

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 338**

Introduced by McKinney, 11.

Read first time January 12, 2023

Committee:

1 A BILL FOR AN ACT relating to criminal justice; to amend sections 29-426,  
2 29-908, 29-2262.06, 29-2266, 29-2266.01, 29-2266.02, 29-2267,  
3 29-2270, 29-2284, 43-3301, 43-3314, 43-3318, and 83-1,110.03,  
4 Reissue Revised Statutes of Nebraska, and sections 28-105, 29-901,  
5 29-2268, 29-2278, 83-1,107.01, 83-1,119, 83-1,121, 83-1,122, and  
6 83-1,135.02, Revised Statutes Cumulative Supplement, 2022; to  
7 require open court hours in certain counties; to change provisions  
8 relating to mandatory minimum sentences, penalties and warrants for  
9 failure to appear, and use of electronic or global-positioning  
10 monitoring or home confinement during pretrial release; to require  
11 sentencing credit for time monitored or under home confinement; to  
12 provide for non-imprisonment sentences for caregivers as prescribed;  
13 to automatically suspend child support obligations for defendants  
14 sentenced to one or more years' imprisonment; to change provisions  
15 relating to probation sanctions and revocations, suspension of  
16 operator's licenses under the License Suspension Act, and parole  
17 sanctions and revocations; to define and redefine terms; to provide  
18 for applicability; to harmonize provisions; and to repeal the  
19 original sections.

20 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-105, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 28-105 (1) For purposes of the Nebraska Criminal Code and any  
4 statute passed by the Legislature after the date of passage of the code,  
5 felonies are divided into ten classes which are distinguished from one  
6 another by the following penalties which are authorized upon conviction:

7 Class I felony Death

8 Class IA felony Life imprisonment

9 Class IB felony Maximum-life imprisonment

10 Minimum-twenty years imprisonment

11 Class IC felony Maximum-fifty years imprisonment

12 Mandatory minimum-five years imprisonment

13 (except as provided in section 7 of this act)

14 Class ID felony Maximum-fifty years imprisonment

15 Mandatory minimum-three years imprisonment

16 (except as provided in section 7 of this act)

17 Class II felony Maximum-fifty years imprisonment

18 Minimum-one year imprisonment

19 Class IIA felony Maximum-twenty years imprisonment

20 Minimum-none

21 Class III felony Maximum-four years imprisonment and two years

22 post-release supervision or

23 twenty-five thousand dollars fine, or both

24 Minimum-none for imprisonment and nine months

25 post-release supervision if imprisonment is imposed

26 Class IIIA felony Maximum-three years imprisonment

27 and eighteen months post-release supervision or

28 ten thousand dollars fine, or both

29 Minimum-none for imprisonment and nine months

30 post-release supervision if imprisonment is imposed

1 Class IV felony Maximum—two years imprisonment and twelve  
2 months post-release supervision or  
3 ten thousand dollars fine, or both  
4 Minimum—none for imprisonment and none for  
5 post-release supervision

6 (2) All sentences for maximum terms of imprisonment for one year or  
7 more for felonies shall be served in institutions under the jurisdiction  
8 of the Department of Correctional Services. All sentences for maximum  
9 terms of imprisonment of less than one year shall be served in the county  
10 jail.

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

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

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

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

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

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

1           Sec. 2. Section 29-426, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           29-426 (1) Subject to subsections (2) and (4) of this section, any  
4 ~~Any~~ person failing to appear or otherwise comply with the command of a  
5 citation shall be guilty of a misdemeanor and shall, upon conviction  
6 thereof, be punished by a fine of not more than five hundred dollars, or  
7 by imprisonment in the county jail for not more than three months, or by  
8 both such fine and imprisonment.

9           (2) If the citation is for a minor offense, a person shall not be  
10 guilty of violating subsection (1) of this section if the person appears  
11 before the court within seven days after the date in the citation. Within  
12 such seven-day period, the court shall not issue a warrant for the arrest  
13 of such person for such failure to appear, or shall cancel any warrant  
14 already issued, and shall not revoke any bond that has been deposited  
15 with the clerk of the court, if such person notifies the court that such  
16 person will appear within such period.

17           (3) For purposes of this section, minor offense means any violation  
18 of the criminal laws of this state or any political subdivision of this  
19 state including, but not limited to, any misdemeanor, infraction, traffic  
20 infraction, violation of a city or village ordinance, or violation of a  
21 county resolution, but shall not include any felony or Class I  
22 misdemeanor.

23           (4) A person shall not be prosecuted for a violation of this section  
24 if section 6 of this act bars prosecution because the person has appeared  
25 during open court hours as provided in such section.

26           Sec. 3. Section 29-901, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

28           29-901 (1) Except as provided in subsection (2) of this section, any  
29 bailable defendant shall be ordered released from custody pending  
30 judgment on his or her personal recognizance unless the judge determines  
31 in the exercise of his or her discretion that such a release will not

1 reasonably assure the appearance of the defendant as required or that  
2 such a release could jeopardize the safety and maintenance of evidence or  
3 the safety of victims, witnesses, or other persons in the community.

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

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

9 (ii) The defendant is charged with one or more violations of section  
10 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance  
11 with section 60-6,196 or 60-6,197.

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

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

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

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

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

31 (a) Place the defendant in the custody of a designated person or

1 organization agreeing to supervise the defendant;

2 (b) Subject to section 4 of this act, place ~~Place~~ restrictions on  
3 the travel, association, or place of abode of the defendant during the  
4 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 subject to section 4 of this act;

24 (h) Participation in a 24/7 sobriety program under the 24/7 Sobriety  
25 Program Act; and

26 (i) Any other supervision techniques shown by research to increase  
27 court appearance and public safety rates for defendants released on bond.

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

1           Sec. 4. (1) A court shall only order electronic or global-  
2 positioning monitoring or home confinement as a condition of release  
3 under section 29-901 if the court finds by clear and convincing evidence  
4 that:

5           (a) The defendant presents a substantial risk of serious harm to any  
6 person or there is a substantial risk the defendant will fail to appear;  
7 and

8           (b) No less restrictive condition of release or combination of less  
9 restrictive conditions of release would reasonably assure the appearance  
10 of the defendant for later hearings and eliminate or minimize such risk  
11 of harm.

12           (2) If the court orders electronic or global-positioning monitoring  
13 or home confinement as a condition of release under section 29-901, the  
14 court shall set forth its determination under this section in writing,  
15 with specific findings of fact and the reasons for its determination.

16           (3) If the court orders electronic or global-positioning monitoring  
17 or home confinement as a condition of release under section 29-901, the  
18 court shall determine every sixty days whether such monitoring or  
19 confinement is permissible under subsection (1) of this section. If the  
20 court determines that less restrictive conditions of release will  
21 suffice, the court shall modify the order for pretrial release  
22 accordingly.

23           (4) The prosecuting attorney shall have the burden of production and  
24 proof under subsections (1) and (3) of this section.

25           (5) A defendant who is subject to electronic or global-positioning  
26 monitoring or home confinement shall not be assessed any fees relating to  
27 such monitoring or confinement.

28           (6) A defendant shall receive credit against any sentence for time  
29 spent subject to electronic or global-positioning monitoring or home  
30 confinement as a condition of release under section 29-901.

31           Sec. 5. Section 29-908, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 29-908 (1) Whoever is charged with a felony and is released from  
3 custody under bail, recognizance, or a conditioned release and willfully  
4 fails to appear before the court granting such release when legally  
5 required or ~~to surrender himself~~ within three days thereafter, shall be  
6 guilty of a Class IV felony, in addition to any other penalties or  
7 forfeitures provided by law.

8 (2) Whoever is charged with a Class I misdemeanor ~~and or violation~~  
9 ~~of city or village ordinance, conviction of which would carry a jail~~  
10 ~~sentence of more than ninety days,~~ who is released from custody under  
11 bail or recognizance or conditioned release and who willfully fails to  
12 appear before the court granting such release when ~~legally~~ required ~~to~~  
13 ~~surrender himself~~ or within three days thereafter, shall be guilty of a  
14 Class II misdemeanor, in addition to any other penalties or forfeitures  
15 provided by law.

