

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1094

Introduced by Judiciary Committee: Seiler, 33, Chairperson; Chambers, 11; Coash, 27; Ebke, 32; Krist, 10; Morfeld, 46; Pansing Brooks, 28; Williams, 36; Campbell, 25; Hadley, 37; Mello, 5.

Read first time January 20, 2016

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal law; to amend sections 27-1101,
2 28-605, 28-626, 29-2256, 29-2267, 47-401, 47-502, and 83-187,
3 Reissue Revised Statutes of Nebraska, sections 28-115, 28-1354,
4 29-2258, and 29-2269, Revised Statutes Cumulative Supplement, 2014,
5 sections 28-116, 28-204, 28-394, 28-514, 29-2204.02, 29-2252,
6 29-2252.01, 29-2260, 29-2262, 29-2263, 29-2266, 29-2268, 29-2308,
7 60-6,197.03, 71-2482, 83-1,100.02, 83-1,119, 83-1,122, and
8 83-1,135.02, Revised Statutes Supplement, 2015, and section 28-105,
9 Revised Statutes Cumulative Supplement, 2014, as amended by Laws
10 2015, LB605, section 6; to change provisions relating to evidence,
11 sentencing, certain criminal penalties, criminal mischief, assault,
12 theft, forgery, and probation; to harmonize provisions; and to
13 repeal the original sections.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 27-1101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 27-1101 (1) The Nebraska Evidence Rules apply to the following
4 courts in the State of Nebraska: Supreme Court, Court of Appeals,
5 district courts, county courts, and juvenile courts. The word judge when
6 used in the rules shall mean any judge of any court to which the rules
7 apply or other officer who is authorized by statute to hold any hearing
8 to which the rules apply.

9 (2) The rules apply generally to all civil and criminal proceedings,
10 including contempt proceedings except those in which the judge may act
11 summarily.

12 (3) The rules with respect to privileges apply at all stages of all
13 actions, cases, and proceedings.

14 (4) The rules, other than those with respect to privileges, do not
15 apply in the following situations:

16 (a) Proceedings before grand juries;

17 (b) Proceedings for extradition or rendition; preliminary
18 examinations or hearings in criminal cases; sentencing, ~~or~~ granting or
19 revoking probation, or imposing custodial sanctions; issuance of warrants
20 for arrest, criminal summonses, and search warrants; and proceedings with
21 respect to release on bail or otherwise;

22 (c) Contested cases before an administrative agency under the
23 Administrative Procedure Act unless a party to the case requests that the
24 agency be bound by the rules of evidence applicable in the district
25 court; or

26 (d) Proceedings before the Nebraska Workers' Compensation Court or
27 the Small Claims Court.

28 Sec. 2. Section 28-105, Revised Statutes Cumulative Supplement,
29 2014, as amended by Laws 2015, LB605, section 6, is amended to read:

30 28-105 (1) For purposes of the Nebraska Criminal Code and any
31 statute passed by the Legislature after the date of passage of the code,

1 felonies are divided into ten classes which are distinguished from one
2 another by the following penalties which are authorized upon conviction:

- | | | |
|----|-------------------|---|
| 3 | Class I felony | Death |
| 4 | Class IA felony | Life imprisonment |
| 5 | Class IB felony | Maximum – life imprisonment |
| 6 | | Minimum – twenty years imprisonment |
| 7 | Class IC felony | Maximum – fifty years imprisonment |
| 8 | | Mandatory minimum – five years imprisonment |
| 9 | Class ID felony | Maximum – fifty years imprisonment |
| 10 | | Mandatory minimum – three years imprisonment |
| 11 | Class II felony | Maximum – fifty years imprisonment |
| 12 | | Minimum – one year imprisonment |
| 13 | Class IIA felony | Maximum – twenty years imprisonment |
| 14 | | Minimum – none |
| 15 | Class III felony | Maximum – four years imprisonment and two years |
| 16 | | post-release supervision or |
| 17 | | twenty-five thousand dollars fine, or both |
| 18 | | Minimum – none for imprisonment and nine months |
| 19 | | post-release supervision if imprisonment is imposed |
| 20 | Class IIIA felony | Maximum – three years imprisonment |
| 21 | | and eighteen months post-release supervision or |
| 22 | | ten thousand dollars fine, or both |
| 23 | | Minimum – none for imprisonment and nine months |
| 24 | | post-release supervision if imprisonment is imposed |
| 25 | Class IV felony | Maximum – two years imprisonment and twelve |
| 26 | | months post-release supervision or |
| 27 | | ten thousand dollars fine, or both |
| 28 | | Minimum – none for imprisonment and nine months |
| 29 | | post-release supervision if imprisonment is imposed |

30 (2) All sentences for maximum terms of imprisonment for one year or

1 more for felonies shall be served in institutions under the jurisdiction
2 of the Department of Correctional Services. All sentences for maximum
3 terms of imprisonment of less than one year shall be served in the county
4 jail.

5 (3) Nothing in this section shall limit the authority granted in
6 sections 29-2221 and 29-2222 to increase sentences for habitual
7 criminals.

8 (4) A person convicted of a felony for which a mandatory minimum
9 sentence is prescribed shall not be eligible for probation.

10 (5) All sentences of post-release supervision shall be served under
11 the jurisdiction of the Office of Probation Administration and shall be
12 subject to conditions imposed pursuant to section 29-2262 and subject to
13 sanctions authorized pursuant to section 21 of this act ~~29-2266~~.

14 (6) Any person who is sentenced to imprisonment for a Class I, IA,
15 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively
16 to imprisonment for a Class III, IIIA, or IV felony shall not be subject
17 to post-release supervision pursuant to subsection (1) of this section.

18 (7) The changes made to the penalties for Class III, IIIA, and IV
19 felonies by Laws 2015, LB605, do not apply to any offense committed prior
20 to August 30, 2015, as provided in section 28-116. Any person who is
21 sentenced to imprisonment for a Class III, IIIA, or IV felony committed
22 prior to August 30, 2015, and sentenced concurrently or consecutively to
23 imprisonment for a Class III, IIIA, or IV felony committed on or after
24 August 30, 2015, shall not be subject to post-release supervision
25 pursuant to subsection (1) of this section.

26 Sec. 3. Section 28-115, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 28-115 (1) Except as provided in subsection (2) of this section, any
29 Any person who commits any of the following criminal offenses against a
30 pregnant woman shall be punished by the imposition of the next higher
31 penalty classification than the penalty classification prescribed for the

1 ~~criminal offense, unless such criminal offense is already punishable as a~~
2 ~~Class IB felony or higher classification:~~

3 (a) Assault in the first degree, section 28-308;

4 (b) Assault ~~assault~~ in the second degree, section 28-309;

5 (c) Assault ~~assault~~ in the third degree, section 28-310;

6 (d) Sexual ~~sexual~~ assault in the first degree, section 28-319;

7 (e) Sexual ~~sexual~~ assault in the second or third degree, section
8 28-320;

9 (f) Sexual assault of a child in the first degree, section
10 28-319.01;

11 (g) Sexual ~~sexual~~ assault of a child in the second or third degree,
12 section 28-320.01;

13 (h) Sexual ~~sexual~~ abuse of an inmate or parolee in the first degree,
14 section 28-322.02;

15 (i) Sexual ~~sexual~~ abuse of an inmate or parolee in the second
16 degree, section 28-322.03;

17 (j) Sexual ~~sexual~~ abuse of a protected individual in the first or
18 second degree, section 28-322.04;

19 (k) Domestic ~~domestic~~ assault in the first, second, or third degree,
20 section 28-323;

21 (l) Assault ~~assault~~ on an officer, an emergency responder, a state
22 correctional employee, a Department of Health and Human Services
23 employee, or a health care professional in the first degree, section
24 28-929;

25 (m) Assault ~~assault~~ on an officer, an emergency responder, a state
26 correctional employee, a Department of Health and Human Services
27 employee, or a health care professional in the second degree, section
28 28-930;

29 (n) Assault ~~assault~~ on an officer, an emergency responder, a state
30 correctional employee, a Department of Health and Human Services
31 employee, or a health care professional in the third degree, section

1 28-931;

2 ~~(o) Assault~~ assault on an officer, an emergency responder, a state
3 correctional employee, a Department of Health and Human Services
4 employee, or a health care professional using a motor vehicle, section
5 28-931.01;

6 ~~(p) Assault~~ assault by a confined person, section 28-932;

7 ~~(q) Confined~~ ~~confined~~ person committing offenses against another
8 person, section 28-933; ~~and~~

9 ~~(r) Proximately~~ ~~proximately~~ causing serious bodily injury while
10 operating a motor vehicle, section 60-6,198. ~~;~~ ~~and~~

11 ~~sexual assault of a child in the first degree, section 28-319.01.~~

12 (2) If any criminal offense listed in subsection (1) of this section
13 is already punishable as a Class IB felony or higher classification, the
14 penalty enhancement in subsection (1) of this section shall not apply. If
15 any criminal offense listed in subsection (1) of this section is
16 punishable as a Class I misdemeanor, the penalty under this section shall
17 be a Class IIIA felony.

18 ~~(3 2)~~ The prosecution shall allege and prove beyond a reasonable
19 doubt that the victim was pregnant at the time of the offense.

20 Sec. 4. Section 28-116, Revised Statutes Supplement, 2015, is
21 amended to read:

22 28-116 (1) The changes made to the sections listed in this section
23 by Laws 2015, LB605, shall not apply to any offense committed prior to
24 August 30, 2015. An offense shall be deemed to have been committed prior
25 to August 30, 2015, if any element of the offense occurred prior to such
26 date. Any such offense shall be construed and punished according to the
27 provisions of law existing at the time the offense was committed.

28 ~~For purposes of this section, an offense shall be deemed to have been~~
29 ~~committed prior to August 30, 2015, if any element of the offense~~
30 ~~occurred prior to such date.~~ The following sections are subject to this
31 provision: Sections 9-262, 9-352, 9-434, 9-652, 23-135.01, 28-105,

1 28-106, 28-201, 28-204, 28-305, 28-306, 28-309, 28-310.01, 28-311,
2 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02, 28-322.03, 28-322.04,
3 28-323, 28-393, 28-394, 28-397, 28-416, 28-504, 28-507, 28-514, 28-518,
4 28-519, 28-603, 28-604, 28-611, 28-611.01, 28-620, 28-621, 28-622,
5 28-627, 28-631, 28-638, 28-639, 28-703, 28-707, 28-813.01, 28-912,
6 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104, 28-1212.03, 28-1222,
7 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816, 29-2204, 29-2260,
8 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017, 68-1017.01, 71-2228,
9 and 71-2229.

10 (2) The changes made to the sections listed in this section by this
11 legislative bill shall not apply to any offense committed prior to the
12 effective date of this act. An offense shall be deemed to have been
13 committed prior to the effective date of this act if any element of the
14 offense occurred prior to such date. Any such offense shall be construed
15 and punished according to the provisions of law existing at the time the
16 offense was committed. The following sections are subject to this
17 provision: Sections 28-105, 25-115, 28-204, 28-394, 28-514, 60-6,197.03,
18 and 71-2482.

19 Sec. 5. Section 28-204, Revised Statutes Supplement, 2015, is
20 amended to read:

21 28-204 (1) A person is guilty of being an accessory to felony if
22 with intent to interfere with, hinder, delay, or prevent the discovery,
23 apprehension, prosecution, conviction, or punishment of another for an
24 offense, he or she:

25 (a) Harbors or conceals the other;

26 (b) Provides or aids in providing a weapon, transportation,
27 disguise, or other means of effecting escape or avoiding discovery or
28 apprehension;

29 (c) Conceals or destroys evidence of the crime or tampers with a
30 witness, informant, document, or other source of information, regardless
31 of its admissibility in evidence;

1 (d) Warns the other of impending discovery or apprehension other
2 than in connection with an effort to bring another into compliance with
3 the law;

4 (e) Volunteers false information to a peace officer; or

5 (f) By force, intimidation, or deception, obstructs anyone in the
6 performance of any act which might aid in the discovery, detection,
7 apprehension, prosecution, conviction, or punishment of such person.

