during, immediately prior to, or immediately after the commission
17 of a felony.

18 (5) For purposes of this section:

19 (a) Destructive device has the same meaning as in section
20 28-1213; and

21 (b) Use of a deadly weapon includes the discharge,
22 employment, or visible display of any part of a firearm, a knife,
23 brass or iron knuckles, any other deadly weapon, or a destructive
24 device during, immediately prior to, or immediately after the
25 commission of a felony or communication to another indicating the
26 presence of a firearm, a knife, brass or iron knuckles, any other
27 deadly weapon, or a destructive device during, immediately prior

1 to, or immediately after the commission of a felony, regardless
2 of whether such firearm, knife, brass or iron knuckles, deadly
3 weapon, or destructive device was discharged, actively employed, or
4 displayed.

5 Sec. 14. Section 28-1206, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 28-1206 ~~(1)~~ (1) (a) Any person who possesses any a
8 firearm, a knife, or brass or iron knuckles and who has previously
9 been convicted of a felony, or who is a fugitive from justice,
10 or who is the subject of a current and validly issued domestic
11 violence protection order and is knowingly violating such order,
12 or (b) any person who possesses any firearm or brass or iron
13 knuckles and who has been convicted within the past seven years
14 of a misdemeanor crime of domestic violence, commits the offense
15 of possession of a deadly weapon by a felon or a fugitive from
16 justice. prohibited person.

17 (2) ~~Such~~ The felony conviction may have been had in any
18 court in the United States, the several states, territories, or
19 possessions, or the District of Columbia.

20 (3) (a) Possession of a deadly weapon ~~other than a firearm~~
21 ~~by a felon or a fugitive from justice is a Class IV~~ which is not a
22 firearm by a prohibited person is a Class III felony.

23 (b) Possession of a deadly weapon which is a firearm by a
24 ~~felon or a fugitive from justice is a Class III~~ prohibited person
25 is a Class ID felony for a first offense and a Class IB felony for
26 a second or subsequent offense.

27 (4) (a) (i) For purposes of this section, misdemeanor crime

1 of domestic violence means:

2 (A) (I) A crime that is classified as a misdemeanor under
3 the laws of the United States or the District of Columbia or the
4 laws of any state, territory, possession, or tribe;

5 (II) A crime that has, as an element, the use or
6 attempted use of physical force or the threatened use of a deadly
7 weapon; and

8 (III) A crime that is committed by another against his
9 or her spouse, his or her former spouse, a person with whom he or
10 she has a child in common whether or not they have been married or
11 lived together at any time, or a person with whom he or she is or
12 was involved in a dating relationship as defined in section 28-323;
13 or

14 (B) (I) Assault in the third degree under section
15 28-310, stalking under subsection (1) of section 28-311.04, false
16 imprisonment in the second degree under section 28-315, or first
17 offense domestic assault in the third degree under subsection (1)
18 of section 28-323 or any attempt or conspiracy to commit one of
19 these offenses; and

20 (II) The crime is committed by another against his or her
21 spouse, his or her former spouse, a person with whom he or she has
22 a child in common whether or not they have been married or lived
23 together at any time, or a person with whom he or she is or was
24 involved in a dating relationship as defined in section 28-323.

25 (ii) A person shall not be considered to have been
26 convicted of a misdemeanor crime of domestic violence unless:

27 (A) The person was represented by counsel in the case

1 or knowingly and intelligently waived the right to counsel in the
2 case; and

3 (B) In the case of a prosecution for a misdemeanor crime
4 of domestic violence for which a person was entitled to a jury
5 trial in the jurisdiction in which the case was tried, either:

6 (I) The case was tried to a jury; or

7 (II) The person knowingly and intelligently waived the
8 right to have the case tried to a jury.

9 (b) For purposes of this section, subject of a current
10 and validly issued domestic violence protection order pertains to
11 a current court order that was validly issued pursuant to section
12 28-311.09 or 42-924 or that meets or exceeds the criteria set forth
13 in section 28-311.10 regarding protection orders issued by a court
14 in another state, territory, possession, or tribe.

15 Sec. 15. Section 28-1207, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 28-1207 (1) Any person who knowingly possesses, receives,
18 sells, or leases, other than by delivery to law enforcement
19 officials, any firearm from which the manufacturer's identification
20 mark or serial number has been removed, defaced, altered, or
21 destroyed, commits the offense of possession of a defaced firearm.

22 (2) Possession of a defaced firearm is a Class ~~IV~~ III
23 felony.

24 Sec. 16. Section 28-1208, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 28-1208 (1) Any person who intentionally removes,
27 defaces, covers, alters, or destroys the manufacturer's

1 identification mark or serial number or other distinguishing
2 numbers on any firearm commits the offense of defacing a firearm.

3 (2) Defacing a firearm is a Class ~~IV~~ III felony.

