

LEGISLATIVE BILL 255

Approved by the Governor June 5, 2013

Introduced by McGill, 26; Christensen, 44.

FOR AN ACT relating to crimes and offenses; to amend sections 28-801, 28-801.01, 28-804, 28-830, 28-831, and 43-247, Reissue Revised Statutes of Nebraska, and sections 28-707, 28-802, 28-1354, 43-248, 43-250, and 81-1430, Revised Statutes Cumulative Supplement, 2012; to change provisions relating to child abuse; to change provisions and penalties relating to prostitution, solicitation of prostitution, pandering, and keeping a place of prostitution; to provide an affirmative defense to prosecution for prostitution for certain trafficking victims; to provide an affirmative defense to prosecution for solicitation of prostitution for certain trafficking victims; to provide immunity from prosecution for prostitution for persons under eighteen years of age; to define and redefine terms and change penalty provisions relating to human trafficking offenses; to provide for temporary custody and disposition of juveniles committing prostitution; to provide duties for the human trafficking task force; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

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

Section 1. Section 28-707, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-707 (1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; ~~or~~

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01; ~~or-~~

(f) Placed in a situation to be a trafficking victim as defined in section 28-830.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109.

(6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

Sec. 2. Section 28-801, Reissue Revised Statutes of Nebraska, is amended to read:

28-801 (1) Any Except as provided in subsection (5) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318, with any person not his or her spouse, in exchange for money or other thing of value, commits prostitution.

(2) Any person convicted of violating subsection (1) of this section shall be punished as follows:

(a) If such person has had no prior convictions or has had one prior conviction, such person shall be guilty of a Class II misdemeanor. If the court places such person on probation, such order of probation shall include, as one of its conditions, that such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment; and

(b) If such person has had two or more prior convictions, such person shall be guilty of a Class I misdemeanor. If the court places such person on probation, such order of probation shall include, as one of its conditions, that such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment.

(3) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830.

(4) For purposes of this subsection, section, prior conviction means any conviction on or after July 14, 2006, for violation of subsection (1) of this section or any conviction on or after July 14, 2006, for violation of a city or village ordinance relating to prostitution.

(5) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) of this section is a person under eighteen years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under section 43-248 and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under eighteen years of age into custody under this section shall immediately report an allegation of a violation of section 28-831 to the Department of Health and Human Services which shall commence an investigation within twenty-four hours under the Child Protection Act.

Sec. 3. Section 28-801.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-801.01 (1) Any person who solicits another person not his or her spouse to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318, in exchange for money or other thing of value, commits solicitation of prostitution.

(2) Any person convicted of violating subsection (1) of this section shall be punished as follows:

(a) If such person has had no prior convictions, such person shall be guilty of a Class I misdemeanor and pay a fine of not less than two hundred fifty dollars, unless the person solicited is under the age of eighteen years, in which case such person violating this section shall be guilty of a Class IV felony. If the court places such person on probation, such order of probation shall include, as one of its conditions, the payment of a fine of not less than two hundred fifty dollars and such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment; and

(b) If such person has had one or more prior convictions, such person shall be guilty of a Class IV felony and pay a fine of not less than five hundred dollars. If the court places such person on probation, such order of probation shall include, as one of its conditions, the payment of a fine of not less than five hundred dollars and such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment.

(3) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830.

Sec. 4. Section 28-802, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-802 (1) A person commits pandering if such person:

(a) Entices another person to become a prostitute; or
 (b) Procures or harbors therein an inmate for a house of prostitution or for any place where prostitution is practiced or allowed; or

(c) Inveigles, entices, persuades, encourages, or procures any person to come into or leave this state for the purpose of prostitution or debauchery; or

(d) Receives or gives or agrees to receive or give any money or other thing of value for procuring or attempting to procure any person to

become a prostitute or commit an act of prostitution or come into this state or leave this state for the purpose of prostitution or debauchery.

(2) Pandering is a Class IV felony for a first offense, unless the person being enticed, procured, harbored, or otherwise persuaded to become a prostitute ~~in violation of this section~~ is under the age of eighteen years, in which case pandering is a Class III felony for a first offense. Pandering is a Class III felony for a second or subsequent offense.

Sec. 5. Section 28-804, Reissue Revised Statutes of Nebraska, is amended to read:

28-804 (1) Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who knowingly grants or permits the use of such place for the purpose of prostitution commits the offense of keeping a place of prostitution.

(2) Keeping a place of prostitution is a Class I misdemeanor, unless any person using such place for the practice of prostitution is under the age of eighteen years, in which case any person convicted of keeping a place of prostitution shall be guilty of a Class IV felony.

