

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 111

Introduced by Albrecht, 17.

Read first time January 07, 2021

Committee:

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 28-519, 28-524, and 29-2221, Reissue Revised Statutes of Nebraska,
3 and sections 28-101, 28-115, 28-929, 28-929.01, 28-929.02, 28-930,
4 28-931, 28-934, 28-1351, 28-1354, and 29-901, Revised Statutes
5 Cumulative Supplement, 2020; to change and eliminate provisions and
6 penalties relating to offenses involving assault on an officer,
7 emergency responder, certain employees, or a health care
8 professional; to define and redefine terms; to change provisions and
9 penalties relating to criminal mischief and unauthorized application
10 of graffiti; to require restitution as prescribed; to prohibit
11 certain acts involving laser pointers and other devices, rioting,
12 inciting a riot, disrupting public meetings, and obstructing a
13 public way; to change provisions relating to bail; to provide
14 penalties; to harmonize provisions; to repeal the original sections;
15 and to outright repeal section 28-931.01, Revised Statutes
16 Cumulative Supplement, 2020.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and
4 sections 5 to 16 of this act shall be known and may be cited as the
5 Nebraska Criminal Code.

6 Sec. 2. Section 28-115, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 28-115 (1) Except as provided in subsection (2) of this section, any
9 person who commits any of the following criminal offenses against a
10 pregnant woman shall be punished by the imposition of the next higher
11 penalty classification than the penalty classification prescribed for the
12 criminal offense:

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

14 (b) Assault in the second degree, section 28-309;

15 (c) Assault in the third degree, section 28-310;

16 (d) Assault by strangulation or suffocation, section 28-310.01;

17 (e) Sexual assault in the first degree, section 28-319;

18 (f) Sexual assault in the second or third degree, section 28-320;

19 (g) Sexual assault of a child in the first degree, section
20 28-319.01;

21 (h) Sexual assault of a child in the second or third degree, section
22 28-320.01;

23 (i) Sexual abuse of an inmate or parolee in the first degree,
24 section 28-322.02;

25 (j) Sexual abuse of an inmate or parolee in the second degree,
26 section 28-322.03;

27 (k) Sexual abuse of a protected individual in the first or second
28 degree, section 28-322.04;

29 (l) Sexual abuse of a detainee under section 28-322.05;

30 (m) Domestic assault in the first, second, or third degree, section
31 28-323;

1 (n) Assault on an ~~officer, an emergency responder, a state~~
2 ~~correctional employee, a Department of Health and Human Services~~
3 ~~employee, or a public safety officer or health care professional in the~~
4 first degree, section 6 of this act 28-929;

5 (o) Assault on an ~~officer, an emergency responder, a state~~
6 ~~correctional employee, a Department of Health and Human Services~~
7 ~~employee, or a public safety officer or health care professional in the~~
8 second degree, section 7 of this act 28-930;

9 (p) Assault on an ~~officer, an emergency responder, a state~~
10 ~~correctional employee, a Department of Health and Human Services~~
11 ~~employee, or a public safety officer or health care professional in the~~
12 third degree, section 8 of this act 28-931;

13 ~~(q) Assault on an officer, an emergency responder, a state~~
14 ~~correctional employee, a Department of Health and Human Services~~
15 ~~employee, or a health care professional using a motor vehicle, section~~
16 ~~28-931.01;~~

17 ~~(q) (r)~~ Assault by a confined person, section 28-932;

18 ~~(r) (s)~~ Confined person committing offenses against another person,
19 section 28-933; and

20 ~~(s) (t)~~ Proximately causing serious bodily injury while operating a
21 motor vehicle, section 60-6,198.

22 (2) The enhancement in subsection (1) of this section does not apply
23 to any criminal offense listed in subsection (1) of this section that is
24 already punishable as a Class I, IA, or IB felony. If any criminal
25 offense listed in subsection (1) of this section is punishable as a Class
26 I misdemeanor, the penalty under this section is a Class IIIA felony.

27 (3) The prosecution shall allege and prove beyond a reasonable doubt
28 that the victim was pregnant at the time of the offense.

29 Sec. 3. Section 28-519, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 28-519 (1) A person commits criminal mischief if he or she:

1 (a) Damages property of another intentionally or recklessly; or

2 (b) Intentionally tampers with property of another so as to endanger
3 person or property;~~or~~

4 (c) Intentionally or maliciously causes another to suffer pecuniary
5 loss by deception or threat.

6 (2) Criminal mischief is a Class IV felony if:

7 (a) The the actor intentionally or maliciously causes pecuniary loss
8 of five thousand dollars or more; ~~or a~~

9 (b) The actor intentionally or maliciously causes substantial
10 interruption or impairment of public communication, transportation,
11 supply of water, gas, or power, or other public service; or -

12 (c)(i) The property involved in the offense belongs to a peace
13 officer, active duty member in the armed services of the United States,
14 judge, or elected or appointed government official and (ii) the offense
15 was committed with the intent to harass or intimidate such person because
16 of such person's status as an officer, member, judge, or official.

