

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 675

Final Reading

Introduced by Pirsch, 4.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 28-106,
 2 60-498.02, 60-4,129, 60-601, 60-697, 60-698, 60-6,197.02,
 3 60-6,197.03, 60-6,198, and 83-1,135, Reissue Revised
 4 Statutes of Nebraska; to change penalties for Class W
 5 misdemeanors; to change provisions relating to the duty
 6 to stop in the event of an accident, employment driving
 7 permits, and driving under the influence of alcohol or
 8 drugs; to change and provide penalties; to provide
 9 requirements for parole eligibility; to harmonize
 10 provisions; to provide an operative date; and to repeal
 11 the original sections.

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

1 Section 1. Section 28-106, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-106 (1) For purposes of the Nebraska Criminal Code and
4 any statute passed by the Legislature after the date of passage of
5 the code, misdemeanors are divided into seven classes which are
6 distinguished from one another by the following penalties which are
7 authorized upon conviction:

8 Class I misdemeanor..... Maximum - not more than one year
9 imprisonment, or one thousand dollars
10 fine, or both
11 Minimum - none

12 Class II misdemeanor..... Maximum - six months imprisonment, or
13 one thousand dollars fine, or both
14 Minimum - none

15 Class III misdemeanor..... Maximum - three months imprisonment,
16 or five hundred dollars fine, or both
17 Minimum - none

18 Class IIIA misdemeanor..... Maximum - seven days imprisonment, five
19 hundred dollars fine, or both
20 Minimum - none

21 Class IV misdemeanor..... Maximum - no imprisonment, five hun-
22 dred dollars fine

1 Minimum - one hundred dollars fine

2 Class V misdemeanor..... Maximum - no imprisonment, one hun-

3 dred dollars fine

4 Minimum - none

5 Class W misdemeanor..... Driving under the influence or implied

6 consent

7 First conviction

8 Maximum - sixty days imprisonment and

9 five hundred dollars fine

10 Mandatory minimum - seven days

11 ~~imprisonment and four hundred dollars~~

12 imprisonment and five hundred dollars

13 fine

14 Second conviction

15 Maximum - six months imprisonment and

16 five hundred dollars fine

17 Mandatory minimum - thirty days

18 imprisonment and five hundred dollars

19 fine

20 Third conviction

21 Maximum - one year imprisonment and

1 ~~six hundred dollars fine~~
 2 one thousand dollars fine
 3 Mandatory minimum - ninety days
 4 imprisonment
 5 ~~and six hundred dollars fine~~
 6 and one thousand dollars fine

7 (2) Sentences of imprisonment in misdemeanor cases shall
 8 be served in the county jail, except that in the following
 9 circumstances the court may, in its discretion, order that such
 10 sentences be served in institutions under the jurisdiction of the
 11 Department of Correctional Services:

12 (a) If the sentence is for a term of one year upon
 13 conviction of a Class I misdemeanor;

14 (b) If the sentence is to be served concurrently or
 15 consecutively with a term for conviction of a felony; or

16 (c) If the Department of Correctional Services has
 17 certified as provided in section 28-105 as to the availability of
 18 facilities and programs for short-term prisoners and the sentence is
 19 for a term of six months or more.

20 Sec. 2. Section 60-498.02, Reissue Revised Statutes of
 21 Nebraska, is amended to read:

22 60-498.02 (1) At the expiration of thirty days after the
 23 date of arrest as described in subsection (2) of section 60-6,197 or
 24 if after a hearing pursuant to section 60-498.01 the director finds

1 that the operator's license should be revoked, the director shall (a)
2 revoke the operator's license of a person arrested for refusal to
3 submit to a chemical test of blood, breath, or urine as required by
4 section 60-6,197 for a period of one year and (b) revoke the
5 operator's license of a person who submits to a chemical test
6 pursuant to such section which discloses the presence of a
7 concentration of alcohol specified in section 60-6,196 for a period
8 of ninety days unless the person's driving record abstract maintained
9 in the department's computerized records shows one or more prior
10 administrative license revocations on which final orders have been
11 issued during the immediately preceding ~~twelve-year~~ fifteen-year
12 period at the time the order of revocation is issued, in which case
13 the period of revocation shall be one year. Except as otherwise
14 provided in section 60-6,211.05, a new operator's license shall not
15 be issued to such person until the period of revocation has elapsed.
16 If the person subject to the revocation is a nonresident of this
17 state, the director shall revoke only the nonresident's operating
18 privilege as defined in section 60-474 of such person and shall
19 immediately forward the operator's license and a statement of the
20 order of revocation to the person's state of residence.