Sec. 6. Section 28-830, Reissue Revised Statutes of Nebraska, is amended to read:

28-830 For purposes of sections 28-830 to 28-832, the following definitions apply:

(1) Actor means a person who solicits, procures, or supervises the services or labor of another person;

(2) Commercial sexual activity means any sex act on account of which anything of value is given, promised to, or received by any person;

(3) Financial harm means theft by extortion as described by section 28-513;

(4) Forced labor or services means labor or services that are performed or provided by another person and are obtained or maintained through:

(a) Inflicting or threatening to inflict serious personal injury to the other person as defined by section 28-318;

(b) Physically restraining or threatening to physically restrain another the other person;

(c) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another the other person; or

(d) Causing or threatening to cause financial harm to another the other person;

(5) Labor means work of economic or financial value;

(6) Labor trafficking means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older intending or knowing that the person will be subjected to forced labor or services;

(7) Labor trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor intending or knowing that the minor will be subjected to forced labor or services;

~~(8)~~ (8) Maintain means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement by the ~~victim~~ other person to perform such type of service;

~~(9)~~ (9) Minor means a person younger than eighteen years of age;

~~(10)~~ (10) Obtain means, in relation to labor or services, to secure performance thereof;

~~(11)~~ (11) Services means an ongoing relationship between a person and the actor and another person in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of services under this section. Nothing in this subdivision shall be construed to legalize prostitution;

(12) Sex trafficking means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older for the purpose of having such person engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a person eighteen years of age or older to engage in commercial sexual activity, sexually explicit performance, or the production of pornography;

(13) Sex trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or

knowingly attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography;

~~(10)~~ (14) Sexually-explicit performance means a live or public play, dance, show, or other exhibition intended to arouse or gratify sexual desire or to appeal to prurient interests; and

~~(11)~~ (15) Trafficking victim means a person subjected to any act or acts prohibited by section 28-831.

Sec. 7. Section 28-831, Reissue Revised Statutes of Nebraska, is amended to read:

28-831 (1) No person shall knowingly ~~subject or attempt to subject another person to forced labor or services-~~ engage in labor trafficking or sex trafficking. If an actor knowingly ~~subjects another person to forced labor or services by-~~ engages in labor trafficking or sex trafficking by:

(a) Inflicting or threatening to inflict serious personal injury to the other person as defined by section 28-318, the actor is guilty of a Class III felony;

(b) Physically restraining or threatening to physically restrain ~~another~~ the other person, the actor is guilty of a Class III felony;

(c) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of ~~such~~ the other person, the actor is guilty of a Class IV felony; or

(d) Causing or threatening to cause financial harm to ~~another~~ the other person, the actor is guilty of a Class I misdemeanor.

(2) No person shall ~~knowingly recruit, entice, harbor, transport, provide, or obtain by any means or attempt to recruit, entice, harbor, provide, or obtain by any means~~ a minor for the purpose of having such minor engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography. A person engage in labor trafficking of a minor or sex trafficking of a minor. An actor who violates this subsection engages in labor trafficking of a minor or sex trafficking of a minor shall be punished as follows:

(a) In cases in which the actor uses overt force or the threat of force against the trafficking victim, the actor is guilty of a Class II felony;

(b) In cases in which the trafficking victim has not attained the age of fifteen years, ~~and the actor does not use overt force or the threat of force,~~ the actor is guilty of a Class II felony; or

(c) In cases involving a trafficking victim between the ages of fifteen and eighteen years, and the actor does not use overt force or threat of force against the trafficking victim, the actor is guilty of a Class III felony.

(3) Any person who knowingly ~~(a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means,~~ a person eighteen years of age or older, intending or knowing that the person will be subjected to forced labor or services or ~~(b) benefits, financially or by receiving anything of value, from participation in a venture which has, as part of the venture, an act that is in violation of subsection (1) of this section,~~ is guilty of a Class IV felony.

Sec. 8. Section 28-1354, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-1354 For purposes of the Public Protection Act:

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

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

(3) Person means any individual or entity, as defined in section 21-2014, holding or capable of holding a legal, equitable, or beneficial interest in property;

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

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

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

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

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

(d) Offenses involving fraud which include: Burning to defraud an insurer under section 28-505; forgery in the first degree under section 28-602; forgery in the second degree under section 28-603; criminal possession of a forged instrument under section 28-604; criminal possession of forgery devices under section 28-605; criminal impersonation under section 28-638; identity theft under section 28-639; identity fraud under section 28-640; false statement or book entry under section 28-612; tampering with a publicly exhibited contest under section 28-614; issuing a false financial statement for purposes of obtaining a financial transaction device under section 28-619; unauthorized use of a financial transaction device under section 28-620; criminal possession of a financial transaction device under section 28-621; unlawful circulation of a financial transaction device in the first degree under section 28-622; unlawful circulation of a financial transaction device in the second degree under section 28-623; criminal possession of a blank financial transaction device under section 28-624; criminal sale of a blank financial transaction device under section 28-625; criminal possession of a forgery device under section 28-626; unlawful manufacture of a financial transaction device under section 28-627; laundering of sales forms under section 28-628; unlawful acquisition of sales form processing services under section 28-629; unlawful factoring of a financial transaction device under section 28-630; and fraudulent insurance acts under section 28-631;