17 (3) Criminal mischief is a Class I misdemeanor if:

18 (a) The the actor intentionally or maliciously causes pecuniary loss
19 of one thousand five hundred dollars or more but less than five thousand
20 dollars; or -

21 (b) The property involved in the offense belongs to the government,
22 a hospital, or a school.

23 (4) Criminal mischief is a Class II misdemeanor if the actor
24 intentionally or maliciously causes pecuniary loss of five hundred
25 dollars or more but less than one thousand five hundred dollars.

26 (5) Criminal mischief is a Class III misdemeanor if the actor
27 intentionally, maliciously, or recklessly causes pecuniary loss in an
28 amount of less than five hundred dollars, or if his or her action results
29 in no pecuniary loss.

30 (6) Upon conviction for a violation of this section, the court
31 shall, in addition to any other punishment imposed:

1 (a) Order the defendant to make restitution as provided in sections
2 29-2280 to 29-2289; and

3 (b) For a second or subsequent violation involving government
4 property, impose a fine of five thousand dollars.

5 (7) For purposes of this section, school means a public, private,
6 denominational, or parochial elementary, vocational, or secondary school,
7 a private postsecondary career school as defined in section 85-1603, a
8 community college, a public or private college, a junior college, or a
9 university.

10 Sec. 4. Section 28-524, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-524 (1) Any person who knowingly and intentionally applies
13 graffiti of any type on any building, public or private, or any other
14 tangible property owned by any person, firm, or corporation or any public
15 entity or instrumentality, without the express permission of the owner or
16 operator of the property, commits the offense of unauthorized application
17 of graffiti.

18 (2)(a) Except as provided in subdivisions (2)(b) and (c) of this
19 section, unauthorized ~~(2) Unauthorized~~ application of graffiti is a Class
20 III misdemeanor for a first offense and a Class IV felony for a second or
21 subsequent offense.

22 (b) Unauthorized application of graffiti is a Class IV felony if the
23 property involved in the offense belongs to a law enforcement officer,
24 active duty member in the armed services of the United States, judge, or
25 elected or appointed federal, state, or local official and (ii) the
26 offense was committed with the intent to harass or intimidate such person
27 because of such person's status as an officer, member, judge, or
28 official.

29 (c) Unauthorized application of graffiti is a Class I misdemeanor if
30 the property involved in the offense belongs to the government, a
31 hospital, or a school.

1 (3) Upon conviction of an offense under this section, the court ~~may,~~
2 in addition to any other punishment imposed; ~~-~~

3 (a) May order the defendant to clean up, repair, or replace the
4 damaged property, keep the defaced property or another specified property
5 in the community free of graffiti or other inscribed materials for up to
6 one year, or order a combination of restitution and labor; ~~-~~

7 (b) Shall order the defendant to make restitution as provided in
8 sections 29-2280 to 29-2289; and

9 (c) For a second or subsequent violation involving government
10 property, shall impose a fine of five thousand dollars.

11 (4) Upon conviction of an offense under this section, the court may,
12 in addition to any other punishment imposed, order the defendant to
13 undergo counseling.

14 (5) Upon conviction of an offense under this section, the court may,
15 in addition to any other punishment imposed, order the suspension of the
16 defendant's motor vehicle operator's license for up to one year. A copy
17 of an abstract of the court's conviction, including an adjudication of a
18 juvenile, shall be transmitted to the director pursuant to sections
19 60-497.01 to 60-497.04.

20 (6) For purposes of this section: ~~- graffiti~~

21 (a) Graffiti means any letter, word, name, number, symbol, slogan,
22 message, drawing, picture, writing, or other mark of any kind visible to
23 the public that is drawn, painted, chiseled, scratched, or etched on a
24 rock, tree, wall, bridge, fence, gate, building, statue, monument, or
25 other structure. Graffiti does not include advertising or any other
26 letter, word, name, number, symbol, slogan, message, drawing, picture,
27 writing, or other mark of any kind lawfully placed on property by an
28 owner of the property, a tenant of the property, or an authorized agent
29 for such owner or tenant; and -

30 (b) School means a public, private, denominational, or parochial
31 elementary, vocational, or secondary school, a private postsecondary

1 career school as defined in section 85-1603, a community college, a
2 public or private college, a junior college, or a university.

3 Sec. 5. Section 28-929.01, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 ~~28-929.01~~ For purposes of sections 5 to 10 of this act ~~28-929,~~
6 ~~28-929.02, 28-930, 28-931, and 28-931.01:~~

7 (1) Emergency care provider means (a) an emergency medical
8 responder; (b) an emergency medical technician; (c) an advanced emergency
9 medical technician; (d) a community paramedic; (e) a critical care
10 paramedic; or (f) a paramedic, as those persons are licensed and
11 classified under the Emergency Medical Services Practice Act;

12 (2) Health care professional means a physician or other health care
13 practitioner who is licensed, certified, or registered to perform
14 specified health services consistent with state law who practices at a
15 hospital or a health clinic;

16 (3) Health clinic has the definition found in section 71-416; ~~and~~

17 (4) Hospital has the definition found in section 71-419; and ~~or~~

18 (5) Public safety officer means:

19 (a) A peace officer;

20 (b) A probation officer;

21 (c) A firefighter;

22 (d) An emergency care provider;

23 (e) State Capitol security personnel;

24 (f) An employee of the Department of Correctional Services; or

25 (g) An employee of the Department of Health and Human Services if
26 the person committing the offense is committed as a dangerous sex
27 offender under the Sex Offender Commitment Act.