16 (3)(a) Whoever is charged with a minor offense, conviction of which  
17 would carry a jail sentence of more than ninety days, and is released  
18 from custody under bail or recognizance or conditioned release and  
19 willfully fails to appear before the court granting such release when  
20 required or within seven days thereafter, shall be guilty of a Class II  
21 misdemeanor, in addition to any other penalties or forfeitures provided  
22 by law.

23 (b) Within the seven-day period described in subdivision (3)(a) of  
24 this section, the court shall not issue a warrant for the arrest of such  
25 person for such failure to appear, or shall cancel any warrant already  
26 issued, and shall not revoke any bond that has been deposited with the  
27 clerk of the court, if such person notifies the court that such person  
28 will appear within such period.

29 (c) For purposes of this section, minor offense means any violation  
30 of the criminal laws of this state or any political subdivision of this  
31 state including, but not limited to, any misdemeanor, infraction, traffic

1 infraction, violation of a city or village ordinance, or violation of a  
2 county resolution, but shall not include any felony or Class I  
3 misdemeanor.

4 (4) A person shall not be prosecuted for a violation of this section  
5 if section 6 of this act bars prosecution because the person has appeared  
6 during open court hours as provided in such section.

7 Sec. 6. (1) In any county having more than one hundred thousand  
8 inhabitants, the county and district courts shall establish open court  
9 hours as provided in this section. Any person charged with an eligible  
10 offense who has previously failed to appear in relation to such offense  
11 in violation of section 29-426 or 29-908 may appear before the court  
12 during open court hours. Any person so appearing shall not be prosecuted  
13 for such previous violation of section 29-426 or 29-908. During open  
14 court hours such person and the court shall reschedule such person's  
15 required appearance for such offense.

16 (2) A person whose prosecution for failure to appear is barred by  
17 subsection (1) of this section shall not thereafter be entitled to such  
18 relief for any failure to appear relating to the same offense.

19 (3) Open court hours shall be held at the same time and on the same  
20 day each week, except as may be rescheduled from time to time to account  
21 for holidays or other necessary court business. The times, dates, and  
22 location of open court hours shall be posted on each county's website.  
23 Any change to the open court hours shall be posted to such website at  
24 least thirty days in advance.

25 (4) Each court holding open court hours shall ensure that the public  
26 defender or other appointed counsel are available to assist defendants.

27 (5) For purposes of this section, eligible offense means any  
28 violation of the criminal laws of this state or any political subdivision  
29 of this state including, but not limited to, any misdemeanor, infraction,  
30 traffic infraction, violation of a city or village ordinance, or  
31 violation of a county resolution, but shall not include any felony.

1           Sec. 7. (1) When sentencing a defendant convicted of an eligible  
2 offense, the court may grant safety valve relief and sentence the  
3 defendant as provided in subsection (2) of this section if, giving due  
4 regard to the nature and circumstances of the offense, the history and  
5 characteristics of the defendant, and the likelihood the defendant can be  
6 successfully rehabilitated, the court finds substantial and compelling  
7 reasons that:

8           (a) Imposition of the minimum or mandatory minimum sentence would  
9 result in substantial injustice to the defendant; and

10           (b) The minimum or mandatory minimum sentence is not necessary for  
11 protection of the public.

12           (2) If the court finds that safety valve relief is appropriate under  
13 subsection (1) of this section, the court may, for any eligible offense:

14           (a) Impose a sentence for which the otherwise applicable mandatory  
15 minimum term is a minimum term only; or

16           (b) Impose a sentence with a mandatory minimum term which is shorter  
17 than that prescribed by section 28-105.

18           (3) A court sentencing a defendant as provided in this section shall  
19 set forth its determination under this section in writing, with specific  
20 findings of fact and the reasons for its determination.

21           (4) Relief under this section shall not be available to a defendant  
22 who has been deemed a habitual criminal pursuant to section 29-2221.

23           (5) For purposes of this section, eligible offense means any felony  
24 other than:

25           (a) A Class I or IA felony;

26           (b) An offense for which registration is required under the Sex  
27 Offender Registration Act;

28           (c) An offense that involves, as an element of the offense, sexual  
29 contact or sexual penetration as defined in section 28-318; or

30           (d) Attempt, conspiracy, solicitation, being an accessory to, aiding  
31 and abetting, aiding the consummation of, or compounding a felony with

1 any of the offenses listed in subdivision (5)(a), (b), or (c) of this  
2 section as the underlying offense.

3 Sec. 8. (1) Prior to imposing a sentence for an eligible offense, a  
4 court shall determine if the defendant is the primary caregiver for a  
5 dependent child. If the defendant is a primary caregiver for a dependent  
6 child, the court may withhold sentence of imprisonment and proceed under  
7 subsection (2) of this section unless, having considered the factors  
8 under section 29-2260, the court finds a sentence of imprisonment is  
9 necessary.

10 (2) If the court finds that relief is appropriate under subsection  
11 (1) of this section, the court may impose a sentence of probation, with a  
12 focus on caregiver-child unity and support. As part of such sentence, the  
13 court may require that the person meet certain conditions that the court  
14 considers appropriate, including, but not limited to:

- 15 (a) Drug and alcohol treatment;
- 16 (b) Domestic violence education and prevention;
- 17 (c) Physical and sexual abuse counseling;
- 18 (d) Anger management;
- 19 (e) Vocational and educational services;
- 20 (f) Job training and placement;
- 21 (g) Obtaining affordable and safe housing assistance;
- 22 (h) Financial literacy counseling or education;
- 23 (i) Parenting classes;
- 24 (j) Family and individual counseling; and
- 25 (k) Family case management services.

26 (3) A court sentencing a defendant as provided in this section shall  
27 set forth its determination under this section in writing, with specific  
28 findings of fact and the reasons for its determination.

29 (4) Relief under this section shall not be available to a defendant  
30 who has been deemed a habitual criminal pursuant to section 29-2221.

31 (5) For purposes of this section:

1           (a) Crime of violence means:

2           (i) A violation of section 28-303, 28-304, 28-305, 28-308, 28-309,  
3 28-310, 28-310.01, 28-311, 28-311.03, 28-313, 28-314, 28-316.01, 28-319,  
4 28-319.01, 28-320, 28-320.01, 28-322.02, 28-322.03, 28-322.04, 28-322.05,  
5 28-323, 28-324, 28-386, 28-507, 28-703, 28-707, or 28-831;

6           (ii) An offense that has as an element the threat to inflict serious  
7 bodily injury or death on another person, the infliction of serious  
8 bodily injury on another person, or causing the death of another person;

9           (iii) An offense for which registration is required under the Sex  
10 Offender Registration Act;

11           (iv) An offense that involves, as an element of the offense, sexual  
12 contact or sexual penetration; or

13           (v) Attempt, conspiracy, solicitation, being an accessory to, aiding  
14 and abetting, aiding the consummation of, or compounding a felony with  
15 any of the offenses listed in subdivision (5)(a)(i), (ii), (iii), or (iv)  
16 of this section as the underlying offense;

17           (b) Eligible offense means any violation of the criminal laws of  
18 this state or any political subdivision of this state including, but not  
19 limited to, any misdemeanor, infraction, traffic infraction, violation of  
20 a city or village ordinance, or violation of a county resolution, but  
21 shall not include any crime of violence or any felony for which a  
22 mandatory minimum term of imprisonment is required;

23           (c) Primary caregiver means a person:

24           (i) Who is a custodial parent or legal guardian of a child under  
25 eighteen years of age;

26           (ii) Who resides in the same household as such child;

27           (iii) Who provides care or financial support for such child either  
28 alone or with the assistance of other family or household members; and

29           (iv) Whose absence in such child's life would be detrimental to the  
30 child;

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

1 and

2 (e) Sexual contact and sexual penetration have the same meaning as  
3 in section 28-318.