8 (2)(a) Accessory to felony is a Class IIA ~~III~~ felony if the actor
9 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
10 knows of the conduct of the other, and the conduct of the other
11 constitutes a Class I, IA, IB, IC, or ID felony.

12 (b) Accessory to felony is a Class IIIA felony if the actor violates
13 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
14 the conduct of the other, and the conduct of the other constitutes a
15 Class II or IIA felony.

16 (c) Accessory to felony is a Class IV felony if the actor violates
17 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
18 the conduct of the other, and the conduct of the other constitutes a
19 Class III or Class IIIA felony.

20 (d) Accessory to felony is a Class I misdemeanor if the actor
21 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
22 knows of the conduct of the other, and the conduct of the other
23 constitutes a Class IV felony.

24 (e) Accessory to felony is a Class IV felony if the actor violates
25 subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor knows of
26 the conduct of the other, and the conduct of the other constitutes a
27 felony of any class other than a Class IV felony.

28 (f) Accessory to felony is a Class I misdemeanor if the actor
29 violates subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor
30 knows of the conduct of the other, and the conduct of the other
31 constitutes a Class IV felony.

1 Sec. 6. Section 28-394, Revised Statutes Supplement, 2015, is
2 amended to read:

3 28-394 (1) A person who causes the death of an unborn child
4 unintentionally while engaged in the operation of a motor vehicle in
5 violation of the law of the State of Nebraska or in violation of any city
6 or village ordinance commits motor vehicle homicide of an unborn child.

7 (2) Except as provided in subsection (3) of this section, motor
8 vehicle homicide of an unborn child is a Class I misdemeanor.

9 (3)(a) If the proximate cause of the death of an unborn child is the
10 operation of a motor vehicle in violation of section 60-6,213 or
11 60-6,214, motor vehicle homicide of an unborn child is a Class IIIA ~~IV~~
12 felony.

13 (b) Except as provided in subdivision (3)(c) of this section, if the
14 proximate cause of the death of an unborn child is the operation of a
15 motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
16 vehicle homicide of an unborn child is a Class IIIA felony and the court
17 shall, as part of the judgment of conviction, order the person not to
18 drive any motor vehicle for any purpose for a period of at least sixty
19 days and not more than fifteen years after the date ordered by the court
20 and shall order that the operator's license of such person be revoked for
21 the same period. The revocation shall not run concurrently with any jail
22 term imposed.

23 (c) If the proximate cause of the death of an unborn child is the
24 operation of a motor vehicle in violation of section 60-6,196 or
25 60-6,197.06 and the defendant has a prior conviction for a violation of
26 section 60-6,196 or a city or village ordinance enacted in conformance
27 with section 60-6,196, motor vehicle homicide of an unborn child is a
28 Class IIA felony and the court shall, as part of the judgment of
29 conviction, order the person not to drive any motor vehicle for any
30 purpose for a period of at least sixty days and not more than fifteen
31 years after the date ordered by the court and shall order that the

1 operator's license of such person be revoked for the same period. The
2 revocation shall not run concurrently with any jail term imposed.

3 (4) The crime punishable under this section shall be treated as a
4 separate and distinct offense from any other offense arising out of acts
5 alleged to have been committed while the person was in violation of this
6 section.

7 Sec. 7. Section 28-514, Revised Statutes Supplement, 2015, is
8 amended to read:

9 28-514 (1) A person who comes into control of property of another
10 that he or she knows to have been lost, mislaid, or delivered under a
11 mistake as to the nature or amount of the property or the identity of the
12 recipient commits theft if, with intent to deprive the owner thereof, he
13 or she fails to take reasonable measures to restore the property to a
14 person entitled to have it.

15 (2) Any person convicted of violating subsection (1) ~~the provisions~~
16 of this section shall, ~~upon conviction thereof,~~ be punished by the
17 penalty prescribed in the next lower classification below the value of
18 the item lost, mislaid, or delivered under a mistake pursuant to section
19 28-518.

20 (3) Any person convicted of violating subsection (1) ~~of pursuant to~~
21 this section when the value of the property is five hundred dollars or
22 less shall be guilty of a Class III misdemeanor for the first conviction,
23 a Class II misdemeanor for the second conviction, and a Class I
24 misdemeanor for the third or subsequent conviction.

25 Sec. 8. Section 28-605, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-605 (1) A person commits criminal possession of written
28 instrument forgery devices when:

29 (a) He or she makes or possesses with knowledge of its character any
30 plate, die, or other device, apparatus, equipment, or article
31 specifically designed for use in counterfeiting, unlawfully simulating,

1 or otherwise forging written instruments; or

2 (b) He or she makes or possesses any device, apparatus, equipment,
3 or article capable of or adaptable to a use specified in subdivision (1)
4 (a) of this section, with intent to use it himself or herself, or to aid
5 or permit another to use it, for purposes of forgery; or

6 (c) Illegally possesses a genuine plate, die, or other device used
7 in the production of written instruments, with intent to deceive or harm.

8 (2) Criminal possession of written instrument forgery devices is a
9 Class IV felony.

10 Sec. 9. Section 28-626, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-626 (1) A person commits the offense of criminal possession of a
13 financial transaction forgery device if (a) such person possesses any
14 tool, photographic equipment, printing equipment, or any other device or
15 group or combination of devices adapted, designed, or commonly used for
16 committing or facilitating the commission of an offense involving the
17 unauthorized manufacturing, printing, embossing, or magnetic encoding of
18 a financial transaction device or the altering or addition of any service
19 marks or holographic images to a financial transaction device and (b)
20 intends to use the device or devices possessed or knows that some person
21 intends to use the device or devices possessed in the commission of such
22 an offense.

23 (2) Any person committing the offense of criminal possession of a
24 financial transaction forgery device shall be guilty of a Class IV
25 felony.

26 Sec. 10. Section 28-1354, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 28-1354 For purposes of the Public Protection Act:

29 (1) Enterprise means any individual, sole proprietorship,
30 partnership, corporation, trust, association, or any legal entity, union,
31 or group of individuals associated in fact although not a legal entity,

1 and shall include illicit as well as licit enterprises as well as other
2 entities;

3 (2) Pattern of racketeering activity means a cumulative loss for one
4 or more victims or gains for the enterprise of not less than one thousand
5 five hundred dollars resulting from at least two acts of racketeering
6 activity, one of which occurred after August 30, 2009, and the last of
7 which occurred within ten years, excluding any period of imprisonment,
8 after the commission of a prior act of racketeering activity;

9 (3) Person means any individual or entity, as defined in section
10 21-2014 ~~21-214~~, holding or capable of holding a legal, equitable, or
11 beneficial interest in property. Beginning January 1, 2017, person means
12 any individual or entity, as defined in section 21-214, holding or
13 capable of holding a legal, equitable, or beneficial interest in
14 property;

15 (4) Prosecutor includes the Attorney General of the State of
16 Nebraska, the deputy attorney general, assistant attorneys general, a
17 county attorney, a deputy county attorney, or any person so designated by
18 the Attorney General, a county attorney, or a court of the state to carry
19 out the powers conferred by the act;

20 (5) Racketeering activity includes the commission of, criminal
21 attempt to commit, conspiracy to commit, aiding and abetting in the
22 commission of, aiding in the consummation of, acting as an accessory to
23 the commission of, or the solicitation, coercion, or intimidation of
24 another to commit or aid in the commission of any of the following:

25 (a) Offenses against the person which include: Murder in the first
26 degree under section 28-303; murder in the second degree under section
27 28-304; manslaughter under section 28-305; assault in the first degree
28 under section 28-308; assault in the second degree under section 28-309;
29 assault in the third degree under section 28-310; terroristic threats
30 under section 28-311.01; kidnapping under section 28-313; false
31 imprisonment in the first degree under section 28-314; false imprisonment

1 in the second degree under section 28-315; sexual assault in the first
2 degree under section 28-319; and robbery under section 28-324;

3 (b) Offenses relating to controlled substances which include: To
4 unlawfully manufacture, distribute, deliver, dispense, or possess with
5 intent to manufacture, distribute, deliver, or dispense a controlled
6 substance under subsection (1) of section 28-416; possession of marijuana
7 weighing more than one pound under subsection (12) of section 28-416;
8 possession of money used or intended to be used to facilitate a violation
9 of subsection (1) of section 28-416 prohibited under subsection (17) of
10 section 28-416; any violation of section 28-418; to unlawfully
11 manufacture, distribute, deliver, or possess with intent to distribute or
12 deliver an imitation controlled substance under section 28-445;
13 possession of anhydrous ammonia with the intent to manufacture
14 methamphetamine under section 28-451; and possession of ephedrine,
15 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
16 methamphetamine under section 28-452;

17 (c) Offenses against property which include: Arson in the first
18 degree under section 28-502; arson in the second degree under section
19 28-503; arson in the third degree under section 28-504; burglary under
20 section 28-507; theft by unlawful taking or disposition under section
21 28-511; theft by shoplifting under section 28-511.01; theft by deception
22 under section 28-512; theft by extortion under section 28-513; theft of
23 services under section 28-515; theft by receiving stolen property under
24 section 28-517; criminal mischief under section 28-519; and unlawfully
25 depriving or obtaining property or services using a computer under
26 section 28-1344;

27 (d) Offenses involving fraud which include: Burning to defraud an
28 insurer under section 28-505; forgery in the first degree under section
29 28-602; forgery in the second degree under section 28-603; criminal
30 possession of a forged instrument under section 28-604; criminal
31 possession of written instrument forgery devices under section 28-605;

1 criminal impersonation under section 28-638; identity theft under section
2 28-639; identity fraud under section 28-640; false statement or book
3 entry under section 28-612; tampering with a publicly exhibited contest
4 under section 28-614; issuing a false financial statement for purposes of
5 obtaining a financial transaction device under section 28-619;
6 unauthorized use of a financial transaction device under section 28-620;
7 criminal possession of a financial transaction device under section
8 28-621; unlawful circulation of a financial transaction device in the
9 first degree under section 28-622; unlawful circulation of a financial
10 transaction device in the second degree under section 28-623; criminal
11 possession of a blank financial transaction device under section 28-624;
12 criminal sale of a blank financial transaction device under section
13 28-625; criminal possession of a financial transaction forgery device
14 under section 28-626; unlawful manufacture of a financial transaction
15 device under section 28-627; laundering of sales forms under section
16 28-628; unlawful acquisition of sales form processing services under
17 section 28-629; unlawful factoring of a financial transaction device
18 under section 28-630; and fraudulent insurance acts under section 28-631;

19 (e) Offenses involving governmental operations which include: Abuse
20 of public records under section 28-911; perjury or subornation of perjury
21 under section 28-915; bribery under section 28-917; bribery of a witness
22 under section 28-918; tampering with a witness or informant or jury
23 tampering under section 28-919; bribery of a juror under section 28-920;
24 assault on an officer, an emergency responder, a state correctional
25 employee, a Department of Health and Human Services employee, or a health
26 care professional in the first degree under section 28-929; assault on an
27 officer, an emergency responder, a state correctional employee, a
28 Department of Health and Human Services employee, or a health care
29 professional in the second degree under section 28-930; assault on an
30 officer, an emergency responder, a state correctional employee, a
31 Department of Health and Human Services employee, or a health care

1 professional in the third degree under section 28-931; and assault on an
2 officer, an emergency responder, a state correctional employee, a
3 Department of Health and Human Services employee, or a health care
4 professional using a motor vehicle under section 28-931.01;

