

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 432

Introduced by McKinney, 11.

Read first time January 13, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal justice; to amend sections 28-116,
2 28-507, 28-518, 29-2204.02, 29-2221, 29-2263, 29-3603, 81-1850,
3 83-175, and 83-1,110, Reissue Revised Statutes of Nebraska, and
4 sections 28-101, 28-105, 28-416, 28-1351, 28-1354, 29-2204, 81-1848,
5 83-184, 83-1,107, 83-1,110.02, 83-1,111, 83-1,114, 83-1,122.01,
6 83-1,135, and 83-1,135.02, Revised Statutes Cumulative Supplement,
7 2022; to adopt the Second Look Act; to change provisions regarding
8 mandatory minimums, penalties and provisions relating to controlled
9 substances, theft, and burglary, sentencing, set asides, and
10 pretrial diversion; to provide for release for medical treatment; to
11 provide for good time for offenders serving mandatory minimum terms;
12 to provide for parole for offenders who have served twenty-five
13 years of their sentences; to change provisions relating to parole
14 and medical parole; to provide for geriatric parole; to provide
15 duties for courts, the Board of Parole, the State Court
16 Administrator, and the Department of Correctional Services; to
17 provide for applicability; to define terms; to harmonize provisions;
18 to provide severability; and to repeal the original sections.
19 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Second Look Act.

3 Sec. 2. For purposes of the Second Look Act:

4 (1) Board means the Board of Pardons;

5 (2) Committee means the Commutation Review Committee;

6 (3) Department means the Department of Correctional Services;

7 (4) Incarcerated individual means an individual serving a sentence
8 in a department facility;

9 (5) Petition means a petition requesting that the committee
10 recommend a sentence reduction to the board pursuant to the Second Look
11 Act;

12 (6) Prosecutor means the county attorney or other prosecuting office
13 or agency that was responsible for prosecuting the offenses that resulted
14 in the sentence or sentences that are the subject of a petition or the
15 successor of such office or agency; and

16 (7) Public defender means the office of the public defender serving
17 the county in which the committee holds hearings under the Second Look
18 Act.

19 Sec. 3. (1) The Commutation Review Committee is created. The
20 committee shall consist of one retired judge, one formerly incarcerated
21 individual, and one attorney who has worked as a public defender. The
22 committee members shall be appointed by the chairperson of the Judiciary
23 Committee of the Legislature from nominations supplied by Judiciary
24 Committee members.

25 (2) Members of the Commutation Review Committee shall serve for
26 terms of four years, except that for the initial appointments to the
27 committee, one member shall be appointed for a term of two years, one
28 member shall be appointed for a term of three years, and one member shall
29 be appointed for a term of four years. Members may be reappointed. Any
30 initial members who are reappointed shall be reappointed for terms of
31 four years.

1 (3) Any vacancy occurring otherwise than by expiration of a term
2 shall be filled for the remainder of the unexpired term in the same
3 manner as the original appointment.

4 (4) A member of the Commutation Review Committee may be removed for
5 good cause by a majority vote of the Judiciary Committee.

6 (5) Members of the Commutation Review Committee shall serve without
7 compensation, but they shall be entitled to receive reimbursement for
8 expenses incurred incident to such service as provided in sections
9 81-1174 to 81-1177.

10 Sec. 4. (1) An incarcerated individual serving a sentence of
11 imprisonment of more than fifteen and one-half years for an offense
12 committed when the individual was twenty-five years of age or younger may
13 file a petition under the Second Look Act after serving fifteen and one-
14 half years of such sentence.

15 (2) An incarcerated individual serving a sentence of imprisonment of
16 more than twenty and one-half years for an offense committed when the
17 individual was twenty-six years of age or older may file a petition under
18 the Second Look Act after serving twenty and one-half years of such
19 sentence.

20 (3) An individual described in subsection (4) of section 5 of this
21 act may file a petition on behalf of an incarcerated individual who is
22 eligible under subsection (1) or (2) of this section.

23 (4) If a petition is denied by the committee or a recommendation of
24 the committee is denied by the board, a petition concerning the same
25 sentence or sentences shall not be filed until at least two years after
26 the date of such denial, except that the committee may require a longer
27 waiting period of no more than five years from the date of such denial.

28 (5) If the board grants a sentence reduction under the Second Look
29 Act, a petition concerning the same sentence or sentences shall not be
30 filed until at least two years after the date such reduction was granted.

31 (6) In the case of an incarcerated individual who would otherwise be

1 ineligible to file a petition under this section, a petition may
2 nonetheless be filed either by the prosecutor or by the individual with
3 the consent of the prosecutor. This subsection shall apply regardless of
4 the number of years the individual has spent in custody.

5 Sec. 5. (1)(a) For each incarcerated individual sentenced to more
6 than fifteen and one-half years' imprisonment, the department, not later
7 than thirty days after the date on which the fifteenth year of such
8 imprisonment begins, shall provide written notice of the individual's
9 rights under the Second Look Act. Such written notice shall be provided
10 to the incarcerated individual and the public defender.

11 (b) The department shall provide such written notice to the
12 incarcerated individual and public defender again not later than thirty
13 days after the date on which an incarcerated individual has served twenty
14 years of a sentence of imprisonment.

15 (c) For prisoners serving sentences of imprisonment who have already
16 served fifteen and one-half years as of the effective date of this act,
17 the department shall provide the notice described in subdivision (1)(a)
18 of this section on or before November 1, 2023.

19 (2) The public defender is appointed to represent all incarcerated
20 individuals eligible to file a petition under section 4 of this act. The
21 public defender may seek assistance from private attorneys to carry out
22 this duty.

23 (3)(a) Within thirty days after receiving notice that an
24 incarcerated individual is or may in the next six months become eligible
25 to file a petition under the Second Look Act, an attorney from the office
26 of the public defender shall meet with the incarcerated individual at the
27 facility where such individual is located to discuss the petition process
28 and determine whether the individual desires representation from the
29 public defender.

30 (b) If the incarcerated individual elects to be so represented, the
31 public defender shall draft the petition and provide representation in

1 all proceedings under the Second Look Act, including any appeal.

2 (c) If the incarcerated individual refuses representation by the
3 public defender, the individual shall sign a waiver form provided by the
4 public defender. The public defender shall file such form with the
5 committee.

6 (4) A petition may be filed by the incarcerated individual, counsel
7 for the incarcerated individual, or the prosecutor. A petition may also
8 be filed by a person acting as next friend for the incarcerated
9 individual, if such individual cannot file the petition themselves and
10 the next friend is acting in the best interests of the individual.
11 Persons eligible to file a petition as a next friend shall include, but
12 are not limited to, the incarcerated individual's next of kin or
13 supporters or a licensed healthcare professional who has treated the
14 individual.

15 (5) A petition shall be in writing and may include affidavits,
16 declarations, letters, prison records, or other written and electronic
17 material. The petition shall include, at a minimum:

18 (a) The name of the petitioner;

19 (b) The name of the incarcerated individual;

20 (c) The case number or numbers;

21 (d) The offense or offenses of conviction;

22 (e) The current sentence or sentences being served for such case
23 number or numbers;

24 (f) The date of any offense and sentence that is the subject of the
25 petition;

26 (g) The name and court of the trial judge and sentencing judge;

27 (h) The specific counts for which resentencing is requested;

28 (i) A factual statement explaining how the incarcerated individual
29 meets the eligibility requirements described in section 4 of this act;
30 and

31 (j) If the petition is filed by the next friend of the incarcerated

1 individual, a factual statement explaining the petitioner's relationship
2 to the incarcerated individual, why the incarcerated individual cannot
3 file the petition themselves, and how the next friend is acting in the
4 best interests of the incarcerated individual.

5 (6) Within thirty days after receipt of a petition, the committee
6 shall provide a copy of the petition to the prosecutor and the
7 incarcerated individual, including any attached materials.

8 (7) No waiver of the right to petition under the Second Look Act
9 shall be permitted or honored by the committee.

10 Sec. 6. (1) Upon receiving a petition, the committee shall
11 determine whether the facts stated in the petition, if true, would
12 establish eligibility under section 4 of this act. If the committee
13 determines that the facts alleged in the petition, even if true, would
14 not establish eligibility, the committee shall either grant leave to
15 amend the petition or enter an order denying the petition and cause a
16 copy of such order to be provided the incarcerated individual, any
17 counsel for the individual, the prosecutor, and the petitioner, if
18 different than the individual.

19 (2) A petition may be amended with leave of the committee which the
20 committee should grant when justice so requires.

21 (3) If the committee does not deny a petition under subsection (1)
22 of this section, the committee:

23 (a) Shall acquire any file concerning the petitioner from the board;

24 (b) Shall consider the sufficiency of the petition, set a
25 progression schedule, and allow discovery;

26 (c) May direct the parties to expand the record by submitting
27 additional materials relating to the petition; and

28 (d) Shall schedule a hearing as provided in subsection (4) of this
29 section.

