

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 63**

Introduced by Friend, 10; Fulton, 29; Howard, 9; Rogert, 16.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to law; to amend sections 28-101, 28-111,  
2 28-308, 28-309, 28-929, 28-930, 28-1201, 28-1202,  
3 28-1204, 28-1204.01, 28-1204.04, 28-1205, 28-1206,  
4 28-1212.02, 29-901, 29-901.01, 43-245, 43-276, 69-2407,  
5 69-2409.01, 69-2412, 69-2414, 69-2422, and 69-2423,  
6 Reissue Revised Statutes of Nebraska, and sections  
7 69-2404, 69-2405, 69-2410, 69-2411, 69-2430, 69-2433, and  
8 69-2441, Revised Statutes Cumulative Supplement, 2008;  
9 to change provisions relating to assault, firearm and  
10 handgun offenses, deadly weapon offenses, bail, handgun  
11 certificates, and concealed handgun permits; to prohibit  
12 the unauthorized application of graffiti, discharge of a  
13 firearm while in or near a motor vehicle, and unlawful  
14 recruitment into an organization; to change and provide

1 penalties; to change provisions relating to the Nebraska  
2 Juvenile Code; to eliminate provisions relating to the  
3 use of persons released on probation, parole, or work  
4 release and jailhouse informers by law enforcement;  
5 to harmonize provisions; to provide severability; to  
6 repeal the original sections; and to outright repeal  
7 sections 29-1928, 29-1929, and 29-2262.01, Reissue  
8 Revised Statutes of Nebraska.

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

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

3           28-101 Sections 28-101 to 28-1350 and sections 5, 16, and  
4 17 of this act shall be known and may be cited as the Nebraska  
5 Criminal Code.

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

8           28-111 Any person who commits one or more of the  
9 following criminal offenses against a person or a person's  
10 property because of the person's race, color, religion, ancestry,  
11 national origin, gender, sexual orientation, age, or disability  
12 or because of the person's association with a person of a  
13 certain race, color, religion, ancestry, national origin, gender,  
14 sexual orientation, age, or disability shall be punished by the  
15 imposition of the next higher penalty classification than the  
16 penalty classification prescribed for the criminal offense, unless  
17 such criminal offense is already punishable as a Class IB felony  
18 or higher classification: Manslaughter, section 28-305; assault  
19 in the first degree, section 28-308; assault in the second  
20 degree, section 28-309; assault in the third degree, section  
21 28-310; terroristic threats, section 28-311.01; stalking, section  
22 28-311.03; kidnapping, section 28-313; false imprisonment in the  
23 first degree, section 28-314; false imprisonment in the second  
24 degree, section 28-315; sexual assault in the first degree,  
25 section 28-319; sexual assault in the second or third degree,

1 section 28-320; sexual assault of a child, sections 28-319.01 and  
2 28-320.01; arson in the first degree, section 28-502; arson in the  
3 second degree, section 28-503; arson in the third degree, section  
4 28-504; criminal mischief, section 28-519; unauthorized application  
5 of graffiti, section 5 of this act; criminal trespass in the first  
6 degree, section 28-520; or criminal trespass in the second degree,  
7 section 28-521.

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

10 28-308 (1) A person commits the offense of assault in the  
11 first degree if he or she intentionally or knowingly causes serious  
12 bodily injury to another person.

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

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

17 28-309 (1) A person commits the offense of assault in the  
18 second degree if he or she:

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

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

23 (c) While during confinement or in legal custody of  
24 the Department of Correctional Services or in any county jail,  
25 unlawfully strikes or wounds another.

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

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

9           (2) Unauthorized application of graffiti is a Class I  
10 misdemeanor for a first offense and a Class IV felony for a second  
11 or subsequent offense.

12           (3) For purposes of this section, graffiti means any  
13 letter, word, name, number, symbol, slogan, message, drawing,  
14 picture, writing, or other mark of any kind visible to the public  
15 that is drawn, painted, chiseled, scratched, or etched on a rock,  
16 tree, wall, bridge, fence, gate, building, or other structure.  
17 Graffiti does not include advertising or any other letter, word,  
18 name, number, symbol, slogan, message, drawing, picture, writing,  
19 or other mark of any kind lawfully placed on property by an owner  
20 of the property, a tenant of the property, or an authorized agent  
21 for such owner or tenant.

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

24           28-929 (1) A person commits the offense of assault on an  
25 officer in the first degree if he or she intentionally or knowingly

1 causes serious bodily injury to a peace officer, a probation  
2 officer, or an employee of the Department of Correctional Services  
3 while such officer or employee is engaged in the performance of his  
4 or her official duties.

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

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

9 28-930 (1) A person commits the offense of assault on an  
10 officer in the second degree if he or she:

11 (a) Intentionally or knowingly causes bodily injury with  
12 a dangerous instrument to a peace officer, a probation officer, or  
13 an employee of the Department of Correctional Services while such  
14 officer or employee is engaged in the performance of his or her  
15 official duties; or

16 (b) Recklessly causes bodily injury with a dangerous  
17 instrument to a peace officer, a probation officer, or an employee  
18 of the Department of Correctional Services while such officer or  
19 employee is engaged in the performance of his or her official  
20 duties.