21 (2)(a) At the expiration of thirty days after an order of
22 revocation is entered under subdivision (1)(b) of this section, any
23 person whose operator's license has been administratively revoked for
24 a period of ninety days for submitting to a chemical test pursuant to
25 section 60-6,197 which disclosed the presence of a concentration of

1 alcohol in violation of section 60-6,196 may make application to the
2 director for issuance of an employment driving permit pursuant to
3 section 60-4,130.

4 (b) At the expiration of sixty days after an order of
5 revocation is entered under subdivision (1)(a) of this section, any
6 person whose operator's license has been administratively revoked for
7 refusal to submit to a chemical test pursuant to section 60-6,197,
8 may make application to the director for issuance of an employment
9 driving permit pursuant to section 60-4,130 unless the person's
10 driving record abstract maintained in the department's computerized
11 records shows one or more prior administrative license revocations on
12 which final orders have been issued during the immediately preceding
13 ~~twelve-year~~ fifteen-year period at the time the order of revocation
14 is issued.

15 (3)(a) At the expiration of thirty days after an order of
16 administrative license revocation for ninety days is entered under
17 subdivision (1)(b) of this section, any person who submitted to a
18 chemical test pursuant to section 60-6,197 which disclosed the
19 presence of a concentration of alcohol in violation of section
20 60-6,196 is eligible for an order to allow application for an
21 ignition interlock permit to operate a motor vehicle equipped with an
22 ignition interlock device pursuant to section 60-6,211.05 upon
23 presentation of sufficient evidence to the department that such a
24 device is installed.

25 (b) At the expiration of sixty days after an order of

1 administrative license revocation for one year is entered under
2 subdivision (1)(b) of this section, any person who submitted to a
3 chemical test pursuant to section 60-6,197 which disclosed the
4 presence of a concentration of alcohol in violation of section
5 60-6,196 is eligible for an order to allow application for an
6 ignition interlock permit in order to operate a motor vehicle
7 equipped with an ignition interlock device pursuant to section
8 60-6,211.05 upon presentation of sufficient evidence to the
9 department that such a device is installed.

10 (c) At the expiration of sixty days after an order of
11 administrative license revocation is entered under subdivision (1)(a)
12 of this section, any person who refused to submit to a chemical test
13 pursuant to section 60-6,197 is eligible for an order to allow
14 application for an ignition interlock permit in order to operate a
15 motor vehicle equipped with an ignition interlock device pursuant to
16 section 60-6,211.05 upon presentation of sufficient evidence to the
17 department that such a device is installed, unless the person's
18 driving record abstract maintained in the department's computerized
19 records shows one or more prior administrative license revocations on
20 which final orders have been issued during the immediately preceding
21 ~~twelve-year~~ fifteen-year period at the time the order of revocation
22 is issued.

23 (d) A person operating a motor vehicle pursuant to this
24 subsection shall only operate the motor vehicle to and from his or
25 her residence, his or her place of employment, his or her school, an

1 alcohol treatment program, or an ignition interlock service facility.
2 Such permit shall indicate for which purposes the permit may be used.
3 All permits issued pursuant to this subsection shall indicate that
4 the permit is not valid for the operation of any commercial motor
5 vehicle.

6 (4) A person may have his or her eligibility for a
7 license reinstated upon payment of a reinstatement fee as required by
8 section 60-694.01.

9 (5)(a) A person whose operator's license is subject to
10 revocation pursuant to subsection (3) of section 60-498.01 shall have
11 all proceedings dismissed or his or her operator's license
12 immediately reinstated without payment of the reinstatement fee upon
13 receipt of suitable evidence by the director that:

14 (i) Within the thirty-day period following the date of
15 arrest, the prosecuting attorney responsible for the matter declined
16 to file a complaint alleging a violation of section 60-6,196 and
17 notified the director by first-class mail or facsimile transmission
18 of such decision and the director received such notice within such
19 period or the notice was postmarked within such period; or

20 (ii) The defendant, after trial, was found not guilty of
21 violating section 60-6,196 or such charge was dismissed on the merits
22 by the court.