30 (4) Unless the committee finds good cause to hold the hearing at a
31 later date, a hearing on a petition scheduled pursuant to subsection (3)

1 of this section shall be held:

2 (a) Within forty-five days after the petition is filed if:

3 (i) The incarcerated individual has one or more medical conditions
4 leading to major limitations in activities of daily living, including,
5 but not limited to, serious mental illness or an intellectual or
6 developmental disability;

7 (ii) The incarcerated individual has one or more medical conditions
8 that make the individual more likely to contract an illness or disease
9 while incarcerated that could lead to death or cause the individual to
10 develop a medical condition that prevents the performance of one or more
11 activities of daily living without assistance. Such conditions include,
12 but are not limited to, any condition related to a weakened immune
13 system, including human immunodeficiency virus (HIV) or acquired immune
14 deficiency syndrome (AIDS); debilitating health conditions that occur as
15 a result of dementia, Alzheimer's disease, or similar degenerative brain
16 disorders; cardiovascular disease; chronic lung disease or asthma;
17 diabetes; hepatitis C; seizure disorders; the need for life-sustaining
18 care such as feeding tubes or colostomy bags; disabling neurological
19 disorders such as multiple sclerosis (MS) or amyotrophic lateral
20 sclerosis (ALS); or any condition that requires or is expected to require
21 specialty care or recurrent hospitalizations; or

22 (iii) The petition is filed by the prosecutor;

23 (b) Within ninety days after the petition is filed if subdivision
24 (4)(a) of this section does not apply and the incarcerated individual (i)
25 has served over twenty years of the sentence and (ii) is over fifty-five
26 years of age; or

27 (c) In all other cases, within one hundred eighty days after the
28 petition is filed.

29 (5) When the committee sets a hearing on the petition, the committee
30 shall give notice of the time and place of the hearing to the
31 incarcerated individual, any counsel for the individual, the prosecutor,

1 the department, and the petitioner, if different than the individual.

2 (6) In a hearing under this section, the committee may allow parties
3 to present any evidence that the committee deems relevant. Such evidence
4 may include documents, live testimony, tangible objects, or any other
5 class of evidence or information pertinent to sentencing. The committee
6 has exclusive discretion to determine the relevance of any proposed
7 evidence. At such a hearing, the incarcerated individual shall have the
8 right to testify or to remain silent at the individual's sole discretion.

9 (7) At a hearing under this section, the incarcerated individual
10 shall be present unless the incarcerated individual waives the right to
11 be present. This requirement may be satisfied by the incarcerated
12 individual appearing by video teleconference if such individual consents
13 to such method of appearance.

14 (8) Any hearing under this section shall be recorded or transcribed.

15 Sec. 7. (1) The committee shall consider all evidence relevant to
16 the propriety of a reduction in sentencing, which shall include, but is
17 not limited to:

18 (a) The history and characteristics of the incarcerated individual
19 at the time of the petition for a reduction in sentence, including
20 rehabilitation demonstrated by the individual, the individual's
21 disciplinary record while incarcerated, and the individual's efforts to
22 participate in educational, therapeutic, and vocational opportunities
23 while imprisoned;

24 (b) The age of the incarcerated individual at the time of the
25 offense and relevant research regarding child, adolescent, and young
26 adult brain development;

27 (c) The age of the incarcerated individual at the time of the
28 hearing and relevant research regarding the decline in criminal behavior
29 as individuals grow older;

30 (d) The nature of the offense, including changing societal attitudes
31 regarding the propriety of criminalizing the offense and the appropriate

1 sentence for the offense;

2 (e) The circumstances of the offense, including the incarcerated
3 individual's role in its commission, whether the individual was under the
4 influence of another, and the proportionality of the individual's
5 sentence compared to that received by other parties to the offense;

6 (f) The circumstances of the incarcerated individual's
7 incarceration, including the individual's conditions of confinement, the
8 impact of the individual's incarceration on the community, and any
9 evidence that the individual was subjected to physical, sexual, or
10 psychological abuse while incarcerated;

11 (g) Any evidence concerning the incarcerated individual's current
12 physical or mental health and the individual's health at the time of the
13 offense;

14 (h) Any evidence that the incarcerated individual was denied
15 effective assistance of counsel at any stage in the case leading to the
16 original sentence, including ineffective assistance of counsel during
17 plea bargaining;

18 (i) Any evidence that the incarcerated individual was wrongfully
19 convicted;

20 (j) Any evidence that the incarcerated individual was subjected to
21 human trafficking and that such victimization was a contributing factor
22 to the individual's criminal behavior;

23 (k) Any evidence that the incarcerated individual was subjected to
24 physical, sexual, or psychological abuse by an intimate partner or a
25 family or household member and that such victimization was a contributing
26 factor to the individual's criminal behavior; and

27 (1) Any other information the committee deems relevant.

28 (2) The committee's decision shall be made using a preponderance of
29 the evidence standard.

30 (3) The committee shall issue a written decision setting forth its
31 findings, any recommended reduction of sentence, and reasons for its

1 decision. The written decision shall be issued within thirty days after
2 the hearing. The decision and recommendation of the committee shall be by
3 a majority vote. The committee shall provide a copy of the written
4 decision to the incarcerated individual, the petitioner, if different,
5 counsel for the individual, the prosecutor, and the board.

6 (4)(a) If the committee determines to grant the petition and
7 recommend a sentence reduction, the board shall consider the
8 recommendation at the hearing next following receipt of the written
9 decision under subsection (3) of this section. At such hearing the board
10 shall determine whether to follow or reject the recommendation.

11 (b) It is the intent of the Legislature that the board shall follow
12 the recommendations when there is a reasonable probability that the
13 incarcerated individual will remain at liberty without again violating
14 the law or the conditions of parole.

15 (c) If an application for commutation is denied, the board must
16 advise the committee as to the specific reasons for the decision, and
17 state how the incarcerated individual can improve the likelihood of
18 success for any future petition.

19 Sec. 8. The following shall apply to the committee's recommendation
20 regarding a recommended sentence reduction:

21 (1) The committee shall credit the incarcerated individual with any
22 credit for time served as provided in law;

23 (2) If subdivision (4)(a) of section 6 of this act applies, there
24 shall be a rebuttable presumption that the incarcerated individual's
25 sentence shall be reduced to time served;

26 (3) If the committee finds that the incarcerated individual does not
27 pose a significant risk to the community, there shall be a rebuttable
28 presumption that the individual's sentence shall be reduced by at least
29 twenty percent or to no longer than five years of incarceration following
30 the date of the filing of the petition. The committee shall apply
31 whichever standard is shorter;

1 (4) If the petition was filed by the prosecutor, any new term of
2 incarceration shall not exceed the recommendation of the prosecutor;

3 (5) In calculating the new term to be served by the incarcerated
4 individual, the committee shall recommend a sentence of time served,
5 immediate parole, or a term of years. The committee shall not recommend
6 life, whether with or without parole; and

7 (6) The committee is not authorized to recommend any increase to an
8 incarcerated individual's sentence.

9 Sec. 9. (1) For purposes of this section, victim has the same
10 meaning as in section 29-119.

11 (2) Upon receipt of the notice that a resentencing recommendation
12 hearing is scheduled, the department shall promptly notify any victim of
13 the incarcerated individual of the hearing date.

14 (3) The victim, or the victim's guardian or representative, has the
15 right to appear and the right, as otherwise provided by law, to make an
16 impact statement, oral or written, at the hearing.

17 (4) The committee has no authority, in recommending a reduction of
18 sentence, to disturb any restitution awarded to a victim.

19 Sec. 10. (1) An appeal may be taken from proceedings before the
20 committee on the grounds that:

21 (a) The committee unlawfully denied a petitioner's request for a
22 hearing;

23 (b) The committee's denial of a petition was unlawful or decided in
24 an unlawful manner;

25 (c) A sentence reduction recommended by the committee was unlawful
26 or decided in an unlawful manner; or

27 (d) A sentence reduction recommended by the committee was
28 insufficient in light of the facts of the case and the purposes of the
29 Second Look Act.

30 (2) Such appeal may be made by the incarcerated individual, the
31 petitioner if different than the incarcerated individual, any attorney

1 representing the incarcerated individual, or by a next friend described
2 in subsection (4) of section 5 of this act.

3 (3) An appeal under this section shall be as of right on the same
4 terms as a first appeal from an initial sentence at the time of
5 conviction. Notice of appeal, and related materials required to perfect
6 an appeal, will be submitted to the committee within thirty days after
7 issuance of the written order or decision being appealed. The case will
8 then be docketed with the Court of Appeals according to appellate
9 procedures.

10 Sec. 11. (1) The Second Look Act shall not be construed to abridge
11 or modify any existing remedy an incarcerated individual may have under
12 sections 29-3001 to 29-3004, habeas corpus, or any other form of
13 postconviction relief. Denial of a petition by the committee or denial of
14 commutation by the board shall not preclude any such remedies from being
15 pursued or granted.

16 (2) A petition under the Second Look Act shall not impact in any way
17 or be impacted in any way by any pending proceedings under sections
18 29-3001 to 29-3004 or by any other pending habeas corpus or
19 postconviction proceedings.

20 Sec. 12. Section 28-101, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
23 and section 15 of this act shall be known and may be cited as the
24 Nebraska Criminal Code.

25 Sec. 13. Section 28-105, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 28-105 (1) For purposes of the Nebraska Criminal Code and any
28 statute passed by the Legislature after the date of passage of the code,
29 felonies are divided into ten classes which are distinguished from one
30 another by the following penalties which are authorized upon conviction:

31 Class I felony Death

1	Class IA felony	Life imprisonment
2	Class IB felony	Maximum—life imprisonment
3		Minimum—twenty years imprisonment
4	Class IC felony	Maximum—fifty years imprisonment
5		Mandatory minimum—five years imprisonment
6		<u>(except as provided in section 15 of this act)</u>
7	Class ID felony	Maximum—fifty years imprisonment
8		Mandatory minimum—three years imprisonment
9		<u>(except as provided in section 15 of this act)</u>
10	Class II felony	Maximum—fifty years imprisonment
11		Minimum—one year imprisonment
12	Class IIA felony	Maximum—twenty years imprisonment
13		Minimum—none
14	Class III felony	Maximum—four years imprisonment and two years
15		post-release supervision or
16		twenty-five thousand dollars fine, or both
17		Minimum—none for imprisonment and nine months
18		post-release supervision if imprisonment is imposed
19	Class IIIA felony	Maximum—three years imprisonment
20		and eighteen months post-release supervision or
21		ten thousand dollars fine, or both
22		Minimum—none for imprisonment and nine months
23		post-release supervision if imprisonment is imposed
24	Class IV felony	Maximum—two years imprisonment and twelve
25		months post-release supervision or
26		ten thousand dollars fine, or both
27		Minimum—none for imprisonment and none for
28		post-release supervision

29 (2) All sentences for maximum terms of imprisonment for one year or
30 more for felonies shall be served in institutions under the jurisdiction

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

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

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

9 (5) All sentences of post-release supervision shall be served under
10 the jurisdiction of the Office of Probation Administration and shall be
11 subject to conditions imposed pursuant to section 29-2262 and subject to
12 sanctions authorized pursuant to section 29-2266.02.

