

AMENDMENTS TO LB843

Introduced by Judiciary.

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

3 Section 1. Section 28-801, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 28-801 (1) Except as provided in subsection (5) of this section, any
6 person who performs, offers, or agrees to perform any act of sexual
7 contact or sexual penetration, as those terms are defined in section
8 28-318, with any person not his or her spouse, in exchange for money or
9 other thing of value, commits prostitution.

10 (2) Any person convicted of violating subsection (1) of this section
11 shall be punished as follows:

12 (a) If such person has had no prior convictions or has had one prior
13 conviction, such person shall be guilty of a Class II misdemeanor. If the
14 court places such person on probation, such order of probation shall
15 include, as one of its conditions, that such person shall satisfactorily
16 attend and complete an appropriate mental health and substance abuse
17 assessment conducted by a licensed mental health professional or
18 substance abuse professional authorized to complete such assessment; and

19 (b) If such person has had two or more prior convictions, such
20 person shall be guilty of a Class I misdemeanor. If the court places such
21 person on probation, such order of probation shall include, as one of its
22 conditions, that such person shall satisfactorily attend and complete an
23 appropriate mental health and substance abuse assessment conducted by a
24 licensed mental health professional or substance abuse professional
25 authorized to complete such assessment.

26 (3) It is an affirmative defense to prosecution under this section
27 that such person was a trafficking victim as defined in section 28-830.

1 (4) For purposes of this section, prior conviction means any
2 conviction on or after July 14, 2006, for violation of subsection (1) of
3 this section or any conviction on or after July 14, 2006, for violation
4 of a city or village ordinance relating to prostitution.

5 (5) If the law enforcement officer determines, after a reasonable
6 detention for investigative purposes, that a person suspected of or
7 charged with a violation of subsection (1) of this section is (a) a
8 person engaging in those acts as a direct result of being a trafficking
9 victim as defined in section 28-830, such person shall be immune from
10 prosecution for a prostitution offense or (b) a person under eighteen
11 years of age, such person shall be immune from prosecution for a
12 prostitution offense under this section and shall be subject to temporary
13 custody under section 43-248 and further disposition under the Nebraska
14 Juvenile Code. A law enforcement officer who takes a person under
15 eighteen years of age into custody under this section shall immediately
16 report an allegation of a violation of section 28-831 to the Department
17 of Health and Human Services which shall commence an investigation within
18 twenty-four hours under the Child Protection and Family Safety Act.

19 Sec. 2. Section 81-2010.03, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~81-2010.03~~ (1) The full out-of-pocket cost or expense that may be
22 charged to a sexual assault victim in connection with a forensic medical
23 examination shall be paid from the Sexual Assault Payment Program Cash
24 Fund. A report of a forensic medical examination shall not be remitted to
25 the patient or his or her insurance for payment for by the Nebraska State
26 Patrol if the patrol is the primary investigating law enforcement agency
27 investigating the reported sexual assault.

28 (2) Except as provided under section 81-2010, all forensic DNA tests
29 shall be performed by a laboratory which is accredited by the American
30 Society of Crime Laboratory Directors/ ~~LAB~~ Laboratory Accreditation
31 Board or the National Forensic Science Technology Center or by any other

1 national accrediting body or public agency which has requirements that
2 are substantially equivalent to or more comprehensive than those of the
3 society ~~or center~~.

4 (3) The full out-of-pocket cost or expense to be paid from the
5 Sexual Assault Payment Program Cash Fund for a forensic medical
6 examination described in subsection (1) of this section shall include:

7 (a) An examiner's fee for:

8 (i) Examination of physical trauma;

9 (ii) Determination of penetration or force;

10 (iii) Patient interview; and

11 (iv) Collection and evaluation of evidence;

12 (b) An examination facility fee for the:

13 (i) Emergency room, clinic room, office room, or child advocacy
14 center; and

15 (ii) Pelvic tray and other medically required supplies; and

16 (c) The laboratory fees for collection and processing of specimens
17 for criminal evidence, the determination of the presence of any sexually
18 transmitted disease, and pregnancy testing.

19 (4) There is established within the Department of Justice, under the
20 direction of the Attorney General, the position of administrator for the
21 Sexual Assault Payment Program. The purpose of the program and the
22 responsibilities of the administrator shall be to coordinate the
23 distribution of forensic medical examination kits to health care
24 providers at no cost to the providers, oversee forensic medical
25 examination training throughout the state, and coordinate payments from
26 the Sexual Assault Payment Program Cash Fund.