23 (b) The director shall adopt and promulgate rules and
24 regulations establishing standards for the presentation of suitable
25 evidence of compliance with subdivision (a) of this subsection.

1 (c) If a charge is filed for a violation of section
2 60-6,196 pursuant to an arrest for which all proceedings were
3 dismissed under this subsection, the prosecuting attorney shall
4 notify the director by first-class mail or facsimile transmission of
5 the filing of such charge and the director may reinstate an
6 administrative license revocation under this section as of the date
7 that the director receives notification of the filing of the charge,
8 except that a revocation shall not be reinstated if it was dismissed
9 pursuant to section 60-498.01.

10 Sec. 3. Section 60-4,129, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 60-4,129 (1) Any individual whose operator's license is
13 revoked under section 60-498.02, 60-4,183, or 60-4,186 or suspended
14 under section 43-3318 shall be eligible to operate any motor vehicle,
15 except a commercial motor vehicle, in this state under an employment
16 driving permit. An employment driving permit issued due to a
17 revocation under section 60-498.02, 60-4,183, or 60-4,186 is valid
18 for the period of revocation. An employment driving permit issued due
19 to a suspension of an operator's license under section 43-3318 is
20 valid for no more than three months and cannot be renewed. An
21 employment driving permit shall not be issued to any person subject
22 to an administrative license revocation who submitted to a chemical
23 test pursuant to section 60-6,197 which disclosed the presence of a
24 concentration of alcohol in violation of section 60-6,196 if the
25 person's driving record abstract maintained in the department's

1 computerized records shows one or more prior administrative license
2 revocations on which final orders have been issued during the
3 immediately preceding ~~twelve-year~~ fifteen-year period at the time the
4 order of revocation is issued.

5 (2) Any person whose operator's license has been
6 suspended or revoked pursuant to any law of this state, except
7 section 43-3318, 60-498.02, 60-4,183, or 60-4,186, shall not be
8 eligible to receive an employment driving permit during the period of
9 such suspension or revocation.

10 (3) An individual who is issued an employment driving
11 permit may operate any motor vehicle, except a commercial motor
12 vehicle, (a) from his or her residence to his or her place of
13 employment and return and (b) during the normal course of employment
14 if the use of a motor vehicle is necessary in the course of such
15 employment. Such permit shall indicate for which purposes the permit
16 may be used. All permits issued pursuant to this section shall
17 indicate that the permit is not valid for the operation of any
18 commercial motor vehicle.

19 (4) The operation of a motor vehicle by the holder of an
20 employment driving permit, except as provided in this section, shall
21 be unlawful. Any person who violates this section shall be guilty of
22 a Class IV misdemeanor.

23 (5) The director shall revoke the employment driving
24 permit for an individual upon receipt of an abstract of conviction,
25 other than a conviction which is based upon actions which resulted in

1 the application for such employment driving permit, indicating that
2 the individual committed an offense for which points are assessed
3 pursuant to section 60-4,182. If the permit is revoked in this
4 manner, the individual shall not be eligible to receive an employment
5 driving permit for the remainder of the period of suspension or
6 revocation of his or her operator's license.

7 Sec. 4. Section 60-601, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-601 Sections 60-601 to 60-6,379 and section 7 of this
10 act shall be known and may be cited as the Nebraska Rules of the
11 Road.

12 Sec. 5. Section 60-697, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 60-697 (1) The driver of any vehicle involved in an
15 accident upon either a public highway, private road, or private
16 drive, resulting in injury or death to any person, shall ~~(1)-(a)~~
17 immediately stop such vehicle at the scene of such accident and
18 ascertain the identity of all persons involved, ~~(2)-(b)~~ give his or
19 her name and address and the license number of the vehicle and
20 exhibit his or her operator's license to the person struck or the
21 occupants of any vehicle collided with, and ~~(3)-(c)~~ render to any
22 person injured in such accident reasonable assistance, including the
23 carrying of such person to a physician or surgeon for medical or
24 surgical treatment if it is apparent that such treatment is necessary
25 or is requested by the injured person.

1 (2) Any person violating any of the provisions of this
2 section shall upon conviction thereof be punished as provided in
3 section 60-698.