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

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

25 28-1201 For purposes of sections 28-1201 to ~~28-1212,~~

1 28-1212.03 and section 16 of this act, unless the context otherwise  
2 requires:

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

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

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

12 ~~(3)~~ (4) Juvenile shall mean means any person under the  
13 age of eighteen years;

14 ~~(4)~~ (5) Knife shall mean means any dagger, dirk, knife,  
15 or stiletto with a blade over three and one-half inches in length  
16 or any other dangerous instrument capable of inflicting cutting,  
17 stabbing, or tearing wounds;

18 ~~(5)~~ (6) Knuckles and brass or iron knuckles shall mean  
19 means any instrument that consists of finger rings or guards made  
20 of a hard substance and that is designed, made, or adapted for the  
21 purpose of inflicting serious bodily injury or death by striking a  
22 person with a fist enclosed in the knuckles;

23 ~~(6)~~ (7) Machine gun shall mean means any firearm,  
24 whatever its size and usual designation, that shoots automatically  
25 more than one shot, without manual reloading, by a single function

1 of the trigger;

2 ~~(7)~~ (8) Short rifle ~~shall mean~~ means a rifle having a  
3 barrel less than sixteen inches long or an overall length of less  
4 than twenty-six inches; and

5 ~~(8)~~ (9) Short shotgun ~~shall mean~~ means a shotgun having  
6 a barrel or barrels less than eighteen inches long or an overall  
7 length of less than twenty-six inches.

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

10 28-1202 (1)(a) Except as otherwise provided in this  
11 section, any person who carries a weapon or weapons concealed on or  
12 about his or her person, such as a ~~revolver, pistol, bowie knife,~~  
13 ~~dirk or knife with a dirk blade attachment,~~ firearm, a knife, brass  
14 or iron knuckles, or any other deadly weapon, commits the offense  
15 of carrying a concealed weapon.

16 (b) It is an affirmative defense that the defendant was  
17 engaged in any lawful business, calling, or employment at the time  
18 he or she was carrying any weapon or weapons and the circumstances  
19 in which such person was placed at the time were such as to justify  
20 a prudent person in carrying the weapon or weapons for the defense  
21 of his or her person, property, or family.

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



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

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

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

7 28-1204 (1) Any person under the age of eighteen  
8 years who possesses a ~~pistol, revolver, or any other form of~~  
9 ~~short-barreled hand firearm~~ handgun commits the offense of unlawful  
10 possession of a ~~revolver, handgun~~.

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

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

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

23 28-1204.01 (1) Any person who knowingly and intentionally  
24 does or attempts to sell, provide, loan, deliver, or in any other  
25 way transfer the possession of a firearm to a juvenile commits the

1 offense of unlawful transfer of a firearm to a juvenile. The county  
2 attorney shall have a copy of the petition served upon the owner of  
3 the firearm, if known, in person or by registered or certified mail  
4 at his or her last-known address.

5 (2) This section ~~shall~~ does not apply to the transfer of  
6 a firearm, other than the types specified in section 28-1204, to a  
7 juvenile:

8 (a) From a person related to such juvenile within the  
9 second degree of consanguinity or affinity if the transfer of  
10 physical possession of such firearm does not occur until such time  
11 as express permission has been obtained from the juvenile's parent  
12 or guardian;

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

14 (c) Who is under direct adult supervision in an  
15 appropriate educational program.

16 (3) This section ~~shall apply~~ applies to the transfer of  
17 any firearm described in section 28-1204, except as specifically  
18 provided in subsection (2) of section 28-1204.

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

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

23 28-1204.04 (1) Any person who possesses a firearm in a  
24 school, on school grounds, in a school-owned vehicle, or at a  
25 school-sponsored activity or athletic event shall be guilty of the

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

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

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

10           (4) Whenever a firearm is confiscated and held pursuant  
11 to this section or section 28-1204.02, the peace officer who  
12 received such firearm shall cause to be filed within ten days after  
13 the confiscation a petition for destruction of such firearm. The  
14 petition shall be filed in the district court of the county in  
15 which the confiscation is made. The petition shall describe the  
16 firearm held, state the name of the owner, if known, allege the  
17 essential elements of the violation which caused the confiscation,  
18 and conclude with a prayer for disposition and destruction in such  
19 manner as the court may direct. At any time after the confiscation  
20 of the firearm and prior to court disposition, the owner of the  
21 firearm seized may petition the district court of the county in  
22 which the confiscation was made for possession of the firearm. The  
23 court shall release the firearm to such owner only if the claim  
24 of ownership can reasonably be shown to be true and either (a)  
25 the owner of the firearm can show that the firearm was taken from

1 his or her property or place of business unlawfully or without  
 2 the knowledge and consent of the owner and that such property  
 3 or place of business is different from that of the person from  
 4 whom the firearm was confiscated or (b) the owner of the firearm  
 5 is acquitted of the charge of unlawful possession of a ~~revolver~~  
 6 handgun in violation of section 28-1204, unlawful transfer of  
 7 a firearm to a juvenile, or unlawful possession of a firearm  
 8 on school grounds. No firearm having significant antique value  
 9 or historical significance as determined by the Nebraska State  
 10 Historical Society shall be destroyed. If a firearm has significant  
 11 antique value or historical significance, it shall be sold at  
 12 auction and the proceeds deposited in the permanent school fund.  
 13 remitted to the State Treasurer for distribution in accordance with  
 14 Article VII, section 5, of the Constitution of Nebraska.