28 Sec. 6. Section 28-929, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 ~~28-929~~ (1) A person commits the offense of assault on ~~an officer, an~~
31 ~~emergency responder, a state correctional employee, a Department of~~

1 ~~Health and Human Services employee, or a public safety officer or health~~
2 ~~care professional in the first degree if such person intentionally or~~
3 ~~knowingly causes serious bodily injury to a:~~

4 ~~(a) Public safety officer while such officer is engaged in the~~
5 ~~performance of the officer's official duties; or~~

6 ~~(b) Health care professional while such professional is on duty at a~~
7 ~~hospital or health clinic.~~

8 ~~(a) He or she intentionally or knowingly causes serious bodily~~
9 ~~injury:~~

10 ~~(i) To a peace officer, a probation officer, a firefighter, an~~
11 ~~emergency care provider, or an employee of the Department of Correctional~~
12 ~~Services;~~

13 ~~(ii) To an employee of the Department of Health and Human Services~~
14 ~~if the person committing the offense is committed as a dangerous sex~~
15 ~~offender under the Sex Offender Commitment Act; or~~

16 ~~(iii) To a health care professional; and~~

17 ~~(b) The offense is committed while such officer, firefighter,~~
18 ~~emergency care provider, or employee is engaged in the performance of his~~
19 ~~or her official duties or while the health care professional is on duty~~
20 ~~at a hospital or a health clinic.~~

21 ~~(2) Assault on an officer, an emergency responder, a state~~
22 ~~correctional employee, a Department of Health and Human Services~~
23 ~~employee, or a public safety officer or health care professional in the~~
24 ~~first degree shall be a Class ID felony, except that the penalty shall~~
25 ~~also include a fine of five thousand dollars.~~

26 Sec. 7. Section 28-930, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 ~~28-930~~ (1) A person commits the offense of assault on ~~an officer, an~~
29 ~~emergency responder, a state correctional employee, a Department of~~
30 ~~Health and Human Services employee, or a public safety officer or health~~
31 ~~care professional in the second degree if such person:~~

1 (a) Either:

2 (i) Intentionally, knowingly, or recklessly causes bodily injury to
3 a public safety officer or health care professional with a dangerous
4 instrument or while visibly displaying a dangerous instrument; or

5 (ii) Intentionally or knowingly strangles or suffocates a public
6 safety officer or health care professional, regardless of whether a
7 visible injury results; and

8 (b) Such offense is committed while such public safety officer is
9 engaged in the performance of the officer's official duties or while such
10 health care professional is on duty at a hospital or health clinic.

11 ~~(a) He or she:~~

12 ~~(i) Intentionally or knowingly causes bodily injury with a dangerous~~
13 ~~instrument:~~

14 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
15 ~~emergency care provider, or an employee of the Department of Correctional~~
16 ~~Services;~~

17 ~~(B) To an employee of the Department of Health and Human Services if~~
18 ~~the person committing the offense is committed as a dangerous sex~~
19 ~~offender under the Sex Offender Commitment Act; or~~

20 ~~(C) To a health care professional; or~~

21 ~~(ii) Recklessly causes bodily injury with a dangerous instrument:~~

22 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
23 ~~emergency care provider, or an employee of the Department of Correctional~~
24 ~~Services;~~

25 ~~(B) To an employee of the Department of Health and Human Services if~~
26 ~~the person committing the offense is committed as a dangerous sex~~
27 ~~offender under the Sex Offender Commitment Act; or~~

28 ~~(C) To a health care professional; and~~

29 ~~(b) The offense is committed while such officer, firefighter,~~
30 ~~emergency care provider, or employee is engaged in the performance of his~~
31 ~~or her official duties or while the health care professional is on duty~~

1 ~~at a hospital or a health clinic.~~

2 (2) ~~Assault on an officer, an emergency responder, a state~~
3 ~~correctional employee, a Department of Health and Human Services~~
4 ~~employee, or a public safety officer or health care professional in the~~
5 ~~second degree shall be a Class II felony, except that the penalty shall~~
6 ~~also include a fine of three thousand dollars.~~

7 (3) For purposes of this section:

8 (a) Strangulation means impeding the normal breathing or circulation
9 of the blood of another person by applying pressure on the throat or neck
10 of the other person; and

11 (b) Suffocation means impeding the normal breathing of another
12 person by covering the mouth and nose of the other person.

13 Sec. 8. Section 28-931, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 ~~28-931~~ (1) A person commits the offense of assault on ~~an officer, an~~
16 ~~emergency responder, a state correctional employee, a Department of~~
17 ~~Health and Human Services employee, or a public safety officer or health~~
18 ~~care professional in the third degree if such person intentionally,~~
19 ~~knowingly, or recklessly causes bodily injury to a:~~

20 (a) Public safety officer while such officer is engaged in the
21 performance of the officer's official duties; or

22 (b) Health care professional while such professional is on duty at a
23 hospital or health clinic.