4 Sec. 6. Section 60-698, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 60-698 ~~Every person convicted of violating section 60-697~~
7 ~~relative to the duty to stop in the event of certain accidents shall~~
8 ~~be guilty of a Class IIIA felony.~~ (1) Any person convicted of
9 violating section 60-697 relative to the duty to stop in the event of
10 certain accidents shall be guilty of (a) a Class IIIA felony if the
11 accident resulted in an injury to any person other than a serious
12 bodily injury as defined in section 60-6,198 or death or (b) a Class
13 III felony if the accident resulted in the death of any person or
14 serious bodily injury as defined in section 60-6,198.

15 (2) The court shall, as part of the judgment of
16 conviction, order such person not to drive any motor vehicle for any
17 purpose for a period of not less than one year nor more than fifteen
18 years from the date ordered by the court, and shall order that the
19 operator's license of such person be revoked for a like period. The
20 order of the court shall be administered upon sentencing, upon final
21 judgment of any appeal or review, or upon the date that any probation
22 is revoked, whichever is later.

23 Sec. 7. In addition to any other penalty provided for
24 operating a motor vehicle in violation of section 60-6,196, if a
25 person has a prior conviction as defined in section 60-6,197.02 for a

1 violation punishable as a felony under section 60-6,197.03 and is
2 subsequently found to have operated or been in the actual physical
3 control of any motor vehicle when such person has (1) a concentration
4 of two-hundredths of one gram or more by weight of alcohol per one
5 hundred milliliters of his or her blood or (2) a concentration of
6 two-hundredths of one gram or more by weight of alcohol per two
7 hundred ten liters of his or her breath, such person shall be guilty
8 of a Class IIIA misdemeanor.

9 Sec. 8. Section 60-6,197.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 60-6,197.02 (1) A violation of section 60-6,196 or
12 60-6,197 shall be punished as provided in section 60-6,197.03 and
13 section 7 of this act. For purposes of sentencing under section
14 60-6,197.03 and section 7 of this act:

15 (a) Prior conviction means a conviction for a violation
16 committed within the ~~twelve-year~~ fifteen-year period prior to the
17 offense for which the sentence is being imposed as follows:

18 (i) For a violation of section 60-6,196:

19 (A) Any conviction for a violation of section 60-6,196;

20 (B) Any conviction for a violation of a city or village
21 ordinance enacted in conformance with section 60-6,196;

22 (C) Any conviction under a law of another state if, at
23 the time of the conviction under the law of such other state, the
24 offense for which the person was convicted would have been a
25 violation of section 60-6,196; or

1 (D) Any conviction for a violation of section 60-6,198;

2 or

3 (ii) For a violation of section 60-6,197:

4 (A) Any conviction for a violation of section 60-6,197;

5 (B) Any conviction for a violation of a city or village
6 ordinance enacted in conformance with section 60-6,197; or

7 (C) Any conviction under a law of another state if, at
8 the time of the conviction under the law of such other state, the
9 offense for which the person was convicted would have been a
10 violation of section 60-6,197;

11 (b) Prior conviction includes any conviction under
12 section 60-6,196, 60-6,197, or 60-6,198, or any city or village
13 ordinance enacted in conformance with any of such sections, as such
14 sections or city or village ordinances existed at the time of such
15 conviction regardless of subsequent amendments to any of such
16 sections or city or village ordinances; and

17 (c) ~~Twelve-year~~ Fifteen-year period means the period
18 computed from the date of the prior offense to the date of the
19 offense which resulted in the conviction for which the sentence is
20 being imposed.

21 (2) In any case charging a violation of section 60-6,196
22 or 60-6,197, the prosecutor or investigating agency shall use due
23 diligence to obtain the person's driving record from the Department
24 of Motor Vehicles and the person's driving record from other states
25 where he or she is known to have resided within the last ~~twelve~~

1 fifteen years. The prosecutor shall certify to the court, prior to
2 sentencing, that such action has been taken. The prosecutor shall
3 present as evidence for purposes of sentence enhancement a court-
4 certified copy or an authenticated copy of a prior conviction in
5 another state. The court-certified or authenticated copy shall be
6 prima facie evidence of such prior conviction.