4 Sec. 9. (1) When any defendant is sentenced to one or more years'  
5 imprisonment, child support obligations shall be suspended, and interest  
6 on any such obligations shall not accrue, until the defendant is no  
7 longer serving a sentence at any Department of Correctional Services  
8 facility. During such period of suspension and for thirty days  
9 thereafter, no action shall be taken to collect any past due obligations  
10 or interest or under the License Suspension Act.

11 (2) Prior to any sentencing proceeding in which the defendant may be  
12 sentenced to one or more years' imprisonment, the county attorney shall  
13 notify the court whether the defendant owes child support.

14 (3) When any court sentences a defendant to one or more years'  
15 imprisonment, the court shall:

16 (a) Notify the defendant of the suspension of obligations and  
17 interest under subsection (1) of this section and that such obligations  
18 shall automatically resume when the defendant is no longer serving a  
19 sentence at any department facility; and

20 (b) Provide notice of the suspension to the county attorney, the  
21 Department of Correctional Services, and the Department of Health and  
22 Human Services.

23 Sec. 10. Section 29-2262.06, Reissue Revised Statutes of Nebraska,  
24 is amended to read:

25 29-2262.06 (1) Except as otherwise provided in this section,  
26 whenever a district court or county court sentences an adult offender to  
27 probation, the court shall require the probationer to pay a one-time  
28 administrative enrollment fee and thereafter a monthly probation  
29 programming fee.

30 (2) Participants in non-probation-based programs or services in  
31 which probation personnel or probation resources are utilized pursuant to

1 an interlocal agreement authorized by subdivision (16) of section 29-2252  
2 and in which all or a portion of the costs of such probation personnel or  
3 such probation resources are covered by funds provided pursuant to  
4 section 29-2262.07 shall pay the one-time administrative enrollment fee  
5 described in subdivision (3)(a) of this section and the monthly probation  
6 programming fee described in subdivision (3)(c) of this section. In  
7 addition, the provisions of subsections (4), ~~(6)~~ ~~(7)~~, and ~~(9)~~ ~~(10)~~ of  
8 this section applicable to probationers apply to participants in non-  
9 probation-based programs or services. Any participant in a non-probation-  
10 based program or service who defaults on the payment of any such fees  
11 may, at the discretion of the court, be subject to removal from such non-  
12 probation-based program or service. This subdivision does not preclude a  
13 court or other governmental entity from charging additional local fees  
14 for participation in such non-probation-based programs and services or  
15 other similar non-probation-based programs and services.

16 (3) The court shall establish the administrative enrollment fee and  
17 monthly probation programming fees as follows:

18 (a) Adult probationers placed on either probation or intensive  
19 supervision probation and participants in non-probation-based programs or  
20 services shall pay a one-time administrative enrollment fee of thirty  
21 dollars. The fee shall be paid in a lump sum upon the beginning of  
22 probation supervision or participation in a non-probation-based program  
23 or service;

24 (b) Adult probationers placed on probation shall pay a monthly  
25 probation programming fee of twenty-five dollars, not later than the  
26 tenth day of each month, for the duration of probation; and

27 (c) Adult probationers placed on intensive supervision probation and  
28 participants in non-probation-based programs or services shall pay a  
29 monthly probation programming fee of thirty-five dollars, not later than  
30 the tenth day of each month, for the duration of probation or  
31 participation in a non-probation-based program or service.

1           (4) The court shall waive payment of the monthly probation  
2 programming fees in whole or in part if after a hearing a determination  
3 is made that such payment would constitute an undue hardship on the  
4 offender due to limited income, employment or school status, or physical  
5 or mental handicap. Such waiver shall be in effect only during the period  
6 of time that the probationer or participant in a non-probation-based  
7 program or service is unable to pay his or her monthly probation  
8 programming fee.

9           ~~(5) If a probationer defaults in the payment of monthly probation~~  
10 ~~programming fees or any installment thereof, the court may revoke his or~~  
11 ~~her probation for nonpayment, except that probation shall not be revoked~~  
12 ~~nor shall the offender be imprisoned for such nonpayment if the~~  
13 ~~probationer is financially unable to make the payment, if he or she so~~  
14 ~~states to the court in writing under oath, and if the court so finds~~  
15 ~~after a hearing.~~

16           (5) ~~(6)~~ If the court determines that a probationer's the default in  
17 payment of monthly probation programming fees or any installment thereof  
18 ~~described in subsection (5) of this section~~ was not attributable to a  
19 deliberate refusal to obey the order of the court or to failure on the  
20 probationer's part to make a good faith effort to obtain the funds  
21 required for payment, the court may enter an order allowing the  
22 probationer additional time for payment, reducing the amount of each  
23 installment, or revoking the fees or the unpaid portion in whole or in  
24 part.

25           (6) ~~(7)~~ No probationer or participant in a non-probation-based  
26 program or service shall be required to pay more than one monthly  
27 probation programming fee per month. This subsection does not preclude  
28 local fees as provided in subsection (2) of this section.

29           (7) ~~(8)~~ The imposition of monthly probation programming fees in this  
30 section shall be considered separate and apart from the fees described in  
31 subdivisions (2)(m) and (o) of section 29-2262.

1           (8) ~~(9)~~ Any adult probationer received for supervision pursuant to  
2 section 29-2637 or the Interstate Compact for Adult Offender Supervision  
3 shall be assessed both a one-time administrative enrollment fee and  
4 monthly probation programming fees during the period of time the  
5 probationer is actively supervised by Nebraska probation authorities.

6           (9) ~~(10)~~ The probationer or participant in a non-probation-based  
7 program or service shall pay the fees described in this section to the  
8 clerk of the court. The clerk of the court shall remit all fees so  
9 collected to the State Treasurer for credit to the Probation Program Cash  
10 Fund.

11           Sec. 11. Section 29-2266, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13           29-2266 For purposes of sections 29-2266.01 to 29-2268 ~~29-2266.03~~:

14           (1) Absconding supervision means a probationer has purposely avoided  
15 supervision for a period of at least two weeks with the purpose to  
16 permanently avoid supervision and reasonable efforts by probation  
17 officers and staff to locate the probationer ~~in person~~ have proven  
18 unsuccessful;

19           (2) Administrative sanction means an additional probation  
20 requirement imposed upon a probationer by his or her probation officer,  
21 with the full knowledge and consent of the probationer, designed to hold  
22 the probationer accountable for violations of conditions of probation,  
23 including, but not limited to:

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

25           (b) Increased supervision contact requirements;

26           (c) Increased substance abuse testing;

27           (d) Referral for substance abuse or mental health evaluation or  
28 other specialized assessment, counseling, or treatment;

29           (e) Imposition of a designated curfew for a period not to exceed  
30 thirty days;

31           (f) Community service for a specified number of hours pursuant to

1 sections 29-2277 to 29-2279;

2 (g) Travel restrictions to stay within his or her county of  
3 residence or employment unless otherwise permitted by the supervising  
4 probation officer; and

5 (h) Restructuring court-imposed financial obligations to mitigate  
6 their effect on the probationer;

7 (3) Custodial sanction means an additional probation requirement  
8 imposed upon a probationer designed to hold the probationer accountable  
9 for a violation of a condition of probation. A custodial sanction may  
10 include up to thirty days in jail as the most severe response and may  
11 include up to three days in jail as the second most severe response;

12 ~~(4)(a) Noncriminal violation means a probationer's activities or~~  
13 ~~behaviors which create the opportunity for re-offending or diminish the~~  
14 ~~effectiveness of probation supervision resulting in a violation of an~~  
15 ~~original condition of probation, including:~~

16 ~~(i) Moving traffic violations;~~

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

18 ~~(iii) Leaving the jurisdiction of the court or leaving the state~~  
19 ~~without the permission of the court or his or her probation officer;~~

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

21 ~~(v) Failure to notify his or her probation officer of change of~~  
22 ~~address or employment;~~