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

17 (7) Any person who is sentenced to imprisonment for a Class III,
18 IIIA, or IV felony committed prior to August 30, 2015, and sentenced
19 concurrently or consecutively to imprisonment for a Class III, IIIA, or
20 IV felony committed on or after August 30, 2015, shall not be subject to
21 post-release supervision pursuant to subsection (1) of this section.

22 (8) The changes made to the penalties for Class III, IIIA, and IV
23 felonies by Laws 2015, LB605, do not apply to any offense committed prior
24 to August 30, 2015, as provided in section 28-116.

25 Sec. 14. Section 28-116, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-116 (1) The changes made to the sections listed in this
28 subsection ~~section~~ by Laws 2015, LB605, shall not apply to any offense
29 committed prior to August 30, 2015. Any such offense shall be construed
30 and punished according to the provisions of law existing at the time the
31 offense was committed. For purposes of this subsection ~~section~~, an

1 offense shall be deemed to have been committed prior to August 30, 2015,
2 if any element of the offense occurred prior to such date. The following
3 sections are subject to this provision: Sections 9-262, 9-352, 9-434,
4 9-652, 23-135.01, 28-105, 28-106, 28-201, 28-204, 28-305, 28-306, 28-309,
5 28-310.01, 28-311, 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02,
6 28-322.03, 28-322.04, 28-323, 28-393, 28-394, 28-397, 28-416, 28-504,
7 28-507, 28-514, 28-518, 28-519, 28-603, 28-604, 28-611, 28-611.01,
8 28-620, 28-621, 28-622, 28-627, 28-631, 28-638, 28-639, 28-703, 28-707,
9 28-813.01, 28-912, 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104,
10 28-1212.03, 28-1222, 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816,
11 29-2204, 29-2260, 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017,
12 68-1017.01, 71-2228, and 71-2229.

13 (2) Except as otherwise provided in the sections listed in this
14 subsection, the changes made to the sections listed in this subsection by
15 this legislative bill shall apply to offenses committed before, on, or
16 after the effective date of this act for which a final judgment has not
17 been entered as of the effective date of this act. The following sections
18 are subject to this provision: Sections 28-105, 28-416, 28-507, 28-518,
19 28-1351, 28-1354, 29-2204, 29-2204.02, and 29-2221 and sections 15 and 23
20 of this act.

21 Sec. 15. A mandatory minimum sentence shall not be imposed for a
22 violation of section 28-416. The minimum term of imprisonment for a
23 violation of section 28-416 shall not be a mandatory minimum but a
24 minimum term only.

25 Sec. 16. Section 28-416, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 28-416 (1) Except as authorized by the Uniform Controlled Substances
28 Act, it shall be unlawful for any person knowingly or intentionally: (a)
29 To manufacture, distribute, deliver, dispense, or possess with intent to
30 manufacture, distribute, deliver, or dispense a controlled substance; or
31 (b) to create, distribute, or possess with intent to distribute a

1 counterfeit controlled substance.

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

11 (3)(a) ~~(3)~~ A person knowingly or intentionally possessing a
12 controlled substance, except marijuana or any substance containing a
13 quantifiable amount of the substances, chemicals, or compounds described,
14 defined, or delineated in subdivision (c)(26) of Schedule I of section
15 28-405, unless such substance was obtained directly or pursuant to a
16 medical order issued by a practitioner authorized to prescribe while
17 acting in the course of his or her professional practice, or except as
18 otherwise authorized by the act, shall:

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

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

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

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

29 (4)(a) Except as authorized by the Uniform Controlled Substances
30 Act, any person eighteen years of age or older who knowingly or
31 intentionally manufactures, distributes, delivers, dispenses, or

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

16 (b) For purposes of this subsection:

17 (i) Playground means any outdoor facility, including any parking lot
18 appurtenant to the facility, intended for recreation, open to the public,
19 and with any portion containing three or more apparatus intended for the
20 recreation of children, including sliding boards, swingsets, and
21 teeterboards;

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

26 (iii) Youth center means any recreational facility or gymnasium,
27 including any parking lot appurtenant to the facility or gymnasium,
28 intended primarily for use by persons under eighteen years of age which
29 regularly provides athletic, civic, or cultural activities.

30 (5)(a) Except as authorized by the Uniform Controlled Substances
31 Act, it shall be unlawful for any person eighteen years of age or older

1 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
2 induce, entice, seduce, or coerce any person under the age of eighteen
3 years to manufacture, transport, distribute, carry, deliver, dispense,
4 prepare for delivery, offer for delivery, or possess with intent to do
5 the same a controlled substance or a counterfeit controlled substance.

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

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

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

25 (7) Any person who violates subsection (1) of this section with
26 respect to cocaine or any mixture or substance containing a detectable
27 amount of cocaine in a quantity of:

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

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

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

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

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

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

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

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

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

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

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

21 (10) Any person who violates subsection (1) of this section with
22 respect to amphetamine, its salts, optical isomers, and salts of its
23 isomers, or with respect to methamphetamine, its salts, optical isomers,
24 and salts of its isomers, in a quantity of:

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

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

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

31 (11) Any person knowingly or intentionally possessing marijuana

1 weighing more than one ounce but not more than one pound shall be guilty
2 of a Class III misdemeanor.

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

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

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

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

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

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

26 (15) Any person convicted of violating this section, if sentenced to
27 the Department of Correctional Services, shall attend appropriate
28 treatment and counseling on drug abuse.

29 (16) Any person knowingly or intentionally possessing a firearm
30 while in violation of subsection (1) of this section shall be punished by
31 the next higher penalty classification than the penalty prescribed in

1 subsection (2), (7), (8), (9), or (10) of this section, but in no event
2 shall such person be punished by a penalty greater than a Class IB
3 felony.

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

7 (18) In addition to the existing penalties available for a violation
8 of subsection (1) of this section, including any criminal attempt or
9 conspiracy to violate subsection (1) of this section, a sentencing court
10 may order that any money, securities, negotiable instruments, firearms,
11 conveyances, or electronic communication devices as defined in section
12 28-833 or any equipment, components, peripherals, software, hardware, or
13 accessories related to electronic communication devices be forfeited as a
14 part of the sentence imposed if it finds by clear and convincing evidence
15 adduced at a separate hearing in the same prosecution, following
16 conviction for a violation of subsection (1) of this section, and
17 conducted pursuant to section 28-1601, that any or all such property was
18 derived from, used, or intended to be used to facilitate a violation of
19 subsection (1) of this section.

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

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

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

28 (ii) For a second offense, the court may, as a part of the judgment
29 of conviction or adjudication, (A) impound any such licenses or permits
30 for ninety days and (B) require such person to complete no fewer than
31 twenty and no more than forty hours of community service and to attend a

1 drug education class; and

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

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

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

16 (ii) For a second offense, the court may, as part of the judgment of
17 conviction or adjudication, (A) prohibit such person from obtaining any
18 permit or any license pursuant to the act for which such person would
19 otherwise be eligible until ninety days after the date of such order and
20 (B) require such person to complete no fewer than twenty hours and no
21 more than forty hours of community service and to attend a drug education
22 class; and

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

30 A copy of an abstract of the court's conviction or adjudication
31 shall be transmitted to the Director of Motor Vehicles pursuant to

1 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
2 juvenile is prohibited from obtaining a license or permit under this
3 subsection.

4 Sec. 17. Section 28-507, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 28-507 (1)(a) (1) A person commits burglary in the first degree if
7 such person willfully, maliciously, and forcibly breaks and enters any
8 dwelling real estate or any improvements erected thereon with intent to
9 commit any felony or with intent to steal property of any value.

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

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

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

16 (3)(a) A person commits burglary in the third degree if such person
17 willfully, maliciously, and forcibly breaks and enters any real estate or
18 any improvements erected thereon, other than a dwelling, while
19 unoccupied, with intent to commit any felony or with intent to steal
20 property of any value.

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

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

25 Sec. 18. Section 28-518, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-518 (1) Theft constitutes a Class IIA felony when the value of
28 the thing involved is five thousand dollars or more.

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

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

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

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

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

13 (7) For a prior conviction to be used to enhance the penalty under
14 subsection (5) or (6) of this section, the prior conviction must have
15 occurred no more than ten years prior to the date of commission of the
16 current offense.

17 (8) ~~(7)~~ Amounts taken pursuant to one scheme or course of conduct
18 from one or more persons may be aggregated in the indictment or
19 information in determining the classification of the offense, except that
20 amounts may not be aggregated into more than one offense.

21 (9) ~~(8)~~ In any prosecution for theft under sections 28-509 to
22 28-518, value shall be an essential element of the offense that must be
23 proved beyond a reasonable doubt.

