

AMENDMENTS TO LB50

Introduced by Judiciary.

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

3 Section 1. Section 24-1302, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 24-1302 (1) For purposes of this section, problem solving court
6 means a drug, veterans, mental health, driving under the influence,
7 reentry, young adult, or other problem solving court.

8 (2) A district court may establish a problem solving court. A
9 problem solving court shall function within the existing structure of the
10 court system. The goals of a problem solving court shall be consistent
11 with any relevant standards adopted by the United States Department of
12 Justice and the National Association of Drug Court Professionals, as such
13 standards existed on January 1, 2023.

14 (3) An individual may participate in a problem solving court through
15 a pretrial diversion program, as a condition of probation, as a response
16 to a technical violation of parole, as a sentence imposed by a court, or
17 as otherwise provided by the Supreme Court's rules.

18 (4) Problem (1) Drug, veterans, mental health, driving under the
19 influence, reentry, and other problem solving courts shall be subject to
20 rules which shall be promulgated by the Supreme Court for procedures to
21 be implemented in the administration of such courts.

22 (5) (2) It is the intent of the Legislature that funds be
23 appropriated separately to the Supreme Court such that each judicial
24 district may operate at least one drug, veterans, mental health, driving
25 under the influence, reentry, and young adult problem solving court. The
26 State Court Administrator shall ensure that each judicial district has at
27 least one of such courts by January 1, 2024 for each of the problem

1 ~~solving courts to carry out this section and section 24-1301.~~

2 (6) The State Court Administrator shall track and evaluate outcomes
3 of problem solving courts. On or before June 1, 2024, and on or before
4 each June 1 thereafter, the State Court Administrator shall
5 electronically submit a report to the Legislature regarding the impact of
6 problem solving courts on recidivism rates in the state. The report shall
7 also include rates of return to court and program completion. The report
8 shall identify judicial districts that are underserved by problem solving
9 courts and what services or funding are needed to properly serve such
10 districts.

11 Sec. 2. (1) The State Court Administrator shall create a pilot
12 program to utilize physical space and information technology resources
13 within Nebraska courts to serve as points of access for virtual
14 behavioral health services for court-involved individuals.

15 (2) The pilot program shall be limited to a single probation
16 district. Such district shall be chosen by the State Court Administrator
17 in consultation with the probation administrator.

18 (3) The purpose of the program is to provide access to safe,
19 confidential, and reliable behavioral health treatment via telehealth for
20 Nebraskans involved with the criminal justice system, either as
21 defendants, probationers, or victims in a criminal proceeding.

22 (4) On or before June 1, 2024, the State Court Administrator shall
23 electronically submit a report to the Judiciary Committee of the
24 Legislature regarding the pilot program.

25 Sec. 3. Section 28-101, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
28 and section 7 of this act shall be known and may be cited as the Nebraska
29 Criminal Code.

30 Sec. 4. Section 28-416, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 28-416 (1) Except as authorized by the Uniform Controlled Substances
2 Act, it shall be unlawful for any person knowingly or intentionally: (a)
3 To manufacture, distribute, deliver, dispense, or possess with intent to
4 manufacture, distribute, deliver, or dispense a controlled substance; or
5 (b) to create, distribute, or possess with intent to distribute a
6 counterfeit controlled substance.

7 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
8 (10), and (16) of this section, any person who violates subsection (1) of
9 this section with respect to: (a) A controlled substance classified in
10 Schedule I, II, or III of section 28-405 which is an exceptionally
11 hazardous drug shall be guilty of a Class II felony; (b) any other
12 controlled substance classified in Schedule I, II, or III of section
13 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
14 substance classified in Schedule IV or V of section 28-405 shall be
15 guilty of a Class IIIA felony.

16 (3)(a) ~~(3)~~ A person knowingly or intentionally possessing a
17 controlled substance, except marijuana or any substance containing a
18 quantifiable amount of the substances, chemicals, or compounds described,
19 defined, or delineated in subdivision (c)(26) of Schedule I of section
20 28-405, unless such substance was obtained directly or pursuant to a
21 medical order issued by a practitioner authorized to prescribe while
22 acting in the course of his or her professional practice, or except as
23 otherwise authorized by the act, shall:

24 (i) Except as provided in subdivision (3)(a)(iii) of this section,
25 if the total weight of the substance is one-tenth of one gram or less, be
26 guilty of a Class I misdemeanor;

27 (ii) If the total weight of the substance is more than one-tenth of
28 one gram, be guilty of a Class IV felony; or

29 (iii) If the substance is scheduled in section 28-405 and is
30 fentanyl, a fentanyl analogue, or a compound structurally derived from
31 fentanyl, be guilty of a Class IV felony.

1 (b) A person shall not be in violation of this subsection if section
2 28-472 or 28-1701 applies.

3 (4)(a) Except as authorized by the Uniform Controlled Substances
4 Act, any person eighteen years of age or older who knowingly or
5 intentionally manufactures, distributes, delivers, dispenses, or
6 possesses with intent to manufacture, distribute, deliver, or dispense a
7 controlled substance or a counterfeit controlled substance (i) to a
8 person under the age of eighteen years, (ii) in, on, or within one
9 thousand feet of the real property comprising a public or private
10 elementary, vocational, or secondary school, a community college, a
11 public or private college, junior college, or university, or a
12 playground, or (iii) within one hundred feet of a public or private youth
13 center, public swimming pool, or video arcade facility shall be punished
14 by the next higher penalty classification than the penalty prescribed in
15 subsection (2), (7), (8), (9), or (10) of this section, depending upon
16 the controlled substance involved, for the first violation and for a
17 second or subsequent violation shall be punished by the next higher
18 penalty classification than that prescribed for a first violation of this
19 subsection, but in no event shall such person be punished by a penalty
20 greater than a Class IB felony.

21 (b) For purposes of this subsection:

22 (i) Playground means any outdoor facility, including any parking lot
23 appurtenant to the facility, intended for recreation, open to the public,
24 and with any portion containing three or more apparatus intended for the
25 recreation of children, including sliding boards, swingsets, and
26 teeterboards;

27 (ii) Video arcade facility means any facility legally accessible to
28 persons under eighteen years of age, intended primarily for the use of
29 pinball and video machines for amusement, and containing a minimum of ten
30 pinball or video machines; and

31 (iii) Youth center means any recreational facility or gymnasium,

1 including any parking lot appurtenant to the facility or gymnasium,
2 intended primarily for use by persons under eighteen years of age which
3 regularly provides athletic, civic, or cultural activities.

4 (5)(a) Except as authorized by the Uniform Controlled Substances
5 Act, it shall be unlawful for any person eighteen years of age or older
6 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
7 induce, entice, seduce, or coerce any person under the age of eighteen
8 years to manufacture, transport, distribute, carry, deliver, dispense,
9 prepare for delivery, offer for delivery, or possess with intent to do
10 the same a controlled substance or a counterfeit controlled substance.

11 (b) Except as authorized by the Uniform Controlled Substances Act,
12 it shall be unlawful for any person eighteen years of age or older to
13 knowingly and intentionally employ, hire, use, cause, persuade, coax,
14 induce, entice, seduce, or coerce any person under the age of eighteen
15 years to aid and abet any person in the manufacture, transportation,
16 distribution, carrying, delivery, dispensing, preparation for delivery,
17 offering for delivery, or possession with intent to do the same of a
18 controlled substance or a counterfeit controlled substance.

19 (c) Any person who violates subdivision (a) or (b) of this
20 subsection shall be punished by the next higher penalty classification
21 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
22 this section, depending upon the controlled substance involved, for the
23 first violation and for a second or subsequent violation shall be
24 punished by the next higher penalty classification than that prescribed
25 for a first violation of this subsection, but in no event shall such
26 person be punished by a penalty greater than a Class IB felony.

27 (6) It shall not be a defense to prosecution for violation of
28 subsection (4) or (5) of this section that the defendant did not know the
29 age of the person through whom the defendant violated such subsection.

30 (7) Any person who violates subsection (1) of this section with
31 respect to cocaine or any mixture or substance containing a detectable

1 amount of cocaine in a quantity of:

2 (a) One hundred forty grams or more shall be guilty of a Class IB
3 felony;

4 (b) At least twenty-eight grams but less than one hundred forty
5 grams shall be guilty of a Class IC felony; or

6 (c) At least ten grams but less than twenty-eight grams shall be
7 guilty of a Class ID felony.

8 (8) Any person who violates subsection (1) of this section with
9 respect to base cocaine (crack) or any mixture or substance containing a
10 detectable amount of base cocaine in a quantity of:

11 (a) One hundred forty grams or more shall be guilty of a Class IB
12 felony;

13 (b) At least twenty-eight grams but less than one hundred forty
14 grams shall be guilty of a Class IC felony; or

15 (c) At least ten grams but less than twenty-eight grams shall be
16 guilty of a Class ID felony.

17 (9) Any person who violates subsection (1) of this section with
18 respect to heroin or any mixture or substance containing a detectable
19 amount of heroin in a quantity of:

20 (a) One hundred forty grams or more shall be guilty of a Class IB
21 felony;

22 (b) At least twenty-eight grams but less than one hundred forty
23 grams shall be guilty of a Class IC felony; or

24 (c) At least ten grams but less than twenty-eight grams shall be
25 guilty of a Class ID felony.

26 (10) Any person who violates subsection (1) of this section with
27 respect to amphetamine, its salts, optical isomers, and salts of its
28 isomers, or with respect to methamphetamine, its salts, optical isomers,
29 and salts of its isomers, in a quantity of:

30 (a) One hundred forty grams or more shall be guilty of a Class IB
31 felony;

1 (b) At least twenty-eight grams but less than one hundred forty
2 grams shall be guilty of a Class IC felony; or

3 (c) At least ten grams but less than twenty-eight grams shall be
4 guilty of a Class ID felony.

5 (11) Any person knowingly or intentionally possessing marijuana
6 weighing more than one ounce but not more than one pound shall be guilty
7 of a Class III misdemeanor.

8 (12) Any person knowingly or intentionally possessing marijuana
9 weighing more than one pound shall be guilty of a Class IV felony.

10 (13) Except as provided in section 28-1701, any person knowingly or
11 intentionally possessing marijuana weighing one ounce or less or any
12 substance containing a quantifiable amount of the substances, chemicals,
13 or compounds described, defined, or delineated in subdivision (c)(26) of
14 Schedule I of section 28-405 shall:

15 (a) For the first offense, be guilty of an infraction, receive a
16 citation, be fined three hundred dollars, and be assigned to attend a
17 course as prescribed in section 29-433 if the judge determines that
18 attending such course is in the best interest of the individual
19 defendant;

20 (b) For the second offense, be guilty of a Class IV misdemeanor,
21 receive a citation, and be fined four hundred dollars and may be
22 imprisoned not to exceed five days; and

23 (c) For the third and all subsequent offenses, be guilty of a Class
24 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
25 be imprisoned not to exceed seven days.

26 (14) Any person convicted of violating this section, if placed on
27 probation, shall, as a condition of probation, satisfactorily attend and
28 complete appropriate treatment and counseling on drug abuse provided by a
29 program authorized under the Nebraska Behavioral Health Services Act or
30 other licensed drug treatment facility.

31 (15) Any person convicted of violating this section, if sentenced to

1 the Department of Correctional Services, shall attend appropriate
2 treatment and counseling on drug abuse.

3 (16)(a) Any person convicted of a violation of subsection (1) of
4 this section shall be punished by the next higher penalty classification
5 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
6 this section if:

7 (i) The ~~(16)~~ Any person knowingly or intentionally possessed
8 possessing a firearm while in violation of subsection (1) of this
9 section; or

10 (ii) The use of any controlled substance connected with such
11 violation resulted in serious bodily injury to, or the death of, another
12 person.

13 (b) A penalty enhanced under this subsection shall in no event
14 result in shall be punished by the next higher penalty classification
15 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
16 this section, but in no event shall such person be punished by a penalty
17 greater than a Class IB felony.

18 (17) A person knowingly or intentionally in possession of money used
19 or intended to be used to facilitate a violation of subsection (1) of
20 this section shall be guilty of a Class IV felony.

21 (18) In addition to the existing penalties available for a violation
22 of subsection (1) of this section, including any criminal attempt or
23 conspiracy to violate subsection (1) of this section, a sentencing court
24 may order that any money, securities, negotiable instruments, firearms,
25 conveyances, or electronic communication devices as defined in section
26 28-833 or any equipment, components, peripherals, software, hardware, or
27 accessories related to electronic communication devices be forfeited as a
28 part of the sentence imposed if it finds by clear and convincing evidence
29 adduced at a separate hearing in the same prosecution, following
30 conviction for a violation of subsection (1) of this section, and
31 conducted pursuant to section 28-1601, that any or all such property was

1 derived from, used, or intended to be used to facilitate a violation of
2 subsection (1) of this section.