23 ~~(vi) Frequenting places where controlled substances are illegally~~  
24 ~~sold, used, distributed, or administered;~~

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

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

28 ~~(b) Noncriminal violation does not include absconding supervision;~~  
29 ~~and~~

30 ~~(4) (5) Substance abuse violation means a probationer's activities~~  
31 ~~or behaviors associated with the use of chemical substances or related~~

1 treatment services resulting in a violation of an original condition of  
2 probation, including:

3 (a) Positive breath test for the consumption of alcohol if the  
4 offender is required to refrain from alcohol consumption;

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

6 (c) Failure to report for alcohol testing or drug testing; and

7 (d) Failure to appear for or complete substance abuse or mental  
8 health treatment evaluations or inpatient or outpatient treatment; and -

9 (5)(a) Technical violation means a probationer's activities or  
10 behaviors which create the probability for re-offending or diminish the  
11 effectiveness of probation supervision resulting in a violation of an  
12 original condition of probation, including:

13 (i) Moving traffic violations;

14 (ii) Any criminal violation or infraction, whether in violation of  
15 state law or a city or village ordinance, unless (A) such violation is a  
16 felony or a Class I misdemeanor or (B) the victim of the violation is an  
17 intimate partner as defined in section 28-323;

18 (iii) Failure to report to his or her probation officer;

19 (iv) Leaving the jurisdiction of the court or leaving the state  
20 without the permission of the court or his or her probation officer;

21 (v) Failure to work regularly or attend training or school;

22 (vi) Failure to notify his or her probation officer of change of  
23 address or employment;

24 (vii) Frequenting places where controlled substances are illegally  
25 sold, used, distributed, or administered;

26 (viii) Failure to perform community service as directed; and

27 (ix) Failure to pay fines, court costs, restitution, or any fees  
28 imposed pursuant to section 29-2262.06 as directed; and

29 (b) Technical violation does not include absconding supervision.

30 Sec. 12. Section 29-2266.01, Reissue Revised Statutes of Nebraska,  
31 is amended to read:

1           29-2266.01 (1) Subject to subsection (5) of this section, whenever  
2 ~~Whenever~~ a probation officer has probable ~~reasonable~~ cause to believe  
3 that a probationer sentenced for a misdemeanor has committed or is about  
4 to commit a violation of a condition of probation, the probation officer  
5 shall either:

6           (a) Impose one or more administrative sanctions with the approval of  
7 his or her chief probation officer or such chief's designee. The decision  
8 to impose an administrative sanction in lieu of formal revocation  
9 proceedings rests with the probation officer and his or her chief  
10 probation officer or such chief's designee and shall be based upon the  
11 probationer's risk level, the severity of the violation, and the  
12 probationer's response to the violation. If an administrative sanction is  
13 to be imposed, the probationer shall acknowledge in writing the nature of  
14 the violation and agree upon the administrative sanction. The probationer  
15 has the right to decline to acknowledge the violation; and if he or she  
16 declines to acknowledge the violation, the probation officer shall take  
17 action pursuant to subdivision (1)(b) of this section. The probation  
18 officer shall submit a written report to the county attorney of the  
19 county where probation was imposed, outlining the nature of the probation  
20 violation and the sanction imposed; or

21           (b) Submit a written report to the sentencing court, with a copy to  
22 the county attorney of the county where probation was imposed, outlining  
23 the nature of the probation violation and request that formal revocation  
24 proceedings be initiated against the probationer in accordance with  
25 sections 29-2267 and 29-2268.

26           (2) Whenever a probation officer has probable ~~reasonable~~ cause to  
27 believe that a probationer sentenced for a misdemeanor has violated or is  
28 about to violate a condition of his or her probation, other than a  
29 technical violation or a substance abuse violation, and that the  
30 probationer will attempt to leave the jurisdiction or will place lives or  
31 property in danger, the probation officer shall arrest the probationer

1 without a warrant and may call on any peace officer for assistance.  
2 Whenever a probationer is arrested, with or without a warrant, he or she  
3 shall be detained in a jail or other detention facility.

4 (3) Immediately after arrest and detention pursuant to subsection  
5 (2) of this section, the probation officer shall notify the county  
6 attorney of the county where probation was imposed and submit a written  
7 report of the reason for such arrest and of any violation of probation.  
8 After prompt consideration of such written report, the county attorney  
9 shall:

10 (a) Notify the probation officer and the jail or detention facility,  
11 in writing, that he or she does not intend to file a motion to revoke  
12 probation, and authorize the release of the probationer from confinement;  
13 or

14 (b) File with the sentencing court a motion or information to revoke  
15 probation in accordance with sections 29-2267 and 29-2268.

16 (4) Subject to subsection (5) of this section, whenever ~~whenever~~ a  
17 county attorney receives a report from a probation officer that a  
18 probationer sentenced for a misdemeanor has violated a condition of  
19 probation, the county attorney may file a motion or information to revoke  
20 probation in accordance with sections 29-2267 and 29-2268.

21 (5) Probation shall not be revoked for a technical violation or a  
22 substance abuse violation.

23 (6) ~~(5)~~ The administrator shall adopt and promulgate rules and  
24 regulations to carry out this section.

25 Sec. 13. Section 29-2266.02, Reissue Revised Statutes of Nebraska,  
26 is amended to read:

27 29-2266.02 (1) Subject to subsection (6) of this section, whenever  
28 ~~whenever~~ a probation officer has probable ~~reasonable~~ cause to believe  
29 that a probationer sentenced for a felony has committed or is about to  
30 commit a violation while on probation, the probation officer shall  
31 consider:

1 (a) Whether the probation officer is required to arrest the  
2 probationer pursuant to subsection (2) of this section;

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

5 (c) Whether to impose administrative sanctions or seek custodial  
6 sanctions; or

7 (d) Whether to seek revocation of probation.

8 (2) Whenever a probation officer has probable ~~reasonable~~ cause to  
9 believe that a probationer sentenced for a felony has violated or is  
10 about to violate a condition of his or her probation, other than a  
11 technical violation or a substance abuse violation, and that the  
12 probationer will attempt to leave the jurisdiction or will place lives or  
13 property in danger, the probation officer shall arrest the probationer  
14 without a warrant and may call on any peace officer for assistance.  
15 Whenever a probationer is arrested, with or without a warrant, he or she  
16 shall be detained in a jail or other detention facility.

17 (3) Subject to subsection (6) of this section, whenever ~~Whenever~~ a  
18 probation officer has probable ~~reasonable~~ cause to believe that a  
19 probationer sentenced for a felony has committed or is about to commit a  
20 violation of a condition of probation, the probation officer shall:

21 (a) Impose one or more administrative sanctions with the approval of  
22 his or her chief probation officer or such chief's designee. The decision  
23 to impose an administrative sanction rests with the probation officer and  
24 his or her chief probation officer or such chief's designee and shall be  
25 based upon the probationer's risk level, the severity of the violation,  
26 and the probationer's response to the violation. If an administrative  
27 sanction is to be imposed, the probationer shall acknowledge in writing  
28 the nature of the violation and agree upon the administrative sanction.  
29 The probationer has the right to decline to acknowledge the violation;  
30 and if he or she declines to acknowledge the violation, the probation  
31 officer shall take action pursuant to subdivision (3)(b) or (c) of this

1 section. The probation officer shall submit a written report to the  
2 county attorney of the county where probation was imposed, outlining the  
3 nature of the probation violation and the sanction imposed;

4 (b) Seek the imposition of a custodial sanction with the approval of  
5 his or her chief probation officer or such chief's designee. The decision  
6 to impose a custodial sanction rests with the court and shall be based  
7 upon the probationer's risk level, the severity of the violation, and the  
8 probationer's response to the violation. If a custodial sanction is to be  
9 imposed, the probationer shall acknowledge in writing the nature of the  
10 violation and agree upon the custodial sanction. The probationer has the  
11 right to decline to acknowledge the violation; and if he or she declines  
12 to acknowledge the violation, the probation officer shall take action in  
13 accordance with section 29-2266.03. If the probationer acknowledges the  
14 violation and agrees upon the custodial sanction, the probation officer  
15 shall take action in accordance with subsection (1) of section 29-2266.03  
16 and shall submit a written report to the county attorney of the county  
17 where probation was imposed, outlining the nature of the probation  
18 violation and the sanction to be imposed; or

19 (c) Submit a written report to the sentencing court, with a copy to  
20 the county attorney of the county where probation was imposed, outlining  
21 the nature of the probation violation and request that formal revocation  
22 proceedings be initiated against the probationer in accordance with  
23 sections 29-2267 and 29-2268.