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

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

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

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

3           (2) (a) Any person who possesses a firearm, a knife, brass  
4 or iron knuckles, or a destructive device during the commission of  
5 any felony which may be prosecuted in a court of this state commits  
6 the offense of possession of a deadly weapon during the commission  
7 of a felony.

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

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

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

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

21           (5) For purposes of this section:

22           (a) Destructive device has the same meaning as in section  
23 28-1213; and

24           (b) Use of a deadly weapon includes the discharge,  
25 employment, or visible display of any part of a firearm, a knife,

1 brass or iron knuckles, any other deadly weapon, or a destructive  
2 device during, immediately prior to, or immediately after the  
3 commission of a felony or communication to another indicating the  
4 presence of a firearm, a knife, brass or iron knuckles, any other  
5 deadly weapon, or a destructive device during, immediately prior  
6 to, or immediately after the commission of a felony, regardless  
7 of whether such firearm, knife, brass or iron knuckles, deadly  
8 weapon, or destructive device was discharged, actively employed, or  
9 displayed.

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

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

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

23           (3) (a) Possession of a deadly weapon ~~other than a firearm~~  
24 ~~by a felon or a fugitive from justice~~ is a Class IV knife or brass  
25 or iron knuckles by a prohibited person is a Class III felony.

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

5           (4) (a) (i) For purposes of this section, misdemeanor crime  
 6 of domestic violence means:

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

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

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

19          (B) (I) Assault in the third degree under section  
 20 28-310, stalking under subsection (1) of section 28-311.04, false  
 21 imprisonment in the second degree under section 28-315, or first  
 22 offense domestic assault in the third degree under subsection (1)  
 23 of section 28-323 or any attempt or conspiracy to commit one of  
 24 these offenses; and

25          (II) The crime that is committed by another against his



1 or her spouse, his or her former spouse, a person with whom he or  
2 she has a child in common whether or not they have been married or  
3 lived together at any time, or a person with whom he or she is or  
4 was involved in a dating relationship as defined in section 28-323.

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

7 (A) The person was represented by counsel in the case  
8 or knowingly and intelligently waived the right to counsel in the  
9 case; and

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

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

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

16 (b) For purposes of this section, subject of a current  
17 and validly issued domestic violence protection order pertains to  
18 a current court order that was validly issued pursuant to section  
19 28-311.09 or 42-924 or that meets or exceeds the criteria set forth  
20 in section 28-311.10 regarding protection orders issued by a court  
21 in another state, territory, possession, or tribe.

22 Sec. 15. Section 28-1212.02, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 28-1212.02 Any person who intentionally discharges a  
25 firearm at an inhabited dwelling house, occupied building, occupied

1 motor vehicle, occupied aircraft, inhabited motor home as defined  
2 in section 71-4603, or inhabited camper unit as defined in section  
3 60-1801 shall be guilty of a Class ~~III~~ ID felony.

4           Sec. 16. Any person who knowingly and intentionally or  
5 recklessly discharges a firearm, while in or in the proximity of  
6 any motor vehicle that such person has just exited, at or in the  
7 general direction of any person, dwelling, building, structure,  
8 occupied motor vehicle, occupied aircraft, inhabited motor home as  
9 defined in section 71-4603, or inhabited camper unit as defined in  
10 section 60-1801 is guilty of a Class IC felony.

11           Sec. 17. (1) A person commits the offense of unlawful  
12 membership recruitment into an organization or association when he  
13 or she knowingly and intentionally coerces, intimidates, threatens,  
14 or inflicts bodily harm upon another person in order to entice  
15 that other person to join or prevent that other person from  
16 leaving any organization, group, enterprise, or association whose  
17 members, individually or collectively, engage in or have engaged  
18 in any of the following criminal acts for the benefit of, at the  
19 direction of, or on behalf of the organization, group, enterprise,  
20 or association or any of its members:

21                   (a) Robbery under section 28-324;

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

24                   (c) Burglary under section 28-507;

25                   (d) Murder in the first degree, murder in the second

1 degree, or manslaughter under section 28-303, 28-304, or 28-305,  
2 respectively;

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

6 (f) Unlawful use, possession, or discharge of a firearm  
7 or other deadly weapon under sections 28-1201 to 28-1212.03 and  
8 section 16 of this act;

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

11 (h) Assault on an officer in the first, second, or  
12 third degree under section 28-929, 28-930, or 28-931, respectively,  
13 or assault on an officer using a motor vehicle under section  
14 28-931.01;

15 (i) Theft by unlawful taking or disposition under section  
16 28-511;

17 (j) Theft by receiving stolen property under section  
18 28-517;

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

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

21 (m) Kidnapping under section 28-313;

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

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

24 (p) Tampering with a publicly exhibited contest under  
25 section 28-614;

1           (q) Unauthorized use of a financial transaction device or  
2 criminal possession of a financial transaction device under section  
3 28-620 or 28-621, respectively;

4           (r) Pandering under section 28-802;

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

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

9           (u) Unauthorized application of graffiti under section 5  
10 of this act;

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

13           (w) Promoting gambling in the first degree under section  
14 28-1102.