3 (19) In addition to the penalties provided in this section:

4 (a) If the person convicted or adjudicated of violating this section
5 is eighteen years of age or younger and has one or more licenses or
6 permits issued under the Motor Vehicle Operator's License Act:

7 (i) For the first offense, the court may, as a part of the judgment
8 of conviction or adjudication, (A) impound any such licenses or permits
9 for thirty days and (B) require such person to attend a drug education
10 class;

11 (ii) For a second offense, the court may, as a part of the judgment
12 of conviction or adjudication, (A) impound any such licenses or permits
13 for ninety days and (B) require such person to complete no fewer than
14 twenty and no more than forty hours of community service and to attend a
15 drug education class; and

16 (iii) For a third or subsequent offense, the court may, as a part of
17 the judgment of conviction or adjudication, (A) impound any such licenses
18 or permits for twelve months and (B) require such person to complete no
19 fewer than sixty hours of community service, to attend a drug education
20 class, and to submit to a drug assessment by a licensed alcohol and drug
21 counselor; and

22 (b) If the person convicted or adjudicated of violating this section
23 is eighteen years of age or younger and does not have a permit or license
24 issued under the Motor Vehicle Operator's License Act:

25 (i) For the first offense, the court may, as part of the judgment of
26 conviction or adjudication, (A) prohibit such person from obtaining any
27 permit or any license pursuant to the act for which such person would
28 otherwise be eligible until thirty days after the date of such order and
29 (B) require such person to attend a drug education class;

30 (ii) For a second offense, the court may, as part of the judgment of
31 conviction or adjudication, (A) prohibit such person from obtaining any

1 permit or any license pursuant to the act for which such person would
2 otherwise be eligible until ninety days after the date of such order and
3 (B) require such person to complete no fewer than twenty hours and no
4 more than forty hours of community service and to attend a drug education
5 class; and

6 (iii) For a third or subsequent offense, the court may, as part of
7 the judgment of conviction or adjudication, (A) prohibit such person from
8 obtaining any permit or any license pursuant to the act for which such
9 person would otherwise be eligible until twelve months after the date of
10 such order and (B) require such person to complete no fewer than sixty
11 hours of community service, to attend a drug education class, and to
12 submit to a drug assessment by a licensed alcohol and drug counselor.

13 A copy of an abstract of the court's conviction or adjudication
14 shall be transmitted to the Director of Motor Vehicles pursuant to
15 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
16 juvenile is prohibited from obtaining a license or permit under this
17 subsection.

18 Sec. 5. Section 28-507, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 28-507 (1)(a) (1) A person commits burglary in the first degree if
21 such person willfully, maliciously, and forcibly breaks and enters any
22 dwelling real estate or any improvements erected thereon with intent to
23 commit any felony or with intent to steal property of any value.

24 (b) (2) Burglary in the first degree is a Class IIA felony.

25 (2)(a) A person commits burglary in the second degree if such person
26 willfully, maliciously, and forcibly breaks and enters any building,
27 other than a dwelling, while occupied, with intent to commit any felony
28 or with intent to steal property of any value.

29 (b) Burglary in the second degree is a Class III felony.

30 (3)(a) A person commits burglary in the third degree if such person
31 willfully, maliciously, and forcibly breaks and enters any real estate or

1 any improvements erected thereon, other than a dwelling, while
2 unoccupied, with intent to commit any felony or with intent to steal
3 property of any value.

4 (b) Burglary in the third degree is a Class IIIA felony.

5 (4) For purposes of this section, occupied means that a person,
6 other than the defendant or a coconspirator, accomplice, or other person
7 acting in concert with the defendant, is actually present.

8 Sec. 6. Section 28-518, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-518 (1) Theft constitutes a Class IIA felony when the value of
11 the thing involved is five thousand dollars or more.

12 (2) Theft constitutes a Class IV felony when the value of the thing
13 involved is one thousand five hundred dollars or more but less than five
14 thousand dollars.

15 (3) Theft constitutes a Class I misdemeanor when the value of the
16 thing involved is more than five hundred dollars but less than one
17 thousand five hundred dollars.

18 (4) Theft constitutes a Class II misdemeanor when the value of the
19 thing involved is five hundred dollars or less.

20 (5) For any second or subsequent conviction under subsection (3) of
21 this section, any person so offending shall be guilty of a Class IV
22 felony.

23 (6) For any second conviction under subsection (4) of this section,
24 any person so offending shall be guilty of a Class I misdemeanor, and for
25 any third or subsequent conviction under subsection (4) of this section,
26 the person so offending shall be guilty of a Class IV felony.

27 (7) For a prior conviction to be used to enhance the penalty under
28 subsection (5) or (6) of this section, the prior conviction must have
29 occurred no more than five years prior to the date of commission of the
30 current offense.

31 (8) ~~(7)~~ Amounts taken pursuant to one scheme or course of conduct

1 from one or more persons may be aggregated in the indictment or
2 information in determining the classification of the offense, except that
3 amounts may not be aggregated into more than one offense.

4 (9) ~~(8)~~ In any prosecution for theft under sections 28-509 to
5 28-518, value shall be an essential element of the offense that must be
6 proved beyond a reasonable doubt.

7 Sec. 7. (1) It shall be unlawful for any person to knowingly and
8 intentionally remove, damage, or circumvent in such a manner as to impede
9 the operation of an electronic monitoring device when such device is
10 required to be worn or used by such person pursuant to an order from a
11 court, from the Department of Correctional Services, or from the Board of
12 Parole.

13 (2) A violation of this section is a Class I misdemeanor.

14 (3) For purposes of this section, electronic monitoring device means
15 a device worn by or affixed to a person which is used to track the
16 physical location of such person.

17 Sec. 8. Section 28-1351, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 28-1351 (1) A person commits the offense of unlawful membership
20 recruitment into an organization or association when he or she knowingly
21 and intentionally coerces, intimidates, threatens, or inflicts bodily
22 harm upon another person in order to entice that other person to join or
23 prevent that other person from leaving any organization, group,
24 enterprise, or association whose members, individually or collectively,
25 engage in or have engaged in any of the following criminal acts for the
26 benefit of, at the direction of, or on behalf of the organization, group,
27 enterprise, or association or any of its members:

28 (a) Robbery under section 28-324;

29 (b) Arson in the first, second, or third degree under section
30 28-502, 28-503, or 28-504, respectively;

31 (c) Burglary in the first, second, or third degree under section

1 28-507;

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

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

7 (f) Unlawful use, possession, or discharge of a firearm or other
8 deadly weapon under sections 28-1201 to 28-1212.04;

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

11 (h) Assault on an officer, an emergency responder, a state
12 correctional employee, a Department of Health and Human Services
13 employee, or a health care professional in the first, second, or third
14 degree under section 28-929, 28-930, or 28-931, respectively, or assault
15 on an officer, an emergency responder, a state correctional employee, a
16 Department of Health and Human Services employee, or a health care
17 professional using a motor vehicle under section 28-931.01;

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

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

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

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

22 (m) Kidnapping under section 28-313;

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

24 (o) Criminal impersonation under section 28-638;

25 (p) Tampering with a publicly exhibited contest under section
26 28-614;

27 (q) Unauthorized use of a financial transaction device or criminal
28 possession of a financial transaction device under section 28-620 or
29 28-621, respectively;

30 (r) Pandering under section 28-802;

31 (s) Bribery, bribery of a witness, or bribery of a juror under

1 section 28-917, 28-918, or 28-920, respectively;

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

4 (u) Unauthorized application of graffiti under section 28-524;

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

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

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

10 Sec. 9. Section 28-1354, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 28-1354 For purposes of the Public Protection Act:

13 (1) Enterprise means any individual, sole proprietorship,
14 partnership, corporation, trust, association, or any legal entity, union,
15 or group of individuals associated in fact although not a legal entity,
16 and shall include illicit as well as licit enterprises as well as other
17 entities;

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

24 (3) ~~Person~~ ~~Until January 1, 2017, person means any individual or~~
25 ~~entity, as defined in section 21-2014, holding or capable of holding a~~
26 ~~legal, equitable, or beneficial interest in property. Beginning January~~
27 ~~1, 2017, person~~ means any individual or entity, as defined in section
28 21-214, holding or capable of holding a legal, equitable, or beneficial
29 interest in property;

30 (4) Prosecutor includes the Attorney General of the State of
31 Nebraska, the deputy attorney general, assistant attorneys general, a

1 county attorney, a deputy county attorney, or any person so designated by
2 the Attorney General, a county attorney, or a court of the state to carry
3 out the powers conferred by the act;

4 (5) Racketeering activity includes the commission of, criminal
5 attempt to commit, conspiracy to commit, aiding and abetting in the
6 commission of, aiding in the consummation of, acting as an accessory to
7 the commission of, or the solicitation, coercion, or intimidation of
8 another to commit or aid in the commission of any of the following:

9 (a) Offenses against the person which include: Murder in the first
10 degree under section 28-303; murder in the second degree under section
11 28-304; manslaughter under section 28-305; assault in the first degree
12 under section 28-308; assault in the second degree under section 28-309;
13 assault in the third degree under section 28-310; terroristic threats
14 under section 28-311.01; kidnapping under section 28-313; false
15 imprisonment in the first degree under section 28-314; false imprisonment
16 in the second degree under section 28-315; sexual assault in the first
17 degree under section 28-319; and robbery under section 28-324;

18 (b) Offenses relating to controlled substances which include: To
19 unlawfully manufacture, distribute, deliver, dispense, or possess with
20 intent to manufacture, distribute, deliver, or dispense a controlled
21 substance under subsection (1) of section 28-416; possession of marijuana
22 weighing more than one pound under subsection (12) of section 28-416;
23 possession of money used or intended to be used to facilitate a violation
24 of subsection (1) of section 28-416 prohibited under subsection (17) of
25 section 28-416; any violation of section 28-418; to unlawfully
26 manufacture, distribute, deliver, or possess with intent to distribute or
27 deliver an imitation controlled substance under section 28-445;
28 possession of anhydrous ammonia with the intent to manufacture
29 methamphetamine under section 28-451; and possession of ephedrine,
30 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
31 methamphetamine under section 28-452;

1 (c) Offenses against property which include: Arson in the first
2 degree under section 28-502; arson in the second degree under section
3 28-503; arson in the third degree under section 28-504; burglary in the
4 first, second, or third degree under section 28-507; theft by unlawful
5 taking or disposition under section 28-511; theft by shoplifting under
6 section 28-511.01; theft by deception under section 28-512; theft by
7 extortion under section 28-513; theft of services under section 28-515;
8 theft by receiving stolen property under section 28-517; criminal
9 mischief under section 28-519; and unlawfully depriving or obtaining
10 property or services using a computer under section 28-1344;

11 (d) Offenses involving fraud which include: Burning to defraud an
12 insurer under section 28-505; forgery in the first degree under section
13 28-602; forgery in the second degree under section 28-603; criminal
14 possession of a forged instrument under section 28-604; criminal
15 possession of written instrument forgery devices under section 28-605;
16 criminal impersonation under section 28-638; identity theft under section
17 28-639; identity fraud under section 28-640; false statement or book
18 entry under section 28-612; tampering with a publicly exhibited contest
19 under section 28-614; issuing a false financial statement for purposes of
20 obtaining a financial transaction device under section 28-619;
21 unauthorized use of a financial transaction device under section 28-620;
22 criminal possession of a financial transaction device under section
23 28-621; unlawful circulation of a financial transaction device in the
24 first degree under section 28-622; unlawful circulation of a financial
25 transaction device in the second degree under section 28-623; criminal
26 possession of a blank financial transaction device under section 28-624;
27 criminal sale of a blank financial transaction device under section
28 28-625; criminal possession of a financial transaction forgery device
29 under section 28-626; unlawful manufacture of a financial transaction
30 device under section 28-627; laundering of sales forms under section
31 28-628; unlawful acquisition of sales form processing services under

1 section 28-629; unlawful factoring of a financial transaction device
2 under section 28-630; and fraudulent insurance acts under section 28-631;

3 (e) Offenses involving governmental operations which include: Abuse
4 of public records under section 28-911; perjury or subornation of perjury
5 under section 28-915; bribery under section 28-917; bribery of a witness
6 under section 28-918; tampering with a witness or informant or jury
7 tampering under section 28-919; bribery of a juror under section 28-920;
8 assault on an officer, an emergency responder, a state correctional
9 employee, a Department of Health and Human Services employee, or a health
10 care professional in the first degree under section 28-929; assault on an
11 officer, an emergency responder, a state correctional employee, a
12 Department of Health and Human Services employee, or a health care
13 professional in the second degree under section 28-930; assault on an
14 officer, an emergency responder, a state correctional employee, a
15 Department of Health and Human Services employee, or a health care
16 professional in the third degree under section 28-931; and assault on an
17 officer, an emergency responder, a state correctional employee, a
18 Department of Health and Human Services employee, or a health care
19 professional using a motor vehicle under section 28-931.01;

20 (f) Offenses involving gambling which include: Promoting gambling in
21 the first degree under section 28-1102; possession of gambling records
22 under section 28-1105; gambling debt collection under section 28-1105.01;
23 and possession of a gambling device under section 28-1107;

24 (g) Offenses relating to firearms, weapons, and explosives which
25 include: Carrying a concealed weapon under section 28-1202;
26 transportation or possession of machine guns, short rifles, or short
27 shotguns under section 28-1203; unlawful possession of a handgun under
28 section 28-1204; unlawful transfer of a firearm to a juvenile under
29 section 28-1204.01; possession of a firearm by a prohibited juvenile
30 offender under section 28-1204.05; using a deadly weapon to commit a
31 felony or possession of a deadly weapon during the commission of a felony