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

30 (a) Notify the probation officer and the jail or detention facility,  
31 in writing, that he or she does not intend to file a motion to revoke

1 probation, and authorize the release of the probationer from confinement;  
2 or

3 (b) File with the sentencing court a motion or information to revoke  
4 probation in accordance with sections 29-2267 and 29-2268.

5 (5) Subject to subsection (6) of this section, whenever ~~Whenever~~ a  
6 county attorney receives a report from a probation officer that a  
7 probationer sentenced for a felony has violated a condition of probation,  
8 the county attorney may file a motion or information to revoke probation  
9 in accordance with sections 29-2267 and 29-2268.

10 (6) Probation shall not be revoked for a technical violation or a  
11 substance abuse violation.

12 (7) ~~(6)~~ The administrator shall adopt and promulgate rules and  
13 regulations to carry out this section, including, but not limited to,  
14 rules and regulations to ensure prompt court review of requests for the  
15 imposition of custodial sanctions.

16 Sec. 14. Section 29-2267, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 29-2267 (1) Whenever a motion or information to revoke probation is  
19 filed, the probationer shall be entitled to a prompt consideration of  
20 such charge by the sentencing court. The court shall not revoke probation  
21 or increase the probation requirements imposed on the probationer, except  
22 after a hearing upon proper notice where the violation of probation is  
23 established by clear and convincing evidence.

24 (2) The probationer shall have the right to receive, prior to the  
25 hearing, a copy of the information or written notice of the grounds on  
26 which the information is based. The probationer shall have the right to  
27 hear and controvert the evidence against him or her, to offer evidence in  
28 his or her defense, and to be represented by counsel.

29 ~~(3) For a probationer convicted of a felony, revocation proceedings~~  
30 ~~may only be instituted in response to a substance abuse or noncriminal~~  
31 ~~violation if the probationer has served ninety days of cumulative~~

1 ~~custodial sanctions during the current probation term.~~

2       Sec. 15. Section 29-2268, Revised Statutes Cumulative Supplement,  
3 2022, is amended to read:

4       29-2268 (1) If the court finds that the probationer, other than a  
5 probationer serving a term of post-release supervision, did violate a  
6 condition of his or her probation, other than a technical violation or a  
7 substance abuse violation, it may revoke the probation and impose on the  
8 offender such new sentence as might have been imposed originally for the  
9 crime of which he or she was convicted.

10       (2) If the court finds that a probationer serving a term of post-  
11 release supervision did violate a condition of his or her post-release  
12 supervision, other than a technical violation or a substance abuse  
13 violation, it may revoke the post-release supervision and impose on the  
14 offender a term of imprisonment up to the original period of post-release  
15 supervision. If a sentence of incarceration is imposed upon revocation of  
16 post-release supervision, the court shall grant jail credit for any days  
17 spent in custody as a result of the post-release supervision, including  
18 custodial sanctions. The term shall be served in an institution under the  
19 jurisdiction of the Department of Correctional Services or in county jail  
20 subject to subsection (2) of section 28-105.

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

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

25       (b) Probation supervision and reporting be intensified;

26       (c) The probationer be required to conform to one or more additional  
27 conditions of probation which may be imposed in accordance with the  
28 Nebraska Probation Administration Act;

29       (d) A custodial sanction be imposed on a probationer convicted of a  
30 felony, subject to the provisions of section 29-2266.03; and

31       (e) The probationer's term of probation be extended, subject to the

1 provisions of section 29-2263.

2 Sec. 16. Section 29-2270, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 29-2270 Any individual who is less than nineteen years of age and  
5 who is subject to the supervision of a juvenile probation officer or an  
6 adult probation officer pursuant to an order of the district court,  
7 county court, or juvenile court shall, as a condition of probation, be  
8 required to:

9 (1) Attend school to obtain vocational training or to achieve an  
10 appropriate educational level as prescribed by the probation officer  
11 after consultation with the school the individual attends or pursuant to  
12 section 29-2272. If the individual fails to attend school regularly,  
13 maintain appropriate school behavior, or make satisfactory progress as  
14 determined by the probation officer after consultation with the school  
15 and the individual does not meet the requirements of subdivision (2) of  
16 this section, the district court, county court, or juvenile court shall  
17 take appropriate action to enforce or ~~modify, or revoke~~ its order  
18 granting probation; or

19 (2) Attend an on-the-job training program or secure and maintain  
20 employment. If the individual fails to attend the program or maintain  
21 employment and does not meet the requirements of subdivision (1) of this  
22 section, the district court, county court, or juvenile court shall take  
23 appropriate action to enforce or ~~modify, or revoke~~ its order granting  
24 probation.

25 Sec. 17. Section 29-2278, Revised Statutes Cumulative Supplement,  
26 2022, is amended to read:

27 29-2278 (1) An offender may be sentenced to community service (a)  
28 ~~(1)~~ as an alternative to a fine, incarceration, or supervised probation,  
29 or in lieu of incarceration if he or she fails to pay a fine as ordered,  
30 except when the violation of a misdemeanor or felony requires mandatory  
31 incarceration or imposition of a fine, (b) ~~(2)~~ as a condition of

1 probation, or (c) ~~(3)~~ in addition to any other sanction.

2 (2) The court or magistrate shall establish the terms and conditions  
3 of community service including, but not limited to, a reasonable time  
4 limit for completion.

5 (3) The performance or completion of a sentence of community service  
6 or an order to complete community service may be supervised or confirmed  
7 by a community correctional facility or program or another similar  
8 entity, as ordered by the court or magistrate.

9 (4) If an offender fails to perform community service as ordered by  
10 the court or magistrate, he or she may be arrested and after a hearing  
11 may be resentenced on the original charge, ~~have probation revoked,~~ or be  
12 found in contempt of court.

13 (5) No person convicted of an offense involving serious bodily  
14 injury or sexual assault shall be eligible for community service.

15 Sec. 18. Section 29-2284, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 29-2284 Failure to comply with a restitution order shall be  
18 considered a violation of probation or parole ~~If the defendant is placed~~  
19 ~~on probation or paroled, the court may revoke probation, and the Board of~~  
20 ~~Parole may revoke parole if the defendant fails to comply with the~~  
21 ~~restitution order.~~ In determining the appropriate sanction, consideration  
22 shall be given to whether to revoke probation or parole, ~~the court or~~  
23 ~~Board of Parole shall consider~~ the defendant's earning ability and  
24 financial resources, the willfulness of the defendant's failure to pay,  
25 and any special circumstances affecting the defendant's ability to pay.  
26 Probation or parole sanctions shall not be imposed ~~may not be revoked~~  
27 unless noncompliance with the restitution order is attributable to an  
28 intentional refusal to obey the order or a failure to make a good faith  
29 effort to comply with the order. Probation or parole shall not be revoked  
30 for failure to comply with a restitution order.

31 Sec. 19. Section 43-3301, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-3301 Sections 43-3301 to 43-3326 and section 22 of this act shall  
3 be known and may be cited as the License Suspension Act.