4 Sec. 17. Section 28-1212.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-1212.02 Any person who unlawfully and intentionally
7 discharges a firearm at an inhabited dwelling house, occupied
8 building, occupied motor vehicle, occupied aircraft, inhabited
9 motor home as defined in section 71-4603, or inhabited camper unit
10 as defined in section 60-1801 shall be guilty of a Class ~~III~~ ID
11 felony.

12 Sec. 18. Section 28-1212.03, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-1212.03 Any person who possesses, receives, retains,
15 or disposes of a stolen firearm knowing that it has been or
16 believing that it has been stolen shall be guilty of a Class ~~IV~~
17 III felony unless the firearm is possessed, received, retained, or
18 disposed of with intent to restore it to the owner.

19 Sec. 19. Any person, within the territorial boundaries
20 of any city, incorporated village, or county containing a city of
21 the metropolitan class or primary class, who unlawfully, knowingly,
22 and intentionally or recklessly discharges a firearm, while in or
23 in the proximity of any motor vehicle that such person has just
24 exited, at or in the general direction of any person, dwelling,
25 building, structure, occupied motor vehicle, occupied aircraft,
26 inhabited motor home as defined in section 71-4603, or inhabited
27 camper unit as defined in section 60-1801, is guilty of a Class IC

1 felony.

2 Sec. 20. (1) A person commits the offense of unlawful
3 membership recruitment into an organization or association when he
4 or she knowingly and intentionally coerces, intimidates, threatens,
5 or inflicts bodily harm upon another person in order to entice
6 that other person to join or prevent that other person from
7 leaving any organization, group, enterprise, or association whose
8 members, individually or collectively, engage in or have engaged
9 in any of the following criminal acts for the benefit of, at the
10 direction of, or on behalf of the organization, group, enterprise,
11 or association or any of its members:

12 (a) Robbery under section 28-324;

13 (b) Arson in the first, second, or third degree under
14 section 28-502, 28-503, or 28-504, respectively;

15 (c) Burglary under section 28-507;

16 (d) Murder in the first degree, murder in the second
17 degree, or manslaughter under section 28-303, 28-304, or 28-305,
18 respectively;

19 (e) Violations of the Uniform Controlled Substances Act
20 that involve possession with intent to deliver, distribution,
21 delivery, or manufacture of a controlled substance;

22 (f) Unlawful use, possession, or discharge of a firearm
23 or other deadly weapon under sections 28-1201 to 28-1212.03 and
24 section 19 of this act;

25 (g) Assault in the first degree or assault in the second
26 degree under section 28-308 or 28-309, respectively;

27 (h) Assault on an officer in the first, second, or

1 third degree under section 28-929, 28-930, or 28-931, respectively,
2 or assault on an officer using a motor vehicle under section
3 28-931.01;

4 (i) Theft by unlawful taking or disposition under section
5 28-511;

6 (j) Theft by receiving stolen property under section
7 28-517;

8 (k) Theft by deception under section 28-512;

9 (l) Theft by extortion under section 28-513;

10 (m) Kidnapping under section 28-313;

11 (n) Any forgery offense under sections 28-602 to 28-605;

12 (o) Criminal impersonation under section 28-608;

13 (p) Tampering with a publicly exhibited contest under
14 section 28-614;

15 (q) Unauthorized use of a financial transaction device or
16 criminal possession of a financial transaction device under section
17 28-620 or 28-621, respectively;

18 (r) Pandering under section 28-802;

19 (s) Bribery, bribery of a witness, or bribery of a juror
20 under section 28-917, 28-918, or 28-920, respectively;

21 (t) Tampering with a witness or an informant or jury
22 tampering under section 28-919;

23 (u) Unauthorized application of graffiti under section 5
24 of this act;

25 (v) Dogfighting, cockfighting, bearbaiting, or pitting an
26 animal against another under section 28-1005; or

27 (w) Promoting gambling in the first degree under section

1 28-1102.

2 (2) Unlawful membership recruitment into an organization
3 or association is a Class IV felony.

4 Sec. 21. Section 29-401, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 29-401 Every sheriff, deputy sheriff, marshal, deputy
7 marshal, security guard, police officer, or peace officer as
8 defined in subdivision (15) of section 49-801 shall arrest and
9 detain any person found violating any law of this state or any
10 legal ordinance of any city or incorporated village until a legal
11 warrant can be obtained, except that (1) any such law enforcement
12 officer taking a juvenile under the age of eighteen years into his
13 or her custody for any violation herein defined shall proceed as
14 set forth in sections 43-248, 43-248.01, 43-250, 43-251, 43-251.01,
15 and 43-253 and (2) the court in which the juvenile is to appear
16 shall not accept a plea from the juvenile until finding that the
17 parents of the juvenile have been notified or that reasonable
18 efforts to notify such parents have been made as provided in
19 section 43-253.