7 (3) For each conviction for a violation of section
8 60-6,196 or 60-6,197, the court shall, as part of the judgment of
9 conviction, make a finding on the record as to the number of the
10 convicted person's prior convictions. The convicted person shall be
11 given the opportunity to review the record of his or her prior
12 convictions, bring mitigating facts to the attention of the court
13 prior to sentencing, and make objections on the record regarding the
14 validity of such prior convictions.

15 (4) A person arrested for a violation of section 60-6,196
16 or 60-6,197 before ~~May 14, 2009, the operative date of this act~~ but
17 sentenced pursuant to section 60-6,197.03 for such violation on or
18 after ~~May 14, 2009, the operative date of this act~~ shall be sentenced
19 according to the provisions of section 60-6,197.03 in effect on the
20 date of arrest.

21 Sec. 9. Section 60-6,197.03, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-6,197.03 Any person convicted of a violation of
24 section 60-6,196 or 60-6,197 shall be punished as follows:

25 (1) Except as provided in subdivision (2) of this

1 section, if such person has not had a prior conviction, such person
2 shall be guilty of a Class W misdemeanor, and the court shall, as
3 part of the judgment of conviction, order that the operator's license
4 of such person be revoked or impounded for a period of six months
5 from the date ordered by the court. If the court orders the person's
6 operator's license impounded, the court shall also order that the
7 person shall not operate a motor vehicle for a period of six months
8 and shall not order the installation of an ignition interlock device
9 or an ignition interlock permit. If the court orders the person's
10 operator's license revoked, the revocation period shall be for six
11 months. The revocation order shall require that the person not drive
12 for a period of thirty days, after which the court may order that the
13 person apply for an ignition interlock permit for the remainder of
14 the revocation period and have an ignition interlock device installed
15 on any motor vehicle he or she operates during the remainder of the
16 revocation period. Such revocation or impoundment shall be
17 administered upon sentencing, upon final judgment of any appeal or
18 review, or upon the date that any probation is revoked.

19 If the court places such person on probation or suspends
20 the sentence for any reason, the court shall, as one of the
21 conditions of probation or sentence suspension, order that the
22 operator's license of such person be revoked for a period of sixty
23 days from the date ordered by the court. The court may order that
24 during the period of revocation the person apply for an ignition
25 interlock permit and the installation of an ignition interlock device

1 pursuant to section 60-6,211.05. Such order of probation or sentence
2 suspension shall also include, as one of its conditions, the payment
3 of a ~~four hundred dollar~~ five-hundred-dollar fine;

4 (2) If such person has not had a prior conviction and, as
5 part of the current violation, had a concentration of fifteen-
6 hundredths of one gram or more by weight of alcohol per one hundred
7 milliliters of his or her blood or fifteen-hundredths of one gram or
8 more by weight of alcohol per two hundred ten liters of his or her
9 breath, such person shall be guilty of a Class W misdemeanor, and the
10 court shall, as part of the judgment of conviction, revoke the
11 operator's license of such person for a period of one year from the
12 date ordered by the court. The revocation order shall require that
13 the person not drive for a period of sixty days, after which the
14 court may order that the person apply for an ignition interlock
15 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the
16 remainder of the revocation period and have an ignition interlock
17 device installed on any motor vehicle he or she operates during the
18 remainder of the revocation period. Such revocation shall be
19 administered upon sentencing, upon final judgment of any appeal or
20 review, or upon the date that any probation is revoked.

21 If the court places such person on probation or suspends
22 the sentence for any reason, the court shall, as one of the
23 conditions of probation or sentence suspension, order that the
24 operator's license of such person be revoked for a period of one year
25 from the date ordered by the court. The revocation order shall

1 require that the person not drive for a period of forty-five days,
2 after which the court may order that the person apply for an ignition
3 interlock permit pursuant to subdivision (1)(b) of section
4 60-6,197.01 for the remainder of the revocation period and have an
5 ignition interlock device installed on any motor vehicle he or she
6 operates during the remainder of the revocation period. Such
7 revocation shall be administered upon sentencing, upon final judgment
8 of any appeal or review, or upon the date that any probation is
9 revoked. Such order of probation or sentence suspension shall also
10 include, as conditions, the payment of a five-hundred-dollar fine and
11 either confinement in the city or county jail for two days or the
12 imposition of not less than one hundred twenty hours of community
13 service;