1 under section 28-1205; possession of a deadly weapon by a prohibited
2 person under section 28-1206; possession of a defaced firearm under
3 section 28-1207; defacing a firearm under section 28-1208; unlawful
4 discharge of a firearm under section 28-1212.02; possession, receipt,
5 retention, or disposition of a stolen firearm under section 28-1212.03;
6 unlawful possession of explosive materials in the first degree under
7 section 28-1215; unlawful possession of explosive materials in the second
8 degree under section 28-1216; unlawful sale of explosives under section
9 28-1217; use of explosives without a permit under section 28-1218;
10 obtaining an explosives permit through false representations under
11 section 28-1219; possession of a destructive device under section
12 28-1220; threatening the use of explosives or placing a false bomb under
13 section 28-1221; using explosives to commit a felony under section
14 28-1222; using explosives to damage or destroy property under section
15 28-1223; and using explosives to kill or injure any person under section
16 28-1224;

17 (h) Any violation of the Securities Act of Nebraska pursuant to
18 section 8-1117;

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

21 (j) Offenses relating to public health and morals which include:
22 Prostitution under section 28-801; pandering under section 28-802;
23 keeping a place of prostitution under section 28-804; labor trafficking,
24 sex trafficking, labor trafficking of a minor, or sex trafficking of a
25 minor under section 28-831; a violation of section 28-1005; and any act
26 relating to the visual depiction of sexually explicit conduct prohibited
27 in the Child Pornography Prevention Act; and

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

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

31 (7) Unlawful debt means a debt of at least one thousand five hundred

1 dollars:

2 (a) Incurred or contracted in gambling activity which was in
3 violation of federal law or the law of the state or which is
4 unenforceable under state or federal law in whole or in part as to
5 principal or interest because of the laws relating to usury; or

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

10 Sec. 10. Section 29-2101, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 29-2101 A new trial, after a verdict of conviction, may be granted,
13 on the application of the defendant, for any of the following grounds
14 ~~affecting~~ materially affecting his or her substantial rights:

15 (1) Irregularity in the proceedings of the court, of the prosecuting
16 attorney, or of the witnesses for the state or in any order of the court
17 or abuse of discretion by which the defendant was prevented from having a
18 fair trial;

19 (2) Misconduct ~~misconduct~~ of the jury, of the prosecuting attorney,
20 or of the witnesses for the state;

21 (3) Accident ~~accident~~ or surprise which ordinary prudence could not
22 have guarded against;

23 (4) The ~~the~~ verdict is not sustained by sufficient evidence or is
24 contrary to law;

25 (5) Newly ~~newly~~ discovered evidence material for the defendant which
26 he or she could not with reasonable diligence have discovered or ~~and~~
27 produced at the trial. For purposes of this subdivision, testimony or
28 evidence from a witness who previously had a testimonial or
29 constitutional privilege and who, because of such privilege, refused to
30 testify or produce evidence on behalf of the defendant in a prior
31 proceeding, but who testified or produced evidence in a subsequent

1 proceeding in such witness's own defense, shall be considered newly
2 discovered evidence;

3 (6) Newly ~~newly~~ discovered exculpatory DNA or similar forensic
4 testing evidence obtained under the DNA Testing Act; or

5 (7) Error ~~error~~ of law occurring at the trial.

6 The changes made to this section by this legislative bill shall
7 apply to all persons, otherwise eligible in accordance with the
8 provisions of this section, whether convicted prior to, on, or subsequent
9 to the effective date of this section.

10 Sec. 11. Section 29-2103, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 29-2103 (1) A motion for new trial shall be made by written
13 application and may be filed either during or after the term of the court
14 at which the verdict was rendered.

15 (2) A motion for a new trial shall state the grounds under section
16 29-2101 which are the basis for the motion and shall be supported by
17 evidence as provided in section 29-2102.

18 (3) A motion for new trial based on the grounds set forth in
19 subdivision (1), (2), (3), (4), or (7) of section 29-2101 shall be filed
20 within ten days after the verdict was rendered unless such filing is
21 unavoidably prevented, and the grounds for such motion may be stated by
22 directly incorporating the appropriate language of section 29-2101
23 without further particularity.

24 (4)(a) Except as provided in subdivision (4)(b) of this section, a
25 ~~(4)~~ A motion for new trial based on the grounds set forth in subdivision
26 (5) of section 29-2101 shall be filed within a reasonable time after the
27 discovery of the new evidence and cannot be filed more than five years
28 after the date of the verdict, unless the motion and supporting documents
29 show the new evidence could not with reasonable diligence have been
30 discovered or ~~and~~ produced at trial and such evidence is so substantial
31 that a different result may have occurred.

1 (b) The time limitation in this subsection does not apply if the
2 motion for a new trial involves a conviction for a Class I, IA, or IB
3 felony.

4 (5) A motion for new trial based on the grounds set forth in
5 subdivision (6) of section 29-2101 shall be filed within ninety days
6 after a final order is issued under section 29-4123 or within ninety days
7 after the hearing if no final order is entered, whichever occurs first.

8 (6) The changes made to this section by this legislative bill shall
9 apply to all persons, otherwise eligible in accordance with the
10 provisions of this section, whether convicted prior to, on, or subsequent
11 to the effective date of this section.

12 Sec. 12. Section 29-2204, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 29-2204 (1) Except when a term of life imprisonment is required by
15 law, in imposing a sentence upon an offender for any class of felony
16 other than a Class III, IIIA, or IV felony, the court shall fix the
17 minimum and the maximum terms of the sentence to be served within the
18 limits provided by law. The maximum term shall not be greater than the
19 maximum limit provided by law, and:

20 (a) The minimum term fixed by the court shall be any term of years
21 less than the maximum term imposed by the court; or

22 (b) The minimum term shall be the minimum limit provided by law.

23 (2) When a maximum term of life is imposed by the court for a Class
24 IB felony, the minimum term fixed by the court shall be:

25 (a) Any term of years not less than the minimum limit provided by
26 law; or

27 (b) A term of life imprisonment.

28 (3) When a maximum term of life is imposed by the court for a Class
29 IA felony, the minimum term fixed by the court shall be:

30 (a) A term of life imprisonment; or

31 (b) Any term of years not less than the minimum limit provided by

1 law after consideration of the mitigating factors in section 28-105.02,
2 if the defendant was under eighteen years of age at the time he or she
3 committed the crime for which he or she was convicted.

4 (4) When the court is of the opinion that imprisonment may be
5 appropriate but desires more detailed information as a basis for
6 determining the sentence to be imposed than has been provided by the
7 presentence report required by section 29-2261, the court may commit an
8 offender to the Department of Correctional Services. During that time,
9 the department shall conduct a complete study of the offender as provided
10 in section 29-2204.03.

11 (5) Except when a term of life is required by law, whenever the
12 defendant was under eighteen years of age at the time he or she committed
13 the crime for which he or she was convicted, the court may, in its
14 discretion, instead of imposing the penalty provided for the crime, make
15 such disposition of the defendant as the court deems proper under the
16 Nebraska Juvenile Code.

17 (6)(a) When imposing an indeterminate sentence upon an offender
18 under this section, the court shall:

19 (i) Advise the offender on the record the time the offender will
20 serve on his or her minimum term before attaining parole eligibility
21 assuming that no good time for which the offender will be eligible is
22 lost; and

23 (ii) Advise the offender on the record the time the offender will
24 serve on his or her maximum term before attaining mandatory release
25 assuming that no good time for which the offender will be eligible is
26 lost.

27 (b) If any discrepancy exists between the statement of the minimum
28 limit of the sentence and the statement of parole eligibility or between
29 the statement of the maximum limit of the sentence and the statement of
30 mandatory release, the statements of the minimum limit and the maximum
31 limit shall control the calculation of the offender's term.

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

5 (7)(a) When an offender has been sentenced for any class of felony
6 other than a Class III, IIIA, or IV felony, has served eighty-five
7 percent of the time until the offender's mandatory discharge date, and
8 remains incarcerated and not on parole, the offender shall be returned to
9 the sentencing court for a hearing. At such hearing, the court may enter
10 an order requiring the offender to serve the remainder of such sentence
11 on post-release supervision under the jurisdiction of the Office of
12 Probation Administration.

13 (b) If post-release supervision under this subsection is revoked,
14 the offender shall be recommitted to the Department of Correctional
15 Services.

16 (c) Nothing in this subsection shall affect the offender's
17 eligibility for parole.

18 Sec. 13. Section 29-2204.02, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 29-2204.02 (1) Except when a term of probation is required by law as
21 provided in subsection (2) of this section or except as otherwise
22 provided in subsection (4) of this section, in imposing a sentence upon
23 an offender for a Class III, IIIA, or IV felony, the court shall:

24 (a) Impose a determinate sentence of imprisonment within the
25 applicable range in section 28-105; and

26 (b) Impose a sentence of post-release supervision, under the
27 jurisdiction of the Office of Probation Administration, within the
28 applicable range in section 28-105.

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

31 (a) The defendant is concurrently or consecutively sentenced to

1 imprisonment for any felony other than another Class IV felony;

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

4 (c) There are substantial and compelling reasons why the defendant
5 cannot effectively and safely be supervised in the community, including,
6 but not limited to, the criteria in subsections (2) and (3) of section
7 29-2260. Unless other reasons are found to be present, that the offender
8 has not previously succeeded on probation is not, standing alone, a
9 substantial and compelling reason.

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

14 (4) For any sentence of imprisonment for a Class III, IIIA, or IV
15 felony for an offense committed on or after August 30, 2015, imposed
16 consecutively or concurrently with (a) a sentence for a Class III, IIIA,
17 or IV felony for an offense committed prior to August 30, 2015, or (b) a
18 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
19 felony, the court shall impose an indeterminate sentence within the
20 applicable range in section 28-105 ~~that does not include a period of~~
21 ~~post-release supervision~~, in accordance with the process set forth in
22 section 29-2204. Such sentence shall not include a period of post-release
23 supervision, except as provided in subsection (7) of section 29-2204.

24 (5) For any sentence of imprisonment for a misdemeanor imposed
25 consecutively or concurrently with a sentence of imprisonment for a Class
26 III, IIIA, or IV felony for an offense committed on or after August 30,
27 2015, the court shall impose a determinate sentence within the applicable
28 range in section 28-106 unless the person is also committed to the
29 Department of Correctional Services in accordance with section 29-2204
30 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony
31 committed prior to August 30, 2015, or (b) a sentence of imprisonment for

1 a Class I, IA, IB, IC, ID, II, or IIA felony.

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

7 (7)(a) When imposing a determinate sentence upon an offender under
8 this section, the court shall:

9 (i) Advise the offender on the record the time the offender will
10 serve on his or her term of imprisonment before his or her term of post-
11 release supervision assuming that no good time for which the offender
12 will be eligible is lost;

13 (ii) Advise the offender on the record the time the offender will
14 serve on his or her term of post-release supervision; and

15 (iii) When imposing a sentence following revocation of post-release
16 supervision, advise the offender on the record the time the offender will
17 serve on his or her term of imprisonment, including credit for time
18 served, assuming that no good time for which the offender will be
19 eligible is lost.

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

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

27 (d) If the offender has been sentenced to two or more determinate
28 sentences and one or more terms of post-release supervision, the offender
29 shall serve all determinate sentences before being released on post-
30 release supervision.

31 Sec. 14. Section 29-2221, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 29-2221 (1) Whoever has been twice convicted of a crime, sentenced,
3 and committed to prison, in this or any other state or by the United
4 States or once in this state and once at least in any other state or by
5 the United States, for terms of not less than one year each shall, upon
6 conviction of a felony committed in this state, be deemed to be a
7 habitual criminal and shall be punished by imprisonment in a Department
8 of Correctional Services adult correctional facility for a mandatory
9 minimum term of ten years and a maximum term of not more than sixty
10 years, except that:

11 (a) If the felony committed is in violation of section 28-303,
12 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,
13 and at least one of the habitual criminal's prior felony convictions was
14 for a violation of one of the sections listed in this subdivision or of a
15 similar statute in another state or of the United States, the mandatory
16 minimum term shall be twenty-five years and the maximum term not more
17 than sixty years;

18 (b) If the felony committed is in violation of subsection (3) of
19 section 28-306 and at least one of the prior convictions is in violation
20 of subsection (3) of section 28-306 and the other is in violation of one
21 of the sections set forth in subdivision (a) of this subsection or if the
22 felony committed is in violation of one of the sections set forth in
23 subdivision (a) of this subsection and both of the prior convictions are
24 in violation of subsection (3) of section 28-306, the mandatory minimum
25 term shall be twenty-five years and the maximum term not more than sixty
26 years;~~and~~

27 (c) If the felony committed does not include as an element sexual
28 contact, sexual penetration, the threat to inflict serious bodily injury
29 or death on another person, the infliction of serious bodily injury on
30 another person, causing the death of another person, or unlawful
31 possession of a firearm, the mandatory minimum term shall be three years

1 and the maximum term not more than the maximum term for that felony or
2 twenty years, whichever is greater; and

3 (d) (c) If a greater punishment is otherwise provided by statute,
4 the law creating the greater punishment shall govern.