20 Sec. 22. Section 29-901, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 29-901 Any bailable defendant shall be ordered released
23 from custody pending judgment on his or her personal recognizance
24 unless the judge determines in the exercise of his or her
25 discretion that such a release will not reasonably assure the
26 appearance of the defendant as required or that such a release
27 could jeopardize the safety and maintenance of evidence or

1 victims, witnesses, or other persons in the community. When such
2 determination is made, the judge shall either in lieu of or in
3 addition to such a release impose the first of the following
4 conditions of release which will reasonably assure the appearance
5 of the person for trial or, if no single condition gives that
6 assurance, any combination of the following conditions:

7 (1) Place the defendant in the custody of a designated
8 person or organization agreeing to supervise the defendant;

9 (2) Place restrictions on the travel, association, or
10 place of abode of the defendant during the period of such release;

11 (3) Require, at the option of any bailable defendant,
12 either of the following:

13 (a) The execution of an appearance bond in a specified
14 amount and the deposit with the clerk of the court in cash of a
15 sum not to exceed ten percent of the amount of the bond, ninety
16 percent of such deposit to be returned to the defendant upon the
17 performance of the appearance or appearances and ten percent to be
18 retained by the clerk as appearance bond costs, except that when
19 no charge is subsequently filed against the defendant or if the
20 charge or charges which are filed are dropped before the appearance
21 of the defendant which the bond was to assure, the entire deposit
22 shall be returned to the defendant. If the bond is subsequently
23 reduced by the court after the original bond has been posted, no
24 additional appearance bond costs shall be retained by the clerk.
25 The difference in the appearance bond costs between the original
26 bond and the reduced bond shall be returned to the defendant.
27 In no event shall the deposit be less than twenty-five dollars.

1 Whenever jurisdiction is transferred from a court requiring an
2 appearance bond under this subdivision to another state court, the
3 transferring court shall transfer the ninety percent of the deposit
4 remaining after the appearance bond costs have been retained. No
5 further costs shall be levied or collected by the court acquiring
6 jurisdiction; or

7 (b) The execution of a bail bond with such surety or
8 sureties as shall seem proper to the judge or, in lieu of such
9 surety or sureties, at the option of such person, a cash deposit
10 of such sum so fixed, conditioned for his or her appearance before
11 the proper court, to answer the offense with which he or she may be
12 charged and to appear at such times thereafter as may be ordered
13 by the proper court. The cash deposit shall be returned to the
14 defendant upon the performance of all appearances.

15 If the amount of bail is deemed insufficient by the
16 court before which the offense is pending, the court may order
17 an increase of such bail and the defendant shall provide the
18 additional undertaking, written or cash, to secure his or her
19 release. All recognizances in criminal cases shall be in writing
20 and be continuous from term to term until final judgment of the
21 court in such cases and shall also extend, when the court has
22 suspended execution of sentence for a limited time, as provided
23 in section 29-2202, or, when the court has suspended execution of
24 sentence to enable the defendant to apply for a writ of error
25 to the Supreme Court or Court of Appeals, as provided in section
26 29-2301, until the period of suspension has expired. When two or
27 more indictments or informations are returned against the same

1 person at the same term of court, the recognizance given may be
2 made to include all offenses charged therein. Each surety on such
3 recognizance shall be required to justify under oath in a sum
4 twice the amount of such recognizance and give the description
5 of real estate owned by him or her of a value above encumbrance
6 equal to the amount of such justification and shall name all other
7 cases pending in which he or she is a surety. No one shall be
8 accepted as surety on recognizance aggregating a sum in excess of
9 his or her equity in the real estate, but such recognizance shall
10 not constitute a lien on the real estate described therein until
11 judgment is entered thereon against such surety; or

12 (4) Impose any other condition deemed reasonably
13 necessary to assure appearances as required, including a condition
14 requiring that the defendant return to custody after specified
15 hours.

16 Sec. 23. Section 29-901.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-901.01 In determining which condition or conditions of
19 release shall reasonably assure appearance and deter possible
20 threats to the safety and maintenance of evidence, victims,
21 witnesses, or other persons in the community, the judge shall,
22 on the basis of available information, take into account the
23 nature and circumstances of the offense charged, including any
24 information to indicate that the defendant might engage in
25 additional criminal activity or pose a threat to himself or
26 herself, yet to be collected evidence, alleged victims, potential
27 witnesses, or members of the general public, the defendant's

1 family ties, employment, financial resources, character and mental
2 condition, the length of ~~his~~ the defendant's residence in the
3 community, ~~his~~ the defendant's record of convictions, and ~~his~~ the
4 defendant's record of appearances at court proceedings or of flight
5 to avoid prosecution or of failure to appear at court proceedings.