24 (a) ~~He or she intentionally, knowingly, or recklessly causes bodily~~
25 ~~injury:~~

26 (i) ~~To a peace officer, a probation officer, a firefighter, an~~
27 ~~emergency care provider, or an employee of the Department of Correctional~~
28 ~~Services;~~

29 (ii) ~~To an employee of the Department of Health and Human Services~~
30 ~~if the person committing the offense is committed as a dangerous sex~~
31 ~~offender under the Sex Offender Commitment Act; or~~

1 ~~(iii) To a health care professional; and~~

2 ~~(b) The offense is committed while such officer, firefighter,~~
3 ~~emergency care provider, or employee is engaged in the performance of his~~
4 ~~or her official duties or while the health care professional is on duty~~
5 ~~at a hospital or a health clinic.~~

6 ~~(2) Assault on an officer, an emergency responder, a state~~
7 ~~correctional employee, a Department of Health and Human Services~~
8 ~~employee, or a public safety officer or health care professional in the~~
9 ~~third degree shall be a Class IIIA felony, except that such penalty shall~~
10 ~~also include a fine of at least one thousand dollars.~~

11 Sec. 9. Section 28-934, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 ~~28-934 (1) A person commits an offense if such person: Any person~~
14 ~~who knowingly and intentionally strikes any public safety officer with~~
15 ~~any bodily fluid is guilty of assault with a bodily fluid against a~~
16 ~~public safety officer.~~

17 ~~(a) Either:~~

18 ~~(i) Knowingly or intentionally strikes a public safety officer or~~
19 ~~health care professional with a bodily fluid or offensive substance; or~~

20 ~~(ii) Intentionally causes physical contact with a public safety~~
21 ~~officer or health care professional that a reasonable person would regard~~
22 ~~as extremely offensive; or~~

23 ~~(b) Such offense is committed while such public safety officer is~~
24 ~~engaged in the performance of the officer's official duties or while such~~
25 ~~health care professional is on duty at a hospital or health clinic.~~

26 ~~(2) Except as provided in subsection (3) of this section, a~~
27 ~~violation of this section assault with a bodily fluid against a public~~
28 ~~safety officer is a Class I misdemeanor.~~

29 ~~(3) A violation of this section Assault with a bodily fluid against~~
30 ~~a public safety officer is a Class IIIA felony if the person committing~~
31 ~~the offense strikes with a bodily fluid the eyes, mouth, or skin of a~~

1 public safety officer or health care professional and knew the source of
2 the bodily fluid was infected with the human immunodeficiency virus,
3 hepatitis B, or hepatitis C at the time the offense was committed.

4 (4) Upon a showing of probable cause by affidavit to a judge of this
5 state that an offense under ~~as defined in subsection (1)~~ of this section
6 has been committed and that identifies the probable source of the bodily
7 fluid or bodily fluids used to commit the offense, the judge shall grant
8 an order or issue a search warrant authorizing the collection of any
9 evidence, including any bodily fluid or medical records or the
10 performance of any medical or scientific testing or analysis, that may
11 assist with the determination of whether or not the person committing the
12 offense or the person from whom the person committing the offense
13 obtained the bodily fluid or bodily fluids is infected with the human
14 immunodeficiency virus, hepatitis B, or hepatitis C.

15 (5) As used in this section:

16 (a) Bodily fluid means any naturally produced secretion or waste
17 product generated by the human body and shall include, but not be limited
18 to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal
19 fluid, or feces; ~~and~~

20 (b) Offensive substance means a flammable or toxic liquid, any other
21 dangerous substance, or any substance that a reasonable person would find
22 extremely offensive;

23 (c) (b) Public safety officer has the same meaning as in section 5
24 of this act, but as used in this section, also includes an employee of a:

25 (i) County includes any of the following persons who are engaged in
26 the performance of their official duties at the time of the offense: A
27 peace officer; a probation officer; a firefighter; an emergency care
28 provider as defined in section 28-929.01; a health care professional as
29 defined in section 28-929.01; an employee of a county, city, or village
30 jail;

31 (ii) Secure an employee of the Department of Correctional Services;

1 ~~an employee of the secure youth confinement facility operated by the~~
2 ~~Department of Correctional Services, if the person committing the offense~~
3 ~~is committed to such facility; or~~

4 ~~(iii) Youth rehabilitation and treatment center an employee of the~~
5 ~~Youth Rehabilitation and Treatment Center Geneva or the Youth~~
6 ~~Rehabilitation and Treatment Center-Kearney; or an employee of the~~
7 ~~Department of Health and Human Services if the person committing the~~
8 ~~offense is committed as a dangerous sex offender under the Sex Offender~~
9 ~~Commitment Act.~~

10 Sec. 10. Section 28-929.02, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 ~~28-929.02~~ Every hospital and health clinic shall display at all
13 times in a prominent place a printed sign with a minimum height of twenty
14 inches and a minimum width of fourteen inches, with each letter to be a
15 minimum of one-fourth inch in height, which shall read as follows:

16 WARNING: ASSAULTING A HEALTH CARE PROFESSIONAL WHO IS ENGAGED IN THE
17 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES, INCLUDING STRIKING A HEALTH
18 CARE PROFESSIONAL WITH ANY BODILY FLUID, IS A SERIOUS CRIME WHICH MAY BE
19 PUNISHABLE AS A FELONY.