5 (f) Offenses involving gambling which include: Promoting gambling in
6 the first degree under section 28-1102; possession of gambling records
7 under section 28-1105; gambling debt collection under section 28-1105.01;
8 and possession of a gambling device under section 28-1107;

9 (g) Offenses relating to firearms, weapons, and explosives which
10 include: Carrying a concealed weapon under section 28-1202;
11 transportation or possession of machine guns, short rifles, or short
12 shotguns under section 28-1203; unlawful possession of a handgun under
13 section 28-1204; unlawful transfer of a firearm to a juvenile under
14 section 28-1204.01; using a deadly weapon to commit a felony or
15 possession of a deadly weapon during the commission of a felony under
16 section 28-1205; possession of a deadly weapon by a prohibited person
17 under section 28-1206; possession of a defaced firearm under section
18 28-1207; defacing a firearm under section 28-1208; unlawful discharge of
19 a firearm under section 28-1212.02; possession, receipt, retention, or
20 disposition of a stolen firearm under section 28-1212.03; unlawful
21 possession of explosive materials in the first degree under section
22 28-1215; unlawful possession of explosive materials in the second degree
23 under section 28-1216; unlawful sale of explosives under section 28-1217;
24 use of explosives without a permit under section 28-1218; obtaining an
25 explosives permit through false representations under section 28-1219;
26 possession of a destructive device under section 28-1220; threatening the
27 use of explosives or placing a false bomb under section 28-1221; using
28 explosives to commit a felony under section 28-1222; using explosives to
29 damage or destroy property under section 28-1223; and using explosives to
30 kill or injure any person under section 28-1224;

31 (h) Any violation of the Securities Act of Nebraska pursuant to

1 section 8-1117;

2 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
3 section 77-2713;

4 (j) Offenses relating to public health and morals which include:
5 Prostitution under section 28-801; pandering under section 28-802;
6 keeping a place of prostitution under section 28-804; labor trafficking,
7 sex trafficking, labor trafficking of a minor, or sex trafficking of a
8 minor under section 28-831; a violation of section 28-1005; and any act
9 relating to the visual depiction of sexually explicit conduct prohibited
10 in the Child Pornography Prevention Act; and

11 (k) A violation of the Computer Crimes Act;

12 (6) State means the State of Nebraska or any political subdivision
13 or any department, agency, or instrumentality thereof; and

14 (7) Unlawful debt means a debt of at least one thousand five hundred
15 dollars:

16 (a) Incurred or contracted in gambling activity which was in
17 violation of federal law or the law of the state or which is
18 unenforceable under state or federal law in whole or in part as to
19 principal or interest because of the laws relating to usury; or

20 (b) Which was incurred in connection with the business of gambling
21 in violation of federal law or the law of the state or the business of
22 lending money or a thing of value at a rate usurious under state law if
23 the usurious rate is at least twice the enforceable rate.

24 Sec. 11. Section 29-2204.02, Revised Statutes Supplement, 2015, is
25 amended to read:

26 29-2204.02 (1) Except when a term of probation is required by law,
27 in imposing a sentence upon an offender for a Class III, IIIA, or IV
28 felony, the court shall:

29 (a) Impose a sentence of imprisonment within the applicable range in
30 section 28-105; and

31 (b) Impose a sentence of post-release supervision, under the

1 jurisdiction of the Office of Probation Administration, within the
2 applicable range in section 28-105.

3 (2) For all sentences of imprisonment for a Class III, IIIA, or IV
4 felony, other than those imposed consecutively or concurrently with a
5 Class III, IIIA, or IV felony for an offense committed prior to August
6 30, 2015, or a sentence to imprisonment for a Class I, IA, IB, IC, ID,
7 II, or IIA felony, the court shall impose a determinate sentence within
8 the applicable range in section 28-105, including a period of post-
9 release supervision.

10 (3 2) If the criminal offense is a Class IV felony, the court shall
11 impose a sentence of probation unless:

12 (a) The defendant is concurrently or consecutively sentenced to
13 imprisonment for any felony other than another Class IV felony;

14 (b) The defendant has been deemed a habitual criminal pursuant to
15 section 29-2221; or

16 (c) There are substantial and compelling reasons why the defendant
17 cannot effectively and safely be supervised in the community, including,
18 but not limited to, the criteria in subsections (2) and (3) of section
19 29-2260. Unless other reasons are found to be present, that the offender
20 has not previously succeeded on probation is not, standing alone, a
21 substantial and compelling reason.

22 (4 3) If a sentence of probation is not imposed, the court shall
23 state its reasoning on the record, advise the defendant of his or her
24 right to appeal the sentence, and impose a sentence as provided in
25 subsection (1) of this section.

26 (5 4) If the defendant was under eighteen years of age at the time
27 he or she committed the crime for which he or she was convicted, the
28 court may, in its discretion, instead of imposing the penalty provided
29 for the crime, make such disposition of the defendant as the court deems
30 proper under the Nebraska Juvenile Code.

31 (6)(a) (5)(a) When imposing a determinate sentence upon an offender

1 under this section, the court shall:

2 (i) Advise the offender on the record the time the offender will
3 serve on his or her term of imprisonment before his or her term of post-
4 release supervision assuming that no good time for which the offender
5 will be eligible is lost; and

6 (ii) Advise the offender on the record the time the offender will
7 serve on his or her term of post-release supervision ~~before attaining~~
8 ~~mandatory release assuming that no good time for which the offender will~~
9 ~~be eligible is lost.~~

10 (b) If a period of post-release supervision is required but not
11 imposed by the sentencing court, the term of post-release supervision
12 shall be the minimum provided by law.

13 (c) If the court imposes more than one sentence upon an offender or
14 imposes a sentence upon an offender who is at that time serving another
15 sentence, the court shall state whether the sentences are to be
16 concurrent or consecutive.

17 Sec. 12. Section 29-2252, Revised Statutes Supplement, 2015, is
18 amended to read:

19 29-2252 The administrator shall:

20 (1) Supervise and administer the office;

21 (2) Establish and maintain policies, standards, and procedures for
22 the system, with the concurrence of the Supreme Court;

23 (3) Prescribe and furnish such forms for records and reports for the
24 system as shall be deemed necessary for uniformity, efficiency, and
25 statistical accuracy;

26 (4) Establish minimum qualifications for employment as a probation
27 officer in this state and establish and maintain such additional
28 qualifications as he or she deems appropriate for appointment to the
29 system. Qualifications for probation officers shall be established in
30 accordance with subsection (4) of section 29-2253. An ex-offender
31 released from a penal complex or a county jail may be appointed to a

1 position of deputy probation or parole officer. Such ex-offender shall
2 maintain a record free of arrests, except for minor traffic violations,
3 for one year immediately preceding his or her appointment;

4 (5) Establish and maintain advanced periodic inservice training
5 requirements for the system;

6 (6) Cooperate with all agencies, public or private, which are
7 concerned with treatment or welfare of persons on probation;

8 (7) Organize and conduct training programs for probation officers.
9 Training shall include the proper use of a risk and needs assessment,
10 risk-based supervision strategies, relationship skills, cognitive
11 behavioral interventions, community-based resources, criminal risk
12 factors, and targeting criminal risk factors to reduce recidivism and the
13 proper use of a matrix of administrative sanctions, custodial sanctions,
14 and rewards developed pursuant to subdivision (18) of this section. All
15 probation officers employed on or after August 30, 2015, shall complete
16 the training requirements set forth in this subdivision;

17 (8) Collect, develop, and maintain statistical information
18 concerning probationers, probation practices, and the operation of the
19 system and provide the Community Corrections Division of the Nebraska
20 Commission on Law Enforcement and Criminal Justice with the information
21 needed to compile the report required in section 47-624;

22 (9) Interpret the probation program to the public with a view toward
23 developing a broad base of public support;

24 (10) Conduct research for the purpose of evaluating and improving
25 the effectiveness of the system. Subject to the availability of funding,
26 the administrator shall contract with an independent contractor or
27 academic institution for evaluation of existing community corrections
28 facilities and programs operated by the office;

29 (11) Adopt and promulgate such rules and regulations as may be
30 necessary or proper for the operation of the office or system. The
31 administrator shall adopt and promulgate rules and regulations for

1 transitioning individuals on probation across levels of supervision and
2 discharging them from supervision consistent with evidence-based
3 practices. The rules and regulations shall ensure supervision resources
4 are prioritized for individuals who are high risk to reoffend, require
5 transitioning individuals down levels of supervision intensity based on
6 assessed risk and months of supervision without a reported major
7 violation, and establish incentives for earning discharge from
8 supervision based on compliance;

9 (12) Transmit a report during each even-numbered year to the Supreme
10 Court on the operation of the office for the preceding two calendar years
11 which shall include a historical analysis of probation officer workload,
12 including participation in non-probation-based programs and services. The
13 report shall be transmitted by the Supreme Court to the Governor and the
14 Clerk of the Legislature. The report submitted to the Clerk of the
15 Legislature shall be submitted electronically;

16 (13) Administer the payment by the state of all salaries, travel,
17 and actual and necessary expenses incident to the conduct and maintenance
18 of the office;

19 (14) Use the funds provided under section 29-2262.07 to augment
20 operational or personnel costs associated with the development,
21 implementation, and evaluation of enhanced probation-based programs and
22 non-probation-based programs and services in which probation personnel or
23 probation resources are utilized pursuant to an interlocal agreement
24 authorized by subdivision (16) of this section and to purchase services
25 to provide such programs aimed at enhancing adult probationer or non-
26 probation-based program participant supervision in the community and
27 treatment needs of probationers and non-probation-based program
28 participants. Enhanced probation-based programs include, but are not
29 limited to, specialized units of supervision, related equipment purchases
30 and training, and programs that address a probationer's vocational,
31 educational, mental health, behavioral, or substance abuse treatment

1 needs;

2 (15) Ensure that any risk or needs assessment instrument utilized by
3 the system be periodically validated;

4 (16) Have the authority to enter into interlocal agreements in which
5 probation resources or probation personnel may be utilized in conjunction
6 with or as part of non-probation-based programs and services. Any such
7 interlocal agreement shall comply with section 29-2255;

8 (17) Collaborate with the Community Corrections Division of the
9 Nebraska Commission on Law Enforcement and Criminal Justice and the
10 Office of Parole Administration to develop rules governing the
11 participation of parolees in community corrections programs operated by
12 the Office of Probation Administration;

13 (18) Develop a matrix of rewards for compliance and positive
14 behaviors and graduated administrative sanctions and custodial sanctions
15 for use in responding to and deterring substance abuse violations and
16 technical violations. As applicable under sections 20 and 21 of this act
17 ~~section 29-2266~~, custodial sanctions of up to thirty days in jail shall
18 be designated as the most severe response to a violation in lieu of
19 revocation and custodial sanctions of up to three days in jail shall be
20 designated as the second most severe response;

21 (19) Adopt and promulgate rules and regulations for the creation of
22 individualized post-release supervision plans, collaboratively with the
23 Department of Correctional Services and county jails, for probationers
24 sentenced to post-release supervision; and

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

27 Each member of the Legislature shall receive an electronic copy of
28 the report required by subdivision (12) of this section by making a
29 request for it to the administrator.

30 Sec. 13. Section 29-2252.01, Revised Statutes Supplement, 2015, is
31 amended to read:

1 29-2252.01 On January 15 and July 15 ~~December 31 and June 30~~ of each
2 fiscal year, the administrator shall provide a report to the budget
3 division of the Department of Administrative Services, the Legislative
4 Fiscal Analyst, and the Supreme Court which shall include, but not be
5 limited to:

6 (1) The total number of felony cases supervised by the office in the
7 previous six months for both regular and intensive supervision probation;

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

11 (3) The felony caseload per officer for both regular and intensive
12 supervision probation on the last day of the reporting period;

13 (4) The misdemeanor caseload per officer for both regular and
14 intensive supervision probation on the last day of the reporting period;

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

18 (6) The total number of predisposition investigations completed by
19 the office in the previous six months;

20 (7) The total number of presentence investigations completed by the
21 office in the previous six months;

22 (8) The total number of juvenile intake screening interviews
23 conducted and detentions authorized by the office in the previous six
24 months, using the detention screening instrument described in section
25 43-260.01; and

26 (9) The total number of probationers with restitution judgments, the
27 number of restitution payments made to clerks of the court, the average
28 amount of payments, and the total amount of restitution collected.