4 Sec. 20. Section 43-3314, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 43-3314 (1) When the department or a county attorney or authorized  
7 attorney has made reasonable efforts to verify and has reason to believe  
8 that a license holder in a case receiving services under Title IV-D of  
9 the Social Security Act, as amended, (a) is delinquent on a support order  
10 in an amount equal to the support due and payable for more than a three-  
11 month period of time, (b) is not in compliance with a payment plan for  
12 amounts due as determined by a county attorney, an authorized attorney,  
13 or the department for such past-due support, or (c) is not in compliance  
14 with a payment plan for amounts due under a support order pursuant to a  
15 court order for such past-due support, and therefor determines to certify  
16 the license holder to the appropriate licensing authority, the  
17 department, county attorney, or authorized attorney shall send written  
18 notice to the license holder by certified mail to the last-known address  
19 of the license holder or to the last-known address of the license holder  
20 available to the court pursuant to section 42-364.13. For purposes of  
21 this section, reasonable efforts to verify means reviewing the case file  
22 and having written or oral communication with the clerk of the court of  
23 competent jurisdiction and with the license holder. Reasonable efforts to  
24 verify may also include written or oral communication with custodial  
25 parents.

26 (2) The notice shall specify:

27 (a) That the Department of Health and Human Services, county  
28 attorney, or authorized attorney intends to certify the license holder to  
29 the Department of Motor Vehicles and to relevant licensing authorities  
30 pursuant to subsection (3) of section 43-3318 as a license holder  
31 described in subsection (1) of this section;

1 (b) The court or agency of competent jurisdiction which issued the  
2 support order or in which the support order is registered;

3 (c) That an enforcement action for a support order will incorporate  
4 any amount delinquent under the support order which may accrue in the  
5 future;

6 (d) That a license holder who is in violation of a support order can  
7 come into compliance by:

8 (i) Paying current support if a current support obligation exists;  
9 and paying ~~(ii) Paying~~ all past-due support or, if unable to pay all  
10 past-due support and if a payment plan for such past-due support has not  
11 been determined, by making payments in accordance with a payment plan  
12 determined by the county attorney, the authorized attorney, or the  
13 Department of Health and Human Services for such past-due support; or and

14 (ii) For purposes of retaining an operator's license only, by  
15 providing the Department of Health and Human Services with the following  
16 information, in a form and manner prescribed by the department: The  
17 license holder's address, information on the holder's employment and  
18 earnings, and any other information required by the department. Such  
19 information shall be updated in a form and manner prescribed by the  
20 department every three months. If the license holder fails to update such  
21 information or otherwise come into compliance as provided in subdivision  
22 (2)(d)(i) of this section, he or she shall be considered a license holder  
23 described in subsection (1) of this section; and

24 (e) That within thirty days after issuance of the notice, the  
25 license holder may either:

26 (i) Request administrative review in the manner specified in the  
27 notice to contest a mistake of fact. Mistake of fact means an error in  
28 the identity of the license holder or an error in the determination of  
29 whether the license holder is a license holder described in subsection  
30 (1) of this section; or

31 (ii) Seek judicial review by filing a petition in the court of

1 competent jurisdiction of the county where the support order was issued  
2 or registered or, in the case of a foreign support order not registered  
3 in Nebraska, the court of competent jurisdiction of the county where the  
4 child resides if the child resides in Nebraska or the court of competent  
5 jurisdiction of the county where the license holder resides if the child  
6 does not reside in Nebraska.

7 Sec. 21. Section 43-3318, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 43-3318 (1) The Department of Health and Human Services, county  
10 attorney, authorized attorney, or court of competent jurisdiction may  
11 certify in writing to the Department of Motor Vehicles, relevant  
12 licensing authorities, and, if the license holder is a member of the  
13 Nebraska State Bar Association, the Counsel for Discipline of the  
14 Nebraska Supreme Court, that a license holder is a license holder  
15 described in subsection (1) of section 43-3314 if:

16 (a) The license holder does not timely request either administrative  
17 review or judicial review upon issuance of a notice under subsection (2)  
18 of section 43-3314, is still a license holder described in subsection (1)  
19 of section 43-3314 thirty-one days after issuance of the notice, and does  
20 not obtain a written confirmation of compliance from the Department of  
21 Health and Human Services, county attorney, or authorized attorney  
22 pursuant to section 43-3320 within thirty-one days after issuance of the  
23 notice;

24 (b) The Department of Health and Human Services issues a decision  
25 after a hearing that finds the license holder is a license holder  
26 described in subsection (1) of section 43-3314, the license holder is  
27 still a license holder described in such subsection thirty-one days after  
28 issuance of that decision, and the license holder does not seek judicial  
29 review of the decision within the ten-day appeal period provided in  
30 section 43-3317;~~or~~

31 (c) The court of competent jurisdiction enters a judgment on a

1 petition for judicial review, initiated under either section 43-3315 or  
2 43-3317, that finds the license holder is a license holder described in  
3 subsection (1) of section 43-3314; or -

4 (d) The license holder is not in compliance with subdivision (2)(d)  
5 (ii) of section 43-3314. This subdivision shall only apply to a  
6 certification to the Department of Motor Vehicles, and compliance with  
7 subdivision (2)(d)(ii) of section 43-3314 shall not prevent certification  
8 to any other licensing authority or the Counsel for Discipline of the  
9 Nebraska Supreme Court.

10 (2) The court of competent jurisdiction, after providing appropriate  
11 notice, may certify a license holder to the Department of Motor Vehicles  
12 and relevant licensing authorities if a license holder has failed to  
13 comply with subpoenas or warrants relating to paternity or child support  
14 proceedings.

15 (3) If the Department of Health and Human Services, county attorney,  
16 authorized attorney, or court of competent jurisdiction determines to  
17 certify a license holder to the appropriate licensing authority, then the  
18 department, county attorney, authorized attorney, or court of competent  
19 jurisdiction shall certify a license holder in the following order and in  
20 compliance with the following restrictions:

21 (a) To the Department of Motor Vehicles to suspend the license  
22 holder's operator's license, except the Department of Motor Vehicles  
23 shall not suspend the license holder's commercial driver's license or  
24 restricted commercial driver's license. If a license holder possesses a  
25 commercial driver's license or restricted commercial driver's license,  
26 the Department of Health and Human Services, county attorney, authorized  
27 attorney, or court of competent jurisdiction shall certify such license  
28 holder pursuant to subdivision (b) of this subsection. If the license  
29 holder fails to come into compliance with the support order as provided  
30 in section 43-3314 or with subpoenas and warrants relating to paternity  
31 or child support proceedings within ten working days after the date on

1 which the license holder's operator's license suspension becomes  
2 effective, then the department, county attorney, authorized attorney, or  
3 court of competent jurisdiction may certify the license holder pursuant  
4 to subdivision (b) of this subsection without further notice;

5 (b) To the relevant licensing authority to suspend the license  
6 holder's recreational license once the Game and Parks Commission has  
7 operative the electronic or other automated retrieval system necessary to  
8 suspend recreational licenses. If the license holder does not have a  
9 recreational license and until the Game and Parks Commission has  
10 operative the electronic or other automated retrieval system necessary to  
11 suspend recreational licenses, the department, county attorney,  
12 authorized attorney, or court of competent jurisdiction may certify the  
13 license holder pursuant to subdivision (c) of this subsection. If the  
14 license holder fails to come into compliance with the support order as  
15 provided in section 43-3314 or with subpoenas and warrants relating to  
16 paternity or child support proceedings within ten working days after the  
17 date on which the license holder's recreational license suspension  
18 becomes effective, the department, county attorney, authorized attorney,  
19 or court of competent jurisdiction may certify the license holder  
20 pursuant to subdivision (c) of this subsection without further notice;  
21 and

22 (c) To the relevant licensing authority to suspend the license  
23 holder's professional license, occupational license, commercial driver's  
24 license, or restricted commercial driver's license.