20 Sec. 11. (1) A person shall not knowingly aim a laser pointer
21 toward the head of a public safety officer while such officer is engaged
22 in the performance of the officer's official duties.

23 (2) A person shall not aim or deploy any other device toward the
24 head of a public safety officer while such officer is engaged in the
25 performance of the officer's official duties with the intent to cause
26 serious bodily injury or any substantial interference with or impairment
27 of the officer's sight or hearing or with reckless disregard for whether
28 such bodily injury or substantial interference or impairment may result.

29 (3) For purposes of this section:

30 (a) Laser pointer means a device that emits light amplified by the
31 stimulated emission of radiation that is visible to the human eye; and

1 (b) Public safety officer has the same meaning as in section 5 of
2 this act.

3 (4) A violation of this section is a Class I misdemeanor and shall
4 additionally be subject to a fine of five thousand dollars and the
5 defendant shall be ordered to make restitution as provided in sections
6 29-2280 to 29-2289.

7 Sec. 12. For purposes of sections 12 to 14 of this act:

8 (1) Correctional officer means an employee of the Department of
9 Correctional Services or of a city or county jail;

10 (2) Participate means:

11 (a) Joining a group of three or more persons who riot;

12 (b) Aiding and abetting a riot; or

13 (c) Refusing any lawful order of a peace officer or correctional
14 officer; and

15 (3) Riot means a disturbance in a public place, prison, or jail
16 involving an assemblage of three or more persons which, by tumultuous and
17 violent conduct, creates grave danger of substantial damage to property
18 or serious bodily injury to persons or substantially obstructs law
19 enforcement or another governmental function.

20 Sec. 13. (1) A person shall not knowingly participate in a riot.

21 (2) A violation of this section is a Class I misdemeanor, except
22 that if a person knowingly participates in a riot which results in
23 serious bodily injury to one or more persons or which results in property
24 damage of at least five thousand dollars, it shall be a Class IV felony.

25 (3) For any violation of this section, the court shall order the
26 defendant to make restitution as provided in sections 29-2280 to 29-2289
27 for any property damage or loss incurred as a result of the offense,
28 including reasonable costs incurred in repairing, cleaning, and restoring
29 property.

30 Sec. 14. (1) A person shall not advocate for or urge or organize
31 six or more persons to engage in a riot.

1 (2) A violation of this section is a Class I misdemeanor, except
2 that if the violation incites a riot which results in serious bodily
3 injury to one or more persons or which results in property damage of at
4 least five thousand dollars, it shall be a Class IV felony.

5 (3) For any violation of this section, the court shall order the
6 defendant to make restitution as provided in sections 29-2280 to 29-2289
7 for any property damage or loss incurred as a result of the offense,
8 including reasonable costs incurred in repairing, cleaning, and restoring
9 property.

10 Sec. 15. (1) A person shall not, with the intent to prevent or
11 disrupt a lawful meeting, procession, or gathering, substantially
12 obstruct or interfere with the meeting, procession, or gathering by
13 physical action or verbal utterance.

14 (2) A violation of this section is a Class II misdemeanor.

15 Sec. 16. (1) An individual commits an offense who, without legal
16 privilege, intentionally, knowingly, or recklessly:

17 (a) Obstructs a public way, whether the obstruction arises from the
18 individual's acts alone or from the individual's acts and the acts of
19 others; or

20 (b) Disobeys a reasonable request or order to move issued by another
21 person known by the individual to be a peace officer, firefighter, or
22 person with authority to control the use of the public way, and the
23 purpose of such order is to:

24 (i) Prevent obstruction of a public way; or

25 (ii) Maintain public safety by dispersing those gathered in
26 dangerous proximity to a fire, riot, or other hazard.

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

28 (3) For purposes of this section:

29 (a) Obstruct means to render a public way impassable or to render
30 passage unreasonably inconvenient or potentially injurious to persons or
31 property; and

1 (b) Public way means:

2 (i) A highway, a street, a sidewalk, a railway, a waterway, an
3 elevator, an aisle, or a hallway to which the public, or a substantial
4 portion of the public, has access; or

5 (ii) Any other place used for the passage of persons or vehicles.