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

17           Sec. 18. Section 29-901, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           29-901 Any bailable defendant shall be ordered released  
20 from custody pending judgment on his or her personal recognizance  
21 unless the judge determines in the exercise of his or her  
22 discretion that such a release will not reasonably assure the  
23 appearance of the defendant as required or that such a release  
24 could jeopardize the safety and maintenance of evidence or  
25 victims, witnesses, or other persons in the community. When such

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

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

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

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

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

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

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

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

1 to the Supreme Court or Court of Appeals, as provided in section  
2 29-2301, until the period of suspension has expired. When two or  
3 more indictments or informations are returned against the same  
4 person at the same term of court, the recognizance given may be  
5 made to include all offenses charged therein. Each surety on such  
6 recognizance shall be required to justify under oath in a sum  
7 twice the amount of such recognizance and give the description  
8 of real estate owned by him or her of a value above encumbrance  
9 equal to the amount of such justification and shall name all other  
10 cases pending in which he or she is a surety. No one shall be  
11 accepted as surety on recognizance aggregating a sum in excess of  
12 his or her equity in the real estate, but such recognizance shall  
13 not constitute a lien on the real estate described therein until  
14 judgment is entered thereon against such surety; or

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

19 Sec. 19. Section 29-901.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 29-901.01 In determining which condition or conditions of  
22 release shall reasonably assure appearance and deter possible  
23 threats to the safety and maintenance of evidence, victims,  
24 witnesses, or other persons in the community, the judge shall,  
25 on the basis of available information, take into account the

1 nature and circumstances of the offense charged, including any  
 2 information to indicate that the defendant might engage in  
 3 additional criminal activity or pose a threat to himself or  
 4 herself, yet to be collected evidence, alleged victims, potential  
 5 witnesses, or members of the general public, the defendant's  
 6 family ties, employment, financial resources, character and mental  
 7 condition, the length of ~~his~~ the defendant's residence in the  
 8 community, ~~his~~ the defendant's record of convictions, and ~~his~~ the  
 9 defendant's record of appearances at court proceedings or of flight  
 10 to avoid prosecution or of failure to appear at court proceedings.

11           Sec. 20. Section 43-245, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13           43-245 For purposes of the Nebraska Juvenile Code, unless  
 14 the context otherwise requires:

- 15           (1) Age of majority means nineteen years of age;
- 16           (2) Approved center means a center that has applied for  
 17 and received approval from the Director of the Office of Dispute  
 18 Resolution under section 25-2909;
- 19           (3) Cost or costs means (a) the sum or equivalent  
 20 expended, paid, or charged for goods or services, or expenses  
 21 incurred, or (b) the contracted or negotiated price;
- 22           (4) Criminal street gang means a group of three or more  
 23 people with a common identifying name, sign, or symbol whose group  
 24 identity or purposes include engaging in illegal activities;
- 25           (5) Criminal street gang member means a person who



1 willingly or voluntarily becomes and remains a member of a criminal  
2 street gang;

3 ~~(4)~~ (6) Juvenile means any person under the age of  
4 eighteen;

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

13 ~~(6)~~ (8) Juvenile detention facility has the same meaning  
14 as in section 83-4,125;

15 ~~(7)~~ (9) Mediator for juvenile offender and victim  
16 mediation means a person who (a) has completed at least thirty  
17 hours of training in conflict resolution techniques, neutrality,  
18 agreement writing, and ethics set forth in section 25-2913, (b) has  
19 an additional eight hours of juvenile offender and victim mediation  
20 training, and (c) meets the apprenticeship requirements set forth  
21 in section 25-2913;

22 ~~(8)~~ (10) Mental health facility means a treatment  
23 facility as defined in section 71-914 or a government, private, or  
24 state hospital which treats mental illness;

25 ~~(9)~~ (11) Nonoffender means a juvenile who is subject

1 to the jurisdiction of the juvenile court for reasons other  
2 than legally prohibited conduct, including, but not limited to,  
3 juveniles described in subdivision (3)(a) of section 43-247;

4 ~~(10)~~ (12) Nonsecure detention means detention  
5 characterized by the absence of restrictive hardware, construction,  
6 and procedure. Nonsecure detention services may include a range  
7 of placement and supervision options, such as home detention,  
8 electronic monitoring, day reporting, drug court, tracking and  
9 monitoring supervision, staff secure and temporary holdover  
10 facilities, and group homes;

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

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

16 ~~(13)~~ (15) Except in proceedings under the Nebraska Indian  
17 Child Welfare Act, relative means father, mother, grandfather,  
18 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
19 stepsister, uncle, aunt, first cousin, nephew, or niece;

20 ~~(14)~~ (16) Secure detention means detention in a highly  
21 structured, residential, hardware-secured facility designed to  
22 restrict a juvenile's movement;

23 ~~(15)~~ (17) Status offender means a juvenile who has been  
24 charged with or adjudicated for conduct which would not be a crime  
25 if committed by an adult, including, but not limited to, juveniles

1 charged under subdivision (3)(b) of section 43-247 and sections  
2 53-180.01 and 53-180.02; and

3 ~~(16)~~ (18) Traffic offense means any nonfelonious act in  
4 violation of a law or ordinance regulating vehicular or pedestrian  
5 travel, whether designated a misdemeanor or a traffic infraction.