5 (2) When punishment of an accused as a habitual criminal is sought,
6 the facts with reference thereto shall be charged in the indictment or
7 information which contains the charge of the felony upon which the
8 accused is prosecuted, but the fact that the accused is charged with
9 being a habitual criminal shall not be an issue upon the trial of the
10 felony charge and shall not in any manner be disclosed to the jury. If
11 the accused is convicted of a felony, before sentence is imposed a
12 hearing shall be had before the court alone as to whether such person has
13 been previously convicted of prior felonies. The court shall fix a time
14 for the hearing and notice thereof shall be given to the accused at least
15 three days prior thereto. At the hearing, if the court finds from the
16 evidence submitted that the accused has been convicted two or more times
17 of felonies and sentences imposed therefor by the courts of this or any
18 other state or by the United States, the court shall sentence such person
19 so convicted as a habitual criminal.

20 (3) If the person so convicted shows to the satisfaction of the
21 court before which the conviction was had that he or she was released
22 from imprisonment upon either of such sentences upon a pardon granted for
23 the reason that he or she was innocent, such conviction and sentence
24 shall not be considered as such under this section and section 29-2222.

25 Sec. 15. Section 29-2252, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 29-2252 The administrator shall:

28 (1) Supervise and administer the office;

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

31 (3) Prescribe and furnish such forms for records and reports for the

1 system as shall be deemed necessary for uniformity, efficiency, and
2 statistical accuracy;

3 (4) Establish minimum qualifications for employment as a probation
4 officer in this state and establish and maintain such additional
5 qualifications as he or she deems appropriate for appointment to the
6 system. Qualifications for probation officers shall be established in
7 accordance with subsection (4) of section 29-2253. An ex-offender
8 released from a penal complex or a county jail may be appointed to a
9 position of deputy probation or parole officer. Such ex-offender shall
10 maintain a record free of arrests, except for minor traffic violations,
11 for one year immediately preceding his or her appointment;

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

14 (6) Cooperate with all agencies, public or private, which are
15 concerned with treatment or welfare of persons on probation. All
16 information provided to the Nebraska Commission on Law Enforcement and
17 Criminal Justice for the purpose of providing access to such information
18 to law enforcement agencies through the state's criminal justice
19 information system shall be provided in a manner that allows such
20 information to be readily accessible through the main interface of the
21 system;

22 (7) Organize and conduct training programs for probation officers.
23 Training shall include the proper use of a risk and needs assessment,
24 risk-based supervision strategies, relationship skills, cognitive
25 behavioral interventions, community-based resources, criminal risk
26 factors, and targeting criminal risk factors to reduce recidivism and the
27 proper use of a matrix of administrative sanctions, custodial sanctions,
28 and rewards developed pursuant to subdivision (18) of this section. All
29 probation officers employed on or after August 30, 2015, shall complete
30 the training requirements set forth in this subdivision;

31 (8) Collect, develop, and maintain statistical information

1 concerning probationers, probation practices, and the operation of the
2 system and provide the Community Corrections Division of the Nebraska
3 Commission on Law Enforcement and Criminal Justice with the information
4 needed to compile the report required in section 47-624;

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

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

12 (11) Adopt and promulgate such rules and regulations as may be
13 necessary or proper for the operation of the office or system. The
14 administrator shall adopt and promulgate rules and regulations for
15 transitioning individuals on probation across levels of supervision and
16 discharging them from supervision consistent with evidence-based
17 practices. The rules and regulations shall ensure supervision resources
18 are prioritized for individuals who are high risk to reoffend, require
19 transitioning individuals down levels of supervision intensity based on
20 assessed risk and months of supervision without a reported major
21 violation, and establish incentives for earning discharge from
22 supervision based on compliance;

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

30 (13) Administer the payment by the state of all salaries, travel,
31 and expenses authorized under section 29-2259 incident to the conduct and

1 maintenance of the office;

2 (14) Use the funds provided under section 29-2262.07 to augment
3 operational or personnel costs associated with the development,
4 implementation, and evaluation of enhanced probation-based programs and
5 non-probation-based programs and services in which probation personnel or
6 probation resources are utilized pursuant to an interlocal agreement
7 authorized by subdivision (16) of this section and to purchase services
8 to provide such programs aimed at enhancing adult probationer or non-
9 probation-based program participant supervision in the community and
10 treatment needs of probationers and non-probation-based program
11 participants. Enhanced probation-based programs include, but are not
12 limited to, specialized units of supervision, related equipment purchases
13 and training, and programs that address a probationer's vocational,
14 educational, mental health, behavioral, or substance abuse treatment
15 needs;

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

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

22 (17) Collaborate with the Community Corrections Division of the
23 Nebraska Commission on Law Enforcement and Criminal Justice and the
24 Division of Parole Supervision to develop rules governing the
25 participation of parolees in community corrections programs operated by
26 the Office of Probation Administration;

27 (18) Develop a matrix of rewards for compliance and positive
28 behaviors and graduated administrative sanctions and custodial sanctions
29 for use in responding to and deterring substance abuse violations and
30 technical violations. As applicable under sections 29-2266.02 and
31 29-2266.03, custodial sanctions of up to thirty days in jail shall be

1 designated as the most severe response to a violation in lieu of
2 revocation and custodial sanctions of up to three days in jail shall be
3 designated as the second most severe response;

4 (19) Adopt and promulgate rules and regulations for the creation of
5 individualized post-release supervision plans, collaboratively with the
6 Department of Correctional Services and county jails, for probationers
7 sentenced to post-release supervision; and

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

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

13 Sec. 16. Section 29-2262, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 29-2262 (1) When a court sentences an offender to probation, it
16 shall attach such reasonable conditions as it deems necessary or likely
17 to insure that the offender will lead a law-abiding life. No offender
18 shall be sentenced to probation if he or she is deemed to be a habitual
19 criminal pursuant to section 29-2221.

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

22 (a) To refrain from unlawful conduct;

23 (b) To be confined periodically in the county jail or to return to
24 custody after specified hours but not to exceed the lesser of ninety days
25 or the maximum jail term provided by law for the offense;

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

27 (d) To devote himself or herself to a specific employment or
28 occupation;

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

31 (f) To pursue a prescribed secular course of study or vocational

1 training;

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

4 (h) To refrain from frequenting unlawful or disreputable places or
5 consorting with disreputable persons;

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

9 (j) To remain within the jurisdiction of the court and to notify the
10 court or the probation officer of any change in his or her address or his
11 or her employment and to agree to waive extradition if found in another
12 jurisdiction;

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

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

16 (m) To pay for tests to determine the presence of drugs or alcohol,
17 psychological evaluations, offender assessment screens, and
18 rehabilitative services required in the identification, evaluation, and
19 treatment of offenders if such offender has the financial ability to pay
20 for such services;

21 (n) To perform community service as outlined in sections 29-2277 to
22 29-2279 under the direction of his or her probation officer;

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

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

28 (q) To satisfy any other conditions reasonably related to the
29 rehabilitation of the offender;

30 (r) To make restitution as described in sections 29-2280 and
31 29-2281; or

1 (s) To pay for all costs imposed by the court, including court costs
2 and the fees imposed pursuant to section 29-2262.06.

3 (3) When jail time is imposed as a condition of probation under
4 subdivision (2)(b) of this section, the court shall advise the offender
5 on the record the time the offender will serve in jail assuming no good
6 time for which the offender will be eligible under section 47-502 is lost
7 and assuming none of the jail time imposed as a condition of probation is
8 waived by the court.

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

11 (a) The court would otherwise sentence the defendant to a term of
12 imprisonment instead of probation; and

13 (b) The court makes a finding on the record that, while probation is
14 appropriate, periodic confinement in the county jail as a condition of
15 probation is necessary because a sentence of probation without a period
16 of confinement would depreciate the seriousness of the offender's crime
17 or promote disrespect for law.

18 (5) In all cases in which the offender is guilty of violating
19 section 28-416, a condition of probation shall be mandatory treatment and
20 counseling as provided by such section.

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

26 (7) For any offender sentenced to probation, the court shall enter
27 an order to provide the offender's (a) name, (b) probation officer, and
28 (c) conditions of probation to the Nebraska Commission on Law Enforcement
29 and Criminal Justice which shall provide access to such information to
30 law enforcement agencies through the state's criminal justice information
31 service.

1 Sec. 17. Section 29-2263, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-2263 (1)(a) ~~(1)~~ Except as provided in subsection (2) of this
4 section, when a court has sentenced an offender to probation, the court
5 shall specify the term of such probation which shall be not more than
6 five years upon conviction of a felony or second offense misdemeanor and
7 two years upon conviction of a first offense misdemeanor.

8 (b) At sentencing, the court shall provide notice to the offender
9 that the offender may be eligible to have the conviction set aside as
10 provided in subsection (2) of section 29-2264 and shall provide
11 information on how to file such a petition. The State Court Administrator
12 shall develop standardized advisement language and any forms necessary to
13 carry out this subdivision.

14 (c) The court, on application of a probation officer or of the
15 probationer or on its own motion, may discharge a probationer at any
16 time.

17 (2) When a court has sentenced an offender to post-release
18 supervision, the court shall specify the term of such post-release
19 supervision as provided in section 28-105. Except for a term of post-
20 release supervision imposed pursuant to subsection (7) of section
21 29-2204, the The court, on application of a probation officer or of the
22 probationer or on its own motion, may discharge a probationer at any
23 time.

24 (3) During the term of probation, the court on application of a
25 probation officer or of the probationer, or its own motion, may modify or
26 eliminate any of the conditions imposed on the probationer or add further
27 conditions authorized by section 29-2262. This subsection does not
28 preclude a probation officer from imposing administrative sanctions with
29 the probationer's full knowledge and consent as authorized by sections
30 29-2266.01 and 29-2266.02.

31 (4)(a) ~~(4)~~ Upon completion of the term of probation, or the earlier

1 discharge of the probationer, the probationer shall be relieved of any
2 obligations imposed by the order of the court and shall have satisfied
3 the sentence for his or her crime.

4 (b) Upon satisfactory fulfillment of the conditions of probation for
5 the entire period or after discharge from probation prior to the
6 termination of the period of probation, a probation officer shall notify
7 the probationer that the probationer may be eligible to have the
8 conviction set aside as provided in subsection (2) of section 29-2264.
9 The notice shall include an explanation of the requirements for a
10 conviction to be set aside, how to file a petition for a conviction to be
11 set aside, and the effect of and limitations of having a conviction set
12 aside and an advisement that the probationer consult with an attorney
13 prior to filing a petition. The State Court Administrator shall develop
14 standardized advisement language and any forms necessary to carry out
15 this subdivision.

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

20 Sec. 18. Section 29-2269, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-2269 Sections 29-2246 to 29-2269 and sections 19 and 20 of this
23 act shall be known and may be cited as the Nebraska Probation
24 Administration Act.

25 Sec. 19. (1) The probation administrator shall create a pilot
26 program to hire additional assistant probation officers as provided in
27 this section.

28 (2) The pilot program shall be limited to a single probation
29 district.

30 (3) Assistant probation officers hired under this section shall
31 assist probation officers in the supervision of high-risk caseloads.

1 (4) The purpose of the pilot program is to determine whether
2 additional support for probation officers results in probationers
3 completing their terms of probation with fewer violations.

4 (5) On or before June 1, 2024, the probation administrator shall
5 electronically submit a report to the Judiciary Committee of the
6 Legislature regarding the pilot program. The report shall include the
7 total number of persons admitted into the pilot program, including
8 demographic information, criminal history, and top needs according to the
9 results of a risk assessment; conditions of supervision; the total number
10 of violations of supervision conditions; the number of supervision
11 discharges by type of discharge; and recidivism rates.

12 Sec. 20. (1) The probation administrator shall create a pilot
13 program to establish a probationer incentive program as provided in this
14 section.

15 (2) The pilot program shall be limited to a single probation
16 district. Such district shall be chosen by the State Court Administrator.

17 (3) The pilot program shall establish a gift fund to be used for the
18 purchase of gift cards, vouchers, and other tangible rewards for
19 probationers who are succeeding at probation, in order to encourage
20 continued success and reduce recidivism. The gifts shall be awarded at
21 the discretion of probation officers, subject to policies and guidelines
22 of the office.

23 (4) On or before June 1, 2024, the probation administrator shall
24 electronically submit a report to the Judiciary Committee of the
25 Legislature regarding the pilot program.

26 Sec. 21. Section 29-2281, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 29-2281 (1) To determine the amount of restitution, the court may
29 hold a hearing at the time of sentencing. The amount of restitution shall
30 be based on the actual damages sustained by the victim and shall be
31 supported by evidence which shall become a part of the court record. The

1 court shall consider the defendant's earning ability, employment status,
2 financial resources, and family or other legal obligations and shall
3 balance such considerations against the obligation to the victim. In
4 considering the earning ability of a defendant who is sentenced to
5 imprisonment, the court may receive evidence of money anticipated to be
6 earned by the defendant during incarceration.

7 (2) A person may not be granted or denied probation or parole either
8 solely or primarily due to his or her financial resources or ability or
9 inability to pay restitution.