6 Sec. 17. Section 28-1351, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 28-1351 (1) A person commits the offense of unlawful membership
9 recruitment into an organization or association when he or she knowingly
10 and intentionally coerces, intimidates, threatens, or inflicts bodily
11 harm upon another person in order to entice that other person to join or
12 prevent that other person from leaving any organization, group,
13 enterprise, or association whose members, individually or collectively,
14 engage in or have engaged in any of the following criminal acts for the
15 benefit of, at the direction of, or on behalf of the organization, group,
16 enterprise, or association or any of its members:

17 (a) Robbery under section 28-324;

18 (b) Arson in the first, second, or third degree under section
19 28-502, 28-503, or 28-504, respectively;

20 (c) Burglary under section 28-507;

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

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

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

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

30 (h) ~~Assault on an officer, an emergency responder, a state~~
31 ~~correctional employee, a Department of Health and Human Services~~

1 ~~employee, or a public safety officer or health care professional in the~~
2 ~~first, second, or third degree under section 6 of this act, section 7 of~~
3 ~~this act, or section 8 of this act 28-929, 28-930, or 28-931,~~
4 ~~respectively, or assault on an officer, an emergency responder, a state~~
5 ~~correctional employee, a Department of Health and Human Services~~
6 ~~employee, or a health care professional using a motor vehicle under~~
7 ~~section 28-931.01;~~

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

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

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

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

12 (m) Kidnapping under section 28-313;

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

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

15 (p) Tampering with a publicly exhibited contest under section
16 28-614;

17 (q) Unauthorized use of a financial transaction device or criminal
18 possession of a financial transaction device under section 28-620 or
19 28-621, respectively;

20 (r) Pandering under section 28-802;

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

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

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

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

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

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

31 Sec. 18. Section 28-1354, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 28-1354 For purposes of the Public Protection Act:

3 (1) Enterprise means any individual, sole proprietorship,
4 partnership, corporation, trust, association, or any legal entity, union,
5 or group of individuals associated in fact although not a legal entity,
6 and shall include illicit as well as licit enterprises as well as other
7 entities;

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

14 (3) Until January 1, 2017, person means any individual or entity, as
15 defined in section 21-2014, holding or capable of holding a legal,
16 equitable, or beneficial interest in property. Beginning January 1, 2017,
17 person means any individual or entity, as defined in section 21-214,
18 holding or capable of holding a legal, equitable, or beneficial interest
19 in property;

20 (4) Prosecutor includes the Attorney General of the State of
21 Nebraska, the deputy attorney general, assistant attorneys general, a
22 county attorney, a deputy county attorney, or any person so designated by
23 the Attorney General, a county attorney, or a court of the state to carry
24 out the powers conferred by the act;

25 (5) Racketeering activity includes the commission of, criminal
26 attempt to commit, conspiracy to commit, aiding and abetting in the
27 commission of, aiding in the consummation of, acting as an accessory to
28 the commission of, or the solicitation, coercion, or intimidation of
29 another to commit or aid in the commission of any of the following:

30 (a) Offenses against the person which include: Murder in the first
31 degree under section 28-303; murder in the second degree under section

1 28-304; manslaughter under section 28-305; assault in the first degree
2 under section 28-308; assault in the second degree under section 28-309;
3 assault in the third degree under section 28-310; terroristic threats
4 under section 28-311.01; kidnapping under section 28-313; false
5 imprisonment in the first degree under section 28-314; false imprisonment
6 in the second degree under section 28-315; sexual assault in the first
7 degree under section 28-319; and robbery under section 28-324;

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

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

1 (d) Offenses involving fraud which include: Burning to defraud an
2 insurer under section 28-505; forgery in the first degree under section
3 28-602; forgery in the second degree under section 28-603; criminal
4 possession of a forged instrument under section 28-604; criminal
5 possession of written instrument forgery devices under section 28-605;
6 criminal impersonation under section 28-638; identity theft under section
7 28-639; identity fraud under section 28-640; false statement or book
8 entry under section 28-612; tampering with a publicly exhibited contest
9 under section 28-614; issuing a false financial statement for purposes of
10 obtaining a financial transaction device under section 28-619;
11 unauthorized use of a financial transaction device under section 28-620;
12 criminal possession of a financial transaction device under section
13 28-621; unlawful circulation of a financial transaction device in the
14 first degree under section 28-622; unlawful circulation of a financial
15 transaction device in the second degree under section 28-623; criminal
16 possession of a blank financial transaction device under section 28-624;
17 criminal sale of a blank financial transaction device under section
18 28-625; criminal possession of a financial transaction forgery device
19 under section 28-626; unlawful manufacture of a financial transaction
20 device under section 28-627; laundering of sales forms under section
21 28-628; unlawful acquisition of sales form processing services under
22 section 28-629; unlawful factoring of a financial transaction device
23 under section 28-630; and fraudulent insurance acts under section 28-631;

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

1 ~~section 6 of this act 28-929; assault on an officer, an emergency~~
2 ~~responder, a state correctional employee, a Department of Health and~~
3 ~~Human Services employee, or a public safety officer or health care~~
4 ~~professional in the second degree under section 7 of this act 28-930; and~~
5 ~~assault on an officer, an emergency responder, a state correctional~~
6 ~~employee, a Department of Health and Human Services employee, or a public~~
7 ~~safety officer or health care professional in the third degree under~~
8 ~~section 8 of this act 28-931; and assault on an officer, an emergency~~
9 ~~responder, a state correctional employee, a Department of Health and~~
10 ~~Human Services employee, or a health care professional using a motor~~
11 ~~vehicle under section 28-931.01;~~