29 The report submitted to the Legislative Fiscal Analyst shall be
30 submitted electronically.

31 Sec. 14. Section 29-2256, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 29-2256 Nothing in the Nebraska Probation Administration Act
3 ~~sections 29-2246 to 29-2268~~ shall be construed to prohibit any court or
4 probation office from utilizing volunteers from the community for
5 probation supervision. The ; ~~Provided,~~ the volunteer program shall be is
6 supervised by a full-time probation officer who meets the minimum
7 qualifications established by the office.

8 Sec. 15. Section 29-2258, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 29-2258 A district probation officer shall:

11 (1) Conduct juvenile intake interviews and investigations in
12 accordance with sections 43-253 and 43-260.01 and, beginning October 1,
13 2013, supervise delivery of preadjudication juvenile services under
14 subdivision (6) of section 43-254;

15 (2) Make presentence and other investigations, as may be required by
16 law or directed by a court in which he or she is serving;

17 (3) Supervise probationers in accordance with the rules and
18 regulations of the office and the directions of the sentencing court;

19 (4) Advise the sentencing court, in accordance with the Nebraska
20 Probation Administration Act and such rules and regulations of the
21 office, of violations of the conditions of probation by individual
22 probationers;

23 (5) Advise the sentencing court, in accordance with the rules and
24 regulations of the office and the direction of the court, when the
25 situation of a probationer may require a modification of the conditions
26 of probation or when a probationer's adjustment is such as to warrant
27 termination of probation;

28 (6) Provide each probationer with a statement of the period and
29 conditions of his or her probation;

30 (7) Whenever necessary, exercise the power of arrest or temporary
31 custody as provided in section ~~29-2266~~ or 43-286.01 and sections 20 and

1 21 of this act;

2 (8) Establish procedures for the direction and guidance of deputy
3 probation officers under his or her jurisdiction and advise such officers
4 in regard to the most effective performance of their duties;

5 (9) Supervise and evaluate deputy probation officers under his or
6 her jurisdiction;

7 (10) Delegate such duties and responsibilities to a deputy probation
8 officer as he or she deems appropriate;

9 (11) Make such reports as required by the administrator, the judges
10 of the probation district in which he or she serves, or the Supreme
11 Court;

12 (12) Keep accurate and complete accounts of all money or property
13 collected or received from probationers and give receipts therefor;

14 (13) Cooperate fully with and render all reasonable assistance to
15 other probation officers;

16 (14) In counties with a population of less than twenty-five thousand
17 people, participate in pretrial diversion programs established pursuant
18 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs
19 established pursuant to sections 43-260.02 to 43-260.07 as requested by
20 judges of the probation district in which he or she serves or as
21 requested by a county attorney and approved by the judges of the
22 probation district in which he or she serves, except that participation
23 in such programs shall not require appointment of additional personnel
24 and shall be consistent with the probation officer's current caseload;

25 (15) Participate, at the direction of the probation administrator
26 pursuant to an interlocal agreement which meets the requirements of
27 section 29-2255, in non-probation-based programs and services;

28 (16) Perform such other duties not inconsistent with the Nebraska
29 Probation Administration Act or the rules and regulations of the office
30 as a court may from time to time direct; and

31 (17) Exercise all powers and perform all duties necessary and proper

1 to carry out his or her responsibilities.

2 Sec. 16. Section 29-2260, Revised Statutes Supplement, 2015, is
3 amended to read:

4 29-2260 (1) Whenever a person is adjudicated to be as described in
5 subdivision (1), (2), (3)(b), or (4) of section 43-247, his or her
6 disposition shall be governed by the Nebraska Juvenile Code.

7 (2) Whenever a court considers sentence for an offender convicted of
8 either a misdemeanor or a felony for which mandatory or mandatory minimum
9 imprisonment is not specifically required, the court may withhold
10 sentence of imprisonment unless, having regard to the nature and
11 circumstances of the crime and the history, character, and condition of
12 the offender, the court finds that imprisonment of the offender is
13 necessary for protection of the public because:

14 (a) The risk is substantial that during the period of probation the
15 offender will engage in additional criminal conduct;

16 (b) The offender is in need of correctional treatment that can be
17 provided most effectively by commitment to a correctional facility; or

18 (c) A lesser sentence will depreciate the seriousness of the
19 offender's crime or promote disrespect for law.

20 (3) The following grounds, while not controlling the discretion of
21 the court, shall be accorded weight in favor of withholding sentence of
22 imprisonment:

23 (a) The crime neither caused nor threatened serious harm;

24 (b) The offender did not contemplate that his or her crime would
25 cause or threaten serious harm;

26 (c) The offender acted under strong provocation;

27 (d) Substantial grounds were present tending to excuse or justify
28 the crime, though failing to establish a defense;

29 (e) The victim of the crime induced or facilitated commission of the
30 crime;

31 (f) The offender has compensated or will compensate the victim of

1 his or her crime for the damage or injury the victim sustained;

2 (g) The offender has no history of prior delinquency or criminal
3 activity and has led a law-abiding life for a substantial period of time
4 before the commission of the crime;

5 (h) The crime was the result of circumstances unlikely to recur;

6 (i) The character and attitudes of the offender indicate that he or
7 she is unlikely to commit another crime;

8 (j) The offender is likely to respond affirmatively to probationary
9 treatment; and

10 (k) Imprisonment of the offender would entail excessive hardship to
11 his or her dependents.

12 (4) When an offender who has been convicted of a crime is not
13 sentenced to imprisonment, the court may sentence him or her to
14 probation.

15 (5) For all sentences of imprisonment for a Class III, IIIA, or IV
16 felony felonies, other than those imposed consecutively or concurrently
17 with a Class III, IIIA, or IV felony for an offense committed prior to
18 August 30, 2015, or a sentence to imprisonment for a Class I, IA, IB, IC,
19 ID, II, or IIA felony, the court shall impose a determinate sentence
20 within the applicable range in section 28-105, including a period of
21 post-release supervision.

22 Sec. 17. Section 29-2262, Revised Statutes Supplement, 2015, is
23 amended to read:

24 29-2262 (1) When a court sentences an offender to probation, it
25 shall attach such reasonable conditions as it deems necessary or likely
26 to insure that the offender will lead a law-abiding life. No offender
27 shall be sentenced to probation if he or she is deemed to be a habitual
28 criminal pursuant to section 29-2221.

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

31 (a) To refrain from unlawful conduct;

1 (b) ~~To For misdemeanors,~~ to be confined periodically in the county
2 jail or to return to custody after specified hours but not to exceed the
3 lesser of ninety days or the maximum jail term provided by law for the
4 offense;

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

6 (d) To devote himself or herself to a specific employment or
7 occupation;

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

10 (f) To pursue a prescribed secular course of study or vocational
11 training;

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

14 (h) To refrain from frequenting unlawful or disreputable places or
15 consorting with disreputable persons;

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

19 (j) To remain within the jurisdiction of the court and to notify the
20 court or the probation officer of any change in his or her address or his
21 or her employment and to agree to waive extradition if found in another
22 jurisdiction;

23 (k) To report as directed to the court or a probation officer and to
24 permit the officer to visit his or her home;

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

26 (m) To pay for tests to determine the presence of drugs or alcohol,
27 psychological evaluations, offender assessment screens, and
28 rehabilitative services required in the identification, evaluation, and
29 treatment of offenders if such offender has the financial ability to pay
30 for such services;

31 (n) To perform community service as outlined in sections 29-2277 to

1 29-2279 under the direction of his or her probation officer;

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

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

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

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

11 (s) To make restitution as described in sections 29-2280 and
12 29-2281; or

13 (t) To pay for all costs imposed by the court, including court costs
14 and the fees imposed pursuant to section 29-2262.06.

15 (3) When jail time is imposed as a condition of probation under
16 subdivision (2)(b) of this section, the court shall:

17 (a) Advise the offender on the record whether any of the provisions
18 of section 47-401 would be appropriate; and

19 (b) Advise the offender on the record the time the offender will
20 serve in jail assuming that no good time for which the offender will be
21 eligible under section 47-502 is lost.

22 (4) Jail time may only be imposed as a condition of probation under
23 subdivision (2)(b) of this section if:

24 (a) The court would otherwise sentence the defendant to a term of
25 incarceration instead of probation; and

26 (b) The court makes a finding on the record that, while probation is
27 appropriate, confinement is necessary because a lesser sentence would
28 depreciate the seriousness of the offender's crime or promote disrespect
29 for law.

30 (5 3) In all cases in which the offender is guilty of violating
31 section 28-416, a condition of probation shall be mandatory treatment and

1 counseling as provided by such section.

2 (6 4) In all cases in which the offender is guilty of a crime
3 covered by the DNA Identification Information Act, a condition of
4 probation shall be the collecting of a DNA sample pursuant to the act and
5 the paying of all costs associated with the collection of the DNA sample
6 prior to release from probation.

7 Sec. 18. Section 29-2263, Revised Statutes Supplement, 2015, is
8 amended to read:

9 29-2263 (1) Except as provided in subsection (2) of this section,
10 when a court has sentenced an offender to probation, the court shall
11 specify the term of such probation which shall be not more than five
12 years upon conviction of a felony or second offense misdemeanor and two
13 years upon conviction of a first offense misdemeanor. The court, on
14 application of a probation officer or of the probationer or on its own
15 motion, may discharge a probationer at any time.

16 (2) When a court has sentenced an offender to post-release
17 supervision, the court shall specify the term of such post-release
18 supervision as provided in section 28-105. The court, on application of a
19 probation officer or of the probationer or on its own motion, may
20 discharge a probationer at any time.

21 (3) During the term of probation, the court on application of a
22 probation officer or of the probationer, or its own motion, may modify or
23 eliminate any of the conditions imposed on the probationer or add further
24 conditions authorized by section 29-2262. This subsection does not
25 preclude a probation officer from imposing administrative sanctions with
26 the probationer's full knowledge and consent as authorized by sections 20
27 and 21 of this act ~~subsection (2) or (9) of section 29-2266.~~

28 (4) Upon completion of the term of probation, or the earlier
29 discharge of the probationer, the probationer shall be relieved of any
30 obligations imposed by the order of the court and shall have satisfied
31 the sentence for his or her crime.