10 (3) The court may order that restitution be made immediately, in
11 specified installments, or within a specified period of time not to
12 exceed five years after the date of judgment or defendant's final release
13 date from imprisonment, whichever is later.

14 (4) If, in addition to restitution, a defendant is ordered to pay
15 finances and costs as part of the judgment and the defendant fails to pay
16 the full amount owed, funds shall first be applied to a restitution
17 obligation with the remainder applied towards fines and costs only when
18 the restitution obligation is satisfied in full.

19 (5) Restitution payments shall be made through the clerk of the
20 court ordering restitution. The clerk shall maintain a record of all
21 receipts and disbursements.

22 Sec. 22. Section 29-2315.02, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 29-2315.02 If the application is granted in cases where the court
25 finds a defendant to be indigent, the trial court shall first contact the
26 public defender or, in counties not having a public defender, an attorney
27 licensed to practice law in this state, to inquire whether or not the
28 public defender or attorney is able to accept the appointment ~~appoint a~~
29 lawyer to argue the case against the prosecuting attorney. If the public
30 defender or the attorney declines the appointment because of a conflict
31 of interest or is unable to accept the appointment, the court shall

1 appoint another attorney. An attorney other than the public defender
2 appointed under this section shall file an application for fees and
3 expenses in the court which appointed such attorney for all fees and
4 expenses reasonably necessary to permit such attorney to effectively and
5 competently represent the defendant and to argue the case against the
6 prosecuting attorney. Such fees and expenses shall , ~~which lawyer shall~~
7 ~~receive for his services a fee not exceeding two hundred dollars, to be~~
8 ~~fixed by such court, and to be paid out of the treasury of the county in~~
9 the full amount determined by the court. If the court does not find a
10 defendant indigent and does not appoint the public defender or another
11 attorney, the defendant may be represented by an attorney of the
12 defendant's choice . ~~For such purpose, the court may appoint the~~
13 ~~defendant's attorney, but if he is not appointed the defendant may in any~~
14 ~~event appear and participate through an attorney of his own choice.~~

15 Sec. 23. Section 29-2318, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 29-2318 When a notice is filed in cases where the court finds a
18 defendant to be indigent, the trial court shall first contact the public
19 defender or, in counties not having a public defender, an attorney
20 licensed to practice law in this state, to inquire whether or not the
21 public defender or attorney is able to accept the appointment ~~appoint a~~
22 ~~lawyer to argue the case against the prosecuting attorney. If the public~~
23 defender or the attorney declines the appointment because of a conflict
24 of interest or is unable to accept the appointment, the court shall
25 appoint another attorney. An attorney other than the public defender
26 appointed under this section shall file an application for fees and
27 expenses in the court which appointed such attorney for all fees and
28 expenses reasonably necessary to permit such attorney to effectively and
29 competently represent the defendant and to argue the case against the
30 prosecuting attorney. Such fees and expenses shall , ~~which lawyer shall~~
31 ~~receive for his or her services a fee not exceeding two hundred dollars~~

1 ~~to be fixed by the court and to be paid out of the treasury of the county~~
2 in the full amount determined by the court. If the court does not find a
3 defendant indigent and does not appoint the public defender or another
4 ~~The court may appoint the defendant's attorney, but if an attorney, is~~
5 ~~not appointed~~ the defendant may be represented by an attorney of the
6 defendant's ~~his or her~~ choice.

7 Sec. 24. Section 29-3001, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 29-3001 (1) A prisoner in custody under sentence and claiming a
10 right to be released on the ground that there was such a denial or
11 infringement of the rights of the prisoner as to render the judgment void
12 or voidable under the Constitution of this state or the Constitution of
13 the United States, may file a verified motion, in the court which imposed
14 such sentence, stating the grounds relied upon and asking the court to
15 vacate or set aside the sentence.

16 (2) Unless the motion and the files and records of the case show to
17 the satisfaction of the court that the prisoner is entitled to no relief,
18 the court shall cause notice thereof to be served on the county attorney,
19 grant a prompt hearing thereon, and determine the issues and make
20 findings of fact and conclusions of law with respect thereto. If the
21 court finds that there was such a denial or infringement of the rights of
22 the prisoner as to render the judgment void or voidable under the
23 Constitution of this state or the Constitution of the United States, the
24 court shall vacate and set aside the judgment and shall discharge the
25 prisoner or resentence the prisoner or grant a new trial as may appear
26 appropriate. Proceedings under the provisions of sections 29-3001 to
27 29-3004 shall be civil in nature. Costs shall be taxed as in habeas
28 corpus cases.

29 (3) A court may entertain and determine such motion without
30 requiring the production of the prisoner, whether or not a hearing is
31 held. Testimony of the prisoner or other witnesses may be offered by

1 deposition. The court need not entertain a second motion or successive
2 motions for similar relief on behalf of the same prisoner.

3 (4) A one-year period of limitation shall apply to the filing of a
4 verified motion for postconviction relief. The one-year limitation period
5 shall run from the later of:

6 (a) The date the judgment of conviction became final by the
7 conclusion of a direct appeal or the expiration of the time for filing a
8 direct appeal;

9 (b) The date on which the factual predicate of the constitutional
10 claim or claims alleged could have been discovered through the exercise
11 of due diligence;

12 (c) The date on which an impediment created by state action, in
13 violation of the Constitution of the United States or the Constitution of
14 Nebraska or any law of this state, is removed, if the prisoner was
15 prevented from filing a verified motion by such state action;

16 (d) The date on which a constitutional claim asserted was initially
17 recognized by the Supreme Court of the United States or the Nebraska
18 Supreme Court, if the newly recognized right has been made applicable
19 retroactively to cases on postconviction collateral review; or

20 (e) The date on which the Supreme Court of the United States denies
21 a writ of certiorari or affirms a conviction appealed from the Nebraska
22 Supreme Court. This subdivision only applies if, within thirty days after
23 petitioning the Supreme Court of the United States for a writ of
24 certiorari, the prisoner files a notice in the district court of
25 conviction stating that the prisoner has filed such petition August 27,
26 2011.

27 Sec. 25. Section 29-3603, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 29-3603 A pretrial diversion plan for criminal offenses shall
30 include, but not be limited to:

31 (1) Formal eligibility guidelines established following consultation

1 with criminal justice officials and program representatives. The
2 eligibility guidelines shall not prohibit participation by a defendant
3 charged with a Class IV felony if such defendant has no prior felony
4 convictions and has not previously completed a pretrial diversion program
5 for a felony. The guidelines shall be written and made available and
6 routinely disseminated to all interested parties;

7 (2) A maximum time limit for any defendant's participation in a
8 diversion program, beyond which no defendant shall be required or
9 permitted to participate. Such maximum term shall be long enough to
10 effect sufficient change in participants to deter them from criminal
11 activity, but not so long as to prejudice the prosecution or defense of
12 the case should the participant be returned to the ordinary course of
13 prosecution;

14 (3) The opportunity for eligible defendants to review, with their
15 counsel present, a copy of general diversion program requirements
16 including average program duration and possible outcome, prior to making
17 the decision to enter a diversion program;

18 (4) Dismissal of the diverted case upon completion of the program;

19 (5) A provision that participants shall be able to withdraw at any
20 time before the program is completed and be remanded to the court process
21 without prejudice to them during the ordinary course of prosecution;

22 (6) Enrollment shall not be conditioned on a plea of guilty; and

23 (7) Defendants who are denied enrollment in a diversion program
24 shall be afforded an administrative review of the decision and written
25 reasons for denial.

26 Sec. 26. Section 43-2,108, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 43-2,108 (1) The juvenile court judge shall keep a record of all
29 proceedings of the court in each case, including appearances, findings,
30 orders, decrees, and judgments, and any evidence which he or she feels it
31 is necessary and proper to record. The case file shall contain the

1 complaint or petition and subsequent pleadings. The case file may be
2 maintained as an electronic document through the court's electronic case
3 management system, on microfilm, or in a paper volume and disposed of
4 when determined by the State Records Administrator pursuant to the
5 Records Management Act.

6 (2) Except as provided in subsections (3) and (4) of this section,
7 the medical, psychological, psychiatric, and social welfare reports and
8 the records of juvenile probation officers, as they relate to individual
9 proceedings in the juvenile court, shall not be open to inspection,
10 without order of the court. Such records shall be made available to a
11 district court of this state or the District Court of the United States
12 on the order of a judge thereof for the confidential use of such judge or
13 his or her probation officer as to matters pending before such court but
14 shall not be made available to parties or their counsel; and such
15 district court records shall be made available to a county court or
16 separate juvenile court upon request of the county judge or separate
17 juvenile judge for the confidential use of such judge and his or her
18 probation officer as to matters pending before such court, but shall not
19 be made available by such judge to the parties or their counsel.

20 (3) As used in this section, confidential record information means
21 all docket records, other than the pleadings, orders, decrees, and
22 judgments; case files and records; reports and records of probation
23 officers; and information supplied to the court of jurisdiction in such
24 cases by any individual or any public or private institution, agency,
25 facility, or clinic, which is compiled by, produced by, and in the
26 possession of any court. In all cases under subdivision (3)(a) of section
27 43-247, access to all confidential record information in such cases shall
28 be granted only as follows: (a) The court of jurisdiction may, subject to
29 applicable federal and state regulations, disseminate such confidential
30 record information to any individual, or public or private agency,
31 institution, facility, or clinic which is providing services directly to

1 the juvenile and such juvenile's parents or guardian and his or her
2 immediate family who are the subject of such record information; (b) the
3 court of jurisdiction may disseminate such confidential record
4 information, with the consent of persons who are subjects of such
5 information, or by order of such court after showing of good cause, to
6 any law enforcement agency upon such agency's specific request for such
7 agency's exclusive use in the investigation of any protective service
8 case or investigation of allegations under subdivision (3)(a) of section
9 43-247, regarding the juvenile or such juvenile's immediate family, who
10 are the subject of such investigation; and (c) the court of jurisdiction
11 may disseminate such confidential record information to any court, which
12 has jurisdiction of the juvenile who is the subject of such information
13 upon such court's request.

14 (4) The court shall provide copies of predispositional reports and
15 evaluations of the juvenile to the juvenile's attorney and the county
16 attorney or city attorney prior to any hearing in which the report or
17 evaluation will be relied upon.

18 (5) In all cases under sections 43-246.01 and 43-247, the office of
19 Inspector General of Nebraska Child Welfare may submit a written request
20 to the probation administrator for access to the records of juvenile
21 probation officers in a specific case. Upon a juvenile court order, the
22 records shall be provided to the Inspector General within five days for
23 the exclusive use in an investigation pursuant to the Office of Inspector
24 General of Nebraska Child Welfare Act. Nothing in this subsection shall
25 prevent the notification of death or serious injury of a juvenile to the
26 Inspector General of Nebraska Child Welfare pursuant to section 43-4318
27 as soon as reasonably possible after the Office of Probation
28 Administration learns of such death or serious injury.

29 (6) In all cases under sections 43-246.01 and 43-247, the juvenile
30 court shall disseminate confidential record information to the Foster
31 Care Review Office pursuant to the Foster Care Review Act.

1 (7) Nothing in subsections (3), (5), and (6) of this section shall
2 be construed to restrict the dissemination of confidential record
3 information between any individual or public or private agency,
4 institute, facility, or clinic, except any such confidential record
5 information disseminated by the court of jurisdiction pursuant to this
6 section shall be for the exclusive and private use of those to whom it
7 was released and shall not be disseminated further without order of such
8 court.

9 (8)(a) Any records concerning a juvenile court petition filed
10 pursuant to subdivision (3)(c) of section 43-247 shall remain
11 confidential except as may be provided otherwise by law. Such records
12 shall be accessible to (i) the juvenile except as provided in subdivision
13 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
14 parent or guardian, and (iv) persons authorized by an order of a judge or
15 court.

16 (b) Upon application by the county attorney or by the director of
17 the facility where the juvenile is placed and upon a showing of good
18 cause therefor, a judge of the juvenile court having jurisdiction over
19 the juvenile or of the county where the facility is located may order
20 that the records shall not be made available to the juvenile if, in the
21 judgment of the court, the availability of such records to the juvenile
22 will adversely affect the juvenile's mental state and the treatment
23 thereof.

24 (9) Nothing in subsection (3), (5), or (6) of this section shall be
25 construed to restrict the immediate dissemination of a current picture
26 and information about a child who is missing from a foster care or out-
27 of-home placement. Such dissemination by the Office of Probation
28 Administration shall be authorized by an order of a judge or court. Such
29 information shall be subject to state and federal confidentiality laws
30 and shall not include that the child is in the care, custody, or control
31 of the Department of Health and Human Services or under the supervision

1 of the Office of Probation Administration.

2 (10) Any juvenile court order that places a juvenile on electronic
3 monitoring shall also state whether the data from such electronic
4 monitoring device shall be made available to a law enforcement agency
5 immediately upon request by such agency. For any juvenile subject to the
6 supervision of a probation officer, the name of the juvenile, the name of
7 the juvenile's probation officer, and any terms of probation included in
8 a juvenile court order otherwise open to inspection shall be provided to
9 the Nebraska Commission on Law Enforcement and Criminal Justice which
10 shall provide access to such information to law enforcement agencies
11 through the state's criminal justice information service.