14 (3) Except as provided in subdivision (5) of this
15 section, if such person has had one prior conviction, such person
16 shall be guilty of a Class W misdemeanor, and the court shall, as
17 part of the judgment of conviction, order that the operator's license
18 of such person be revoked for a period of one year from the date
19 ordered by the court. The revocation order shall require that the
20 person not drive for a period of sixty days, after which the court
21 may order that the person apply for an ignition interlock permit for
22 the remainder of the revocation period and have an ignition interlock
23 device installed on any motor vehicle he or she owns or operates
24 during the remainder of the revocation period and shall issue an
25 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such

1 revocation shall be administered upon sentencing, upon final judgment
2 of any appeal or review, or upon the date that any probation is
3 revoked.

4 If the court places such person on probation or suspends
5 the sentence for any reason, the court shall, as one of the
6 conditions of probation or sentence suspension, order that the
7 operator's license of such person be revoked for a period of one year
8 from the date ordered by the court. The revocation order shall
9 require that the person not drive for a period of forty-five days,
10 after which the court may order that during the period of revocation
11 the person apply for an ignition interlock permit and installation of
12 an ignition interlock device pursuant to section 60-6,211.05 and
13 shall issue an order pursuant to subdivision (1)(b) of section
14 60-6,197.01. Such order of probation or sentence suspension shall
15 also include, as conditions, the payment of a five-hundred-dollar
16 fine and either confinement in the city or county jail for ten days
17 or the imposition of not less than two hundred forty hours of
18 community service;

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

1 final judgment of any appeal or review, or upon the date that any
2 probation is revoked.

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

17 (5) If such person has had one prior conviction and, as
18 part of the current violation, had a concentration of fifteen-
19 hundredths of one gram or more by weight of alcohol per one hundred
20 milliliters of his or her blood or fifteen-hundredths of one gram or
21 more by weight of alcohol per two hundred ten liters of his or her
22 breath or refused to submit to a test as required under section
23 60-6,197, such person shall be guilty of a Class I misdemeanor, and
24 the court shall, as part of the judgment of conviction, order payment
25 of a one-thousand-dollar fine and revoke the operator's license of

1 such person for a period of at least one year but not more than
2 fifteen years from the date ordered by the court and shall issue an
3 order pursuant to section 60-6,197.01. Such revocation and order
4 shall be administered upon sentencing, upon final judgment of any
5 appeal or review, or upon the date that any probation is revoked. The
6 court shall also sentence such person to serve at least ninety days'
7 imprisonment in the city or county jail or an adult correctional
8 facility.

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

23 (6) If such person has had two prior convictions and, as
24 part of the current violation, had a concentration of fifteen-
25 hundredths of one gram or more by weight of alcohol per one hundred

1 milliliters of his or her blood or fifteen-hundredths of one gram or
2 more by weight of alcohol per two hundred ten liters of his or her
3 breath or refused to submit to a test as required under section
4 60-6,197, such person shall be guilty of a Class IIIA felony, and the
5 court shall, as part of the judgment of conviction, revoke the
6 operator's license of such person for a period of fifteen years from
7 the date ordered by the court and shall issue an order pursuant to
8 section 60-6,197.01. Such revocation and order shall be administered
9 upon sentencing, upon final judgment of any appeal or review, or upon
10 the date that any probation is revoked. The court shall also sentence
11 such person to serve at least one hundred eighty days' imprisonment
12 in the city or county jail or an adult correctional facility.

13 If the court places such person on probation or suspends
14 the sentence for any reason, the court shall, as one of the
15 conditions of probation or sentence suspension, order that the
16 operator's license of such person be revoked for a period of at least
17 five years but not more than fifteen years from the date ordered by
18 the court. The revocation order shall require that the person not
19 drive for a period of forty-five days, after which the court may
20 order that during the period of revocation the person apply for an
21 ignition interlock permit and installation of an ignition interlock
22 device issued pursuant to section 60-6,211.05 and shall issue an
23 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
24 order of probation or sentence suspension shall also include, as
25 conditions, the payment of a one-thousand-dollar fine and confinement

1 in the city or county jail for sixty days;