6 Sec. 24. Section 29-1912, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 29-1912 (1) When a defendant is charged with a felony or
9 when a defendant is charged with a misdemeanor or a violation of
10 a city or village ordinance for which imprisonment is a possible
11 penalty, he or she may request the court where the case is to be
12 tried, at any time after the filing of the indictment, information,
13 or complaint, to order the prosecuting attorney to permit the
14 defendant to inspect and copy or photograph:

15 (a) The defendant's statement, if any. For purposes of
16 this subdivision, statement shall mean means a written statement
17 made by the defendant and signed or otherwise adopted or approved
18 by him or her, or a stenographic, mechanical, electrical, or other
19 recording, or a transcription thereof, which is a substantially
20 verbatim recital of an oral statement made by the defendant to
21 an agent of the prosecution, state, or political subdivision
22 thereof, and recorded contemporaneously with the making of such
23 oral statement;

24 (b) The defendant's prior criminal record, if any;

25 (c) The defendant's recorded testimony before a grand
26 jury;

27 (d) The names and addresses of witnesses on whose

1 evidence the charge is based;

2 (e) The results and reports of physical or mental
3 examinations, and of scientific tests, or experiments made in
4 connection with the particular case, or copies thereof; and

5 (f) Documents, papers, books, accounts, letters,
6 photographs, objects, or other tangible things of whatsoever kind
7 or nature which could be used as evidence by the prosecuting
8 authority;—

9 (g) The known criminal history of a jailhouse witness;

10 (h) Any deal, promise, inducement, or benefit that
11 the prosecuting attorney or any person acting on behalf of the
12 prosecuting attorney has knowingly made or may make in the future
13 to the jailhouse witness;

14 (i) The specific statements allegedly made by the
15 defendant against whom the jailhouse witness will testify and the
16 time, place, and manner of the defendant's disclosures;

17 (j) The case name and jurisdiction of any criminal cases
18 known to the prosecuting attorney in which a jailhouse witness
19 testified about statements made by another criminal defendant that
20 were disclosed to the jailhouse witness while he or she was a
21 jailhouse witness and whether the jailhouse witness received any
22 deal, promise, inducement, or benefit in exchange for or subsequent
23 to such testimony; and

24 (k) Any occasion known to the prosecuting attorney in
25 which the jailhouse witness recanted testimony about statements
26 made by another criminal defendant that were disclosed to the
27 jailhouse witness while he or she was a jailhouse witness and, if

1 any are known, a transcript or copy of such recantation.

2 (2) The court may issue such an order pursuant to
3 the provisions of this section. In the exercise of its judicial
4 discretion, the court shall consider among other things whether:

5 (a) The request is material to the preparation of the
6 defense;

7 (b) The request is not made primarily for the purpose of
8 harassing the prosecution or its witnesses;

9 (c) The request, if granted, would not unreasonably delay
10 the trial of the offense and an earlier request by the defendant
11 could not have reasonably been made;

12 (d) There is no substantial likelihood that the request,
13 if granted, would preclude a just determination of the issues at
14 the trial of the offense; or

15 (e) The request, if granted, would not result in the
16 possibility of bodily harm to, or coercion of, witnesses.

17 (3) Whenever the court refuses to grant an order pursuant
18 to the provisions of this section, it shall render its findings in
19 writing together with the facts upon which the findings are based.

20 (4) Whenever the prosecuting attorney believes that the
21 granting of an order under the provisions of this section will
22 result in the possibility of bodily harm to witnesses or that
23 witnesses will be coerced, the court may permit him or her to make
24 such a showing in the form of a written statement to be inspected
25 by the court alone. The statement shall be sealed and preserved
26 in the records of the court to be made available to the appellate
27 court in the event of an appeal by the defendant.

1 (5) For purposes of subdivisions (l)(g) through (k) of
2 this section, jailhouse witness means a person in the physical
3 custody of any jail or correctional institution as (a) an accused
4 defendant, (b) a convicted defendant awaiting sentencing, or (c)
5 a convicted defendant serving a jail sentence, at the time the
6 statements the jailhouse witness will testify about were disclosed.

7 Sec. 25. Section 29-2320, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 29-2320 Whenever a defendant is found guilty of a felony
10 following a trial or the entry of a plea of guilty or tendering a
11 plea of nolo contendere, the prosecuting attorney charged with the
12 prosecution of such defendant or the Attorney General may appeal
13 the sentence imposed if ~~such attorney reasonably believes,~~ there is
14 a reasonable belief, based on all of the facts and circumstances of
15 the particular case, that the sentence is excessively lenient.

16 Sec. 26. Section 29-2321, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-2321 (1) Appeals under section 29-2320 sections
19 29-2320 to 29-2325 shall be taken, by either the Attorney General
20 or the prosecuting attorney, as follows:

21 (a) If the appeal is filed by the Attorney General, a
22 notice of appeal shall be filed in the district court within twenty
23 days after imposition of the sentence. A copy of the notice of
24 appeal shall be sent to either the defendant or counsel for the
25 defendant; or

26 ~~(1) Within ten days of the~~ (b) If the prosecuting
27 attorney wishes to file the appeal, he or she, within ten days

1 after imposition of the sentence, ~~the prosecuting attorney~~ shall
2 request ~~the~~ approval ~~of~~ from the Attorney General to proceed with
3 ~~such~~ the appeal. A copy of ~~such~~ the request for approval shall be
4 sent to the defendant or counsel for the defendant.†

5 (2) If the Attorney General approves the request
6 described in subdivision ~~(1)~~ (1)(b) of this section, the
7 prosecuting attorney shall file a notice of appeal indicating such
8 approval in the district court. Such notice of appeal must be filed
9 within twenty days of the imposition of sentence. A copy of the
10 notice of appeal shall be sent to the defendant or counsel for the
11 defendant.†

12 (3) If the Attorney General does not approve the request
13 described in subdivision ~~(1)~~ (1)(b) of this section, an appeal
14 under sections 29-2320 to 29-2325 shall not be permitted.† and

15 (4) In addition to such notice of appeal, the docket fee
16 required by section 33-103 shall be deposited with the clerk of the
17 district court.