12 Sec. 27. Section 50-434, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 50-434 (1) The Legislature finds that while serious crime in the
15 State of Nebraska has not increased in the past five years, the prison
16 population continues to increase as does the amount spent on correctional
17 issues. The Legislature further finds that a need exists to closely
18 examine the criminal justice system of the State of Nebraska in order to
19 increase public safety while concurrently reducing correctional spending
20 and reinvesting in strategies that decrease crime and strengthen Nebraska
21 communities.

22 (2) It is the intent of the Legislature that the State of Nebraska
23 work cooperatively with the Council of State Governments Justice Center
24 to study and identify innovative solutions and evidence-based practices
25 to develop a data-driven approach to reduce correctional spending and
26 reinvest savings in strategies that can decrease recidivism and increase
27 public safety and for the executive, legislative, and judicial branches
28 of Nebraska state government to work with the Council of State
29 Governments Justice Center in this process.

30 (3) The Committee on Justice Reinvestment Oversight is created as a
31 special legislative committee to maintain continuous oversight of the

1 Nebraska Justice Reinvestment Initiative and related issues.

2 (4) The special legislative committee shall be comprised of five
3 members of the Legislature selected by the Executive Board of the
4 Legislative Council, including the chairperson of the Judiciary Committee
5 of the Legislature who shall serve as chairperson of the special
6 legislative committee.

7 (5) The Committee on Justice Reinvestment Oversight shall monitor
8 and guide analysis and policy development in all aspects of the criminal
9 justice system in Nebraska within the scope of the justice reinvestment
10 initiative, including tracking implementation of evidence-based
11 strategies as established in Laws 2015, LB605, and reviewing policies to
12 improve public safety, reduce recidivism, and reduce spending on
13 corrections in Nebraska. With assistance from the Council of State
14 Governments Justice Center, the committee shall monitor performance and
15 measure outcomes by collecting data from counties and relevant state
16 agencies for analysis and reporting.

17 (6) The committee shall prepare and submit an annual report of its
18 activities and findings and may make recommendations to improve any
19 aspect of the criminal justice system. The committee shall deliver the
20 report to the Governor, the Clerk of the Legislature, and the Chief
21 Justice by September 1 of each year. The report to the clerk shall be
22 delivered electronically.

23 (7) The committee terminates on September 30, 2023.

24 Sec. 28. Section 69-2426, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 69-2426 (1) Any firearm dealer licensed pursuant to 18 U.S.C. 923
27 ~~Dealers of firearms~~ shall distribute to all firearm purchasers:

28 (a) Information ~~information~~ developed by the Department of Health
29 and Human Services regarding the dangers of leaving loaded firearms
30 unattended around children; and -

31 (b) Information on suicide prevention, including materials that

1 provide evidence-based information aligned with best practices in suicide
2 prevention. Such materials shall include information on the 988 Suicide
3 and Crisis Lifeline or other similar resources. The Nebraska State Patrol
4 shall maintain and publish a list of materials that may be used to comply
5 with this subdivision.

6 (2) There is hereby created the Firearm Information Fund. Private
7 contributions shall be credited by the State Treasurer to such fund for
8 the implementation of the provisions of this section.

9 Sec. 29. Section 69-2432, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 69-2432 (1) The Nebraska State Patrol shall prepare and publish
12 minimum training and safety requirements for and adopt and promulgate
13 rules and regulations governing handgun training and safety courses and
14 handgun training and safety course instructors. Minimum safety and
15 training requirements for a handgun training and safety course shall
16 include, but not be limited to:

17 (a) Knowledge and safe handling of a handgun;

18 (b) Knowledge and safe handling of handgun ammunition;

19 (c) Safe handgun shooting fundamentals;

20 (d) A demonstration of competency with a handgun with respect to the
21 minimum safety and training requirements;

22 (e) Knowledge of federal, state, and local laws pertaining to the
23 purchase, ownership, transportation, and possession of handguns;

24 (f) Knowledge of federal, state, and local laws pertaining to the
25 use of a handgun, including, but not limited to, use of a handgun for
26 self-defense and laws relating to justifiable homicide and the various
27 degrees of assault;

28 (g) Knowledge of ways to avoid a criminal attack and to defuse or
29 control a violent confrontation;~~and~~

30 (h) Knowledge of proper storage practices for handguns and
31 ammunition, including storage practices which would reduce the

1 possibility of accidental injury to a child; and -

2 (i) Suicide prevention training. Such training shall consist of
3 evidence-based information aligned with best practices in suicide
4 prevention.

5 (2) A person or entity conducting a handgun training and safety
6 course and the course instructors shall be approved by the patrol before
7 operation. The patrol shall issue a certificate evidencing its approval.

8 (3) A certificate of completion of a handgun training and safety
9 course shall be issued by the person or entity conducting a handgun
10 training and safety course to persons successfully completing the course.
11 The certificate of completion shall also include certification from the
12 instructor that the person completing the course does not suffer from a
13 readily discernible physical infirmity that prevents the person from
14 safely handling a handgun.

15 (4) Any fee for participation in a handgun training and safety
16 course is the responsibility of the applicant.

17 Sec. 30. Section 71-5661, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 71-5661 (1) The financial incentives provided by the Rural Health
20 Systems and Professional Incentive Act shall consist of (a) student loans
21 to eligible students for attendance at an eligible school as determined
22 pursuant to section 71-5662, (b) the repayment of qualified educational
23 debts owed by physicians and psychiatrists in an approved medical
24 specialty residency program in Nebraska as determined pursuant to section
25 71-5662, and (c) the repayment of qualified educational debts owed by
26 eligible health professionals as determined pursuant to section 71-5662.
27 Funds for such incentives shall be appropriated from the General Fund to
28 the department for such purposes.

29 (2) The Rural Health Professional Incentive Fund is created. The
30 fund shall be used to carry out the purposes of the act, except that
31 transfers may be made from the fund to the General Fund at the direction

1 of the Legislature. Money credited pursuant to section 71-5670.01 and
2 payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01
3 shall be remitted to the State Treasurer for credit to the Rural Health
4 Professional Incentive Fund. Any money in the fund available for
5 investment shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 Sec. 31. Section 71-5662, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 71-5662 (1) To be eligible for a student loan under the Rural Health
11 Systems and Professional Incentive Act, an applicant or a recipient shall
12 be enrolled or accepted for enrollment in an accredited medical or dental
13 education program or physician assistant education program or an approved
14 mental health practice program in Nebraska.

15 (2) To be eligible for the medical resident incentive under the act,
16 an applicant or a recipient shall be enrolled or accepted for enrollment
17 in an approved medical specialty residency program in Nebraska.

18 (3) To be eligible for loan repayment under the act, an applicant or
19 a recipient shall be a pharmacist, a dentist, a physical therapist, an
20 occupational therapist, a mental health practitioner, a psychologist
21 licensed under the requirements of section 38-3114 or the equivalent
22 thereof, a nurse practitioner, a physician assistant, a psychiatrist, or
23 a physician in an approved specialty and shall be licensed to practice in
24 Nebraska, not be enrolled in a residency program, not be practicing under
25 a provisional or temporary license, and enter practice in a designated
26 health profession shortage area in Nebraska.

27 Sec. 32. Section 71-5663, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 71-5663 (1) The amount of financial assistance provided through
30 student loans pursuant to the Rural Health Systems and Professional
31 Incentive Act shall be limited to thirty thousand dollars for each

1 recipient for each academic year and, except as provided in subdivision
2 (4)(a) of this section, shall not exceed one hundred twenty thousand
3 dollars per medical, dental, or doctorate-level mental health student or
4 thirty thousand dollars per master's level mental health or physician
5 assistant student.

6 (2) The amount of financial assistance provided through the medical
7 resident incentive program pursuant to the act shall be limited to forty
8 thousand dollars for each recipient for each year of residency and,
9 except as provided in subdivision (4)(b) of this section, shall not
10 exceed one hundred twenty thousand dollars.

11 (3) The amount of financial assistance provided by the state through
12 loan repayments pursuant to the act (a) for physicians, psychiatrists,
13 dentists, and psychologists shall be limited to thirty thousand dollars
14 per recipient per year of full-time practice in a designated health
15 profession shortage area and, except as provided in subdivision (4)(c) of
16 this section, shall not exceed ninety thousand dollars per recipient and
17 (b) for physician assistants, nurse practitioners, pharmacists, physical
18 therapists, occupational therapists, and mental health practitioners
19 shall be limited to fifteen thousand dollars per recipient per year of
20 full-time practice in a designated health profession shortage area and,
21 except as provided in subdivision (4)(c) of this section, shall not
22 exceed forty-five thousand dollars per recipient.

23 (4)(a) The total amount of financial assistance provided through
24 student loans for a doctorate-level mental health student or master's
25 level mental health student shall be the full amount of such loans for a
26 person who practices psychiatry, psychology, or mental health practice:

27 (i) For at least five years in a designated health profession
28 shortage area; and

29 (ii) If all or a majority of such practice consists of the treatment
30 of members of the community supervision population.

31 (b) The total amount of financial assistance provided through the

1 medical resident incentive program for a psychiatrist shall be the full
2 amount of such psychiatrist's qualified educational debts if such person
3 practices psychiatry:

4 (i) For at least five years in a designated health profession
5 shortage area; and

6 (ii) If all or a majority of such practice consists of the treatment
7 of members of the community supervision population.

8 (c) The total amount of financial assistance provided through loan
9 repayments pursuant to the act for psychiatrists, psychologists, and
10 mental health practitioners shall be the full amount of such person's
11 qualified educational debts if such person practices psychiatry,
12 psychology, or mental health practice:

13 (i) For at least five years in a designated health profession
14 shortage area; and

15 (ii) If all or a majority of such practice consists of the treatment
16 of members of the community supervision population.

17 (5) For purposes of this section, community supervision population
18 means persons on probation, post-release supervision, and pretrial
19 release.

20 Sec. 33. Section 71-5665, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 71-5665 The commission shall periodically designate health
23 profession shortage areas within the state for the following professions:
24 Medicine and surgery, psychiatry, physician assistants' practice, nurse
25 practitioners' practice, psychology, and mental health practitioner's
26 practice. The commission shall also periodically designate separate
27 health profession shortage areas for each of the following professions:
28 Pharmacy, dentistry, physical therapy, and occupational therapy. In
29 making such designations the commission shall consider, after
30 consultation with other appropriate agencies concerned with health
31 services and with appropriate professional organizations, among other

1 factors:

2 (1) The latest reliable statistical data available regarding the
3 number of health professionals practicing in an area and the population
4 to be served by such practitioners;

5 (2) Inaccessibility of health care services to residents of an area;

6 (3) Particular local health problems;

7 (4) Age or incapacity of local practitioners rendering services; and

8 (5) Demographic trends in an area both past and future.

9 Sec. 34. Section 71-5666, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 71-5666 Each student loan recipient shall execute an agreement with
12 the state. Such agreement shall be exempt from the requirements of
13 sections 73-501 to 73-510 and shall include the following terms, as
14 appropriate:

15 (1) The borrower agrees to practice the equivalent of one year of
16 full-time practice of an approved specialty in a designated health
17 profession shortage area in Nebraska for each year of education for which
18 a loan is received, or a longer period as required in subdivision (4)(a)
19 of section 71-5663, and agrees to accept medicaid patients in his or her
20 practice;

21 (2) If the borrower practices an approved specialty in a designated
22 health profession shortage area in Nebraska, the loan shall be forgiven
23 as provided in this section and subdivision (4)(a) of section 71-5663.

24 Practice in a designated area shall commence within three months of the
25 completion of formal education, which may include a period not to exceed
26 five years to complete specialty training in an approved specialty. The
27 commission may approve exceptions to any period required for completion
28 of training upon showing good cause. Loan forgiveness shall occur on a
29 quarterly basis, with completion of the equivalent of three months of
30 full-time practice resulting in the cancellation of one-fourth of the
31 annual loan amount. Part-time practice in a shortage area shall result in

1 a prorated reduction in the cancellation of the loan amount;

2 (3) If the borrower practices an approved specialty in Nebraska but
3 not in a designated health profession shortage area, practices a
4 specialty other than an approved specialty in Nebraska, does not practice
5 the profession for which the loan was given, discontinues practice of the
6 profession for which the loan was given, or practices outside Nebraska,
7 the borrower shall repay one hundred fifty percent of the outstanding
8 loan principal with interest at a rate of eight percent simple interest
9 per year from the date of default. Such repayment shall commence within
10 six months of the completion of formal education, which may include a
11 period not to exceed five years to complete specialty training in an
12 approved specialty, and shall be completed within a period not to exceed
13 twice the number of years for which loans were awarded;

14 (4) If a borrower who is a medical, dental, or doctorate-level
15 mental health student determines during the first or second year of
16 medical, dental, or doctorate-level mental health education that his or
17 her commitment to the loan program cannot be honored, the borrower may
18 repay the outstanding loan principal, plus six percent simple interest
19 per year from the date the loan was granted, prior to graduation from
20 medical or dental school or a mental health practice program without
21 further penalty or obligation. Master's level mental health and physician
22 assistant student loan recipients shall not be eligible for this
23 provision;

24 (5) If the borrower discontinues the course of study for which the
25 loan was granted, the borrower shall repay one hundred percent of the
26 outstanding loan principal. Such repayment shall commence within six
27 months of the date of discontinuation of the course of study and shall be
28 completed within a period of time not to exceed the number of years for
29 which loans were awarded;~~and~~

30 (6) Any practice or payment obligation incurred by the student loan
31 recipient under the student loan program is canceled in the event of the

1 student loan recipient's total and permanent disability or death; and -
2 (7) For a borrower seeking benefits under subdivision (4)(a) of
3 section 71-5663, the borrower agrees to such other terms as the
4 department deems appropriate.