24 Sec. 19. Section 28-1351, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 28-1351 (1) A person commits the offense of unlawful membership
27 recruitment into an organization or association when he or she knowingly
28 and intentionally coerces, intimidates, threatens, or inflicts bodily
29 harm upon another person in order to entice that other person to join or
30 prevent that other person from leaving any organization, group,
31 enterprise, or association whose members, individually or collectively,

1 engage in or have engaged in any of the following criminal acts for the
2 benefit of, at the direction of, or on behalf of the organization, group,
3 enterprise, or association or any of its members:

4 (a) Robbery under section 28-324;

5 (b) Arson in the first, second, or third degree under section
6 28-502, 28-503, or 28-504, respectively;

7 (c) Burglary in the first, second, or third degree under section
8 28-507;

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

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

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

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

18 (h) Assault on an officer, an emergency responder, a state
19 correctional employee, a Department of Health and Human Services
20 employee, or a health care professional in the first, second, or third
21 degree under section 28-929, 28-930, or 28-931, respectively, or assault
22 on an officer, an emergency responder, a state correctional employee, a
23 Department of Health and Human Services employee, or a health care
24 professional using a motor vehicle under section 28-931.01;

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

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

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

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

29 (m) Kidnapping under section 28-313;

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

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

1 (p) Tampering with a publicly exhibited contest under section
2 28-614;

3 (q) Unauthorized use of a financial transaction device or criminal
4 possession of a financial transaction device under section 28-620 or
5 28-621, respectively;

6 (r) Pandering under section 28-802;

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

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

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

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

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

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

17 Sec. 20. Section 28-1354, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 28-1354 For purposes of the Public Protection Act:

20 (1) Enterprise means any individual, sole proprietorship,
21 partnership, corporation, trust, association, or any legal entity, union,
22 or group of individuals associated in fact although not a legal entity,
23 and shall include illicit as well as licit enterprises as well as other
24 entities;

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

31 (3) Until January 1, 2017, person means any individual or entity, as

1 defined in section 21-2014, holding or capable of holding a legal,
2 equitable, or beneficial interest in property. Beginning January 1, 2017,
3 person means any individual or entity, as defined in section 21-214,
4 holding or capable of holding a legal, equitable, or beneficial interest
5 in property;

6 (4) Prosecutor includes the Attorney General of the State of
7 Nebraska, the deputy attorney general, assistant attorneys general, a
8 county attorney, a deputy county attorney, or any person so designated by
9 the Attorney General, a county attorney, or a court of the state to carry
10 out the powers conferred by the act;

11 (5) Racketeering activity includes the commission of, criminal
12 attempt to commit, conspiracy to commit, aiding and abetting in the
13 commission of, aiding in the consummation of, acting as an accessory to
14 the commission of, or the solicitation, coercion, or intimidation of
15 another to commit or aid in the commission of any of the following:

16 (a) Offenses against the person which include: Murder in the first
17 degree under section 28-303; murder in the second degree under section
18 28-304; manslaughter under section 28-305; assault in the first degree
19 under section 28-308; assault in the second degree under section 28-309;
20 assault in the third degree under section 28-310; terroristic threats
21 under section 28-311.01; kidnapping under section 28-313; false
22 imprisonment in the first degree under section 28-314; false imprisonment
23 in the second degree under section 28-315; sexual assault in the first
24 degree under section 28-319; and robbery under section 28-324;

25 (b) Offenses relating to controlled substances which include: To
26 unlawfully manufacture, distribute, deliver, dispense, or possess with
27 intent to manufacture, distribute, deliver, or dispense a controlled
28 substance under subsection (1) of section 28-416; possession of marijuana
29 weighing more than one pound under subsection (12) of section 28-416;
30 possession of money used or intended to be used to facilitate a violation
31 of subsection (1) of section 28-416 prohibited under subsection (17) of

1 section 28-416; any violation of section 28-418; to unlawfully
2 manufacture, distribute, deliver, or possess with intent to distribute or
3 deliver an imitation controlled substance under section 28-445;
4 possession of anhydrous ammonia with the intent to manufacture
5 methamphetamine under section 28-451; and possession of ephedrine,
6 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
7 methamphetamine under section 28-452;

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

18 (d) Offenses involving fraud which include: Burning to defraud an
19 insurer under section 28-505; forgery in the first degree under section
20 28-602; forgery in the second degree under section 28-603; criminal
21 possession of a forged instrument under section 28-604; criminal
22 possession of written instrument forgery devices under section 28-605;
23 criminal impersonation under section 28-638; identity theft under section
24 28-639; identity fraud under section 28-640; false statement or book
25 entry under section 28-612; tampering with a publicly exhibited contest
26 under section 28-614; issuing a false financial statement for purposes of
27 obtaining a financial transaction device under section 28-619;
28 unauthorized use of a financial transaction device under section 28-620;
29 criminal possession of a financial transaction device under section
30 28-621; unlawful circulation of a financial transaction device in the
31 first degree under section 28-622; unlawful circulation of a financial

1 transaction device in the second degree under section 28-623; criminal
2 possession of a blank financial transaction device under section 28-624;
3 criminal sale of a blank financial transaction device under section
4 28-625; criminal possession of a financial transaction forgery device
5 under section 28-626; unlawful manufacture of a financial transaction
6 device under section 28-627; laundering of sales forms under section
7 28-628; unlawful acquisition of sales form processing services under
8 section 28-629; unlawful factoring of a financial transaction device
9 under section 28-630; and fraudulent insurance acts under section 28-631;

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

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

31 (g) Offenses relating to firearms, weapons, and explosives which

1 include: Carrying a concealed weapon under section 28-1202;
2 transportation or possession of machine guns, short rifles, or short
3 shotguns under section 28-1203; unlawful possession of a handgun under
4 section 28-1204; unlawful transfer of a firearm to a juvenile under
5 section 28-1204.01; possession of a firearm by a prohibited juvenile
6 offender under section 28-1204.05; using a deadly weapon to commit a
7 felony or possession of a deadly weapon during the commission of a felony
8 under section 28-1205; possession of a deadly weapon by a prohibited
9 person under section 28-1206; possession of a defaced firearm under
10 section 28-1207; defacing a firearm under section 28-1208; unlawful
11 discharge of a firearm under section 28-1212.02; possession, receipt,
12 retention, or disposition of a stolen firearm under section 28-1212.03;
13 unlawful possession of explosive materials in the first degree under
14 section 28-1215; unlawful possession of explosive materials in the second
15 degree under section 28-1216; unlawful sale of explosives under section
16 28-1217; use of explosives without a permit under section 28-1218;
17 obtaining an explosives permit through false representations under
18 section 28-1219; possession of a destructive device under section
19 28-1220; threatening the use of explosives or placing a false bomb under
20 section 28-1221; using explosives to commit a felony under section
21 28-1222; using explosives to damage or destroy property under section
22 28-1223; and using explosives to kill or injure any person under section
23 28-1224;

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

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

28 (j) Offenses relating to public health and morals which include:
29 Prostitution under section 28-801; pandering under section 28-802;
30 keeping a place of prostitution under section 28-804; labor trafficking,
31 sex trafficking, labor trafficking of a minor, or sex trafficking of a

1 minor under section 28-831; a violation of section 28-1005; and any act
2 relating to the visual depiction of sexually explicit conduct prohibited
3 in the Child Pornography Prevention Act; and

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

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

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

9 (a) Incurred or contracted in gambling activity which was in
10 violation of federal law or the law of the state or which is
11 unenforceable under state or federal law in whole or in part as to
12 principal or interest because of the laws relating to usury; or

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

17 Sec. 21. Section 29-2204, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

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

25 (a)(i) For an offense not listed in subdivision (1)(a)(ii) of this
26 section, the minimum term fixed by the court shall be any term of years
27 less than or equal to one-third of the maximum limit provided by law; or

28 (ii) For a violation of section 28-316.01, 28-319, 28-319.01,
29 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04,
30 or 28-322.05, the minimum term fixed by the court shall be any term of
31 years less than or equal to seventy percent of the maximum term imposed

1 by the court; or

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

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

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

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

9 (b) A term of life imprisonment.

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

12 (a) A term of life imprisonment; or

13 (b) Any term of years not less than the minimum limit provided by
14 law after consideration of the mitigating factors in section 28-105.02,
15 if the defendant was under eighteen years of age at the time he or she
16 committed the crime for which he or she was convicted.

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

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

30 (6)(a) When determining whether to impose a consecutive or
31 concurrent sentence, a court shall impose a concurrent sentence unless

1 the court, on the record, identifies one or more aggravating factors
2 under section 23 of this act that necessitate a consecutive sentence.

3 (b) This subsection does not apply when a consecutive sentence is
4 required by statute.

5 (7)(a) ~~(6)(a)~~ When imposing an indeterminate sentence upon an
6 offender under this section, the court shall:

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

11 (ii) Advise the offender on the record the time the offender will
12 serve on his or her maximum term before attaining mandatory release
13 assuming that no good time for which the offender will be eligible is
14 lost.

15 (b) If any discrepancy exists between the statement of the minimum
16 limit of the sentence and the statement of parole eligibility or between
17 the statement of the maximum limit of the sentence and the statement of
18 mandatory release, the statements of the minimum limit and the maximum
19 limit shall control the calculation of the offender's term.

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

24 Sec. 22. Section 29-2204.02, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 29-2204.02 (1) Except when a term of probation is required by law as
27 provided in subsection (2) of this section or except as otherwise
28 provided in subsection (4) of this section, in imposing a sentence upon
29 an offender for a Class III, IIIA, or IV felony, the court shall:

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

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

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

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

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

10 (c) There are substantial and compelling reasons why the defendant
11 cannot effectively and safely be supervised in the community, including,
12 but not limited to, the criteria in subsections (2) and (3) of section
13 29-2260. Unless other reasons are found to be present, that the offender
14 has not previously succeeded on probation is not, standing alone, a
15 substantial and compelling reason.