6 Sec. 21. Section 43-276, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-276 In cases coming within subdivision (1) of section  
9 43-247, when there is concurrent jurisdiction, or subdivision  
10 (2) or (4) of section 43-247, when the juvenile is under the  
11 age of sixteen years, the county attorney shall, in making  
12 the determination whether to file a criminal charge, file a  
13 juvenile court petition, offer juvenile pretrial diversion, or  
14 offer mediation, consider: (1) The type of treatment such juvenile  
15 would most likely be amenable to; (2) whether there is evidence  
16 that the alleged offense included violence or was committed in  
17 an aggressive and premeditated manner; (3) the motivation for the  
18 commission of the offense; (4) the age of the juvenile and the ages  
19 and circumstances of any others involved in the offense; (5) the  
20 previous history of the juvenile, including whether he or she had  
21 been convicted of any previous offenses or adjudicated in juvenile  
22 court, and, if so, whether such offenses were crimes against the  
23 person or relating to property, and other previous history of  
24 antisocial behavior, if any, including any patterns of physical  
25 violence; (6) the sophistication and maturity of the juvenile as

1 determined by consideration of his or her home, school activities,  
2 emotional attitude and desire to be treated as an adult, pattern  
3 of living, and whether he or she has had previous contact with law  
4 enforcement agencies and courts and the nature thereof; (7) whether  
5 there are facilities particularly available to the juvenile court  
6 for treatment and rehabilitation of the juvenile; (8) whether the  
7 best interests of the juvenile and the security of the public may  
8 require that the juvenile continue in secure detention or under  
9 supervision for a period extending beyond his or her minority and,  
10 if so, the available alternatives best suited to this purpose;  
11 (9) whether the victim agrees to participate in mediation; (10)  
12 whether there is a juvenile pretrial diversion program established  
13 pursuant to sections 43-260.02 to 43-260.07; (11) whether the  
14 juvenile has been convicted of or has acknowledged unauthorized use  
15 or possession of a firearm; (12) whether a juvenile court order has  
16 been issued for the juvenile pursuant to section 43-2,106.03; (13)  
17 whether the juvenile is a criminal street gang member; and ~~(13)~~  
18 (14) such other matters as the county attorney deems relevant to  
19 his or her decision.

20           Sec. 22. Section 69-2404, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22           69-2404 Any person desiring to purchase, lease, rent,  
23 or receive transfer of a handgun shall apply with the chief of  
24 police or sheriff of the applicant's place of residence for a  
25 certificate. The application may be made in person or by mail.

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

20           Sec. 23. Section 69-2405, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22           69-2405 Upon the receipt of an application for a  
23 certificate, the chief of police or sheriff shall issue a  
24 certificate or deny a certificate and furnish the applicant  
25 the specific reasons for the denial in writing. The chief of

1 police or sheriff shall be permitted up to three days in which  
2 to conduct an investigation to determine whether the applicant  
3 is prohibited by law from ~~purchasing or~~ possessing a handgun. If  
4 the certificate or denial is mailed to the applicant, it shall  
5 be mailed to the applicant's address by first-class mail within  
6 the three-day period. If it is determined that the ~~purchase or~~  
7 possession of a handgun by the applicant would be in violation  
8 of applicable federal, state, or local law, the chief of police  
9 or sheriff shall deny the certificate. In computing the three-day  
10 period, the day of receipt of the application shall not be included  
11 and the last day of the three-day period shall be included. The  
12 three-day period shall expire at 11:59 p.m. of the third day  
13 unless it is a Saturday, Sunday, or legal holiday in which event  
14 the period shall run until 11:59 p.m. of the next day which is  
15 not a Saturday, Sunday, or legal holiday. No later than the end  
16 of the three-day period the chief of police or sheriff shall  
17 issue or deny such certificate and, if the certificate is denied,  
18 furnish the applicant the specific reasons for denial in writing.  
19 No civil liability shall arise to any law enforcement agency if  
20 such law enforcement agency complies with sections 69-2401, 69-2403  
21 to 69-2408, and 69-2409.01.