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

13 If the court places such person on probation or suspends
14 the sentence for any reason, the court shall, as one of the
15 conditions of probation or sentence suspension, order that the
16 operator's license of such person be revoked for a period of fifteen
17 years from the date ordered by the court. The revocation order shall
18 require that the person not drive for a period of forty-five days,
19 after which the court may order that during the period of revocation
20 the person apply for an ignition interlock permit and installation of
21 an ignition interlock device issued pursuant to section 60-6,211.05
22 and shall issue an order pursuant to subdivision (1)(b) of section
23 60-6,197.01. Such order of probation or sentence suspension shall
24 also include, as conditions, the payment of a ~~one thousand dollar~~
25 two-thousand-dollar fine and confinement in the city or county jail

1 for ninety days;

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

15 If the court places such person on probation or suspends
16 the sentence for any reason, the court shall, as one of the
17 conditions of probation or sentence suspension, order that the
18 operator's license of such person be revoked for a period of fifteen
19 years from the date ordered by the court. The revocation order shall
20 require that the person not drive for a period of forty-five days,
21 after which the court may order that during the period of revocation
22 the person apply for an ignition interlock permit and installation of
23 an ignition interlock device issued pursuant to section 60-6,211.05
24 and shall issue an order pursuant to subdivision (1)(b) of section
25 60-6,197.01. Such order of probation or sentence suspension shall

1 also include, as conditions, the payment of a ~~one-thousand-dollar~~
2 two-thousand-dollar fine and confinement in the city or county jail
3 for one hundred twenty days;

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

14 If the court places such person on probation or suspends
15 the sentence for any reason, the court shall, as one of the
16 conditions of probation or sentence suspension, order that the
17 operator's license of such person be revoked for a period of fifteen
18 years from the date ordered by the court. The revocation order shall
19 require that the person not drive for a period of forty-five days,
20 after which the court may order that during the period of revocation
21 the person apply for an ignition interlock permit and installation of
22 an ignition interlock device issued pursuant to section 60-6,211.05
23 and shall issue an order pursuant to subdivision (1)(b) of section
24 60-6,197.01. Such order of probation or sentence suspension shall
25 also include, as conditions, the payment of a ~~one-thousand-dollar~~

1 two-thousand-dollar fine and confinement in the city or county jail
2 for one hundred eighty days; and

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

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

1 and shall issue an order pursuant to subdivision (1)(b) of section
2 60-6,197.01. Such order of probation or sentence suspension shall
3 also include, as conditions, the payment of a ~~one thousand dollar~~
4 two-thousand-dollar fine and confinement in the city or county jail
5 for one hundred eighty days.

6 Sec. 10. Section 60-6,198, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 60-6,198 (1) Any person who, while operating a motor
9 vehicle in violation of section 60-6,196 or 60-6,197, proximately
10 causes serious bodily injury to another person or an unborn child of
11 a pregnant woman shall be guilty of a Class IIIA felony and the court
12 shall, as part of the judgment of conviction, order the person not to
13 drive any motor vehicle for any purpose for a period of at least
14 sixty days and not more than fifteen years from the date ordered by
15 the court and shall order that the operator's license of such person
16 be revoked for the same period.

17 (2) For purposes of this section, serious bodily injury
18 ~~shall mean means~~ means bodily injury which involves a substantial risk of
19 death, a substantial risk of serious permanent disfigurement, or a
20 temporary or protracted loss or impairment of the function of any
21 part or organ of the body.

22 (3) For purposes of this section, unborn child ~~shall have~~
23 has the same meaning as in section 28-396.

24 Sec. 11. Section 83-1,135, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 83-1,135 Sections 83-170 to 83-1,135 and section 12 of
2 this act shall be known and may be cited as the Nebraska Treatment
3 and Corrections Act.

4 Sec. 12. The board shall require any person who is
5 incarcerated pursuant to subdivision (9) or (10) of section
6 60-6,197.03 to complete all diagnostic evaluations provided by the
7 department and all programming required by the department prior to
8 being considered eligible for parole.

9 Sec. 13. This act becomes operative on January 1, 2012.

10 Sec. 14. Original sections 28-106, 60-498.02, 60-4,129,
11 60-601, 60-697, 60-698, 60-6,197.02, 60-6,197.03, 60-6,198, and
12 83-1,135, Reissue Revised Statutes of Nebraska, are repealed.