5 Sec. 35. Section 71-5668, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 71-5668 Each loan repayment recipient shall execute an agreement
8 with the department and a local entity. Such agreement shall be exempt
9 from the requirements of sections 73-501 to 73-510 and shall include, at
10 a minimum, the following terms:

11 (1) The loan repayment recipient agrees to practice his or her
12 profession, and a physician, psychiatrist, dentist, nurse practitioner,
13 or physician assistant also agrees to practice an approved specialty, in
14 a designated health profession shortage area for at least three years, or
15 the period required by subdivision (4)(c) of section 71-5663, and to
16 accept medicaid patients in his or her practice;

17 (2) In consideration of the agreement by the recipient, the State of
18 Nebraska and a local entity within the designated health profession
19 shortage area will provide equal funding for the repayment of the
20 recipient's qualified educational debts except as provided in subdivision
21 (5) of this section, in amounts up to thirty thousand dollars per year
22 per recipient for physicians, psychiatrists, dentists, and psychologists
23 and up to fifteen thousand dollars per year per recipient for physician
24 assistants, nurse practitioners, pharmacists, physical therapists,
25 occupational therapists, and mental health practitioners toward qualified
26 educational debts for up to three years or a longer period as required by
27 subdivision (4)(c) of section 71-5663. The department shall make payments
28 directly to the recipient;

29 (3) If the loan repayment recipient discontinues practice in the
30 shortage area prior to completion of the three-year requirement or the
31 period required by subdivision (4)(c) of section 71-5663, as applicable,

1 the recipient shall repay to the state one hundred fifty percent of the
2 total amount of funds provided to the recipient for loan repayment with
3 interest at a rate of eight percent simple interest per year from the
4 date of default. Upon repayment by the recipient to the department, the
5 department shall reimburse the local entity its share of the funds which
6 shall not be more than the local entity's share paid to the loan
7 repayment recipient;

8 (4) Any practice or payment obligation incurred by the loan
9 repayment recipient under the loan repayment program is canceled in the
10 event of the loan repayment recipient's total and permanent disability or
11 death;~~and~~

12 (5) For a loan repayment recipient seeking benefits under
13 subdivision (4)(c) of section 71-5663, the recipient agrees to such other
14 terms as the department deems appropriate; and

15 (6) ~~(5)~~ Beginning on July 1, 2022, any agreements entered into by
16 December 31, 2024, shall first use federal funds from the federal
17 American Rescue Plan Act of 2021 for the purposes of repaying qualified
18 educational debts prior to using any state or local funds. Agreements
19 using federal funds from the federal American Rescue Plan Act of 2021
20 shall not require equal funding from a local entity. Any federal funds
21 from the act committed to agreements during this time period shall be
22 used by December 31, 2026.

23 Sec. 36. Section 71-5669.01, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 71-5669.01 Each medical resident incentive recipient shall execute
26 an agreement with the department. Such agreement shall be exempt from the
27 requirements of sections 73-501 to 73-510 and shall include, at a
28 minimum, the following terms:

29 (1) The medical resident incentive recipient agrees to practice an
30 approved medical specialty the equivalent of one year of full-time
31 practice in a designated health profession shortage area, or for a longer

1 period as required by subdivision (4)(b) of section 71-5663, and to
2 accept medicaid patients in his or her practice;

3 (2) In consideration of the agreement by the medical resident
4 incentive recipient, the State of Nebraska will provide funding for the
5 repayment of the recipient's qualified educational debts, in amounts up
6 to forty thousand dollars per year for up to three years while in an
7 approved medical specialty residency program in Nebraska, or for a longer
8 period as required by subdivision (4)(b) of section 71-5663. The
9 department shall make payments directly to the medical resident incentive
10 recipient;

11 (3) If the medical resident incentive recipient extends his or her
12 residency training but not in an approved specialty, practices an
13 approved specialty in Nebraska but not in a designated health profession
14 shortage area, practices a specialty other than an approved specialty in
15 Nebraska, does not practice the profession for which the loan was given,
16 discontinues practice of the profession for which the loan was given, or
17 practices outside Nebraska, the medical resident incentive recipient
18 shall repay to the state one hundred fifty percent of the outstanding
19 loan principal with interest at a rate of eight percent simple interest
20 per year from the date of default. Such repayment shall commence within
21 six months of the completion or discontinuation of an approved specialty
22 residency training in Nebraska and shall be completed within a period not
23 to exceed twice the number of years for which the medical resident
24 incentive recipient received awards; ~~and~~

25 (4) Any practice or payment obligation incurred by the medical
26 resident incentive recipient under the medical resident incentive program
27 is canceled in the event of the medical resident incentive recipient's
28 total and permanent disability or death; and -

29 (5) For a medical resident incentive recipient seeking benefits
30 under subdivision (4)(b) of section 71-5663, the recipient agrees to such
31 other terms as the department deems appropriate.

1 Sec. 37. Section 83-1,100.02, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 83-1,100.02 (1) For purposes of this section:

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

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

8 (ii) Substance abuse testing requirements and frequency;

9 (iii) Contact restrictions;

10 (iv) Curfew restrictions;

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

13 (vi) Severity of graduated responses to violations of supervision
14 conditions; ~~and~~

15 **(b) Responsivity factors means characteristics of a parolee that**
16 **affect the parolee's ability to respond favorably or unfavorably to any**
17 **treatment goals; and**

18 **(c) ~~(b)~~ Risk and needs assessment means an actuarial tool that has**
19 **been validated in Nebraska to determine the likelihood of the parolee**
20 **engaging in future criminal behavior.**

21 (2) The Division of Parole Supervision shall establish an evidence-
22 based process that utilizes a risk and needs assessment to measure
23 criminal risk factors, ~~and~~ specific individual needs, and responsivity
24 factors.

25 (3) The risk and needs assessment shall be performed at the
26 commencement of the parole term and every six months thereafter by
27 division staff trained and certified in the use of the risk and needs
28 assessment.

29 (4) The validity of the risk and needs assessment shall be tested at
30 least every five years.

31 (5) Based on the results of the risk and needs assessment, the

1 division shall target parolee criminal risk and need factors by focusing
2 sanction, program, and treatment resources on moderate-risk and high-risk
3 parolees.

4 (6) The division shall provide training to its parole officers on
5 (a) use of a risk and needs assessment, (b) risk-based supervision
6 strategies, (c) relationship skills, (d) cognitive behavioral
7 interventions, (e) community-based resources, (f) criminal risk factors,
8 (g) targeting criminal risk factors to reduce recidivism, (h) and proper
9 use of a matrix of administrative sanctions, custodial sanctions, and
10 rewards developed pursuant to section 83-1,119, and (i) addressing
11 responsivity factors. All parole officers employed on August 30, 2015,
12 shall complete the training requirements set forth in this subsection on
13 or before January 1, 2017. Each parole officer hired on or after August
14 30, 2015, shall complete the training requirements set forth in this
15 subsection within one year after his or her hire date or September 1,
16 2024, whichever is later.

17 (7) The division shall provide training for chief parole officers to
18 become trainers so as to ensure long-term and self-sufficient training
19 capacity in the state.

20 Sec. 38. Section 83-1,110, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 83-1,110 (1) Every committed offender shall be eligible for parole
23 upon the earliest of the following:

24 (a) When when the offender has served one-half the minimum term of
25 his or her sentence as provided in sections 83-1,107 and 83-1,108; or -

26 (b) For a committed offender serving a maximum term of:

27 (i) Twelve years or less, two years prior to the offender's
28 mandatory discharge date;

29 (ii) Sixteen years or less, three years prior to the offender's
30 mandatory discharge date;

31 (iii) Twenty years or less, four years prior to the offender's

1 mandatory discharge date; or

2 (iv) More than twenty years, five years prior to the offender's
3 mandatory discharge date.

4 (2) The board shall conduct a parole review not later than sixty
5 days prior to the date a committed offender becomes eligible for parole
6 as provided in this subsection, except that if a committed offender is
7 eligible for parole upon his or her commitment to the department, a
8 parole review shall occur as early as is practical. No such reduction of
9 sentence shall be applied to any sentence imposing a mandatory minimum
10 term.

11 (3)(a) This subsection applies to any ~~(2) Every~~ committed offender
12 sentenced to consecutive terms, whether received at the same time or at
13 any time during the original sentence, ~~shall be eligible for release on~~
14 ~~parole when the offender has served the total of one-half the minimum~~
15 ~~term as provided in sections 83-1,107 and 83-1,108.~~

16 (b) The maximum terms shall be added to compute the new maximum term
17 which, less good time, shall determine the date when discharge from the
18 custody of the state becomes mandatory.

19 (c) The committed offender shall be eligible for release on parole
20 upon the earliest of the following:

21 (i) When the offender has served the total of one-half the minimum
22 term as provided in sections 83-1,107 and 83-1,108; or

23 (ii) For a committed offender serving a maximum term of:

24 (A) Twelve years or less, two years prior to the offender's
25 mandatory discharge date;

26 (B) Sixteen years or less, three years prior to the offender's
27 mandatory discharge date;

28 (C) Twenty years or less, four years prior to the offender's
29 mandatory discharge date; or

30 (D) More than twenty years, five years prior to the offender's
31 mandatory discharge date.

1 Sec. 39. (1) A committed offender may be eligible for geriatric
2 parole if the committed offender:

3 (a) Is not serving a sentence for a Class I or IA felony, is not
4 serving a sentence for an offense that includes as an element sexual
5 contact or sexual penetration, and is not otherwise serving a sentence of
6 life imprisonment;

7 (b) Is seventy-five years of age or older; and

8 (c) Has served at least fifteen years of the sentence for which
9 currently incarcerated.

10 (2) A committed offender may be eligible for geriatric parole in
11 addition to any other parole. The department shall identify committed
12 offenders who may be eligible for geriatric parole.

13 (3) The board shall decide to grant geriatric parole only after a
14 review of the decision guidelines as set forth in the board's rules and
15 regulations and the factors set forth in section 83-1,114.

16 (4) The parole term of a geriatric parolee shall be for the
17 remainder of the parolee's sentence as reduced by any adjustment for good
18 conduct pursuant to the Nebraska Treatment and Corrections Act.

19 Sec. 40. Section 83-1,111, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 83-1,111 (1)(a) ~~(1)~~ A committed offender serving an indeterminate
22 sentence under which he or she may become eligible for parole shall be
23 interviewed and have his or her record reviewed by two or more members of
24 the ~~board~~ Board of Parole or a person designated by the board within
25 sixty days before the expiration of his or her minimum term less any
26 reductions as provided in section 83-1,110.

27 (b) If the committed offender is a qualified offender as defined in
28 section 41 of this act, the committed offender shall enter into a
29 streamlined parole contract as provided in such section.

30 (2) If the committed offender is a qualified offender, the review
31 shall be limited to verifying that the committed offender is a qualified

1 offender and whether the committed offender has already fulfilled the
2 streamlined parole contract. If the committed offender has not yet
3 fulfilled the streamlined parole contract, a subsequent review shall be
4 set for the date the committed offender will fulfill the streamlined
5 parole contract, assuming the committed offender will meet the
6 requirements of subsection (3) of section 41 of this act.

7 (3)(a) This subsection applies if the committed offender is not a
8 qualified offender or has been found at a review under subsection (2) of
9 this section to have not fulfilled the terms of the streamlined parole
10 contract. If, in the opinion of the reviewers, the review indicates the
11 offender is reasonably likely to be granted parole and has a potential
12 parole term of no less than one month, the board ~~Board of Parole~~ shall
13 schedule a public hearing before a majority of its members. At such
14 hearing the offender may present evidence, call witnesses, and be
15 represented by counsel. If, in the opinion of the reviewers, the review
16 indicates the offender should be denied parole, the offender may request
17 an additional review by a majority of the members of the board. A review
18 by the majority of the members of the board may be conducted not more
19 than once annually. Any hearing and review shall be conducted in an
20 informal manner, but a complete record of the proceedings shall be made
21 and preserved.

22 (b) {2} The board shall render its decision regarding the committed
23 offender's release on parole within a reasonable time after the hearing
24 or review. The decision shall be by majority vote of the board. The
25 decision shall be based on the entire record before the board which shall
26 include the opinion of the person who conducted the review. If the board
27 denies parole, written notification listing the reasons for such denial
28 and the recommendations for correcting deficiencies which cause the
29 denial shall be given to the committed offender within thirty days
30 following the hearing.

31 (c) {3} If the board fixes the release date, such date shall be not

1 more than six months from the date of the committed offender's parole
2 hearing or from the date of last reconsideration of his or her case,
3 unless there are special reasons for fixing a later release date.