22           Sec. 24. Section 69-2407, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           69-2407 A certificate issued in accordance with section  
25 69-2404 shall contain the holder's name, ~~social security number,~~

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

12           Sec. 25. Section 69-2409.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           69-2409.01 (1) For purposes of sections 69-2401 to  
15 69-2425, the Nebraska State Patrol shall be furnished upon the  
16 patrol's request with only such information as may be necessary  
17 for the sole purpose of determining whether an individual is  
18 disqualified from ~~purchasing or~~ possessing a handgun pursuant to  
19 ~~state or federal,~~ state, or local law. Such information shall  
20 be furnished by the Department of Health and Human Services. The  
21 clerks of the various courts shall furnish to the Department of  
22 Health and Human Services, within thirty days after the order of  
23 commitment or finding and the discharge, all information necessary  
24 to set up and maintain the data base required by this section. This  
25 information shall include (a) information regarding those persons

1 who are currently receiving mental health treatment pursuant to  
2 a commitment order of a mental health board or who have been  
3 discharged and (b) information regarding those persons who have  
4 been committed to treatment pursuant to section 29-3702. The  
5 Department of Health and Human Services shall also maintain in  
6 the data base a listing of persons committed to treatment pursuant  
7 to section 29-3702. Information regarding mental health board  
8 commitments and commitments pursuant to section 29-3702 shall not  
9 be retained in the data base maintained by the department on  
10 persons who have been discharged from those commitments more than  
11 five years previously. Any such information maintained or disclosed  
12 under this subsection shall remain privileged and confidential and  
13 shall not be redisclosed or utilized for any other purpose. The  
14 procedures for furnishing such information shall guarantee that no  
15 information is released beyond what is necessary for purposes of  
16 this section.

17 (2) In order to comply with sections 69-2401 and 69-2403  
18 to 69-2408 and this section, the Nebraska State Patrol shall  
19 provide to the chief of police or sheriff of an applicant's place  
20 of residence or a licensee in the process of a criminal history  
21 record check pursuant to section 69-2411 only the information  
22 regarding whether or not the applicant is disqualified from  
23 ~~purchasing or~~ possessing a handgun.

24 (3) Any person, agency, or mental health board  
25 participating in good faith in the reporting or disclosure of



1 records and communications under this section is immune from any  
2 liability, civil, criminal, or otherwise, that might result by  
3 reason of the action.

4 (4) Any person who intentionally causes the Nebraska  
5 State Patrol to request information pursuant to this section  
6 without reasonable belief that the named individual has submitted  
7 a written application under section 69-2404 or has completed a  
8 consent form under section 69-2410 shall be guilty of a Class II  
9 misdemeanor in addition to other civil or criminal liability under  
10 ~~state or federal~~, state, or local law.

11 Sec. 26. Section 69-2410, Revised Statutes Cumulative  
12 Supplement, 2008, is amended to read:

13 69-2410 No importer, manufacturer, or dealer licensed  
14 pursuant to 18 U.S.C. 923 shall sell or deliver any handgun  
15 to another person other than a licensed importer, manufacturer,  
16 dealer, or collector until he or she has:

17 (1)(a) Inspected a valid certificate issued to such  
18 person pursuant to sections 69-2401, 69-2403 to 69-2408, and  
19 69-2409.01; and

20 (b) Inspected a valid identification containing a  
21 photograph of such person which appropriately and completely  
22 identifies such person; or

23 (2)(a) Obtained a completed consent form from the  
24 potential buyer or transferee, which form shall be established by  
25 the Nebraska State Patrol and provided by the licensed importer,

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

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

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

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

17 Sec. 27. Section 69-2411, Revised Statutes Cumulative  
18 Supplement, 2008, is amended to read:

19 69-2411 (1) Upon receipt of a request for a criminal  
20 history record check, the Nebraska State Patrol shall as soon  
21 as possible during the licensee's telephone call or by return  
22 telephone call:

23 (a) Check its criminal history records and check the  
24 Federal Bureau of Investigation's National Instant Criminal  
25 Background Check System to determine if the potential buyer or

1 transferee is prohibited from ~~receipt or~~ possession of a handgun  
2 pursuant to ~~state or~~ federal, state, or local law; and

3 (b) Either (i) inform the licensee that its records  
4 demonstrate that the potential buyer or transferee is prohibited  
5 from ~~receipt or~~ possession of a handgun or (ii) provide the  
6 licensee with a unique approval number.

7 (2) In the event of electronic failure or similar  
8 emergency beyond the control of the Nebraska State Patrol, the  
9 patrol shall immediately notify a requesting licensee of the reason  
10 for and estimated length of such delay. In any event, no later than  
11 the end of the next business day the Nebraska State Patrol shall  
12 either (a) inform the licensee that its records demonstrate that  
13 the potential buyer or transferee is prohibited from ~~receipt or~~  
14 possession of a handgun or (b) provide the licensee with a unique  
15 approval number. If the licensee is not informed by the end of  
16 the next business day that the potential buyer is prohibited from  
17 ~~receipt or~~ possession of a handgun, and regardless of whether the  
18 unique approval number has been received, the licensee may complete  
19 the sale or delivery and shall not be deemed to be in violation of  
20 sections 69-2410 to 69-2423 with respect to such sale or delivery.

21 (3) A fee of three dollars shall be charged for each  
22 request of a criminal history record check required pursuant to  
23 section 69-2410, which amount shall be transmitted monthly to the  
24 Nebraska State Patrol. Such amount shall be for the purpose of  
25 covering the costs of the criminal history record check.