25 (4) If the Department of Health and Human Services, county attorney,  
26 authorized attorney, or court of competent jurisdiction certifies the  
27 license holder to the Department of Motor Vehicles, the Department of  
28 Motor Vehicles shall suspend the operator's license of the license holder  
29 ten working days after the date of certification. The Department of Motor  
30 Vehicles shall without undue delay notify the license holder by certified  
31 mail that the license holder's operator's license will be suspended and

1 the date the suspension becomes effective. No person shall be issued an  
2 operator's license by the State of Nebraska if at the time of application  
3 for a license the person's operator's license is suspended under this  
4 section. Any person whose operator's license has been suspended shall  
5 return his or her license to the Department of Motor Vehicles within five  
6 working days after receiving the notice of the suspension. If any person  
7 fails to return the license, the Department of Motor Vehicles shall  
8 direct any peace officer to secure possession of the operator's license  
9 and to return it to the Department of Motor Vehicles. The peace officer  
10 who is directed to secure possession of the license shall make every  
11 reasonable effort to secure the license and return it to the Department  
12 of Motor Vehicles or shall show good cause why the license cannot be  
13 returned. An appeal of the suspension of an operator's license under this  
14 section shall be pursuant to section 60-4,105. A license holder whose  
15 operator's license has been suspended under this section may apply for an  
16 employment driving permit as provided by sections 60-4,129 and 60-4,130,  
17 except that the license holder is not required to fulfill the driver  
18 improvement or driver education and training course requirements of  
19 subsection (2) of section 60-4,130.

20 (5) Except as provided in subsection (6) of this section as it  
21 pertains to a license holder who is a member of the Nebraska State Bar  
22 Association, if the Department of Health and Human Services, county  
23 attorney, authorized attorney, or court of competent jurisdiction  
24 certifies the license holder to a relevant licensing authority, the  
25 relevant licensing authority, notwithstanding any other provision of law,  
26 shall suspend the license holder's professional, occupational, or  
27 recreational license and the license holder's right to renew the  
28 professional, occupational, or recreational license ten working days  
29 after the date of certification. The relevant licensing authority shall  
30 without undue delay notify the license holder by certified mail that the  
31 license holder's professional, occupational, or recreational license will

1 be suspended and the date the suspension becomes effective.

2 (6) If the department, county attorney, authorized attorney, or  
3 court of competent jurisdiction certifies a license holder who is a  
4 member of the Nebraska State Bar Association to the Counsel for  
5 Discipline of the Nebraska Supreme Court, the Nebraska Supreme Court may  
6 suspend the license holder's license to practice law. It is the intent of  
7 the Legislature to encourage all license holders to comply with their  
8 child support obligations. Therefor, the Legislature hereby requests that  
9 the Nebraska Supreme Court adopt amendments to the rules regulating  
10 attorneys, if necessary, which provide for the discipline of an attorney  
11 who is delinquent in the payment of or fails to pay his or her child  
12 support obligation.

13 (7) The Department of Health and Human Services, or court of  
14 competent jurisdiction when appropriate, shall send by certified mail to  
15 the license holder at the license holder's last-known address a copy of  
16 any certification filed with the Department of Motor Vehicles or a  
17 relevant licensing authority and a notice which states that the license  
18 holder's operator's license will be suspended ten working days after the  
19 date of certification and that the suspension of a professional,  
20 occupational, or recreational license pursuant to subsection (5) of this  
21 section becomes effective ten working days after the date of  
22 certification.

23 Sec. 22. A person whose operator's license was revoked prior to the  
24 effective date of this act shall have such license reinstated, without  
25 payment of any reinstatement or renewal fee, if such person provides the  
26 Department of Health and Human Services with the information described in  
27 subdivision (2)(d)(ii) of section 43-3314.

28 Sec. 23. Section 83-1,107.01, Revised Statutes Cumulative  
29 Supplement, 2022, is amended to read:

30 83-1,107.01 (1) Unless otherwise provided by this section, whenever  
31 an adult offender is paroled, the board shall require a parolee to pay a

1 monthly parole programming fee.

2 (2) Parolees under the supervision of the Division of Parole  
3 Supervision shall pay a monthly parole programming fee of twenty-five  
4 dollars, not later than the tenth day of each month, beginning the second  
5 month of parole supervision and continuing for the duration of the  
6 parole.

7 (3) The board shall waive payment of the monthly parole programming  
8 fee in whole or in part if after a hearing a determination is made that  
9 such payment would constitute an undue hardship on the parolee due to  
10 limited income, employment or school status, or physical or mental  
11 handicap. Such waiver shall be in effect only during the period of time  
12 that the parolee is unable to pay his or her monthly parole programming  
13 fee.

14 (4) When monthly parole programming fees are waived, in whole or in  
15 part, the parole officer, pursuant to rules and regulations adopted by  
16 the board, may contract with the parolee to perform approved community  
17 service at the rate of five dollars per hour in lieu of payment of  
18 monthly parole programming fees. A parolee may be required to pay a  
19 participation fee in order to take advantage of community service  
20 programs. A parolee may not accumulate more than three months' advance  
21 credit for community service. The use of community service alternatives  
22 does not preclude the imposition of other intermediate measures.

23 (5) The division with the approval of the Board of Parole shall  
24 implement sanctions if a parolee defaults in the payment of monthly  
25 parole programming fees or any installment thereof as established by  
26 subsection (2) of this section, except that parole shall not be revoked  
27 nor shall the parolee be imprisoned or receive custodial sanctions for  
28 such nonpayment ~~if the parolee is financially unable to make the payment.~~

29 (6) If the board determines that the default in payment described in  
30 subsection (5) of this section was not attributable to a deliberate  
31 refusal to obey the order of the board or to failure on the parolee's

1 part to make a good faith effort to obtain the funds required for  
2 payment, the board may allow the parolee additional time for payment,  
3 reduce the amount of each installment, or revoke the fees or the unpaid  
4 portion in whole or in part.

5 (7) No parolee shall be required to pay more than one monthly parole  
6 programming fee per month.

7 (8) The imposition of monthly parole programming fees in this  
8 section shall be considered separate and apart from specific service  
9 delivery fees.

10 (9) Any adult offender received for supervision pursuant to section  
11 29-2637 or the Interstate Compact for Adult Offender Supervision shall be  
12 assessed a monthly parole programming fee during the period of time the  
13 offender is actively supervised by Nebraska parole authorities.

14 (10) A parolee shall pay the fees described in this section to the  
15 division. The division shall remit all fees to the State Treasurer for  
16 credit to the Parole Program Cash Fund.

17 (11) The board and the division shall adopt and promulgate rules and  
18 regulations to carry out this section.

19 Sec. 24. Section 83-1,110.03, Reissue Revised Statutes of Nebraska,  
20 is amended to read:

21 83-1,110.03 (1) If during the term of medical parole the medical  
22 condition of a medical parolee improves to the extent that he or she is  
23 no longer eligible for medical parole, the board may order that he or she  
24 be returned to the custody of the department to await a hearing to  
25 determine whether the medical parole should be revoked.

26 (2) If medical parole is revoked due to improvement in the medical  
27 condition of the parolee, he or she shall serve the balance of his or her  
28 sentence with credit for time served on medical parole and without  
29 forfeiture of any credits accrued for good conduct pursuant to the  
30 Nebraska Treatment and Corrections Act prior to medical parole.

31 (3) If a medical parolee whose medical parole is revoked due to

1 improvement in his or her medical condition would otherwise be eligible  
2 for parole or any other release program, he or she may be considered for  
3 such release program.

4 (4) In addition to revocation of medical parole pursuant to  
5 subsection (1) of this section, medical parole may also be revoked for  
6 violation of any condition of the medical parole established by the  
7 board, subject to the limitations on revocation in section 83-1,119.