18 (5) Upon compliance with the requirements of this
19 section, the appeal shall proceed as provided by law for appeals to
20 the Court of Appeals.

21 Sec. 27. Section 43-245, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-245 For purposes of the Nebraska Juvenile Code, unless
24 the context otherwise requires:

- 25 (1) Age of majority means nineteen years of age;
26 (2) Approved center means a center that has applied for
27 and received approval from the Director of the Office of Dispute

1 Resolution under section 25-2909;

2 (3) Cost or costs means (a) the sum or equivalent
3 expended, paid, or charged for goods or services, or expenses
4 incurred, or (b) the contracted or negotiated price;

5 (4) Criminal street gang means a group of three or more
6 people with a common identifying name, sign, or symbol whose group
7 identity or purposes include engaging in illegal activities;

8 (5) Criminal street gang member means a person who
9 willingly or voluntarily becomes and remains a member of a criminal
10 street gang;

11 ~~(4)~~ (6) Juvenile means any person under the age of
12 eighteen;

13 ~~(5)~~ (7) Juvenile court means the separate juvenile court
14 where it has been established pursuant to sections 43-2,111 to
15 43-2,127 and the county court sitting as a juvenile court in all
16 other counties. Nothing in the Nebraska Juvenile Code shall be
17 construed to deprive the district courts of their habeas corpus,
18 common-law, or chancery jurisdiction or the county courts and
19 district courts of jurisdiction of domestic relations matters as
20 defined in section 25-2740;

21 ~~(6)~~ (8) Juvenile detention facility has the same meaning
22 as in section 83-4,125;

23 ~~(7)~~ (9) Mediator for juvenile offender and victim
24 mediation means a person who (a) has completed at least thirty
25 hours of training in conflict resolution techniques, neutrality,
26 agreement writing, and ethics set forth in section 25-2913, (b) has
27 an additional eight hours of juvenile offender and victim mediation

1 training, and (c) meets the apprenticeship requirements set forth
2 in section 25-2913;

3 ~~(8)~~ (10) Mental health facility means a treatment
4 facility as defined in section 71-914 or a government, private, or
5 state hospital which treats mental illness;

6 ~~(9)~~ (11) Nonoffender means a juvenile who is subject
7 to the jurisdiction of the juvenile court for reasons other
8 than legally prohibited conduct, including, but not limited to,
9 juveniles described in subdivision (3)(a) of section 43-247;

10 ~~(10)~~ (12) Nonsecure detention means detention
11 characterized by the absence of restrictive hardware, construction,
12 and procedure. Nonsecure detention services may include a range
13 of placement and supervision options, such as home detention,
14 electronic monitoring, day reporting, drug court, tracking and
15 monitoring supervision, staff secure and temporary holdover
16 facilities, and group homes;

17 ~~(11)~~ (13) Parent means one or both parents or a
18 stepparent when such stepparent is married to the custodial parent
19 as of the filing of the petition;

20 ~~(12)~~ (14) Parties means the juvenile as described in
21 section 43-247 and his or her parent, guardian, or custodian;

22 ~~(13)~~ (15) Except in proceedings under the Nebraska Indian
23 Child Welfare Act, relative means father, mother, grandfather,
24 grandmother, brother, sister, stepfather, stepmother, stepbrother,
25 stepsister, uncle, aunt, first cousin, nephew, or niece;

26 ~~(14)~~ (16) Secure detention means detention in a highly
27 structured, residential, hardware-secured facility designed to

1 restrict a juvenile's movement;

2 ~~(15)~~ (17) Status offender means a juvenile who has been
3 charged with or adjudicated for conduct which would not be a crime
4 if committed by an adult, including, but not limited to, juveniles
5 charged under subdivision (3)(b) of section 43-247 and sections
6 53-180.01 and 53-180.02; and

7 ~~(16)~~ (18) Traffic offense means any nonfelonious act in
8 violation of a law or ordinance regulating vehicular or pedestrian
9 travel, whether designated a misdemeanor or a traffic infraction.