1                   Sec. 28. Section 69-2412, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   69-2412 (1) Any records which are created by the  
4 Nebraska State Patrol to conduct the criminal history record  
5 check containing any of the information set forth in subdivision  
6 (2)(a) of section 69-2410 pertaining to a potential buyer or  
7 transferee who is not prohibited from receipt or transfer of a  
8 handgun by reason of ~~state or federal~~, state, or local law shall be  
9 confidential and may not be disclosed by the patrol or any officer  
10 or employee thereof to any person. The Nebraska State Patrol shall  
11 destroy any such records as soon as possible after communicating  
12 the unique approval number, and in any event, such records shall be  
13 destroyed within forty-eight hours after the date of receipt of the  
14 licensee's request.

15                   (2) Notwithstanding the provisions of this section, the  
16 Nebraska State Patrol shall only maintain a log of dates of  
17 requests for criminal history record checks and unique approval  
18 numbers corresponding to such dates for not to exceed one year.

19                   (3) Nothing in this section shall be construed to allow  
20 the state to maintain records containing the names of licensees  
21 who receive unique approval numbers or to maintain records of  
22 handgun transactions, including the names or other identification  
23 of licensees and potential buyers or transferees including persons  
24 not otherwise prohibited by law from the ~~receipt or~~ possession of  
25 handguns.

1           Sec. 29. Section 69-2414, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           69-2414 Any person who is denied the right to purchase or  
4 receive a handgun as a result of procedures established by sections  
5 69-2410 to 69-2423 may request amendment of the record pertaining  
6 to him or her by petitioning the Nebraska State Patrol. If the  
7 Nebraska State Patrol fails to amend the record within seven days,  
8 the person requesting the amendment may petition the county court  
9 of the county in which he or she resides for an order directing the  
10 patrol to amend the record. If the person proves by a preponderance  
11 of the evidence that the record should be amended, the court shall  
12 order the record be amended. If the record demonstrates that such  
13 person is not prohibited from ~~receipt~~ ~~or~~ possession of a handgun  
14 by ~~state or federal,~~ state, or local law, the Nebraska State  
15 Patrol shall destroy any records it maintains which contain any  
16 information derived from the criminal history record check.

17           Sec. 30. Section 69-2422, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           69-2422 For purposes of sections 69-2401 to 69-2425, any  
20 person who knowingly and intentionally obtains a handgun for the  
21 purposes of transferring it to a person who is prohibited from  
22 ~~receipt~~ ~~or~~ possession of a handgun by ~~state or federal,~~ state, or  
23 local law shall be guilty of a Class IV felony.

24           Sec. 31. Section 69-2423, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           69-2423 The Nebraska State Patrol shall provide an annual  
2 report to the Judiciary Committee of the Legislature which includes  
3 the number of inquiries made pursuant to sections 69-2410 to  
4 69-2423 for the prior calendar year, the number of such inquiries  
5 resulting in a determination that the potential buyer or transferee  
6 was prohibited from ~~receipt or~~ possession of a handgun pursuant  
7 to ~~state or federal,~~ state, or local law, the estimated costs of  
8 administering such sections, the number of instances in which a  
9 person requested amendment of the record pertaining to such person  
10 pursuant to section 69-2414, and the number of instances in which  
11 a county court issued an order directing the patrol to amend a  
12 record.

13           Sec. 32. Section 69-2430, Revised Statutes Cumulative  
14 Supplement, 2008, is amended to read:

15           69-2430 (1) Application for a permit to carry a concealed  
16 handgun shall be made in person at any Nebraska State Patrol  
17 Troop Headquarters or office provided by the patrol for purposes  
18 of accepting such an application. The applicant shall present a  
19 current Nebraska motor vehicle operator's license, Nebraska-issued  
20 state identification card, or military identification card  
21 and shall submit two legible sets of fingerprints for a  
22 criminal history record information check pursuant to section  
23 69-2431. The application shall be made on a form prescribed  
24 by the Superintendent of Law Enforcement and Public Safety.  
25 The application shall state the applicant's full name, ~~social~~

1 ~~security number~~, motor vehicle operator's license number or  
 2 state identification card number, address, and date of birth and  
 3 contain the applicant's signature and shall include space for the  
 4 applicant to affirm that he or she meets each and every one of  
 5 the requirements set forth in section 69-2433. The applicant shall  
 6 attach to the application proof of training and proof of vision as  
 7 required in subdivision (3) of section 69-2433.

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

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

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

21 Sec. 33. Section 69-2433, Revised Statutes Cumulative  
 22 Supplement, 2008, is amended to read:

23 69-2433 An applicant shall:

- 24 (1) Be at least twenty-one years of age;
- 25 (2) Not be prohibited from ~~purchasing or~~ possessing a

1 handgun by ~~18 U.S.C. 922~~, as such section existed on January 1,  
2 2005, any federal, state, or local law;

3 (3) Possess the same powers of eyesight as required under  
4 section 60-4,118 for a Class O operator's license. If an applicant  
5 does not possess a current Nebraska motor vehicle operator's  
6 license, the applicant may present a current optometrist's or  
7 ophthalmologist's statement certifying the vision reading obtained  
8 when testing the applicant. If such certified vision reading meets  
9 the vision requirements prescribed by section 60-4,118 for a Class  
10 O operator's license, the vision requirements of this subdivision  
11 shall have been met;