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

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

29 (5) For any sentence of imprisonment for a misdemeanor imposed
30 consecutively or concurrently with a sentence of imprisonment for a Class
31 III, IIIA, or IV felony for an offense committed on or after August 30,

1 2015, the court shall impose a determinate sentence within the applicable
2 range in section 28-106 unless the person is also committed to the
3 Department of Correctional Services in accordance with section 29-2204
4 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony
5 committed prior to August 30, 2015, or (b) a sentence of imprisonment for
6 a Class I, IA, IB, IC, ID, II, or IIA felony.

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

12 (7)(a) When determining whether to impose a consecutive or
13 concurrent sentence, a court shall impose a concurrent sentence unless
14 the court, on the record, identifies one or more aggravating factors
15 under section 23 of this act that necessitate a consecutive sentence.

16 (b) This subsection does not apply when a consecutive sentence is
17 required by statute.

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

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

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

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

31 (b) If a period of post-release supervision is required but not

1 imposed by the sentencing court, the term of post-release supervision
2 shall be the minimum provided by law.

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

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

11 Sec. 23. Except when a consecutive sentence is required by statute,
12 a court shall not order a sentence to run consecutive to another
13 sentence, whether being imposed at the same time or already being served,
14 unless the court finds, on the record, that at least one of the following
15 aggravating factors applies:

16 (1) The offenses occurred on different days;

17 (2) The offenses involved the use of force or threat of serious
18 bodily harm against separate victims;

19 (3) One of the offenses was a violation of section 28-316.01,
20 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02,
21 28-322.03, 28-322.04, or 28-322.05 or otherwise involved a sexual
22 assault; or

23 (4) One of the offenses was especially heinous, atrocious, or cruel
24 or manifested exceptional depravity by ordinary standards of morality and
25 intelligence.

26 Sec. 24. Section 29-2221, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 29-2221 (1) Whoever has been twice convicted of a covered felony
29 crime, sentenced, and committed to prison, in this or any other state or
30 by the United States or once in this state and once at least in any other
31 state or by the United States, for terms of not less than one year each

1 shall, upon conviction of any a felony committed in this state, be deemed
2 to be a habitual criminal and shall be punished by imprisonment in a
3 Department of Correctional Services adult correctional facility for a
4 mandatory minimum term of ten years and a maximum term of not more than
5 sixty years, except that:

6 (a) If the felony committed is in violation of section 28-303,
7 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,
8 and at least one of the habitual criminal's prior covered felony
9 convictions was for a violation of one of the sections listed in this
10 subdivision or of a similar statute in another state or of the United
11 States, the mandatory minimum term shall be twenty-five years and the
12 maximum term not more than sixty years;

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

22 (c) If a greater punishment is otherwise provided by statute, the
23 law creating the greater punishment shall govern.

24 (2) When punishment of an accused as a habitual criminal is sought,
25 the facts with reference thereto shall be charged in the indictment or
26 information which contains the charge of the felony upon which the
27 accused is prosecuted, but the fact that the accused is charged with
28 being a habitual criminal shall not be an issue upon the trial of the
29 felony charge and shall not in any manner be disclosed to the jury. If
30 the accused is convicted of a felony, before sentence is imposed a
31 hearing shall be had before the court alone as to whether such person has

1 been previously convicted of prior covered felonies. The court shall fix
2 a time for the hearing and notice thereof shall be given to the accused
3 at least three days prior thereto. At the hearing, if the court finds
4 from the evidence submitted that the accused has been convicted two or
5 more times of covered felonies and sentences imposed therefor by the
6 courts of this or any other state or by the United States, the court
7 shall sentence such person so convicted as a habitual criminal.

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

13 (4) For purposes of this section:

14 (a) Covered felony means:

15 (i) A felony violation of any of the following sections: Section
16 28-303, 28-304, 28-305, 28-306, 28-308, 28-309, 28-310.01, 28-311,
17 28-311.01, 28-311.03, 28-311.08, 28-313, 28-314, 28-316.01, 28-319,
18 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.02, 28-322.03, 28-322.04,
19 28-322.05, 28-323, 28-324, 28-386, 28-391, 28-392, 28-393, 28-394,
20 28-397, 28-398, 28-502, 28-503, 28-507, 28-703, 28-707, 28-813.01,
21 28-831, 28-833, 28-904, 28-905, 28-912, 28-929, 28-930, 28-931,
22 28-931.01, 28-932, 28-933, 28-934, 28-1005, 28-1009, 28-1105.01, 28-1205,
23 28-1212.02, 28-1212.04, 28-1221, 28-1222, 28-1223, 28-1224, 28-1351,
24 28-1463.03, or 28-1463.05;

25 (ii) A felony that has as an element of the offense:

26 (A) Sexual contact or sexual penetration; or

27 (B) The threat to inflict serious bodily injury or death on another
28 person, the infliction of serious bodily injury on another person, or
29 causing the death of another person;

30 (iii) Attempt, solicitation, aiding or abetting, being an accessory,
31 or conspiracy to commit an offense listed in subdivision (4)(a)(i) or

- 1 (ii) of this section; or
2 (iv) A felony violation of an offense of any other state or of the
3 United States that is substantially equivalent to any offense listed in
4 subdivision (4)(a)(i), (ii), or (iii) of this section;
5 (b) Serious bodily injury has the same meaning as in section 28-109;
6 and
7 (c) Sexual contact and sexual penetration have the same meanings as
8 in section 28-318.

9 Sec. 25. Section 29-2263, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 29-2263 (1)(a) ~~(1)~~ Except as provided in subsection (2) of this
12 section, when a court has sentenced an offender to probation, the court
13 shall specify the term of such probation which shall be not more than
14 five years upon conviction of a felony or second offense misdemeanor and
15 two years upon conviction of a first offense misdemeanor.

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

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

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

30 (3) During the term of probation, the court on application of a
31 probation officer or of the probationer, or its own motion, may modify or

1 eliminate any of the conditions imposed on the probationer or add further
2 conditions authorized by section 29-2262. This subsection does not
3 preclude a probation officer from imposing administrative sanctions with
4 the probationer's full knowledge and consent as authorized by sections
5 29-2266.01 and 29-2266.02.

6 (4)(a) ~~(4)~~ Upon completion of the term of probation, or the earlier
7 discharge of the probationer, the probationer shall be relieved of any
8 obligations imposed by the order of the court and shall have satisfied
9 the sentence for his or her crime.

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

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

26 Sec. 26. Section 29-3603, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 29-3603 A pretrial diversion plan for criminal offenses shall
29 include, but not be limited to:

30 (1) Formal eligibility guidelines established following consultation
31 with criminal justice officials and program representatives. The

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

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

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

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

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

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

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

25 Sec. 27. Section 81-1848, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 81-1848 (1) Victims as defined in section 29-119 shall have the
28 following rights:

29 (a) To examine information which is a matter of public record and
30 collected by criminal justice agencies on individuals consisting of
31 identifiable descriptions and notations of issuance of arrest warrants,

1 arrests, detentions, indictments, charges by information, and other
2 formal criminal charges. Such information shall include any disposition
3 arising from such arrests, charges, sentencing, correctional supervision,
4 and release, but shall not include intelligence or investigative
5 information;

6 (b) To receive from the county attorney advance reasonable notice of
7 any scheduled court proceedings and notice of any changes in that
8 schedule;

9 (c) To be present throughout the entire trial of the defendant,
10 unless the victim is to be called as a witness or the court finds
11 sequestration of the victim necessary for a fair trial. If the victim is
12 to be called as a witness, the court may order the victim to be
13 sequestered;

14 (d) To be notified by the county attorney by any means reasonably
15 calculated to give prompt actual notice of the following:

16 (i) The crimes for which the defendant is charged, the defendant's
17 bond, and the time and place of any scheduled court proceedings;

18 (ii) The final disposition of the case;

19 (iii) The crimes for which the defendant was convicted;

20 (iv) The victim's right to make a written or oral impact statement
21 to be used in the probation officer's preparation of a presentence
22 investigation report concerning the defendant;

23 (v) The address and telephone number of the probation office which
24 is to prepare the presentence investigation report;

25 (vi) That a presentence investigation report and any statement by
26 the victim included in such report will be made available to the
27 defendant unless exempted from disclosure by order of the court;~~and~~

28 (vii) The victim's right to submit a written impact statement at the
29 sentencing proceeding or to read his or her impact statement submitted
30 pursuant to subdivision (1)(d)(iv) of this section at the sentencing
31 proceeding; and

1 (viii) Any petition filed by the defendant under the Second Look
2 Act;

3 (e) To be notified by the county attorney by any means reasonably
4 calculated to give prompt actual notice of the time and place of any
5 subsequent judicial proceedings if the defendant was acquitted on grounds
6 of insanity;

7 (f) To be notified as provided in section 81-1850, to testify before
8 the Board of Parole or submit a written statement for consideration by
9 the board, and to be notified of the decision of and any action taken by
10 the board;

11 (g) To receive from the county attorney advance reasonable notice of
12 any scheduled proceedings under the Second Look Act and notice of any
13 changes in that schedule;

14 (h) To submit a written statement and testify in any proceeding
15 under the Second Look Act and to be notified of any decision in such
16 proceeding;

17 (i) ~~(g)~~ To submit a written statement for consideration at any
18 conditional release proceedings, Board of Parole proceedings, pardon
19 proceedings, or commutation proceedings. Conditional release proceeding
20 means a proceeding convened pursuant to a Department of Correctional
21 Services' decision to grant a furlough from incarceration for twenty-four
22 hours or longer or a release into community-based programs, including
23 educational release and work release; and

24 (j) ~~(h)~~ To have any personal identifying information, other than the
25 victim's name, not be disclosed on pleadings and documents filed in
26 criminal actions that may be available to the public. The Supreme Court
27 shall adopt and promulgate rules to implement this subdivision.