10 Sec. 28. Section 43-250, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-250 A peace officer who takes a juvenile into
13 temporary custody under section 29-401 or 43-248 or pursuant
14 to a legal warrant of arrest shall immediately take reasonable
15 measures to notify the juvenile's parent, guardian, custodian, or
16 relative and shall proceed as follows:

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

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

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

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

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

1 appropriate juvenile placement or release to a responsible party;

2 (b) When a juvenile described in subdivision (1) or (2)
3 of section 43-247, except for a status offender, is taken into
4 temporary custody outside of 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 twenty-four hours excluding nonjudicial days and while awaiting an
8 initial court appearance, to a secure area of a jail or other
9 facility intended or used for the detention of adults solely for
10 the purposes of identifying the juvenile and ascertaining his
11 or her health and well-being and for safekeeping while awaiting
12 transport to an appropriate juvenile placement or release to a
13 responsible party;

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

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

26 (e) If, within the time limits specified in subdivision
27 (3) (a) or (3) (b) of this section, a felony charge is filed against

1 the juvenile as an adult in county or district court, he or she may
2 be securely held in a jail or other facility intended or used for
3 the detention of adults beyond the specified time limits;

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

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

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

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

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

1 obtain custody of the juvenile. A copy of the certificate shall be
2 forwarded to the county attorney. The peace officer shall notify
3 the juvenile's parents, guardian, custodian, or relative of the
4 juvenile's placement; ~~or-~~

5 (6) A juvenile taken into custody pursuant to a legal
6 warrant of arrest shall be delivered to the probation officer who
7 shall determine the need for detention of the juvenile as provided
8 in section 43-260.01. If detention is not required, the juvenile
9 may be released without bond if such release is in the best
10 interests of the juvenile, the safety of the community is not at
11 risk, and the court that issued the warrant is notified that the
12 juvenile has been taken into custody.

13 In determining the appropriate temporary placement of a
14 juvenile under this section, the peace officer shall select the
15 placement which is least restrictive of the juvenile's freedom so
16 long as such placement is compatible with the best interests of the
17 juvenile and the safety of the community.

18 Sec. 29. Section 43-276, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-276 In cases coming within subdivision (1) of section
21 43-247, when there is concurrent jurisdiction, or subdivision
22 (2) or (4) of section 43-247, when the juvenile is under the
23 age of sixteen years, the county attorney shall, in making
24 the determination whether to file a criminal charge, file a
25 juvenile court petition, offer juvenile pretrial diversion, or
26 offer mediation, consider: (1) The type of treatment such juvenile
27 would most likely be amenable to; (2) whether there is evidence

1 that the alleged offense included violence or was committed in
2 an aggressive and premeditated manner; (3) the motivation for the
3 commission of the offense; (4) the age of the juvenile and the ages
4 and circumstances of any others involved in the offense; (5) the
5 previous history of the juvenile, including whether he or she had
6 been convicted of any previous offenses or adjudicated in juvenile
7 court, and, if so, whether such offenses were crimes against the
8 person or relating to property, and other previous history of
9 antisocial behavior, if any, including any patterns of physical
10 violence; (6) the sophistication and maturity of the juvenile as
11 determined by consideration of his or her home, school activities,
12 emotional attitude and desire to be treated as an adult, pattern
13 of living, and whether he or she has had previous contact with law
14 enforcement agencies and courts and the nature thereof; (7) whether
15 there are facilities particularly available to the juvenile court
16 for treatment and rehabilitation of the juvenile; (8) whether the
17 best interests of the juvenile and the security of the public may
18 require that the juvenile continue in secure detention or under
19 supervision for a period extending beyond his or her minority and,
20 if so, the available alternatives best suited to this purpose;
21 (9) whether the victim agrees to participate in mediation; (10)
22 whether there is a juvenile pretrial diversion program established
23 pursuant to sections 43-260.02 to 43-260.07; (11) whether the
24 juvenile has been convicted of or has acknowledged unauthorized use
25 or possession of a firearm; (12) whether a juvenile court order has
26 been issued for the juvenile pursuant to section 43-2,106.03; (13)
27 whether the juvenile is a criminal street gang member; and ~~(13)~~

1 (14) such other matters as the county attorney deems relevant to
2 his or her decision.

3 Sec. 30. Section 69-2404, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 69-2404 Any person desiring to purchase, lease, rent,
6 or receive transfer of a handgun shall apply with the chief of
7 police or sheriff of the applicant's place of residence for a
8 certificate. The application may be made in person or by mail.
9 The application form and certificate shall be made on forms
10 approved by the Superintendent of Law Enforcement and Public
11 Safety. The application shall include the applicant's full name,
12 ~~social security number~~, address, date of birth, and country of
13 citizenship. If the applicant is not a United States citizen, the
14 application shall include the applicant's place of birth and his
15 or her alien or admission number. If the application is made in
16 person, the applicant shall also present a current Nebraska motor
17 vehicle operator's license, state identification card, or military
18 identification card, or if the application is made by mail, the
19 application form shall describe the license or card used for
20 identification and be notarized by a notary public who has verified
21 the identification of the applicant through such a license or card.
22 An applicant shall receive a certificate if he or she is twenty-one
23 years of age or older and is not prohibited from purchasing or
24 possessing a handgun by 18 U.S.C. 922. A fee of five dollars shall
25 be charged for each application for a certificate to cover the cost
26 of a criminal history record check.