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

5 Sec. 19. Section 29-2266, Revised Statutes Supplement, 2015, is
6 amended to read:

7 29-2266 ~~(1)~~ For purposes of sections 20 to 22 of this act this
8 section:

9 (1) Absconding supervision means a probationer has purposely avoided
10 supervision for a period of at least two weeks and reasonable efforts by
11 probation officers and staff to locate the probationer in person have
12 proven unsuccessful;

13 (2 a) Administrative sanction means additional probation
14 requirements imposed upon a probationer by his or her probation officer,
15 with the full knowledge and consent of the probationer, designed to hold
16 the probationer accountable for violations of conditions of probation,
17 including, but not limited to:

18 (a i) Counseling or reprimand by his or her probation officer;

19 (b ii) Increased supervision contact requirements;

20 (c iii) Increased substance abuse testing;

21 (d iv) Referral for substance abuse or mental health evaluation or
22 other specialized assessment, counseling, or treatment;

23 (e v) Imposition of a designated curfew for a period not to exceed
24 thirty days;

25 (f vi) Community service for a specified number of hours pursuant to
26 sections 29-2277 to 29-2279;

27 (g vii) Travel restrictions to stay within his or her county of
28 residence or employment unless otherwise permitted by the supervising
29 probation officer; and

30 (h viii) Restructuring court-imposed financial obligations to
31 mitigate their effect on the probationer;

1 (3) Custodial sanction means additional probation requirements
2 imposed upon a probationer by the court designed to hold the probationer
3 accountable for violations of conditions of probation. Custodial
4 sanctions of up to thirty days in jail shall be designated as the most
5 severe response to a violation and custodial sanctions of up to three
6 days in jail shall be designated as the second most severe response;

7 (4)(a) (b) Noncriminal violation means a probationer's activities or
8 behaviors which create the opportunity for re-offending or diminish the
9 effectiveness of probation supervision resulting in a violation of an
10 original condition of probation, including:

11 (i) Moving traffic violations;

12 (ii) Failure to report to his or her probation officer;

13 (iii) Leaving the jurisdiction of the court or leaving the state
14 without the permission of the court or his or her probation officer;

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

16 (v) Failure to notify his or her probation officer of change of
17 address or employment;

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

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

21 (viii) Failure to pay fines, court costs, restitution, or any fees
22 imposed pursuant to section 29-2262.06 as directed. ~~and~~

23 (b) Noncriminal violation does not include absconding supervision;
24 and

25 (5 e) Substance abuse violation means a probationer's activities or
26 behaviors associated with the use of chemical substances or related
27 treatment services resulting in a violation of an original condition of
28 probation, including:

29 (a i) Positive breath test for the consumption of alcohol if the
30 offender is required to refrain from alcohol consumption;

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

1 (c ~~iii~~) Failure to report for alcohol testing or drug testing; and
2 (d ~~iv~~) Failure to appear for or complete substance abuse or mental
3 health treatment evaluations or inpatient or outpatient treatment.

4 ~~(2) Whenever a probation officer has reasonable cause to believe~~
5 ~~that a probationer sentenced for a misdemeanor has committed or is about~~
6 ~~to commit a substance abuse violation or noncriminal violation while on~~
7 ~~probation, but that the probationer will not attempt to leave the~~
8 ~~jurisdiction and will not place lives or property in danger, the~~
9 ~~probation officer shall either:~~

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

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

28 ~~(3) Whenever a probation officer has reasonable cause to believe~~
29 ~~that a probationer sentenced for a misdemeanor has violated or is about~~
30 ~~to violate a condition of probation other than a substance abuse~~
31 ~~violation or noncriminal violation and that the probationer will not~~

1 attempt to leave the jurisdiction and will not place lives or property in
2 danger, the probation officer shall submit a written report to the
3 sentencing court, with a copy to the county attorney of the county where
4 probation was imposed, outlining the nature of the probation violation.

5 ~~(4) Whenever a probation officer has a reasonable cause to believe~~
6 ~~that a probationer sentenced for a misdemeanor has violated or is about~~
7 ~~to violate a condition of his or her probation and that the probationer~~
8 ~~will attempt to leave the jurisdiction or will place lives or property in~~
9 ~~danger, the probation officer shall arrest the probationer without a~~
10 ~~warrant and may call on any peace officer for assistance. Whenever a~~
11 ~~probationer is arrested, with or without a warrant, he or she shall be~~
12 ~~detained in a jail or other detention facility.~~

13 ~~(5) Immediately after arrest and detention pursuant to subsection~~
14 ~~(4) of this section, the probation officer shall notify the county~~
15 ~~attorney of the county where probation was imposed and submit a written~~
16 ~~report of the reason for such arrest and of any violation of probation.~~
17 ~~After prompt consideration of such written report, the county attorney~~
18 ~~shall:~~

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

20 ~~(b) File with the sentencing court a motion or information to revoke~~
21 ~~the probation.~~

22 ~~(6) Whenever a county attorney receives a report from a probation~~
23 ~~officer that a probationer sentenced for a misdemeanor has violated a~~
24 ~~condition of probation, the county attorney may file a motion or~~
25 ~~information to revoke probation.~~

26 ~~(7) Whenever a probation officer has reasonable cause to believe~~
27 ~~that a probationer sentenced for a felony has committed or is about to~~
28 ~~commit a violation while on probation, the probation officer shall~~
29 ~~consider:~~

30 ~~(a) Whether the probation officer is required to arrest the~~
31 ~~probationer pursuant to subsection (10) of this section;~~

1 ~~(b) The probationer's risk level, the severity of the violation, and~~
2 ~~the probationer's response to the violation; and~~

3 ~~(c) Whether to impose administrative sanctions or seek custodial~~
4 ~~sanctions or revocation pursuant to subsection (8) of this section.~~

5 ~~(8) The following sanctions may be imposed or sought by the~~
6 ~~probation officer, with approval from his or her chief probation officer~~
7 ~~or such chief's designee, for felony probationers:~~

8 ~~(a) One or more administrative sanctions;~~

9 ~~(b) A custodial sanction of up to three days in jail or up to thirty~~
10 ~~days in jail, to be imposed by the court. Custodial sanctions may be~~
11 ~~combined with one or more administrative sanctions; or~~

12 ~~(c) Formal revocation proceedings, however formal revocations may~~
13 ~~only be instituted against the probationer for a substance abuse or~~
14 ~~noncriminal violation if the probationer has served ninety days of~~
15 ~~cumulative custodial sanctions during the current probation term.~~

16 ~~(9) If administrative sanctions are to be imposed by the probation~~
17 ~~officer pursuant to subsection (8) of this section, the probationer must~~
18 ~~acknowledge in writing the nature of the violation and agree upon the~~
19 ~~sanction. Prior to acknowledging the violation and agreeing upon the~~
20 ~~sanction, the probationer must be presented with a violation report and~~
21 ~~advised of the right to a hearing before the court on the alleged~~
22 ~~violation. The probationer has the right to decline to acknowledge the~~
23 ~~violation and request a court hearing. If the probationer declines to~~
24 ~~acknowledge the violation, the probation officer shall submit a written~~
25 ~~report to the sentencing court, with a copy to the county attorney of the~~
26 ~~county where probation was imposed, describing the alleged violation or~~
27 ~~violations and requesting that administrative sanctions or a custodial~~
28 ~~sanction of up to thirty days in jail be imposed.~~

29 ~~(10) Whenever a probation officer has reasonable cause to believe~~
30 ~~that a probationer sentenced for a felony has violated or is about to~~
31 ~~violate a condition of his or her probation and that the probationer will~~

1 ~~attempt to leave the jurisdiction or will place lives or property in~~
2 ~~danger, the probation officer shall arrest the probationer without a~~
3 ~~warrant and may call on any peace officer for assistance. Whenever a~~
4 ~~probationer is arrested, with or without a warrant, he or she shall be~~
5 ~~detained in a jail or other detention facility. The probation officer~~
6 ~~shall notify the county attorney of the county where probation was~~
7 ~~imposed and submit a written report of the reason for such arrest and of~~
8 ~~any violation of probation. After prompt consideration of such written~~
9 ~~report, the county attorney shall:~~

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

11 ~~(b) File with the sentencing court a motion or information to impose~~
12 ~~administrative or custodial sanctions, or both, or revoke the probation.~~

13 ~~(11) The administrator shall adopt and promulgate rules and~~
14 ~~regulations at the direction of the Supreme Court to ensure prompt court~~
15 ~~review of requests for the imposition of custodial sanctions.~~

16 ~~(12) The administrator shall adopt and promulgate rules and~~
17 ~~regulations to carry out this section.~~

18 Sec. 20. (1) Whenever a probation officer has reasonable cause to
19 believe that a probationer sentenced for a misdemeanor has committed or
20 is about to commit a substance abuse violation or noncriminal violation
21 while on probation, but that the probationer will not attempt to leave
22 the jurisdiction and will not place lives or property in danger, the
23 probation officer shall either:

24 (a) Impose one or more administrative sanctions with the approval of
25 his or her chief probation officer or such chief's designee. The decision
26 to impose administrative sanctions in lieu of formal revocation
27 proceedings rests with the probation officer and his or her chief
28 probation officer or such chief's designee and shall be based upon the
29 probationer's risk level, the severity of the violation, and the
30 probationer's response to the violation. If administrative sanctions are
31 to be imposed, the probationer shall acknowledge in writing the nature of

1 the violation and agree upon the administrative sanction. The probationer
2 has the right to decline to acknowledge the violation; and if he or she
3 declines to acknowledge the violation, the probation officer shall take
4 action pursuant to subdivision (1)(b) of this section. A copy of the
5 report shall be submitted to the county attorney of the county where
6 probation was imposed; or

7 (b) Submit a written report to the sentencing court, with a copy to
8 the county attorney of the county where probation was imposed, outlining
9 the nature of the probation violation and request that formal revocation
10 proceedings be instituted against the probationer.

11 (2) Whenever a probation officer has reasonable cause to believe
12 that a probationer sentenced for a misdemeanor has violated or is about
13 to violate a condition of probation other than a substance abuse
14 violation or noncriminal violation and that the probationer will not
15 attempt to leave the jurisdiction and will not place lives or property in
16 danger, the probation officer shall submit a written report to the
17 sentencing court, with a copy to the county attorney of the county where
18 probation was imposed, outlining the nature of the probation violation.

19 (3) Whenever a probation officer has a reasonable cause to believe
20 that a probationer sentenced for a misdemeanor has violated or is about
21 to violate a condition of his or her probation and that the probationer
22 will attempt to leave the jurisdiction or will place lives or property in
23 danger, the probation officer shall arrest the probationer without a
24 warrant and may call on any peace officer for assistance. Whenever a
25 probationer is arrested, with or without a warrant, he or she shall be
26 detained in a jail or other detention facility.

27 (4) Immediately after arrest and detention pursuant to subsection
28 (3) of this section, the probation officer shall notify the county
29 attorney of the county where probation was imposed and submit a written
30 report of the reason for such arrest and of any violation of probation.
31 After prompt consideration of such written report, the county attorney

1 shall:

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

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

5 (5) Whenever a county attorney receives a report from a probation
6 officer that a probationer sentenced for a misdemeanor has violated a
7 condition of probation, the county attorney may file a motion or
8 information to impose one or more administrative sanctions or to revoke
9 probation.

10 (6) The administrator shall adopt and promulgate rules and
11 regulations to carry out this section.

12 Sec. 21. (1) Whenever a probation officer has reasonable cause to
13 believe that a probationer sentenced for a felony has committed or is
14 about to commit a violation while on probation, the probation officer
15 shall consider:

16 (a) Whether the probation officer is required to arrest the
17 probationer pursuant to subsection (4) of this section;

18 (b) The probationer's risk level, the severity of the violation, and
19 the probationer's response to the violation;

20 (c) Whether to impose administrative sanctions or seek custodial
21 sanctions; or

22 (d) Whether to seek revocation of probation.

23 (2) Whenever a probation officer has reasonable cause to believe
24 that a probationer sentenced for a felony has committed or is about to
25 commit a substance abuse violation or noncriminal violation while on
26 probation, but that the probationer will not attempt to leave the
27 jurisdiction and will not place lives or property in danger, the
28 probation officer shall:

29 (a) Impose one or more administrative sanctions with the approval of
30 his or her chief probation officer or such chief's designee. The decision
31 to impose administrative sanctions shall rest with the probation officer

1 and his or her chief probation officer or such chief's designee and shall
2 be based upon the probationer's risk level, the severity of the
3 violation, and the probationer's response to the violation, subject to
4 the relevant court rules and matrix developed by the administrator
5 pursuant to subdivision (18) of section 29-2252;

6 (b) Request the imposition of a custodial sanction. With the
7 approval of his or her chief probation officer or such chief's designee,
8 the probation officer may submit a written report to the sentencing
9 court, with a copy to the county attorney of the county where probation
10 was imposed, outlining the nature of the alleged probation violation or
11 violations. The decision to impose a custodial sanction rests with the
12 court and shall be based upon the probationer's risk level, the severity
13 of the violation, and the probationer's response to the violation. The
14 decision to impose a custodial sanction shall be made in accordance with
15 the procedure in section 22 of this act and relevant court rules; or

16 (c) Submit a written report to the sentencing court, with a copy to
17 the county attorney of the county where probation was imposed, outlining
18 the nature of the probation violation and request that formal revocation
19 proceedings be instituted against the probationer pursuant to section
20 29-2267. However, formal revocation proceedings may only be instituted
21 against the probationer for a substance abuse or noncriminal violation if
22 the probationer has served ninety days of cumulative custodial sanctions
23 during the current probation term.