27 (5) The Sexual Assault Payment Program Cash Fund is created. The
28 fund shall be administered by the commission. The fund shall consist of
29 any money appropriated to it by the Legislature and any money received by
30 the commission for the program, including federal and other public and
31 private funds. The fund shall be used for the payment of the full out-of-

1 pocket costs or expenses for forensic medical examinations pursuant to
2 subsection (3) of this section, for the purpose set forth in subsection
3 (4) of this section, and for the purchase of forensic medical examination
4 kits. The fund shall be used to pay only those charges determined by the
5 commission to be reasonable and fair. The fund shall be used to pay up to
6 two hundred dollars for the examiner's fee and up to three hundred
7 dollars for the examination facility fee. The examiner and facility shall
8 provide additional documentation as determined by the commission for
9 payment of charges in excess of such amounts. The fund may also be used
10 to facilitate programs that reduce or prevent the crimes of domestic
11 violence, dating violence, sexual assault, stalking, child abuse, child
12 sexual assault, human trafficking, labor trafficking, or sex trafficking
13 or that enhance the safety of victims of such crimes. Any money in the
14 fund available for investment shall be invested by the state investment
15 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act.

17 Sec. 3. Section 81-1415, Revised Statutes Supplement, 2015, is
18 amended to read:

19 81-1415 As used in sections 81-1415 to 81-1426.01 and section 2 of
20 this act, unless the context otherwise requires: Commission means the
21 Nebraska Commission on Law Enforcement and Criminal Justice.

22 Sec. 4. Section 81-1416, Revised Statutes Supplement, 2015, is
23 amended to read:

24 81-1416 There is hereby created the Nebraska Commission on Law
25 Enforcement and Criminal Justice. The commission shall educate the
26 community at large to the problems encountered by law enforcement
27 authorities, promote respect for law and encourage community involvement
28 in the administration of criminal justice. The commission shall be an
29 agency of the state, and the exercise by the commission of the powers
30 conferred by the provisions of sections 81-1415 to 81-1426.01 and section
31 2 of this act shall be deemed to be an essential governmental function of

1 the state.

2 Sec. 5. Section 81-1423, Revised Statutes Supplement, 2015, is
3 amended to read:

4 81-1423 The commission shall have authority to:

5 (1) Adopt and promulgate rules and regulations for its organization
6 and internal management and rules and regulations governing the exercise
7 of its powers and the fulfillment of its purposes under sections 81-1415
8 to 81-1426.01 and section 2 of this act;

9 (2) Delegate to one or more of its members such powers and duties as
10 it may deem proper;

11 (3) Coordinate and jointly pursue its activities with the Governor's
12 Policy Research Office;

13 (4) Appoint and abolish such advisory committees as may be necessary
14 for the performance of its functions and delegate appropriate powers and
15 duties to them;

16 (5) Plan improvements in the administration of criminal justice and
17 promote their implementation;

18 (6) Make or encourage studies of any aspect of the administration of
19 criminal justice;

20 (7) Conduct research and stimulate research by public and private
21 agencies which shall be designed to improve the administration of
22 criminal justice;

23 (8) Coordinate activities relating to the administration of criminal
24 justice among agencies of state and local government;

25 (9) Cooperate with the federal and other state authorities
26 concerning the administration of criminal justice;

27 (10) Accept and administer loans, grants, and donations from the
28 United States, its agencies, the State of Nebraska, its agencies, and
29 other sources, public and private, for carrying out any of its functions,
30 except that no communications equipment shall be acquired and no approval
31 for acquisition of communications equipment shall be granted without

1 receiving the written approval of the Director of Communications of the
2 office of Chief Information Officer;

3 (11) Enter into contracts, leases, and agreements necessary,
4 convenient, or desirable for carrying out its purposes and the powers
5 granted under sections 81-1415 to 81-1426.01 and section 2 of this act
6 with agencies of state or local government, corporations, or persons;

7 (12) Acquire, hold, and dispose of personal property in the exercise
8 of its powers;

9 (13) Conduct random annual audits of criminal justice agencies to
10 verify the accuracy and completeness of criminal history record
11 information maintained by such agencies and to determine compliance with
12 laws and regulations dealing with the dissemination, security, and
13 privacy of criminal history information;

14 (14) Do all things necessary to carry out its purposes and for the
15 exercise of the powers granted in sections 81-1415 to 81-1426.01 and
16 section 2 of this act, except that no activities or transfers or
17 expenditures of funds available to the commission shall be inconsistent
18 with legislative policy as reflected in substantive legislation,
19 legislative intent legislation, or appropriations legislation;

20 (15) Exercise budgetary and administrative control over the Crime
21 Victim's Reparations Committee and the Jail Standards Board; and

22 (16) Do all things necessary to carry out sections 81-1843 to
23 81-1851.

24 Sec. 6. Sections 2, 3, 4, 5, 8, and 9 of this act become operative
25 on July 1, 2017. The other sections of this act become operative on their
26 effective date.

27 Sec. 7. Original section 28-801, Revised Statutes Cumulative
28 Supplement, 2014, is repealed.

29 Sec. 8. Original section 81-2010.03, Reissue Revised Statutes of
30 Nebraska, and sections 81-1415, 81-1416, and 81-1423, Revised Statutes
31 Supplement, 2015, are repealed.

1 Sec. 9. The following sections are outright repealed: Sections
2 13-607 and 13-608, Reissue Revised Statutes of Nebraska.