27 Sec. 31. Section 69-2407, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 69-2407 A certificate issued in accordance with section
3 69-2404 shall contain the holder's name, ~~social security number,~~
4 address, and date of birth and the effective date of the
5 certificate. A certificate shall authorize the holder to acquire
6 any number of handguns during the period that the certificate
7 is valid. The certificate shall be valid throughout the state
8 and shall become invalid three years after its effective date.
9 If the chief of police or sheriff who issued the certificate
10 determines that the applicant has become disqualified for the
11 certificate under section 69-2404, he or she may immediately
12 revoke the certificate and require the holder to surrender the
13 certificate immediately. Revocation may be appealed pursuant to
14 section 69-2406.

15 Sec. 32. Section 69-2410, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 69-2410 No importer, manufacturer, or dealer licensed
18 pursuant to 18 U.S.C. 923 shall sell or deliver any handgun
19 to another person other than a licensed importer, manufacturer,
20 dealer, or collector until he or she has:

21 (1)(a) Inspected a valid certificate issued to such
22 person pursuant to sections 69-2401, 69-2403 to 69-2408, and
23 69-2409.01; and

24 (b) Inspected a valid identification containing a
25 photograph of such person which appropriately and completely
26 identifies such person; or

27 (2)(a) Obtained a completed consent form from the

1 potential buyer or transferee, which form shall be established by
2 the Nebraska State Patrol and provided by the licensed importer,
3 manufacturer, or dealer. The form shall include the name, address,
4 date of birth, gender, race, ~~social security number or other~~
5 ~~identification number~~, and country of citizenship of such potential
6 buyer or transferee. If the potential buyer or transferee is not a
7 United States citizen, the completed consent form shall contain the
8 potential buyer's or transferee's place of birth and his or her
9 alien or admission number;

10 (b) Inspected a valid identification containing a
11 photograph of the potential buyer or transferee which appropriately
12 and completely identifies such person;

13 (c) Requested by toll-free telephone call or other
14 electromagnetic communication that the Nebraska State Patrol
15 conduct a criminal history record check; and

16 (d) Received a unique approval number for such inquiry
17 from the Nebraska State Patrol indicating the date and number on
18 the consent form.

19 Sec. 33. Section 69-2430, Revised Statutes Cumulative
20 Supplement, 2008, is amended to read:

21 69-2430 (1) Application for a permit to carry a concealed
22 handgun shall be made in person at any Nebraska State Patrol
23 Troop Headquarters or office provided by the patrol for purposes
24 of accepting such an application. The applicant shall present a
25 current Nebraska motor vehicle operator's license, Nebraska-issued
26 state identification card, or military identification card
27 and shall submit two legible sets of fingerprints for a

1 criminal history record information check pursuant to section
2 69-2431. The application shall be made on a form prescribed
3 by the Superintendent of Law Enforcement and Public Safety.
4 The application shall state the applicant's full name, ~~social~~
5 ~~security number~~, motor vehicle operator's license number or
6 state identification card number, address, and date of birth and
7 contain the applicant's signature and shall include space for the
8 applicant to affirm that he or she meets each and every one of
9 the requirements set forth in section 69-2433. The applicant shall
10 attach to the application proof of training and proof of vision as
11 required in subdivision (3) of section 69-2433.

12 (2) A person applying for a permit to carry a concealed
13 handgun who gives false information or offers false evidence of his
14 or her identity is guilty of a Class IV felony.

15 (3) The permit to carry a concealed handgun shall be
16 issued by the Nebraska State Patrol within five business days after
17 completion of the applicant's criminal history record information
18 check, if the applicant has complied with this section and has met
19 all the requirements of section 69-2433.

20 (4) An applicant denied a permit to carry a concealed
21 handgun may appeal to the district court of the judicial district
22 of the county in which he or she resides or the county in which
23 he or she applied for the permit pursuant to the Administrative
24 Procedure Act.

25 Sec. 34. There is established within the Nebraska
26 Commission on Law Enforcement and Criminal Justice the Office
27 of Violence Prevention. The office shall consist of a director

1 appointed by the Governor. There also is established an advisory
2 council to the Office of Violence Prevention. The members of the
3 advisory council shall be appointed by the Governor and serve
4 at his or her discretion. The advisory council shall consist of
5 six members and, of those members, each congressional district,
6 as such districts existed on the effective date of this act,
7 shall have at least one member on the council. The Governor shall
8 consider appointing members representing the following areas, if
9 practicable: Two members representing local government; two members
10 representing law enforcement; one member representing community
11 advocacy; and one member representing education with some expertise
12 in law enforcement and juvenile crime. Members of the advisory
13 council shall serve for terms of four years. A member may be
14 reappointed at the expiration of his or her term. Any vacancy
15 occurring other than by expiration of a term shall be filled for
16 the remainder of the unexpired term in the same manner as the
17 original appointment.

18 Sec. 35. Notwithstanding any other provision of law,
19 membership on the advisory council to the Office of Violence
20 Prevention shall not disqualify any member from holding his or her
21 office or position or cause the forfeiture thereof.