24 (3) If administrative sanctions are to be imposed, the probationer
25 shall either:

26 (a) Acknowledge in writing the nature of the violation and agree
27 upon the administrative sanction; or

28 (b) Decline to acknowledge the violation. If he or she declines to
29 acknowledge the violation, the probation officer may impose one or more
30 additional administrative sanctions or take action pursuant to
31 subdivision (2)(b) or (c) of this section.

1 (4) If custodial sanctions are to be imposed, the probationer shall
2 either:

3 (a) Acknowledge in writing the nature of the violation and agree
4 upon the custodial sanction. The decision to impose a custodial sanction
5 pursuant to this subdivision rests with the probation officer and shall
6 be based upon the probationer's risk level, the severity of the
7 violation, and the probationer's response to the violation, in accordance
8 with relevant court rules; or

9 (b) Decline to acknowledge the violation and request a court
10 hearing. The decision to impose a custodial sanction pursuant to
11 subsection (4) of this section rests with the court and shall be based
12 upon the probationer's risk level, the severity of the violation, and the
13 probationer's response to the violation, in accordance with the procedure
14 in section 22 of this act and relevant court rules.

15 (5) Whenever a probation officer has reasonable cause to believe
16 that a probationer sentenced for a felony has violated or is about to
17 violate a condition of his or her probation other than a substance abuse
18 violation or noncriminal violation and that the probationer will not
19 attempt to leave the jurisdiction and will not place lives or property in
20 danger, the probation officer shall submit a written report to the
21 sentencing court, with a copy to the county attorney of the county where
22 probation was imposed, outlining the nature of the probation violation.

23 (6) Whenever a probation officer has reasonable cause to believe
24 that a probationer sentenced for a felony has violated or is about to
25 violate a condition of his or her probation and that the probationer will
26 attempt to leave the jurisdiction or will place lives or property in
27 danger, the probation officer shall arrest the probationer without a
28 warrant and may call on any peace officer for assistance. Whenever a
29 probationer is arrested, with or without a warrant, he or she shall be
30 detained in a jail or other detention facility.

31 (7) Immediately after arrest and detention pursuant to subsection

1 (6) of this section, the probation officer shall notify the county
2 attorney of the county where probation was imposed and submit a written
3 report of the reason for such arrest and of any violation of probation.
4 After prompt consideration of such written report, the county attorney
5 shall:

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

7 (b) File with the sentencing court a motion or information to impose
8 administrative or custodial sanctions, or both, or revoke the probation.

9 (8) Whenever a county attorney receives a report from a probation
10 officer that a probationer sentenced for a felony has violated a
11 condition of probation, the county attorney may file a motion or
12 information to impose administrative or custodial sanctions, or both, or
13 revoke probation.

14 (9) The administrator shall adopt and promulgate rules and
15 regulations to carry out this section including, but not limited to,
16 rules and regulations at the direction of the Supreme Court to ensure
17 prompt court review of requests for the imposition of custodial
18 sanctions.

19 Sec. 22. (1) Whenever a probation officer requests the imposition
20 of custodial sanctions, or whenever a county attorney files a motion or
21 information to request the imposition of custodial sanctions, the
22 probationer shall be entitled to a prompt consideration of such charge by
23 the sentencing court. Except as provided in subsection (2) of this
24 section, the court shall not impose custodial sanctions on the
25 probationer unless the violation of probation is established at a hearing
26 by a preponderance of the evidence.

27 (2) After a motion to impose custodial sanctions has been filed, the
28 probationer may, in writing, waive the hearing and agree to the custodial
29 sanction. If the probationer waives the hearing and agrees to the
30 custodial sanction, the court shall issue a commitment accordingly.

31 (3) The probationer shall have the right to receive, prior to the

1 hearing, written notice of the grounds on which the request to impose a
2 custodial sanction is based. The probationer shall have the right to hear
3 and controvert the evidence against him or her, to offer evidence in his
4 or her defense, and to be represented by counsel. The right to hear and
5 controvert the evidence does not include a right to confront witnesses.
6 The right to offer evidence includes, but is not limited to, the right to
7 submit affidavits and reports for consideration by the court and the
8 right to testify and call witnesses.

9 (4) Custodial sanctions may be combined with one or more
10 administrative sanctions. After a custodial sanction hearing, if the
11 court determines that a custodial sanction should be imposed, the court
12 shall issue a commitment accordingly.

13 (5) The county attorney may appear at and participate in a custodial
14 sanction hearing to offer evidence, call witnesses, and cross examine
15 witnesses. The court shall receive the affidavit and report of the
16 probation officer as evidence, and may receive additional affidavits and
17 reports in support of the requested sanction.

18 (6) The decision to impose a custodial sanction rests with the court
19 and shall be based upon the probationer's risk level, the severity of the
20 violation, and the probationer's response to the violation, in accordance
21 with the procedure in this section and relevant court rules.

22 Sec. 23. Section 29-2267, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 29-2267 (1) Whenever a motion or information to revoke probation is
25 filed, the probationer shall be entitled to a prompt consideration of
26 such charge by the sentencing court. The court shall not revoke
27 probation, ~~or~~ increase the probation requirements imposed ~~thereby~~ on the
28 probationer, except after a hearing upon proper notice where the
29 violation of probation is established by clear and convincing evidence.

30 (2) The probationer shall have the right to receive, prior to the
31 hearing, a copy of the information or written notice of the grounds on

1 which the information is based. The probationer shall have the right to
2 hear and controvert the evidence against him or her, to offer evidence in
3 his or her defense, and to be represented by counsel.

4 (3) For a probationer convicted of a felony, revocation proceedings
5 may only be instituted in response to a substance abuse or noncriminal
6 violation if the probationer has served ninety days of cumulative
7 custodial sanctions during the current probation term.

8 Sec. 24. Section 29-2268, Revised Statutes Supplement, 2015, is
9 amended to read:

10 29-2268 (1) If the court finds that the probationer, other than a
11 probationer serving a term of post-release supervision, did violate a
12 condition of his or her probation, it may revoke the probation and impose
13 on the offender such new sentence as might have been imposed originally
14 for the crime of which he or she was convicted.

15 (2) If the court finds that a probationer serving a term of post-
16 release supervision did violate a condition of his or her post-release
17 supervision, it may revoke the post-release supervision and impose on the
18 offender a term of imprisonment up to the remaining period of post-
19 release supervision. The term shall be served in an institution under the
20 jurisdiction of the Department of Correctional Services or in county jail
21 subject to subsection (2) of section 28-105.

22 (3) If the court finds that the probationer did violate a condition
23 of his or her probation, but is of the opinion that revocation is not
24 appropriate, the court may order that:

25 (a) The probationer receive a reprimand and warning;

26 (b) Probation supervision and reporting be intensified;

27 (c) The probationer be required to conform to one or more additional
28 conditions of probation which may be imposed in accordance with the
29 Nebraska Probation Administration Act provisions of sections 29-2246 to
30 29-2268; and

31 (d) For a probationer convicted of a felony, impose custodial

1 sanctions, subject to the provisions of section 22 of this act; and

2 (e ¶) The probationer's term of probation be extended, subject to
3 the provisions of section 29-2263.

4 Sec. 25. Section 29-2269, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 29-2269 Sections 29-2246 to 29-2269 and sections 20 to 22 of this
7 act shall be known and may be cited as the Nebraska Probation
8 Administration Act.

9 Sec. 26. Section 29-2308, Revised Statutes Supplement, 2015, is
10 amended to read:

11 29-2308 (1) In all criminal cases that now are or may hereafter be
12 pending in the Court of Appeals or Supreme Court, the appellate court may
13 reduce the sentence rendered by the district court against the accused
14 when in its opinion the sentence is excessive, and it shall be the duty
15 of the appellate court to render such sentence against the accused as in
16 its opinion may be warranted by the evidence. No judgment shall be set
17 aside, new trial granted, or judgment rendered in any criminal case on
18 the grounds of misdirection of the jury or the improper admission or
19 rejection of evidence or for error as to any matter of pleading or
20 procedure if the appellate court, after an examination of the entire
21 cause, considers that no substantial miscarriage of justice has actually
22 occurred.

23 (2) In all criminal cases based on offenses subject to determinate
24 sentencing under subsection (3 2) of section 29-2204.02, the appellate
25 court may determine that a sentence is excessive because the district
26 court did not provide substantial and compelling reasons for imposing a
27 sentence other than probation.

28 Sec. 27. Section 47-401, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 47-401 (1) Any person sentenced to a city or county jail upon
31 conviction for a misdemeanor, a felony, contempt, or nonpayment of any

1 fine or forfeiture or as the result of custodial sanctions imposed
2 pursuant to section 21 of this act may be granted the privilege of
3 leaving the jail during necessary and reasonable hours for any of the
4 following purposes:

5 (a) Seeking employment;

6 (b) Working at his or her employment;

7 (c) Conducting such person's own business or other self-employed
8 occupation, including housekeeping and attending to the needs of such
9 person's family;

10 (d) Attending any high school, college, university, or other
11 educational or vocational training program or institution;

12 (e) Serious illness or death of a member of such person's immediate
13 family;

14 (f) Medical treatment; or

15 (g) Outpatient or inpatient treatment for alcohol or substance
16 abuse.

17 (2) Any person sentenced to a city or county jail upon conviction
18 for a misdemeanor or nonpayment of any fine or forfeiture or as the
19 result of custodial sanctions imposed pursuant to section 21 of this act
20 may be granted the privilege of serving the sentence or a part of the
21 sentence at a house of correction, community residential center, work
22 release center, halfway house, or other place of confinement properly
23 designated as a jail facility in accordance with this section and
24 sections 15-259, 47-117, 47-207, and 47-409.

25 (3) Any person sentenced to a city or county jail upon conviction
26 for a misdemeanor, a felony, contempt, or nonpayment of any fine or
27 forfeiture or as the result of custodial sanctions imposed pursuant to
28 section 21 of this act may be granted the privilege of serving all or
29 part of the sentence under house arrest. For purposes of this subsection,
30 house arrest means restricting an offender to a specific residence except
31 for authorized periods of absence for employment or for medical,

1 educational, or other reasons approved by the court. House arrest may be
2 monitored by electronic surveillance devices or systems.

3 Sec. 28. Section 47-502, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 47-502 Any person sentenced to a city or county jail, including any
6 person serving a custodial sanction imposed pursuant to section 21 of
7 this act, shall, after the fifteenth day of his or her confinement, have
8 his or her remaining term reduced one day for each day of his or her
9 sentence or sanction during which he or she has not committed any breach
10 of discipline or other violation of jail regulations.

11 Sec. 29. Section 60-6,197.03, Revised Statutes Supplement, 2015, is
12 amended to read:

13 60-6,197.03 Any person convicted of a violation of section 60-6,196
14 or 60-6,197 shall be punished as follows:

15 (1) Except as provided in subdivision (2) of this section, if such
16 person has not had a prior conviction, such person shall be guilty of a
17 Class W misdemeanor, and the court shall, as part of the judgment of
18 conviction, order that the operator's license of such person be revoked
19 for a period of six months from the date ordered by the court. The
20 revocation order shall require that the person apply for an ignition
21 interlock permit pursuant to section 60-6,211.05 for the revocation
22 period and have an ignition interlock device installed on any motor
23 vehicle he or she operates during the revocation period. Such revocation
24 shall be administered upon sentencing, upon final judgment of any appeal
25 or review, or upon the date that any probation is revoked.