4 (d) (4) If the board defers the case for later reconsideration, the
5 committed offender shall be afforded a parole review at least once a year
6 until a release date is fixed. The board may order a reconsideration or a
7 rehearing of the case at any time.

8 (4) (5) The release of a committed offender on parole shall not be
9 upon the application of the offender but by the initiative of the board
10 ~~Board of Parole~~. No application for release on parole made by a committed
11 offender or on his or her behalf shall be entertained by the board. This
12 subsection does not prohibit the Director of Correctional Services from
13 recommending to the board that it consider an individual offender for
14 release on parole.

15 Sec. 41. (1) A qualified offender serving a sentence imposed prior
16 to the effective date of this section who has not yet received a review
17 from the board shall, at the review, enter into a streamlined parole
18 contract under this section.

19 (2) A qualified offender serving a sentence imposed on or after the
20 effective date of this section shall, at the qualified offender's first
21 review from the board, enter into a streamlined parole contract under
22 this section.

23 (3) Under a streamlined parole contract, a qualified offender shall
24 be released on parole on the qualified offender's parole eligibility
25 date, without a hearing before the board, if:

26 (a) In the twenty-four-month period prior to the eligibility date,
27 the qualified offender has not committed a Class I offense under the
28 department's disciplinary code; and

29 (b) The qualified offender has completed all diagnostic evaluations
30 provided by the department and any programming or treatment required by
31 the department for substance abuse, sex offenses, and violence reduction.

1 (4) If a qualified offender does not meet the requirements of
2 subsection (3) of this section, the board shall consider the offender's
3 parole eligibility as provided for nonqualified offenders under section
4 83-1,111.

5 (5) For purposes of this section:

6 (a) Qualified offender means a committed offender who is serving an
7 indeterminate sentence under which the committed offender may become
8 eligible for parole and who is not serving a sentence for a violent
9 felony;

10 (b) Serious bodily injury has the same meaning as in section 28-109;

11 (c) Sexual contact and sexual penetration have the same meanings as
12 in section 28-318; and

13 (d) Violent felony means an offense which is a Class IIIA felony or
14 higher and;

15 (i) Which includes, as an element of the offense:

16 (A) Sexual contact or sexual penetration;

17 (B) The threat to inflict serious bodily injury or death on another
18 person, the infliction of serious bodily injury on another person, or
19 causing the death of another person; or

20 (C) The use of physical force against another person; or

21 (ii) Which consists of attempt, conspiracy, being an accessory to,
22 or aiding and abetting a felony with any of the offenses described in
23 subdivision (5)(d)(i) of this section as the underlying offense.

24 Sec. 42. Section 83-1,114, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 83-1,114 (1) Whenever the board considers the release of a committed
27 offender who is eligible for release on parole, it shall order his or her
28 release unless it is of the opinion that his or her release should be
29 deferred because:

30 (a) There is a substantial risk that he or she will not conform to
31 the conditions of parole;

1 (b) His or her release would depreciate the seriousness of his or
2 her crime or promote disrespect for law;

3 (c) His or her release would have a substantially adverse effect on
4 institutional discipline; or

5 (d) His or her continued correctional treatment, medical care, or
6 vocational or other training in the facility will substantially enhance
7 his or her capacity to lead a law-abiding life when released at a later
8 date.

9 (2) In making its determination regarding a committed offender's
10 release on parole, the board shall give consideration to the its decision
11 guidelines as set forth in its rules and regulations and shall take into
12 account each of the following factors:

13 ~~(a) The offender's personality, including his or her maturity,~~
14 ~~stability, and sense of responsibility and any apparent development in~~
15 ~~his or her personality which may promote or hinder his or her conformity~~
16 ~~to law;~~

17 (a) (b) The adequacy of the offender's parole plan, including
18 sufficiency of residence, employment history, and employability;

19 ~~(c) The offender's ability and readiness to assume obligations and~~
20 ~~undertake responsibilities;~~

21 ~~(d) The offender's intelligence and training;~~

22 ~~(e) The offender's family status and whether he or she has relatives~~
23 ~~who display an interest in him or her or whether he or she has other~~
24 ~~close and constructive associations in the community;~~

25 ~~(f) The offender's employment history, his or her occupational~~
26 ~~skills, and the stability of his or her past employment;~~

27 ~~(g) The type of residence, neighborhood, or community in which the~~
28 ~~offender plans to live;~~

29 ~~(h) The offender's past use of narcotics or past habitual and~~
30 ~~excessive use of alcohol;~~

31 ~~(i) The offender's mental or physical makeup, including any~~

1 ~~disability or handicap which may affect his or her conformity to law;~~

2 ~~(b) (j) The offender's prior criminal record, including the nature~~
3 ~~and circumstances, dates, and frequency of previous offenses;~~

4 ~~(k) The offender's attitude toward law and authority;~~

5 ~~(l) The offender's conduct in the facility, including particularly~~
6 ~~whether he or she has taken advantage of the opportunities for self-~~
7 ~~improvement, whether he or she has been punished for misconduct within~~
8 ~~six months prior to his or her hearing or reconsideration for parole~~
9 ~~release, whether any reductions of term have been forfeited, and whether~~
10 ~~such reductions have been restored at the time of hearing or~~
11 ~~reconsideration;~~

12 ~~(c) (m) The offender's institutional behavior and attitude during~~
13 ~~any previous experience of probation or parole and how recent such~~
14 ~~experience is;~~

15 ~~(d) The offender's previous experience on parole and how recent such~~
16 ~~experience is;~~

17 ~~(e) Whether the offender has completed a (n) ~~The risk and needs~~~~

18 ~~assessment completed pursuant to section 83-192; and~~

19 ~~(f) Any testimony or written statement by a victim as provided in~~
20 ~~section 81-1848.~~

21 ~~(o) Any other factors the board determines to be relevant.~~

22 Sec. 43. Section 83-1,122.01, Revised Statutes Cumulative
23 Supplement, 2022, is amended to read:

24 83-1,122.01 (1) Except as provided in subsection (3) of this
25 section, the board does not have jurisdiction over a person who is
26 committed to the department in accordance with section 29-2204.02 for a
27 Class III, IIIA, or IV felony committed on or after August 30, 2015,
28 unless the person is also committed to the department in accordance with
29 section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA,
30 or IV felony committed prior to August 30, 2015, or (b) a sentence of
31 imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

1 (2) Except as provided in subsection (3) of this section, the board
2 does not have jurisdiction over a person committed to the department for
3 a misdemeanor sentence imposed consecutively or concurrently with a Class
4 III, IIIA, or IV felony sentence for an offense committed on or after
5 August 30, 2015, unless the person is also committed to the department in
6 accordance with section 29-2204 for (a) a sentence of imprisonment for a
7 Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b)
8 a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
9 felony.

10 (3) This section does not apply to medical parole under section
11 83-1,110.02 or geriatric parole under section 39 of this act.

12 Sec. 44. Section 83-1,125.01, Revised Statutes Cumulative
13 Supplement, 2022, is amended to read:

14 83-1,125.01 (1) The Board of Parole and the Division of Parole
15 Supervision may maintain an individual file for each person who is under
16 the jurisdiction of the Board of Parole. Such file may be maintained
17 electronically and shall include, when available and appropriate, the
18 following information on such person:

- 19 (a) Admission summary;
- 20 (b) Presentence investigation report;
- 21 (c) Classification reports and recommendations;
- 22 (d) Official records of conviction and commitment along with any
23 earlier criminal records;
- 24 (e) Progress reports and admission-orientation reports;
- 25 (f) Reports of any disciplinary infractions and their disposition;
- 26 (g) Risk and needs assessments;
- 27 (h) Parole plan and parole placement and investigation worksheets;
- 28 (i) Decision guideline scores;
- 29 (j) Parole case plan;
- 30 (k) Parole progress reports and contact notes;
- 31 (l) Arrest and violation reports, including disposition;

- 1 (m) Parole proceedings orders and notices;
- 2 (n) Other documents related to parole supervision;
- 3 (o) Correspondence; and
- 4 (p) Other pertinent data concerning his or her background, conduct,
- 5 associations, and family relationships.

6 (2) Any decision concerning release on or revocation of parole or
7 imposition of sanctions shall be made only after the individual file has
8 been reviewed. The contents of the individual file shall be confidential
9 unless disclosed in connection with a public hearing and shall not be
10 subject to public inspection except by court order for good cause shown.
11 The contents of the file shall not be accessible to any person under the
12 jurisdiction of the Board of Parole. A person under the jurisdiction of
13 the board may obtain access to his or her medical records by request to
14 the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the
15 fact that such medical records may be a part of his or her parole file.
16 The board and the Division of Parole Supervision have the authority to
17 withhold decision guideline scores, risk and needs assessment scores, and
18 mental health and psychological records of a person under the
19 jurisdiction of the board when appropriate.

20 (3) Nothing in this section limits in any manner the authority of
21 the Public Counsel to inspect and examine the records and documents of
22 the board and the Division of Parole Supervision pursuant to sections
23 81-8,240 to 81-8,254, except that the Public Counsel's access to the
24 medical or mental health records of a person under the jurisdiction of
25 the board shall be subject to his or her consent. The office of Public
26 Counsel shall not disclose the medical or mental health records of a
27 person under the jurisdiction of the board to anyone else, including any
28 other person under the jurisdiction of the board, except as authorized by
29 law.

30 (4) For any person under the jurisdiction of the Board of Parole,
31 the board shall provide such person's (a) name, (b) parole officer, and

1 (c) conditions of parole to the Nebraska Commission on Law Enforcement
2 and Criminal Justice which shall provide access to such information to
3 law enforcement agencies through the state's criminal justice information
4 service.

5 Sec. 45. (1) The Division of Parole Supervision and the department
6 shall create a pilot program to establish a technical parole violation
7 residential housing program. The purpose of the program is to provide
8 accountability and intensive support for individuals on parole who commit
9 technical violations, without revoking them fully back to prison.

10 (2) The program shall provide a structured environment for selected
11 individuals on parole who have committed technical violations. The
12 program shall be based upon a therapeutic community model. Participants
13 in the program shall, at a minimum, be required to take part in
14 counseling, educational, and other programs as the department deems
15 appropriate, to provide community service, and to submit to drug and
16 alcohol screening.

17 (3) An individual on parole shall not be placed in the pilot program
18 until the Division of Parole Supervision has determined the individual is
19 a suitable candidate in accordance with policies and guidelines developed
20 by the division.

21 (4) On or before June 1, 2024, the Division of Parole Supervision
22 shall electronically submit a report to the Judiciary Committee of the
23 Legislature regarding the pilot program. The report shall evaluate
24 effects of the pilot program on recidivism and make recommendations
25 regarding expansion of or changes to the program.

26 (5) For purposes of this section, technical violation has the same
27 meaning as in section 83-1,119.

28 Sec. 46. Section 83-1,135, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 83-1,135 Sections 83-170 to 83-1,135.05 and sections 39, 41, and 45
31 of this act shall be known and may be cited as the Nebraska Treatment and

1 Corrections Act.

2 Sec. 47. Section 83-1,135.02, Revised Statutes Cumulative
3 Supplement, 2022, is amended to read:

4 83-1,135.02 (1) It is the intent of the Legislature that the changes
5 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
6 with respect to parole eligibility apply to all committed offenders under
7 sentence and not on parole on May 24, 2003, and to all persons sentenced
8 on and after such date.

9 (2) It is the intent of the Legislature that the changes made to
10 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
11 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
12 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
13 sentence, on parole, or on probation on August 30, 2015, and to all
14 persons sentenced on and after such date.

15 (3) It is the intent of the Legislature that the changes made to
16 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
17 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
18 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
19 apply to all committed offenders under sentence, on parole, or on
20 probation on or after April 20, 2016, and to all persons sentenced on and
21 after such date.

22 (4) It is the intent of the Legislature that the changes made to
23 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all
24 committed offenders under sentence or on parole on or after July 19,
25 2018, and to all persons sentenced on and after such date.

26 (5) Except as otherwise provided in section 41 of this act, it is
27 the intent of the Legislature that the changes made to sections
28 83-1,100.02, 83-1,110, 83-1,111, and 83-1,114, and sections 39, 41, and
29 45 of this act by this legislative bill apply to all committed offenders
30 under sentence or on parole on or after the effective date of this
31 section, and to all persons sentenced on and after such date.

1 Sec. 48. Original sections 24-1302, 28-507, 28-518, 29-2101,
2 29-2103, 29-2204.02, 29-2221, 29-2263, 29-2269, 29-2281, 29-2315.02,
3 29-2318, 29-3001, 29-3603, 50-434, 69-2426, 69-2432, 71-5661, 71-5662,
4 71-5663, 71-5665, 71-5666, 71-5669.01, and 83-1,110, Reissue Revised
5 Statutes of Nebraska, and sections 28-101, 28-416, 28-1351, 28-1354,
6 29-2204, 29-2252, 29-2262, 43-2,108, 71-5668, 83-1,100.02, 83-1,111,
7 83-1,114, 83-1,122.01, 83-1,125.01, 83-1,135, and 83-1,135.02, Revised
8 Statutes Cumulative Supplement, 2022, are repealed.