22 Sec. 36. Members of the advisory council to the Office
23 of Violence Prevention shall serve without compensation but may
24 be reimbursed for their actual and necessary expenses incurred in
25 the performance of their duties as provided in sections 81-1174 to
26 81-1177.

27 Sec. 37. (1) The Office of Violence Prevention and its

1 director shall be administered and supervised, respectively, by
2 the Nebraska Commission on Law Enforcement and Criminal Justice.
3 Among its responsibilities, the Office of Violence Prevention
4 and its director shall be responsible for developing, fostering,
5 promoting, and assessing violence prevention programs. To
6 accomplish this mission, the duties of the director shall include,
7 but not be limited to, program fundraising, program evaluation,
8 coordination of programs, and assistance with the administration
9 and distribution of funds to violence prevention programs.

10 (2) The advisory council to the Office of
11 Violence Prevention shall meet at least quarterly. Among its
12 responsibilities, the advisory council shall recommend to the
13 commission rules and regulations regarding program fundraising,
14 program evaluation, coordination of programs, and the criteria used
15 to assess and award funds to violence prevention programs. Priority
16 for funding shall be given to communities and organizations
17 seeking to implement violence prevention programs which appear
18 to have the greatest benefit to the state and which have, as
19 goals, the reduction of street and gang violence and the reduction
20 of homicides and injuries caused by firearms. The duties of
21 the advisory council shall include, but not be limited to,
22 receiving applications for violence prevention funds, evaluating
23 such applications, and making recommendations to the commission
24 regarding the merits of each application and the amount of
25 any funds that should be awarded. If any funds are awarded
26 to a violence prevention program, the advisory council shall
27 continuously monitor how such funds are being used by the

1 program, conduct periodic evaluations of such programs, assess the
2 progress and success regarding the stated goals of each program
3 awarded funds, and recommend to the commission any modification,
4 continuation, or discontinuation of funding.

5 Sec. 38. The Violence Prevention Cash Fund is created.
6 The fund shall be administered by the Nebraska Commission on Law
7 Enforcement and Criminal Justice. The State Treasurer shall credit
8 to the fund such money as is transferred to the fund by the
9 Legislature, donated as gifts, bequests, or other contributions
10 to such fund from public or private entities, and made available
11 by any department or agency of the United States if so directed
12 by such department or agency. Any money in the fund available
13 for investment shall be invested by the state investment officer
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act.

16 Sec. 39. If any section in this act or any part of any
17 section is declared invalid or unconstitutional, the declaration
18 shall not affect the validity or constitutionality of the remaining
19 portions.

20 Sec. 40. Original sections 28-101, 28-111, 28-308,
21 28-309, 28-929, 28-930, 28-1201, 28-1202, 28-1204, 28-1204.01,
22 28-1204.04, 28-1205, 28-1206, 28-1207, 28-1208, 28-1212.02,
23 28-1212.03, 29-401, 29-901, 29-901.01, 29-1912, 29-2320, 29-2321,
24 43-245, 43-250, 43-276, and 69-2407, Reissue Revised Statutes of
25 Nebraska, and sections 69-2404, 69-2410, and 69-2430, Revised
26 Statutes Cumulative Supplement, 2008, are repealed.

27 Sec. 41. The following sections are outright repealed:

1 Sections 29-1928, 29-1929, and 29-2262.01, Reissue Revised Statutes
2 of Nebraska.

3 Sec. 42. Since an emergency exists, this act takes effect
4 when passed and approved according to law.

5 2. On page 1, strike lines 4 through 14 and insert
6 "28-1207, 28-1208, 28-1212.02, 28-1212.03, 29-401, 29-901,
7 29-901.01, 29-1912, 29-2320, 29-2321, 43-245, 43-250, 43-276,
8 and 69-2407, Reissue Revised Statutes of Nebraska, and sections
9 69-2404, 69-2410, and 69-2430, Revised Statutes Cumulative
10 Supplement, 2008; to change provisions relating to penalty
11 enhancements, assault, firearm and handgun offenses, deadly
12 weapon offenses, bail, handgun certificates, and concealed handgun
13 permits; to prohibit the unauthorized application of graffiti,
14 discharge of a firearm while in or near a motor vehicle, and
15 unlawful membership recruitment for an organization; to change
16 provisions relating to the use of jailhouse witnesses and appeals
17 by the Attorney General; to change and provide penalties; to change
18 provisions relating to detention of juveniles and the Nebraska
19 Juvenile Code; to create the Office of Violence Prevention, an
20 advisory council, and a fund; to eliminate provisions relating
21 to the use of jailhouse informers and persons released on
22 probation, parole, or work release by law enforcement; to harmonize
23 provisions; to provide severability; to repeal the original
24 sections; to outright repeal sections 29-1928, 29-1929, and
25 29-2262.01, Reissue Revised Statutes of Nebraska; and to declare
26 an emergency."

27 3. On page 2, strike lines 1 through 8.