28 (2) Victims and witnesses of crimes shall have the following rights:

29 (a) To be informed on all writs of subpoena or notices to appear
30 that they are entitled to apply for and may receive a witness fee;

31 (b) To be notified that a court proceeding to which they have been

1 subpoenaed will not go on as scheduled in order to save the person an
2 unnecessary trip to court;

3 (c) To receive protection from harm and threats of harm arising out
4 of their cooperation with law enforcement and prosecution efforts and to
5 be provided with information as to the level of protection available;

6 (d) To be informed of financial assistance and other social services
7 available as a result of being a witness or a victim of a crime,
8 including information on how to apply for the assistance and services;

9 (e) To be informed of the procedure to be followed in order to apply
10 for and receive any witness fee to which they are entitled;

11 (f) To be provided, whenever possible, a secure waiting area during
12 court proceedings that does not require them to be in close proximity to
13 defendants and families and friends of defendants;

14 (g) To have any stolen or other personal property expeditiously
15 returned by law enforcement agencies when no longer needed as evidence.
16 If feasible, all such property, except weapons, currency, contraband,
17 property subject to evidentiary analysis, and property the ownership of
18 which is disputed, shall be returned to the person within ten days after
19 being taken;

20 (h) To be provided with appropriate employer intercession services
21 to insure that employers of victims and witnesses will cooperate with the
22 criminal justice process in order to minimize an employee's loss of pay
23 and other benefits resulting from court appearances;

24 (i) To be entitled to a speedy disposition of the case in which they
25 are involved as a victim or witness in order to minimize the length of
26 time they must endure the stress of their responsibilities in connection
27 with the matter;

28 (j) To be informed by the county attorney of the final disposition
29 of a felony case in which they were involved and to be notified pursuant
30 to section 81-1850 whenever the defendant in such case is released from
31 custody; and

1 (k) To have the family members of all homicide victims afforded all
2 of the rights under this subsection and services analogous to those
3 provided under section 81-1847.

4 Sec. 28. Section 81-1850, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-1850 (1) Upon request of the victim and at the time of conviction
7 of the offender, the county attorney of the jurisdiction in which a
8 person is convicted of a felony shall forward to the Board of Parole, the
9 Department of Correctional Services, the county corrections agency, or
10 the Department of Health and Human Services the name and address of any
11 victim, as defined in section 29-119, of the convicted person. The board,
12 the Department of Correctional Services, the county corrections agency,
13 or the Department of Health and Human Services shall include the name in
14 the file of the convicted person, but the name shall not be part of the
15 public record of any parole hearings of the convicted person. Any victim,
16 including a victim who has waived his or her right to notification at the
17 time of conviction, may request the notification prescribed in this
18 section, as applicable, by sending a written request to the board, the
19 Department of Correctional Services, the county corrections agency, or
20 the Department of Health and Human Services any time after the convicted
21 person is incarcerated and until the convicted person is no longer under
22 the jurisdiction of the board, the county corrections agency, or the
23 Department of Correctional Services or, if the person is under the
24 jurisdiction of the Department of Health and Human Services, within the
25 three-year period after the convicted person is no longer under the
26 jurisdiction of the board, the county corrections agency, or the
27 Department of Correctional Services.

28 (2) A victim whose name appears in the file of the convicted person
29 shall be notified by the Board of Parole:

30 (a) Within ninety days after conviction of an offender, of the
31 tentative date of release and the earliest parole eligibility date of

1 such offender;

2 (b) Of any parole hearings or proceedings;

3 (c) Of any decision of the Board of Parole;

4 (d) When a convicted person who is on parole is returned to custody
5 because of parole violations; and

6 (e) If the convicted person has been adjudged a mentally disordered
7 sex offender or is a convicted sex offender, when such person is released
8 from custody or treatment.

9 Such notification shall be given in person, by telecommunication, or
10 by mail.

11 (3) A victim whose name appears in the file of the convicted person
12 shall be notified by the Department of Correctional Services or a county
13 corrections agency:

14 (a) When a convicted person is granted a furlough or release from
15 incarceration for twenty-four hours or longer or any transfer of the
16 convicted person to community status;

17 (b) When a convicted person is released into community-based
18 programs, including educational release and work release programs. Such
19 notification shall occur at the beginning and termination of any such
20 program;

21 (c) When a convicted person escapes or does not return from a
22 granted furlough or release and again when the convicted person is
23 returned into custody;

24 (d) When a convicted person is discharged from custody upon
25 completion of his or her sentence. Such notice shall be given at least
26 thirty days before discharge, when practicable;

27 (e) Of the (i) department's calculation of the earliest parole
28 eligibility date of the prisoner with all potential good time or
29 disciplinary credits considered if the sentence exceeds ninety days or
30 (ii) county corrections agency's calculation of the earliest release date
31 of the prisoner. The victim may request one notice of the calculation

1 described in this subdivision. Such information shall be mailed not later
2 than thirty days after receipt of the request;

3 (f) Of any reduction in the prisoner's minimum sentence, including
4 pursuant to a sentence reduction under the Second Look Act; and

5 (g) Of the victim's right to submit a statement as provided in
6 section 81-1848.

7 (4) A victim whose name appears in the file of a convicted person
8 shall be notified by the Department of Health and Human Services:

9 (a) When a person convicted of an offense listed in subsection (5)
10 of this section becomes the subject of a petition pursuant to the
11 Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
12 prior to his or her discharge from custody upon the completion of his or
13 her sentence or within thirty days after such discharge. The county
14 attorney who filed the petition shall notify the Department of
15 Correctional Services of such petition. The Department of Correctional
16 Services shall forward the names and addresses of victims appearing in
17 the file of the convicted person to the Department of Health and Human
18 Services;

19 (b) When a person under a mental health board commitment pursuant to
20 subdivision (a) of this subsection escapes from an inpatient facility
21 providing board-ordered treatment and again when the person is returned
22 to an inpatient facility;

23 (c) When a person under a mental health board commitment pursuant to
24 subdivision (a) of this subsection is discharged or has a change in
25 disposition from inpatient board-ordered treatment;

26 (d) When a person under a mental health board commitment pursuant to
27 subdivision (a) of this subsection is granted a furlough or release for
28 twenty-four hours or longer; and

29 (e) When a person under a mental health board commitment pursuant to
30 subdivision (a) of this subsection is released into educational release
31 programs or work release programs. Such notification shall occur at the

1 beginning and termination of any such program.

2 (5) Subsection (4) of this section applies to persons convicted of
3 at least one of the following offenses which is also alleged to be the
4 recent act or threat underlying the commitment of such persons as
5 mentally ill and dangerous or as dangerous sex offenders as defined in
6 section 83-174.01:

7 (a) Murder in the first degree pursuant to section 28-303;

8 (b) Murder in the second degree pursuant to section 28-304;

9 (c) Kidnapping pursuant to section 28-313;

10 (d) Assault in the first degree pursuant to section 28-308;

11 (e) Assault in the second degree pursuant to section 28-309;

12 (f) Sexual assault in the first degree pursuant to section 28-319;

13 (g) Sexual assault in the second degree pursuant to section 28-320;

14 (h) Sexual assault of a child in the first degree pursuant to
15 section 28-319.01;

16 (i) Sexual assault of a child in the second or third degree pursuant
17 to section 28-320.01;

18 (j) Stalking pursuant to section 28-311.03; or

19 (k) An attempt, solicitation, or conspiracy to commit an offense
20 listed in subdivisions (a) through (j) of this subsection.

21 (6) A victim whose name appears in the file of a convicted person
22 shall be notified by the Board of Pardons:

23 (a) Of any pardon or commutation proceedings; and

24 (b) If a pardon or commutation has been granted.

25 (7) The Board of Parole, the Department of Correctional Services,
26 the Department of Health and Human Services, and the Board of Pardons
27 shall adopt and promulgate rules and regulations as needed to carry out
28 this section.

29 (8) The victim's address and telephone number maintained by the
30 Department of Correctional Services, the Department of Health and Human
31 Services, the county corrections agency, or the Board of Parole pursuant

1 to subsection (1) of this section shall be exempt from disclosure under
2 public records laws and federal freedom of information laws, as such laws
3 existed on January 1, 2004.

4 Sec. 29. Section 83-175, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 83-175 Whenever the Director of Correctional Services finds that a
7 person committed to the department requires specialized treatment,
8 medical treatment, or treatment of a kind that is not feasible to provide
9 within the department, the director may place such person in an
10 institution, facility, or community placement ~~institutions~~ providing such
11 treatment. If such placement is in another jurisdiction, the department
12 ~~and~~ may agree to pay reimbursement therefor. A person so placed or
13 ~~transferred to an out-of-state institution~~ shall be subject to the rules
14 and regulations of such institution concerning the custody, conduct, and
15 discipline of its inmates but shall remain subject to the Nebraska
16 Treatment and Corrections Act concerning his or her term, reduction of
17 term, and release on parole.