12 (4) Not have pled guilty to, not have pled nolo  
13 contendere to, or not have been convicted of a felony or a  
14 crime of violence under the laws of this state or under the laws of  
15 any other jurisdiction;

16 (5) Not have been found in the previous ten years to be a  
17 mentally ill and dangerous person under the Nebraska Mental Health  
18 Commitment Act or a similar law of another jurisdiction or not be  
19 currently adjudged mentally incompetent;

20 (6) Have been a resident of this state for at least one  
21 hundred eighty days. For purposes of this section, resident does  
22 not include an applicant who maintains a residence in another state  
23 and claims that residence for voting or tax purposes;

24 (7) Have had no violations of any law of this state  
25 relating to firearms, unlawful use of a weapon, or controlled



1 substances or of any similar laws of another jurisdiction in the  
2 ten years preceding the date of application;

3 (8) Not be on parole, probation, house arrest, or work  
4 release;

5 (9) Be a citizen of the United States; and

6 (10) Provide proof of training.

7 Sec. 34. Section 69-2441, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 69-2441 (1)(a) A permitholder may carry a concealed  
10 handgun anywhere in Nebraska, except any: Police, sheriff, or  
11 Nebraska State Patrol station or office; detention facility,  
12 prison, or jail; courtroom or building which contains a courtroom;  
13 polling place during a bona fide election; meeting of the  
14 governing body of a county, public school district, municipality,  
15 or other political subdivision; meeting of the Legislature or a  
16 committee of the Legislature; financial institution; professional  
17 or semiprofessional athletic event; building, grounds, vehicle,  
18 or sponsored activity or athletic event of any public, private,  
19 denominational, or parochial school or private or public  
20 university, college, or community college; place of worship;  
21 hospital, emergency room, or trauma center; political rally  
22 or fundraiser; establishment having a license issued under the  
23 Nebraska Liquor Control Act that derives over one-half of its  
24 total income from the sale of alcoholic liquor; place where the  
25 possession or carrying of a firearm is prohibited by ~~state or~~

1 federal, state, or local law; a place or premises where the person,  
2 persons, entity, or entities in control of the property or employer  
3 in control of the property has prohibited permitholders from  
4 carrying concealed handguns into or onto the place or premises;  
5 or into or onto any other place or premises where handguns are  
6 prohibited by law or rule or regulation.

7 (b) A financial institution may authorize its security  
8 personnel to carry concealed handguns in the financial institution  
9 while on duty so long as each member of the security personnel, as  
10 authorized, is in compliance with the Concealed Handgun Permit Act  
11 and possesses a permit to carry a concealed handgun issued pursuant  
12 to the act.

13 (2) If a person, persons, entity, or entities in control  
14 of the property or an employer in control of the property prohibits  
15 a permitholder from carrying a concealed handgun into or onto the  
16 place or premises and such place or premises are open to the  
17 public, a permitholder does not violate this section unless the  
18 person, persons, entity, or entities in control of the property  
19 or employer in control of the property has posted conspicuous  
20 notice that carrying a concealed handgun is prohibited in or  
21 on the place or premises or has made a request, directly or  
22 through an authorized representative or management personnel, that  
23 the permitholder remove the concealed handgun from the place or  
24 premises. A permitholder carrying a concealed handgun in a vehicle  
25 into or onto any place or premises does not violate this section

1 so long as the handgun is not removed from the vehicle while the  
2 vehicle is in or on the place or premises. An employer may prohibit  
3 employees or other persons who are permitholders from carrying  
4 concealed handguns in vehicles owned by the employer.

5 (3) A permitholder shall not carry a concealed handgun  
6 while he or she is consuming alcohol or while the permitholder  
7 has remaining in his or her blood, urine, or breath any previously  
8 consumed alcohol or any controlled substance as defined in section  
9 28-401. A permitholder does not violate this subsection if the  
10 controlled substance in his or her blood, urine, or breath was  
11 lawfully obtained and was taken in therapeutically prescribed  
12 amounts.

13 Sec. 35. If any section in this act or any part of any  
14 section is declared invalid or unconstitutional, the declaration  
15 shall not affect the validity or constitutionality of the remaining  
16 portions.

17 Sec. 36. Original sections 28-101, 28-111, 28-308,  
18 28-309, 28-929, 28-930, 28-1201, 28-1202, 28-1204, 28-1204.01,  
19 28-1204.04, 28-1205, 28-1206, 28-1212.02, 29-901, 29-901.01,  
20 43-245, 43-276, 69-2407, 69-2409.01, 69-2412, 69-2414, 69-2422,  
21 and 69-2423, Reissue Revised Statutes of Nebraska, and sections  
22 69-2404, 69-2405, 69-2410, 69-2411, 69-2430, 69-2433, and 69-2441,  
23 Revised Statutes Cumulative Supplement, 2008, are repealed.

24 Sec. 37. The following sections are outright repealed:  
25 Sections 29-1928, 29-1929, and 29-2262.01, Reissue Revised Statutes

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1 of Nebraska.