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

16 (g) Offenses relating to firearms, weapons, and explosives which
17 include: Carrying a concealed weapon under section 28-1202;
18 transportation or possession of machine guns, short rifles, or short
19 shotguns under section 28-1203; unlawful possession of a handgun under
20 section 28-1204; unlawful transfer of a firearm to a juvenile under
21 section 28-1204.01; possession of a firearm by a prohibited juvenile
22 offender under section 28-1204.05; using a deadly weapon to commit a
23 felony or possession of a deadly weapon during the commission of a felony
24 under section 28-1205; possession of a deadly weapon by a prohibited
25 person under section 28-1206; possession of a defaced firearm under
26 section 28-1207; defacing a firearm under section 28-1208; unlawful
27 discharge of a firearm under section 28-1212.02; possession, receipt,
28 retention, or disposition of a stolen firearm under section 28-1212.03;
29 unlawful possession of explosive materials in the first degree under
30 section 28-1215; unlawful possession of explosive materials in the second
31 degree under section 28-1216; unlawful sale of explosives under section

1 28-1217; use of explosives without a permit under section 28-1218;
2 obtaining an explosives permit through false representations under
3 section 28-1219; possession of a destructive device under section
4 28-1220; threatening the use of explosives or placing a false bomb under
5 section 28-1221; using explosives to commit a felony under section
6 28-1222; using explosives to damage or destroy property under section
7 28-1223; and using explosives to kill or injure any person under section
8 28-1224;

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

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

13 (j) Offenses relating to public health and morals which include:
14 Prostitution under section 28-801; pandering under section 28-802;
15 keeping a place of prostitution under section 28-804; labor trafficking,
16 sex trafficking, labor trafficking of a minor, or sex trafficking of a
17 minor under section 28-831; a violation of section 28-1005; and any act
18 relating to the visual depiction of sexually explicit conduct prohibited
19 in the Child Pornography Prevention Act; and

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

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

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

25 (a) Incurred or contracted in gambling activity which was in
26 violation of federal law or the law of the state or which is
27 unenforceable under state or federal law in whole or in part as to
28 principal or interest because of the laws relating to usury; or

29 (b) Which was incurred in connection with the business of gambling
30 in violation of federal law or the law of the state or the business of
31 lending money or a thing of value at a rate usurious under state law if

1 the usurious rate is at least twice the enforceable rate.

2 Sec. 19. Section 29-2221, Reissue Revised Statutes of Nebraska, is
3 amended to read:

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

13 (a) If the felony committed is in violation of section 28-303,
14 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, ~~28-929~~, or 28-1222 or
15 section 6 of this act, and at least one of the habitual criminal's prior
16 felony convictions was for a violation of one of the sections listed in
17 this subdivision or of a similar statute in another state or of the
18 United States, the mandatory minimum term shall be twenty-five years and
19 the maximum term not more than sixty years;

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

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

31 (2) When punishment of an accused as a habitual criminal is sought,

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

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

20 Sec. 20. Section 29-901, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 29-901 (1) Except as provided in subsection (2) of this section, any
23 bailable defendant shall be ordered released from custody pending
24 judgment on his or her personal recognizance unless the judge determines
25 in the exercise of his or her discretion that such a release will not
26 reasonably assure the appearance of the defendant as required or that
27 such a release could jeopardize the safety and maintenance of evidence or
28 the safety of victims, witnesses, or other persons in the community.

29 (2)(a) This subsection applies to any bailable defendant who is
30 charged with one or more Class IIIA, IV, or V misdemeanors or violations
31 of city or county ordinances, except when:

1 (i) The victim is an intimate partner as defined in section 28-323;
2 or

3 (ii) The defendant is charged with one or more violations of section
4 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance
5 with section 60-6,196 or 60-6,197; or

6 (iii) The defendant is charged with violation of a statute or city
7 or village ordinance that involves physical assault, property damage, or
8 assault or obstruction of a public safety officer as defined in section 5
9 of this act; or

10 (iv) The defendant is charged for any crime, including violation of
11 a city or village ordinance, arising out of a riot as defined in section
12 12 of this act.

13 (b) Any bailable defendant described in this subsection shall be
14 ordered released from custody pending judgment on his or her personal
15 recognizance or under other conditions of release, other than payment of
16 a bond, unless:

17 (i) The defendant has previously failed to appear in the instant
18 case or any other case in the previous six months;

19 (ii) The judge determines in the exercise of his or her discretion
20 that such a release will not reasonably assure the appearance of the
21 defendant as required or that such a release could jeopardize the safety
22 and maintenance of evidence or the safety of the defendant, victims,
23 witnesses, or other persons; and

24 (iii) The defendant was arrested pursuant to a warrant.