18 Sec. 30. Section 83-184, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 83-184 (1) When the conduct, behavior, mental attitude, physical
21 health, and conditions indicate that a person committed to the department
22 and the general society of the state will be benefited, and there is
23 reason to believe that the best interests of the people of the state and
24 the person committed to the department will be served thereby, in that
25 order, and upon the recommendation of the board in the case of each
26 committed offender, the director may authorize such person, under
27 prescribed conditions, to:

28 (a) Visit a specifically designated place or places and return to
29 the same or another facility. An extension of limits may be granted to
30 permit a visit to a dying relative, attendance at the funeral of a
31 relative, the obtaining of medical services and treatment, the contacting

1 of prospective employers, or for any other reason consistent with the
2 public interest;

3 (b) Work at paid employment or participate in a training program in
4 the community on a voluntary basis whenever:

5 (i) Such paid employment will not result in the displacement of
6 employed workers, or be applied in skills, crafts, or trades in which
7 there is a surplus of available gainful labor in the locality, or impair
8 existing contracts for services; and

9 (ii) The rates of pay and other conditions of employment will not be
10 less than those paid or provided for work of similar nature in the
11 locality in which the work is to be performed; ~~or~~

12 (c) Leave the facility to participate in substance abuse evaluations
13 or treatment, attend rehabilitative programming or treatment, seek
14 residency or employment, or participate in structured programming as
15 provided in section 83-182.01 and return to the same or another facility.
16 The department shall collaborate with community-based providers to
17 enhance the availability of community-based options for such
18 participation that meet the department's requirements for rehabilitative
19 programming or treatment or structured programming; ~~or~~ -

20 (d) For a person with a terminal illness, permanent incapacity, or
21 debilitating medical condition, leave the facility to receive medical
22 care and treatment and return to the same or another facility. Such
23 placement for medical treatment may be for a definite or indefinite
24 period of time in a hospital, a hospice, or another housing accommodation
25 suitable to the person's medical condition, including the person's
26 family's home.

27 (2) The wages earned by a person authorized to work at paid
28 employment in the community under this section shall be credited by the
29 chief executive officer of the facility to such person's wage fund. The
30 director shall authorize the chief executive officer to withhold up to
31 five percent of such person's net wages. The funds withheld pursuant to

1 this subsection shall be remitted to the State Treasurer for credit as
2 provided in subsection (2) of section 33-157.

3 (3) A person authorized to work at paid employment in the community
4 under this section may be required to pay, and the director is authorized
5 to collect, such costs incident to the person's confinement as the
6 director deems appropriate and reasonable. Collections shall be deposited
7 in the state treasury as miscellaneous receipts.

8 (4) A person authorized to work at paid employment in the community
9 under this section may be required to pay restitution. The director shall
10 adopt and promulgate rules and regulations which will protect the
11 committed offender's rights to due process and govern the collection of
12 restitution as provided in section 83-184.01.

13 (5) The willful failure of a person to remain within the extended
14 limits of his or her confinement or to return within the time prescribed
15 to a facility designated by the director may be deemed an escape from
16 custody punishable as provided in section 28-912.

17 (6) No person employed in the community under this section or
18 otherwise released shall, while working in such employment in the
19 community or going to or from such employment or during the time of such
20 release, be deemed to be an agent, employee, or servant of the state.

21 Sec. 31. Section 83-1,107, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 83-1,107 (1)(a) Within sixty days after initial classification and
24 assignment of any offender committed to the department, all available
25 information regarding such committed offender shall be reviewed and a
26 committed offender department-approved personalized program plan document
27 shall be drawn up. The document shall specifically describe the
28 department-approved personalized program plan and the specific goals the
29 department expects the committed offender to achieve. The document shall
30 also contain a realistic schedule for completion of the department-
31 approved personalized program plan. The department-approved personalized

1 program plan shall be developed with the active participation of the
2 committed offender. The department shall provide programs to allow
3 compliance by the committed offender with the department-approved
4 personalized program plan.

5 Programming may include, but is not limited to:

6 (i) Academic and vocational education, including teaching such
7 classes by qualified offenders;

8 (ii) Substance abuse treatment;

9 (iii) Mental health and psychiatric treatment, including criminal
10 personality programming;

11 (iv) Constructive, meaningful work programs; and

12 (v) Any other program deemed necessary and appropriate by the
13 department.

14 (b) A modification in the department-approved personalized program
15 plan may be made to account for the increased or decreased abilities of
16 the committed offender or the availability of any program. Any
17 modification shall be made only after notice is given to the committed
18 offender. The department may not impose disciplinary action upon any
19 committed offender solely because of the committed offender's failure to
20 comply with the department-approved personalized program plan, but such
21 failure may be considered by the board in its deliberations on whether or
22 not to grant parole to a committed offender.

23 (2)(a) The department shall reduce the term of a committed offender
24 by six months for each year of the offender's term and pro rata for any
25 part thereof which is less than a year. This subdivision does not apply
26 to a committed offender serving a mandatory minimum sentence until such
27 mandatory minimum sentence is complete.

28 (b) In addition to reductions granted in subdivision (2)(a) of this
29 section, the department shall reduce the term of a committed offender by
30 three days on the first day of each month following a twelve-month period
31 of incarceration within the department during which the offender has not

1 been found guilty of (i) a Class I or Class II offense or (ii) more than
2 three Class III offenses under the department's disciplinary code.
3 Reductions earned under this subdivision shall not be subject to forfeit
4 or withholding by the department. This subdivision does not apply to a
5 committed offender serving a mandatory minimum sentence until such
6 mandatory minimum sentence is complete.

7 (c) A committed offender who is serving a mandatory minimum sentence
8 may earn good time as provided in this subdivision while serving the
9 mandatory minimum portion of his or her sentence. The department shall
10 reduce the term of a committed offender by six days on the first day of
11 each month following a twelve-month period of incarceration within the
12 department during which the offender has been participating in available
13 programming and not been found guilty of (i) a Class I or Class II
14 offense or (ii) more than three Class III offenses under the department's
15 disciplinary code. Reductions earned under this subdivision shall not be
16 subject to forfeit or withholding by the department.

17 (d) ~~(e)~~ The total reductions under this subsection shall be credited
18 from the date of sentence, which shall include any term of confinement
19 prior to sentence and commitment as provided pursuant to section
20 83-1,106, and shall be deducted from the maximum term, to determine the
21 date when discharge from the custody of the state becomes mandatory.

22 (3) While the offender is in the custody of the department,
23 reductions of terms granted pursuant to subdivision (2)(a) of this
24 section may be forfeited, withheld, and restored by the chief executive
25 officer of the facility with the approval of the director after the
26 offender has been notified regarding the charges of misconduct.

27 (4) The department shall ensure that a release or reentry plan is
28 complete or near completion when the offender has served at least eighty
29 percent of his or her sentence. For purposes of this subsection, release
30 or reentry plan means a comprehensive and individualized strategic plan
31 to ensure an individual's safe and effective transition or reentry into

1 the community to which he or she resides with the primary goal of
2 reducing recidivism. At a minimum, the release or reentry plan shall
3 include, but not be limited to, consideration of the individual's housing
4 needs, medical or mental health care needs, and transportation and job
5 needs and shall address an individual's barriers to successful release or
6 reentry in order to prevent recidivism. The release or reentry plan does
7 not include an individual's programming needs included in the
8 individual's personalized program plan for use inside the prison.

9 (5)(a) The department shall make treatment programming available to
10 committed offenders as provided in section 83-1,110.01 and shall include
11 continuing participation in such programming as part of each offender's
12 parolee personalized program plan.

13 (b) Any committed offender with a mental illness shall be provided
14 with the community standard of mental health care. The mental health care
15 shall utilize evidence-based therapy models that include an evaluation
16 component to track the effectiveness of interventions.

17 (c) Any committed offender with a mental illness shall be evaluated
18 before release to ensure that adequate monitoring and treatment of the
19 committed offender will take place or, if appropriate, that a commitment
20 proceeding under the Nebraska Mental Health Commitment Act or the Sex
21 Offender Commitment Act will take place.

22 (6)(a) Within thirty days after any committed offender has been
23 paroled, all available information regarding such parolee shall be
24 reviewed and a case plan document shall be drawn up and approved by the
25 Division of Parole Supervision. The document shall specifically describe
26 the approved case plan and the specific goals the division expects the
27 parolee to achieve. The document shall also contain a realistic schedule
28 for completion of the approved case plan. The approved case plan shall be
29 developed with the active participation of the parolee. During the term
30 of parole, the parolee shall comply with the approved case plan and the
31 division shall provide programs to allow compliance by the parolee with

1 the approved case plan.

2 Programming may include, but is not limited to:

3 (i) Academic and vocational education;

4 (ii) Substance abuse treatment;

5 (iii) Mental health and psychiatric treatment, including criminal
6 personality programming;

7 (iv) Constructive, meaningful work programs;

8 (v) Community service programs; and

9 (vi) Any other program deemed necessary and appropriate by the
10 division.

11 (b) A modification in the approved case plan may be made to account
12 for the increased or decreased abilities of the parolee or the
13 availability of any program. Any modification shall be made only after
14 notice is given to the parolee. Intentional failure to comply with the
15 approved case plan by any parolee as scheduled for any year, or pro rata
16 part thereof, shall cause disciplinary action to be taken by the division
17 resulting in the forfeiture of up to a maximum of three months' good time
18 for the scheduled year.

19 (7) While the offender is in the custody of the board, reductions of
20 terms granted pursuant to subdivision (2)(a) of this section may be
21 forfeited, withheld, and restored by the director upon the recommendation
22 of the board after the offender has been notified regarding the charges
23 of misconduct or breach of the conditions of parole.

24 (8) Good time or other reductions of sentence granted under the
25 provisions of any law prior to July 1, 1996, may be forfeited, withheld,
26 or restored in accordance with the terms of the Nebraska Treatment and
27 Corrections Act.

28 (9) Pursuant to rules and regulations adopted by the probation
29 administrator and the director, an individualized post-release
30 supervision plan shall be collaboratively prepared by the Office of
31 Probation Administration and the department and provided to the court to

1 prepare individuals under custody of the department for post-release
2 supervision. All records created during the period of incarceration shall
3 be shared with the Office of Probation Administration and considered in
4 preparation of the post-release supervision plan.

5 Sec. 32. (1) The Legislature finds and declares that a sentence of
6 life imprisonment with no possibility of parole is invalid and void under
7 Article IV, section 13, of the Constitution of Nebraska. Through the
8 enactment of this section and the changes made by this legislative bill,
9 the Legislature intends to bring the sentencing laws of this state into
10 compliance with the Constitution of Nebraska.