26 If the court places such person on probation or suspends the
27 sentence for any reason, the court shall, as one of the conditions of
28 probation or sentence suspension, order that the operator's license of
29 such person be revoked for a period of sixty days from the date ordered
30 by the court. The court shall order that during the period of revocation
31 the person apply for an ignition interlock permit pursuant to section

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

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

18 If the court places such person on probation or suspends the
19 sentence for any reason, the court shall, as one of the conditions of
20 probation or sentence suspension, order that the operator's license of
21 such person be revoked for a period of one year from the date ordered by
22 the court. The revocation order shall require that the person apply for
23 an ignition interlock permit pursuant to subdivision (1)(b) of section
24 60-6,197.01 for the revocation period and have an ignition interlock
25 device installed on any motor vehicle he or she operates during the
26 revocation period. Such revocation shall be administered upon sentencing,
27 upon final judgment of any appeal or review, or upon the date that any
28 probation is revoked. Such order of probation or sentence suspension
29 shall also include, as conditions, the payment of a five-hundred-dollar
30 fine and either confinement in the city or county jail for two days or
31 the imposition of not less than one hundred twenty hours of community

1 service;

2 (3) Except as provided in subdivision (5) of this section, if such
3 person has had one prior conviction, such person shall be guilty of a
4 Class W misdemeanor, and the court shall, as part of the judgment of
5 conviction, order that the operator's license of such person be revoked
6 for a period of eighteen months from the date ordered by the court. The
7 revocation order shall require that the person not drive for a period of
8 forty-five days and that the person apply for an ignition interlock
9 permit and have an ignition interlock device installed on any motor
10 vehicle he or she owns or operates for at least one year. The court shall
11 also issue an order pursuant to subdivision (1)(b) of section
12 60-6,197.01. If the person has an ignition interlock device installed as
13 required under this subdivision, the person shall not be eligible for
14 reinstatement of his or her operator's license until he or she has had
15 the ignition interlock device installed for the period ordered by the
16 court. The revocation shall be administered upon sentencing, upon final
17 judgment of any appeal or review, or upon the date that any probation is
18 revoked.

19 If the court places such person on probation or suspends the
20 sentence for any reason, the court shall, as one of the conditions of
21 probation or sentence suspension, order that the operator's license of
22 such person be revoked for a period of eighteen months from the date
23 ordered by the court. The revocation order shall require that the person
24 not drive for a period of forty-five days and that the person apply for
25 an ignition interlock permit and installation of an ignition interlock
26 device for not less than a one-year period pursuant to section
27 60-6,211.05. The court shall also issue an order pursuant to subdivision
28 (1)(b) of section 60-6,197.01. If the person has an ignition interlock
29 device installed as required under this subdivision, the person shall not
30 be eligible for reinstatement of his or her operator's license until he
31 or she has had the ignition interlock device installed for the period

1 ordered by the court. The order of probation or sentence suspension shall
2 also include, as conditions, the payment of a five-hundred-dollar fine
3 and either confinement in the city or county jail for ten days or the
4 imposition of not less than two hundred forty hours of community service;

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

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

26 (5) If such person has had one prior conviction and, as part of the
27 current violation, had a concentration of fifteen-hundredths of one gram
28 or more by weight of alcohol per one hundred milliliters of his or her
29 blood or fifteen-hundredths of one gram or more by weight of alcohol per
30 two hundred ten liters of his or her breath or refused to submit to a
31 test as required under section 60-6,197, such person shall be guilty of a

1 Class I misdemeanor, and the court shall, as part of the judgment of
2 conviction, order payment of a one-thousand-dollar fine and revoke the
3 operator's license of such person for a period of at least eighteen
4 months but not more than fifteen years from the date ordered by the court
5 and shall issue an order pursuant to section 60-6,197.01. Such revocation
6 and order shall be administered upon sentencing, upon final judgment of
7 any appeal or review, or upon the date that any probation is revoked. The
8 court shall also sentence such person to serve at least ninety days'
9 imprisonment in the city or county jail or an adult correctional
10 facility.

11 If the court places such person on probation or suspends the
12 sentence for any reason, the court shall, as one of the conditions of
13 probation or sentence suspension, order that the operator's license of
14 such person be revoked for a period of at least eighteen months but not
15 more than fifteen years from the date ordered by the court. The
16 revocation order shall require that the person not drive for a period of
17 forty-five days and that during the period of revocation the person apply
18 for an ignition interlock permit and installation of an ignition
19 interlock device for not less than a one-year period issued pursuant to
20 section 60-6,211.05. The court shall also issue an order pursuant to
21 subdivision (1)(b) of section 60-6,197.01. If the person has an ignition
22 interlock device installed as required under this subdivision, the person
23 shall not be eligible for reinstatement of his or her operator's license
24 until he or she has had the ignition interlock device installed for the
25 period ordered by the court. The order of probation or sentence
26 suspension shall also include, as conditions, the payment of a one-
27 thousand-dollar fine and confinement in the city or county jail for
28 thirty days;

29 (6) If such person has had two prior convictions and, as part of the
30 current violation, had a concentration of fifteen-hundredths of one gram
31 or more by weight of alcohol per one hundred milliliters of his or her

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

13 If the court places such person on probation or suspends the
14 sentence for any reason, the court shall, as one of the conditions of
15 probation or sentence suspension, order that the operator's license of
16 such person be revoked for a period of at least five years but not more
17 than fifteen years from the date ordered by the court. The revocation
18 order shall require that the person not drive for a period of forty-five
19 days, after which the court may order that during the period of
20 revocation the person apply for an ignition interlock permit and
21 installation of an ignition interlock device issued pursuant to section
22 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of
23 section 60-6,197.01. Such order of probation or sentence suspension shall
24 also include, as conditions, the payment of a one-thousand-dollar fine,
25 confinement in the city or county jail for sixty days, and, upon release
26 from such confinement, the use of a continuous alcohol monitoring device
27 and abstention from alcohol use at all times for no less than sixty days;

28 (7) Except as provided in subdivision (8) of this section, if such
29 person has had three prior convictions, such person shall be guilty of a
30 Class IIIA felony, and the court shall, as part of the judgment of
31 conviction, order that the operator's license of such person be revoked

1 for a period of fifteen years from the date ordered by the court and
2 shall issue an order pursuant to section 60-6,197.01. Such orders shall
3 be administered upon sentencing, upon final judgment of any appeal or
4 review, or upon the date that any probation is revoked. The court shall
5 also sentence such person to serve at least one hundred eighty days'
6 imprisonment in the city or county jail or an adult correctional
7 facility.

8 If the court places such person on probation or suspends the
9 sentence for any reason, the court shall, as one of the conditions of
10 probation or sentence suspension, order that the operator's license of
11 such person be revoked for a period of fifteen years from the date
12 ordered by the court. The revocation order shall require that the person
13 not drive for a period of forty-five days, after which the court may
14 order that during the period of revocation the person apply for an
15 ignition interlock permit and installation of an ignition interlock
16 device issued pursuant to section 60-6,211.05 and shall issue an order
17 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
18 probation or sentence suspension shall also include, as conditions, the
19 payment of a two-thousand-dollar fine, confinement in the city or county
20 jail for ninety days, and, upon release from such confinement, the use of
21 a continuous alcohol monitoring device and abstention from alcohol use at
22 all times for no less than ninety days;

23 (8) If such person has had three prior convictions and, as part of
24 the current violation, had a concentration of fifteen-hundredths of one
25 gram or more by weight of alcohol per one hundred milliliters of his or
26 her blood or fifteen-hundredths of one gram or more by weight of alcohol
27 per two hundred ten liters of his or her breath or refused to submit to a
28 test as required under section 60-6,197, such person shall be guilty of a
29 Class IIA felony, with a minimum sentence of one year imprisonment, and
30 the court shall, as part of the judgment of conviction, revoke the
31 operator's license of such person for a period of fifteen years from the

1 date ordered by the court and shall issue an order pursuant to section
2 60-6,197.01. Such revocation and order shall be administered upon
3 sentencing, upon final judgment of any appeal or review, or upon the date
4 that any probation is revoked.

5 If the court places such person on probation or suspends the
6 sentence for any reason, the court shall, as one of the conditions of
7 probation or sentence suspension, order that the operator's license of
8 such person be revoked for a period of fifteen years from the date
9 ordered by the court. The revocation order shall require that the person
10 not drive for a period of forty-five days, after which the court may
11 order that during the period of revocation the person apply for an
12 ignition interlock permit and installation of an ignition interlock
13 device issued pursuant to section 60-6,211.05 and shall issue an order
14 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
15 probation or sentence suspension shall also include, as conditions, the
16 payment of a two-thousand-dollar fine, confinement in the city or county
17 jail for one hundred twenty days, and, upon release from such
18 confinement, the use of a continuous alcohol monitoring device and
19 abstention from alcohol use at all times for no less than one hundred
20 twenty days;

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

30 If the court places such person on probation or suspends the
31 sentence for any reason, the court shall, as one of the conditions of

1 probation or sentence suspension, order that the operator's license of
2 such person be revoked for a period of fifteen years from the date
3 ordered by the court. The revocation order shall require that the person
4 not drive for a period of forty-five days, after which the court may
5 order that during the period of revocation the person apply for an
6 ignition interlock permit and installation of an ignition interlock
7 device issued pursuant to section 60-6,211.05 and shall issue an order
8 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
9 probation or sentence suspension shall also include, as conditions, the
10 payment of a two-thousand-dollar fine, confinement in the city or county
11 jail for one hundred eighty days, and, upon release from such
12 confinement, the use of a continuous alcohol monitoring device and
13 abstention from alcohol use at all times for no less than one hundred
14 eighty days; and

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

28 If the court places such person on probation or suspends the
29 sentence for any reason, the court shall, as one of the conditions of
30 probation or sentence suspension, order that the operator's license of
31 such person be revoked for a period of fifteen years from the date

1 ordered by the court. The revocation order shall require that the person
2 not drive for a period of forty-five days, after which the court may
3 order that during the period of revocation the person apply for an
4 ignition interlock permit and installation of an ignition interlock
5 device issued pursuant to section 60-6,211.05 and shall issue an order
6 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
7 probation or sentence suspension shall also include, as conditions, the
8 payment of a two-thousand-dollar fine, confinement in the city or county
9 jail for one hundred eighty days, and, upon release from such
10 confinement, the use of a continuous alcohol monitoring device and
11 abstention from alcohol use at all times for no less than one hundred
12 eighty days.

13 Sec. 30. Section 71-2482, Revised Statutes Supplement, 2015, is
14 amended to read:

15 71-2482 Any person violating any of the provisions of section
16 71-2478, 71-2480, or 71-2481 is guilty of a Class III misdemeanor. Any
17 person, for a second or subsequent violation of any of the provisions of
18 section 71-2480 or 71-2481, is guilty of a Class II misdemeanor.

19 Sec. 31. Section 83-187, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 83-187 (1) When a person committed to the department is released
22 from a facility, either on parole, post-release supervision, or upon
23 final discharge, the person shall be returned any personal possessions
24 taken upon confinement, and the chief executive officer of the facility
25 shall furnish the person with a written notice as required in section
26 83-1,118, clothing appropriate for the season of the year, a
27 transportation ticket to the place where he or she will reside, if within
28 the continental limits of the United States or if not, the state may
29 purchase transportation to the nearest United States border en route to
30 such residence, and such sum of money as may be prescribed by the
31 regulations of the department to enable the person to meet his or her

1 immediate needs. If at the time of release the person is too ill or
2 feeble or otherwise unable to use public means of transportation, the
3 chief executive officer may make special arrangements for transportation
4 to the place where the person will reside.