8 Sec. 25. Section 83-1,119, Revised Statutes Cumulative Supplement,  
9 2022, is amended to read:

10 83-1,119 (1) For purposes of this section:

11 (a) Absconding parole supervision means a parolee has purposely  
12 avoided supervision for a period of at least two weeks with the purpose  
13 to permanently avoid supervision and reasonable efforts by a parole  
14 officer and staff to locate the parolee ~~in person~~ have proven  
15 unsuccessful;

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

21 (i) Counseling or reprimand by the Division of Parole Supervision;

22 (ii) Increased supervision contact requirements;

23 (iii) Increased substance abuse testing;

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

26 (v) Imposition of a designated curfew for a period to be determined  
27 by the division; and

28 (vi) Travel restrictions to stay within his or her county of  
29 residence or employment unless otherwise permitted by the division;

30 (c) Contract facility means a county jail that contracts with the  
31 department to house parolees or other offenders under the jurisdiction of

1 the department;

2 (d) Substance abuse violation means a parolee's activities or  
3 behaviors associated with the use of chemical substances or related  
4 treatment services resulting in a violation of an original condition of  
5 parole, including:

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

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

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

10 (iv) Failure to appear for or complete substance abuse or mental  
11 health treatment evaluations or inpatient or outpatient treatment; and

12 (e) Technical violation means a parolee's activities or behaviors  
13 which create the probability opportunity for re-offending or diminish the  
14 effectiveness of parole supervision resulting in a violation of an  
15 original condition of parole and includes:

16 (i) Moving traffic violations;

17 (ii) Any criminal violation or infraction, whether in violation of  
18 state law or a city or village ordinance, unless (A) such violation is a  
19 felony or a Class I misdemeanor or (B) the victim of the violation is an  
20 intimate partner as defined in section 28-323;

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

22 (iv) (iii) Leaving the state without the permission of the Board of  
23 Parole;

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

25 (vi) (v) Failure to notify his or her parole officer of change of  
26 address or employment;

27 (vii) (vi) Frequenting places where controlled substances are  
28 illegally sold, used, distributed, or administered; and

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

31 Technical violation does not include absconding parole supervision.

1           (2) The division shall develop a matrix of rewards for compliance  
2 and positive behaviors and graduated administrative sanctions and  
3 custodial sanctions for use in responding to and deterring substance  
4 abuse violations and technical violations. A custodial sanction of thirty  
5 days in a correctional facility or a contract facility shall be  
6 designated as the most severe response to a violation in lieu of  
7 revocation.

8           (3) Whenever a parole officer has probable ~~reasonable~~ cause to  
9 believe that a parolee has committed or is about to commit a substance  
10 abuse violation or technical violation while on parole, but that the  
11 parolee will not attempt to leave the jurisdiction and will not place  
12 lives or property in danger, the parole officer shall either:

13           (a) Impose one or more administrative sanctions based upon the  
14 parolee's risk level, the severity of the violation, and the parolee's  
15 response to the violation. If administrative sanctions are to be imposed,  
16 the parolee shall acknowledge in writing the nature of the violation and  
17 agree upon the administrative sanction. The parolee has the right to  
18 decline to acknowledge the violation. If he or she declines to  
19 acknowledge the violation, the parole officer shall take action pursuant  
20 to subdivision (3)(b) of this section. A copy of the report shall be  
21 submitted to the Board of Parole; or

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

28           (i) Dismiss the charge of violation; or

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

1 (4) Whenever a parole officer has probable ~~reasonable~~ cause to  
2 believe that a parolee has violated or is about to violate a condition of  
3 parole by a violation other than a substance abuse violation or a  
4 technical violation and the parole officer has reasonable cause to  
5 believe that the parolee will not attempt to leave the jurisdiction and  
6 will not place lives or property in danger, the parole officer shall  
7 submit a written report to the Board of Parole which may, on the basis of  
8 such report and such further investigation as it may deem appropriate:

9 (a) Dismiss the charge of violation;

10 (b) Determine whether the parolee violated the conditions of his or  
11 her parole;

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

14 ~~(d) Revoke his or her parole in accordance with the Nebraska~~  
15 ~~Treatment and Corrections Act; or~~

16 ~~(d) (e)~~ Issue a warrant for the arrest of the parolee.

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

23 (6) Parole shall not be revoked for a substance abuse violation or  
24 technical violation.

25 ~~(7) (6)~~ Whenever a parolee is arrested with or without a warrant, he  
26 or she shall be detained in a local jail or other detention facility  
27 operated by the Department of Correctional Services pending completion of  
28 review of parole proceedings by the Board of Parole. Immediately after  
29 such arrest and detention, the parole officer shall notify the Board of  
30 Parole and submit a written report of the reason for such arrest. A  
31 complete investigation shall be made by the Division of Parole

1 Supervision and submitted to the board. After prompt consideration of  
2 such written report, the board shall order the parolee's release from  
3 detention or continued confinement to await a final decision on  
4 imposition of a custodial sanction or the revocation of parole.

5 ~~(8) (7)~~ The Board of Parole shall adopt and promulgate rules and  
6 regulations necessary to carry out this section.

7 Sec. 26. Section 83-1,121, Revised Statutes Cumulative Supplement,  
8 2022, is amended to read:

9 83-1,121 A committed offender while on parole shall remain in the  
10 legal custody and control of the Board of Parole. ~~The board may at any  
11 time revoke the parole of an offender or recommit him or her to the  
12 custody of the Department of Correctional Services, with or without  
13 cause.~~

14 Sec. 27. Section 83-1,122, Revised Statutes Cumulative Supplement,  
15 2022, is amended to read:

16 83-1,122 (1) If the board finds that the parolee has engaged in  
17 criminal conduct, other than a technical violation as defined in section  
18 83-1,119, the board may order revocation of the parolee's parole.

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

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

23 (b) Parole supervision and reporting be intensified;

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

26 (d) The parolee serve a custodial sanction of up to thirty days in a  
27 correctional facility or a contract facility as defined in section  
28 83-1,119; or

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

1           (3) Cumulative custodial sanctions in a correctional facility or a  
2 contract facility under this section and section 83-1,119 shall not  
3 exceed sixty days. If a parolee has previously received sixty days of  
4 cumulative custodial sanctions before the current violation, the board  
5 shall either order revocation of the parolee's parole or one or more of  
6 the other sanctions described in subsection (2) of this section.

7           (4) Time spent in custodial sanctions under this section and section  
8 83-1,119 shall be credited to the parolee's sentence.

9           Sec. 28. Section 83-1,135.02, Revised Statutes Cumulative  
10 Supplement, 2022, is amended to read:

11           83-1,135.02 (1) It is the intent of the Legislature that the changes  
12 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,  
13 with respect to parole eligibility apply to all committed offenders under  
14 sentence and not on parole on May 24, 2003, and to all persons sentenced  
15 on and after such date.

16           (2) It is the intent of the Legislature that the changes made to  
17 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,  
18 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,  
19 83-1,100.02, and 83-1,100.03 apply to all committed offenders under  
20 sentence, on parole, or on probation on August 30, 2015, and to all  
21 persons sentenced on and after such date.

22           (3) It is the intent of the Legislature that the changes made to  
23 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,  
24 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by  
25 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03  
26 apply to all committed offenders under sentence, on parole, or on  
27 probation on or after April 20, 2016, and to all persons sentenced on and  
28 after such date.

29           (4) It is the intent of the Legislature that the changes made to  
30 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all  
31 committed offenders under sentence or on parole on or after July 19,

1 2018, and to all persons sentenced on and after such date.

2 (5) It is the intent of the Legislature that the changes made to  
3 sections 29-2262.06, 29-2266, 29-2266.01, 29-2266.02, 29-2267, 29-2268,  
4 29-2270, 29-2278, 29-2284, 83-1,107.01, 83-1,110.03, 83-1,119, 83-1,121,  
5 and 83-1,122 by this legislative bill apply to all committed offenders  
6 under sentence or on probation or parole on or after the effective date  
7 of this act, and to all persons sentenced on and after such date.

8 Sec. 29. Original sections 29-426, 29-908, 29-2262.06, 29-2266,  
9 29-2266.01, 29-2266.02, 29-2267, 29-2270, 29-2284, 43-3301, 43-3314,  
10 43-3318, and 83-1,110.03, Reissue Revised Statutes of Nebraska, and  
11 sections 28-105, 29-901, 29-2268, 29-2278, 83-1,107.01, 83-1,119,  
12 83-1,121, 83-1,122, and 83-1,135.02, Revised Statutes Cumulative  
13 Supplement, 2022, are repealed.