25 (3) The court shall consider all methods of bond and conditions of
26 release to avoid pretrial incarceration. If the judge determines that the
27 defendant shall not be released on his or her personal recognizance, the
28 judge shall consider the defendant's financial ability to pay a bond and
29 shall impose the least onerous of the following conditions that will
30 reasonably assure the defendant's appearance or that will eliminate or
31 minimize the risk of harm to others or the public at large:

1 (a) Place the defendant in the custody of a designated person or
2 organization agreeing to supervise the defendant;

3 (b) Place restrictions on the travel, association, or place of abode
4 of the defendant during the period of such release; or

5 (c) Require, at the option of any bailable defendant, either of the
6 following:

7 (i) The execution of an appearance bond in a specified amount and
8 the deposit with the clerk of the court in cash of a sum not to exceed
9 ten percent of the amount of the bond, ninety percent of such deposit to
10 be returned to the defendant upon the performance of the appearance or
11 appearances and ten percent to be retained by the clerk as appearance
12 bond costs, except that when no charge is subsequently filed against the
13 defendant or if the charge or charges which are filed are dropped before
14 the appearance of the defendant which the bond was to assure, the entire
15 deposit shall be returned to the defendant. If the bond is subsequently
16 reduced by the court after the original bond has been posted, no
17 additional appearance bond costs shall be retained by the clerk. The
18 difference in the appearance bond costs between the original bond and the
19 reduced bond shall be returned to the defendant. In no event shall the
20 deposit be less than twenty-five dollars. Whenever jurisdiction is
21 transferred from a court requiring an appearance bond under this
22 subdivision to another state court, the transferring court shall transfer
23 the ninety percent of the deposit remaining after the appearance bond
24 costs have been retained. No further costs shall be levied or collected
25 by the court acquiring jurisdiction; or

26 (ii) The execution of a bail bond with such surety or sureties as
27 shall seem proper to the judge or, in lieu of such surety or sureties, at
28 the option of such person, a cash deposit of such sum so fixed,
29 conditioned for his or her appearance before the proper court, to answer
30 the offense with which he or she may be charged and to appear at such
31 times thereafter as may be ordered by the proper court. The cash deposit

1 shall be returned to the defendant upon the performance of all
2 appearances.

3 (4) If the court requires the defendant to execute an appearance
4 bond requiring the defendant to post money or requires the defendant to
5 execute a bail bond, the court shall appoint counsel for the defendant if
6 the court finds the defendant is financially unable to pay the amount
7 required and is indigent.

8 (5) If the amount of bail is deemed insufficient by the court before
9 which the offense is pending, the court may order an increase of such
10 bail and the defendant shall provide the additional undertaking, written
11 or cash, to secure his or her release. All recognizances in criminal
12 cases shall be in writing and be continuous from term to term until final
13 judgment of the court in such cases and shall also extend, when the court
14 has suspended execution of sentence for a limited time, as provided in
15 section 29-2202, or, when the court has suspended execution of sentence
16 to enable the defendant to apply for a writ of error to the Supreme Court
17 or Court of Appeals, as provided in section 29-2301, until the period of
18 suspension has expired. When two or more indictments or informations are
19 returned against the same person at the same term of court, the
20 recognizance given may be made to include all offenses charged therein.
21 Each surety on such recognizance shall be required to justify under oath
22 in a sum twice the amount of such recognizance and give the description
23 of real estate owned by him or her of a value above encumbrance equal to
24 the amount of such justification and shall name all other cases pending
25 in which he or she is a surety. No one shall be accepted as surety on
26 recognizance aggregating a sum in excess of his or her equity in the real
27 estate, but such recognizance shall not constitute a lien on the real
28 estate described therein until judgment is entered thereon against such
29 surety.

30 (6) In order to assure compliance with the conditions of release
31 referred to in subsection (3) of this section, the court may order a

1 defendant to be supervised by a person, an organization, or a pretrial
2 services program approved by the county board. A court shall waive any
3 fees or costs associated with the conditions of release or supervision if
4 the court finds the defendant is unable to pay for such costs.
5 Eligibility for release or supervision by such pretrial release program
6 shall under no circumstances be conditioned upon the defendant's ability
7 to pay. While under supervision of an approved entity, and in addition to
8 the conditions of release referred to in subsection (3) of this section,
9 the court may impose the following conditions:

10 (a) Periodic telephone contact by the defendant with the
11 organization or pretrial services program;

12 (b) Periodic office visits by the defendant to the organization or
13 pretrial services program;

14 (c) Periodic visits to the defendant's home by the organization or
15 pretrial services program;

16 (d) Mental health or substance abuse treatment for the defendant,
17 including residential treatment, if the defendant consents or agrees to
18 the treatment;

19 (e) Periodic alcohol or drug testing of the defendant;

20 (f) Domestic violence counseling for the defendant, if the defendant
21 consents or agrees to the counseling;

22 (g) Electronic or global-positioning monitoring of the defendant;
23 and

24 (h) Any other supervision techniques shown by research to increase
25 court appearance and public safety rates for defendants released on bond.

26 (7) The incriminating results of any drug or alcohol test or any
27 information learned by a representative of an organization or program
28 shall not be admissible in any proceeding, except for a proceeding
29 relating to revocation or amendment of conditions of bond release.

30 Sec. 21. Original sections 28-519, 28-524, and 29-2221, Reissue
31 Revised Statutes of Nebraska, and sections 28-101, 28-115, 28-929,

1 28-929.01, 28-929.02, 28-930, 28-931, 28-934, 28-1351, 28-1354, and
2 29-901, Revised Statutes Cumulative Supplement, 2020, are repealed.

3 Sec. 22. The following section is outright repealed: Section
4 28-931.01, Revised Statutes Cumulative Supplement, 2020.