11 (2) A committed offender who is not under a sentence of death shall
12 be eligible for parole as provided in section 83-1,110. The board shall
13 conduct a parole review and hearing for such offenders as provided in
14 section 83-1,111.

15 (3) This section applies notwithstanding the fact that a committed
16 offender is serving a sentence of life imprisonment, a mandatory minimum
17 sentence, or consecutive sentences.

18 (4) If a committed offender serving a sentence imposed prior to the
19 effective date of this act is eligible for parole under this section as
20 of the effective date of this act, the board shall conduct a parole
21 review as early as is practical. The board shall prioritize such reviews
22 and set as the highest priority reviews for committed offenders who have
23 served the longest terms.

24 Sec. 33. Section 83-1,110, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 83-1,110 (1) Every committed offender shall be eligible for parole
27 upon serving the greater of:

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

31 (b) Twenty-five years.

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

8 (3)(a) ~~(2)~~ Every committed offender sentenced to consecutive terms,
9 whether received at the same time or at any time during the original
10 sentence, shall be eligible for release on parole upon serving the
11 greater of:

12 (i) ~~The when the offender has served the total of one-half the~~
13 ~~minimum term as provided in sections 83-1,107 and 83-1,108; or -~~

14 (ii) Twenty-five years.

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

19 Sec. 34. Section 83-1,110.02, Revised Statutes Cumulative
20 Supplement, 2022, is amended to read:

21 83-1,110.02 (1) The board may consider a committed offender for
22 medical parole if the board determines such offender to be terminally
23 ill, permanently incapacitated, or suffering a debilitating medical
24 condition. ~~A committed offender who is not under sentence of death or of~~
25 ~~life imprisonment and who because of an existing medical or physical~~
26 ~~condition is determined by the department to be terminally ill or~~
27 ~~permanently incapacitated may be considered for medical parole by the~~
28 ~~board.~~ A committed offender may be eligible for medical parole in
29 addition to any other parole. The department shall identify committed
30 offenders who may be eligible for medical parole based upon their medical
31 records.

1 (2) The board shall decide to grant medical parole only after a
2 review of the medical, institutional, and criminal records of the
3 committed offender and such additional medical evidence from board-
4 ordered examinations or investigations as the board in its discretion
5 determines to be necessary. The decision to grant medical parole and to
6 establish conditions of release on medical parole in addition to the
7 conditions stated in subsection (3) of this section is within the sole
8 discretion of the board.

9 (3) As conditions of release on medical parole, the board shall
10 require that the committed offender agree to placement for medical
11 treatment and that he or she be placed for a definite or indefinite
12 period of time in a hospital, a hospice, or another housing accommodation
13 suitable to his or her medical condition, including, but not limited to,
14 his or her family's home, as specified by the board.

15 (4) The parole term of a medical parolee shall be for the remainder
16 of his or her sentence as reduced by any adjustment for good conduct
17 pursuant to the Nebraska Treatment and Corrections Act.

18 Sec. 35. (1) A committed offender may be eligible for geriatric
19 parole if the committed offender:

20 (a) Is seventy-five years of age or older; and

21 (b) Has served at least fifteen years of the sentence for which
22 currently incarcerated.

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

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

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

1 (5) Geriatric parole may also be revoked for violation of any
2 condition of the geriatric parole established by the board.

3 Sec. 36. Section 83-1,111, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 83-1,111 (1) A committed offender serving an indeterminate sentence
6 under which he or she may become eligible for parole shall be interviewed
7 and have his or her record reviewed by two or more members of the Board
8 of Parole or a person designated by the board within sixty days before:

9 (i) The ~~the~~ expiration of his or her minimum term less any
10 reductions as provided in section 83-1,110; or -

11 (ii) The date the offender will become eligible for parole under
12 section 32 of this act.

13 (b) If, in the opinion of the reviewers, the review indicates the
14 offender is reasonably likely to be granted parole and has a potential
15 parole term of no less than one month, the Board of Parole shall schedule
16 a public hearing before a majority of its members. At such hearing the
17 offender may present evidence, call witnesses, and be represented by
18 counsel.

19 (c) If, in the opinion of the reviewers, the review indicates the
20 offender should be denied parole, the offender may request an additional
21 review by a majority of the members of the board. A review by the
22 majority of the members of the board may be conducted not more than once
23 annually.

24 (d) Any hearing and review shall be conducted in an informal manner,
25 but a complete record of the proceedings shall be made and preserved.

26 (2) The board shall render its decision regarding the committed
27 offender's release on parole within a reasonable time after the hearing
28 or review. The decision shall be by majority vote of the board. The
29 decision shall be based on the entire record before the board which shall
30 include the opinion of the person who conducted the review. If the board
31 denies parole, written notification listing the reasons for such denial

1 and the recommendations for correcting deficiencies which cause the
2 denial shall be given to the committed offender within thirty days
3 following the hearing.

4 (3) If the board fixes the release date, such date shall be not more
5 than six months from the date of the committed offender's parole hearing
6 or from the date of last reconsideration of his or her case, unless there
7 are special reasons for fixing a later release date.

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

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

19 Sec. 37. Section 83-1,114, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 83-1,114 (1) Whenever the board considers the release of a committed
22 offender who is eligible for release on parole, it shall order his or her
23 release unless it is of the opinion that his or her release should be
24 deferred because:

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

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

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

31 (d) His or her continued correctional treatment, medical care, or

1 vocational or other training in the facility will substantially enhance
2 his or her capacity to lead a law-abiding life when released at a later
3 date.

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

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

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

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

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

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

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

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

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

26 ~~(i) The offender's mental or physical makeup, including any~~
27 ~~disability or handicap which may affect his or her conformity to law;~~

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

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

31 ~~(l) The offender's conduct in the facility, including particularly~~

1 ~~whether he or she has taken advantage of the opportunities for self-~~
2 ~~improvement, whether he or she has been punished for misconduct within~~
3 ~~six months prior to his or her hearing or reconsideration for parole~~
4 ~~release, whether any reductions of term have been forfeited, and whether~~
5 ~~such reductions have been restored at the time of hearing or~~
6 ~~reconsideration;~~

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

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

12 ~~(e) Whether the offender has completed a (n) ~~The risk and needs~~
13 ~~assessment completed pursuant to section 83-192; and~~~~

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

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

17 Sec. 38. Section 83-1,122.01, Revised Statutes Cumulative
18 Supplement, 2022, is amended to read:

19 83-1,122.01 (1) Except as provided in subsection ~~(4)~~ ~~(3)~~ of this
20 section, the board does not have jurisdiction over a person who is
21 committed to the department in accordance with section 29-2204.02 for a
22 Class III, IIIA, or IV felony committed on or after August 30, 2015,
23 unless the person is also committed to the department in accordance with
24 section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA,
25 or IV felony committed prior to August 30, 2015, or (b) a sentence of
26 imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

27 (2) Except as provided in subsection ~~(4)~~ ~~(3)~~ of this section, the
28 board does not have jurisdiction over a person committed to the
29 department for a misdemeanor sentence imposed consecutively or
30 concurrently with a Class III, IIIA, or IV felony sentence for an offense
31 committed on or after August 30, 2015, unless the person is also

1 committed to the department in accordance with section 29-2204 for (a) a
2 sentence of imprisonment for a Class III, IIIA, or IV felony committed
3 prior to August 30, 2015, or (b) a sentence of imprisonment for a Class
4 I, IA, IB, IC, ID, II, or IIA felony.

5 (3) This section does not apply to medical parole under section
6 83-1,110.02 or geriatric parole under section 35 of this act.

7 Sec. 39. Section 83-1,135, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 83-1,135 Sections 83-170 to 83-1,135.05 and sections 32 and 35 of
10 this act shall be known and may be cited as the Nebraska Treatment and
11 Corrections Act.

12 Sec. 40. Section 83-1,135.02, Revised Statutes Cumulative
13 Supplement, 2022, is amended to read:

14 83-1,135.02 (1) It is the intent of the Legislature that the changes
15 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
16 with respect to parole eligibility apply to all committed offenders under
17 sentence and not on parole on May 24, 2003, and to all persons sentenced
18 on and after such date.

19 (2) It is the intent of the Legislature that the changes made to
20 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
21 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
22 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
23 sentence, on parole, or on probation on August 30, 2015, and to all
24 persons sentenced on and after such date.

25 (3) It is the intent of the Legislature that the changes made to
26 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
27 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
28 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
29 apply to all committed offenders under sentence, on parole, or on
30 probation on or after April 20, 2016, and to all persons sentenced on and
31 after such date.

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

5 (5) It is the intent of the Legislature that the changes made to
6 sections 83-175, 83-184, 83-1,107, 83-1,110, 83-1,110.02, 83-1,111,
7 83-1,114, 83-1,122.01, and 83-1,135 and sections 32 and 35 of this act by
8 this legislative bill apply to all committed offenders under sentence or
9 on parole on or after the effective date of this act, and to all persons
10 sentenced on and after such date.

11 Sec. 41. If any section in this act or any part of any section is
12 declared invalid or unconstitutional, the declaration shall not affect
13 the validity or constitutionality of the remaining portions.

14 Sec. 42. Original sections 28-116, 28-507, 28-518, 29-2204.02,
15 29-2221, 29-2263, 29-3603, 81-1850, 83-175, and 83-1,110, Reissue Revised
16 Statutes of Nebraska, and sections 28-101, 28-105, 28-416, 28-1351,
17 28-1354, 29-2204, 81-1848, 83-184, 83-1,107, 83-1,110.02, 83-1,111,
18 83-1,114, 83-1,122.01, 83-1,135, and 83-1,135.02, Revised Statutes
19 Cumulative Supplement, 2022, are repealed.