5 (2) At the time of release, the person shall also be paid his or her
6 earnings and any accrued interest thereon set aside in the wage fund.
7 Such earnings and interest shall be paid either in a lump sum or
8 otherwise as determined by the chief executive officer to be in the best
9 interest of the person. No less than one-third of such fund shall be paid
10 upon release, and the entire fund shall be paid within six months of the
11 person's release.

12 (3) The department shall send a copy of the release or discharge to
13 the court which committed the person and also to the sheriff of the
14 county in which the court is located and, when such county contains a
15 city of the metropolitan class, to the police department of such city.

16 Sec. 32. Section 83-1,100.02, Revised Statutes Supplement, 2015, is
17 amended to read:

18 83-1,100.02 (1) For purposes of this section:

19 (a) Levels of supervision means the determination of the following
20 for each person on parole:

21 (i) Supervision contact requirements, including the frequency,
22 location, methods, and nature of contact with the parole officer;

23 (ii) Substance abuse testing requirements and frequency;

24 (iii) Contact restrictions;

25 (iv) Curfew restrictions;

26 (v) Access to available programs and treatment, with priority given
27 to moderate-risk and high-risk parolees; and

28 (vi) Severity of graduated responses to violations of supervision
29 conditions; and

30 (b) Risk and needs assessment means an actuarial tool that has been
31 validated in Nebraska to determine the likelihood of the parolee engaging

1 in future criminal behavior.

2 (2) The Office of Parole Administration shall establish an evidence-
3 based process that utilizes a risk and needs assessment to measure
4 criminal risk factors and specific individual needs.

5 (3) The risk and needs assessment shall be performed at the
6 commencement of the parole term and every six months thereafter by office
7 staff trained and certified in the use of the risk and needs assessment.

8 (4) The office shall test the validity of the risk and needs
9 assessment at least every five years.

10 (5) Based on the results of the risk and needs assessment, the
11 office shall determine levels of supervision to target parolee criminal
12 risk and need factors by focusing sanction, program, and treatment
13 resources on moderate-risk and high-risk parolees.

14 (6) The office shall provide training to its parole officers on use
15 of a risk and needs assessment, risk-based supervision strategies,
16 relationship skills, cognitive behavioral interventions, community-based
17 resources, criminal risk factors, targeting criminal risk factors to
18 reduce recidivism, and proper use of a matrix of administrative
19 sanctions, custodial sanctions, and rewards developed pursuant to section
20 83-1,119. All parole officers employed on August 30, 2015, shall complete
21 the training requirements set forth in this subsection on or before
22 January 1, 2017 ~~July 1, 2016~~. Each parole officer hired on or after
23 August 30, 2015, shall complete the training requirements set forth in
24 this subsection within one year after his or her hire date.

25 (7) The office shall provide training for chief parole officers to
26 become trainers so as to ensure long-term and self-sufficient training
27 capacity in the state.

28 Sec. 33. Section 83-1,119, Revised Statutes Supplement, 2015, is
29 amended to read:

30 83-1,119 (1) For purposes of this section:

31 (a) Absconding parole supervision means a parolee has purposely

1 avoided supervision for a period of at least two weeks and reasonable
2 efforts by a parole officer and staff to locate the parolee in person
3 have proven unsuccessful;

4 (b a) Administrative sanction means additional parole requirements
5 imposed upon a parolee by his or her parole officer, with the full
6 knowledge and consent of the parolee, designed to hold the parolee
7 accountable for substance abuse or technical violations of conditions of
8 parole, including, but not limited to:

9 (i) Counseling or reprimand by the adult parole administration of
10 the department;

11 (ii) Increased supervision contact requirements;

12 (iii) Increased substance abuse testing;

13 (iv) Referral for substance abuse or mental health evaluation or
14 other specialized assessment, counseling, or treatment;

15 (v) Imposition of a designated curfew for a period to be determined
16 by the adult parole administration; and

17 (vi) Travel restrictions to stay within his or her county of
18 residence or employment unless otherwise permitted by the adult parole
19 administration;

20 (c b) Contract facility means a county jail that contracts with the
21 department to house parolees or other offenders under the jurisdiction of
22 the department;

23 (d e) Substance abuse violation means a parolee's activities or
24 behaviors associated with the use of chemical substances or related
25 treatment services resulting in a violation of an original condition of
26 parole, including:

27 (i) Positive breath test for the consumption of alcohol if the
28 parolee is required to refrain from alcohol consumption;

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

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

31 (iv) Failure to appear for or complete substance abuse or mental

1 health treatment evaluations or inpatient or outpatient treatment; and

2 (e) Technical violation means a parolee's activities or behaviors
3 which create the opportunity for re-offending or diminish the
4 effectiveness of parole supervision resulting in a violation of an
5 original condition of parole and includes ~~, including, but not limited~~
6 ~~to~~:

7 (i) Moving traffic violations;

8 (ii) Failure to report to his or her parole officer;

9 (iii) Leaving the state without the permission of the Board of
10 Parole;

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

12 (v) Failure to notify his or her parole officer of change of address
13 or employment;

14 (vi) Frequenting places where controlled substances are illegally
15 sold, used, distributed, or administered; and

16 (vii) Failure to pay fines, court costs, restitution, or any fees
17 imposed pursuant to section 83-1,107.01 as directed.

18 Technical violation does not include absconding parole supervision.

19 (2) The Office of Parole Administration shall develop a matrix of
20 rewards for compliance and positive behaviors and graduated
21 administrative sanctions and custodial sanctions for use in responding to
22 and deterring substance abuse violations and technical violations. A
23 custodial sanction of thirty days in a correctional facility or a
24 contract facility shall be designated as the most severe response to a
25 violation in lieu of revocation.

26 (3) Whenever a parole officer has reasonable cause to believe that a
27 parolee has committed or is about to commit a substance abuse violation
28 or technical violation while on parole, but that the parolee will not
29 attempt to leave the jurisdiction and will not place lives or property in
30 danger, the parole officer shall either:

31 (a) Impose one or more administrative sanctions based upon the

1 parolee's risk level, the severity of the violation, and the parolee's
2 response to the violation. If administrative sanctions are to be imposed,
3 the parolee shall acknowledge in writing the nature of the violation and
4 agree upon the administrative sanction. The parolee has the right to
5 decline to acknowledge the violation. If he or she declines to
6 acknowledge the violation, the parole officer shall take action pursuant
7 to subdivision (3)(b) of this section. A copy of the report shall be
8 submitted to the Board of Parole; or

9 (b) Submit a written report to the Board of Parole, outlining the
10 nature of the parole violation, and request the imposition of a custodial
11 sanction of up to thirty days in a correctional facility or a contract
12 facility. On the basis of the report and such further investigation as
13 the board may deem appropriate, the board shall determine whether and how
14 the parolee violated the conditions of parole and may:

15 (i) Dismiss the charge of violation; or

16 (ii) If the board finds a violation justifying a custodial sanction,
17 issue a warrant if necessary and impose a custodial sanction of up to
18 thirty days in a correctional facility or a contract facility.

19 (4) Whenever a parole officer has reasonable cause to believe that a
20 parolee has violated or is about to violate a condition of parole by a
21 violation other than a substance abuse violation or a technical violation
22 and the parole officer has reasonable cause to believe that the parolee
23 will not attempt to leave the jurisdiction and will not place lives or
24 property in danger, the parole officer shall submit a written report to
25 the Board of Parole which may, on the basis of such report and such
26 further investigation as it may deem appropriate:

27 (a) Dismiss the charge of violation;

28 (b) Determine whether the parolee violated the conditions of his or
29 her parole;

30 (c) Impose a custodial sanction of up to thirty days in a
31 correctional facility or a contract facility;

1 (d) Revoke his or her parole in accordance with the Nebraska
2 Treatment and Corrections Act; or

3 (e) Issue a warrant for the arrest of the parolee.

4 (5) Whenever a parole officer has reasonable cause to believe that a
5 parolee has violated or is about to violate a condition of parole and
6 that the parolee will attempt to leave the jurisdiction or will place
7 lives or property in danger, the parole officer shall arrest the parolee
8 without a warrant and call on any peace officer to assist him or her in
9 doing so.

10 (6) Whenever a parolee is arrested with or without a warrant, he or
11 she shall be detained in a local jail or other detention facility.
12 Immediately after such arrest and detention, the parole officer shall
13 notify the Board of Parole and submit a written report of the reason for
14 such arrest. A complete investigation shall be made by the parole
15 administration and submitted to the board. After prompt consideration of
16 such written report, the board shall order the parolee's release from
17 detention or continued confinement to await a final decision on
18 imposition of a custodial sanction or the revocation of parole.

19 (7) The Board of Parole shall adopt and promulgate rules and
20 regulations necessary to carry out this section.

21 Sec. 34. Section 83-1,122, Revised Statutes Supplement, 2015, is
22 amended to read:

23 83-1,122 (1) If the board finds that the parolee has engaged in
24 criminal conduct, the board may order revocation of the parolee's parole.

25 (2) If the board finds that the parolee did violate a condition of
26 parole but is of the opinion that revocation of parole is not
27 appropriate, the board may order that:

28 (a) The parolee receive a reprimand and warning;

29 (b) Parole supervision and reporting be intensified;

30 (c) Good time granted pursuant to section 83-1,108 be forfeited or
31 withheld;

1 (d) The parolee serve a custodial sanction of up to thirty days in a
2 correctional facility or a contract facility as defined in section
3 83-1,119; or

4 (e) The parolee be required to conform to one or more additional
5 conditions of parole which may be imposed in accordance with the Nebraska
6 Treatment and Corrections Act.

7 (3) Cumulative custodial sanctions ~~of thirty days~~ in a correctional
8 facility or a contract facility under this section and section 83-1,119
9 shall not exceed sixty days. If a parolee has previously received sixty
10 days of cumulative ~~two thirty-day~~ custodial sanctions before the current
11 violation, the board shall either order revocation of the parolee's
12 parole or one or more of the other sanctions described in subsection (2)
13 of this section.

14 (4) Time spent in custodial sanctions under this section and section
15 83-1,119 shall be credited to the parolee's sentence.

16 Sec. 35. Section 83-1,135.02, Revised Statutes Supplement, 2015, is
17 amended to read:

18 83-1,135.02 (1) It is the intent of the Legislature that the changes
19 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
20 with respect to parole eligibility apply to all committed offenders under
21 sentence and not on parole on May 24, 2003, and to all persons sentenced
22 on and after such date.

23 (2) It is the intent of the Legislature that the changes made to
24 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
25 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
26 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
27 sentence, on parole, or on probation on August 30, 2015, and to all
28 persons sentenced on and after such date.

29 (3) It is the intent of the Legislature that the changes made to
30 sections 29-2260, 29-2262, 29-2266, 83-187, 83-1,119, and 83-1,122 by
31 this legislative bill and sections 20, 21, and 22 of this act apply to

1 all committed offenders under sentence, on parole, or on probation on or
2 after the effective date of this act and to all persons sentenced on and
3 after such date.

4 Sec. 36. Original sections 27-1101, 28-605, 28-626, 29-2256,
5 29-2267, 47-401, 47-502, and 83-187, Reissue Revised Statutes of
6 Nebraska, sections 28-115, 28-1354, 29-2258, and 29-2269, Revised
7 Statutes Cumulative Supplement, 2014, sections 28-116, 28-204, 28-394,
8 28-514, 29-2204.02, 29-2252, 29-2252.01, 29-2260, 29-2262, 29-2263,
9 29-2266, 29-2268, 29-2308, 60-6,197.03, 71-2482, 83-1,100.02, 83-1,119,
10 83-1,122, and 83-1,135.02, Revised Statutes Supplement, 2015, and section
11 28-105, Revised Statutes Cumulative Supplement, 2014, as amended by Laws
12 2015, LB605, section 6, are repealed.