(e) Offenses involving governmental operations which include: Abuse of public records under section 28-911; perjury or subornation of perjury under section 28-915; bribery under section 28-917; bribery of a witness under section 28-918; tampering with a witness or informant or jury tampering under section 28-919; bribery of a juror under section 28-920; assault on an officer in the first degree under section 28-929; assault on an officer in the second degree under section 28-930; assault on an officer in the third degree under section 28-931; and assault on an officer using a motor vehicle under section 28-931.01;

(f) Offenses involving gambling which include: Promoting gambling

in the first degree under section 28-1102; possession of gambling records under section 28-1105; gambling debt collection under section 28-1105.01; and possession of a gambling device under section 28-1107;

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

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

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

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

(k) A violation of the Computer Crimes Act;

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

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

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

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

Sec. 9. Section 43-247, Reissue Revised Statutes of Nebraska, is amended to read:

43-247 The juvenile court shall have exclusive original jurisdiction as to any juvenile defined in subdivision (1) of this section who is under the age of sixteen, as to any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (8) of this section. As used in this section, all references to the juvenile's age shall be the age at the time the act which occasioned the juvenile court action occurred. The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. The juvenile court shall have concurrent original jurisdiction with the district court and county court as to any juvenile defined in subdivision (1) of this section who is age sixteen or seventeen, any juvenile defined in subdivision (4) of this section, and any proceeding under subdivision (7) or (11) of this section. The juvenile court shall have concurrent original jurisdiction with the county court as to any proceeding under subdivision (9) or (10) of this section. Notwithstanding any disposition entered by the juvenile court under the Nebraska Juvenile Code, the juvenile court's jurisdiction over any individual adjudged to be within the provisions of this section shall continue until the individual reaches the age of majority or the court otherwise discharges the individual from its jurisdiction.

The juvenile court in each county as herein provided shall have jurisdiction of:

(1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;

(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;

(3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 71-908;

(4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;

(5) The parent, guardian, or custodian of any juvenile described in this section;

(6) The proceedings for termination of parental rights as provided in the Nebraska Juvenile Code;

(7) The proceedings for termination of parental rights as provided in section 42-364;

(8) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;

(9) Any juvenile who was a ward of the juvenile court at the inception of his or her guardianship and whose guardianship has been disrupted or terminated;

(10) The adoption or guardianship proceedings for a child over which the juvenile court already has jurisdiction under another provision of the Nebraska Juvenile Code; and

(11) The paternity or custody determination for a child over which the juvenile court already has jurisdiction.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and the district court shall have exclusive jurisdiction in proceedings brought pursuant to section 71-510.

Sec. 10. Section 43-248, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-248 A peace officer may take a juvenile into temporary custody without a warrant or order of the court and proceed as provided in section 43-250 when:

(1) A juvenile has violated a state law or municipal ordinance and the officer has reasonable grounds to believe such juvenile committed such violation;

(2) A juvenile is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the juvenile's protection;

(3) The officer believes the juvenile to be mentally ill and dangerous as defined in section 71-908 and that the harm described in that section is likely to occur before proceedings may be instituted before the juvenile court;

(4) The officer has reasonable grounds to believe that the juvenile has run away from his or her parent, guardian, or custodian;

(5) A probation officer has reasonable cause to believe that a juvenile is in violation of probation and that the juvenile will attempt to leave the jurisdiction or place lives or property in danger; ~~or~~

(6) The officer has reasonable grounds to believe the juvenile is truant from school; ~~or~~

(7) The officer has reasonable grounds to believe the juvenile is immune from prosecution for prostitution under subsection (5) of section 28-801.

Sec. 11. Section 43-250, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-250 (1) A peace officer who takes a juvenile into temporary

custody under section 29-401 or subdivision (1), (4), or (5) of section 43-248 shall immediately take reasonable measures to notify the juvenile's parent, guardian, custodian, or relative and shall proceed as follows:

(a) The peace officer may release a juvenile taken into temporary custody under section 29-401 or subdivision (1) or (4) of section 43-248;

(b) The peace officer may require a juvenile taken into temporary custody under section 29-401 or subdivision (1) or (4) of section 43-248 to appear before the court of the county in which such juvenile was taken into custody at a time and place specified in the written notice prepared in triplicate by the peace officer or at the call of the court. The notice shall also contain a concise statement of the reasons such juvenile was taken into custody. The peace officer shall deliver one copy of the notice to such juvenile and require such juvenile or his or her parent, guardian, other custodian, or relative, or both, to sign a written promise that such signer will appear at the time and place designated in the notice. Upon the execution of the promise to appear, the peace officer shall immediately release such juvenile. The peace officer shall, as soon as practicable, file one copy of the notice with the county attorney or city attorney and, when required by the court, also file a copy of the notice with the court or the officer appointed by the court for such purpose; or

(c) The peace officer may retain temporary custody of a juvenile taken into temporary custody under section 29-401 or subdivision (1), (4), or (5) of section 43-248 and deliver the juvenile, if necessary, to the probation officer and communicate all relevant available information regarding such juvenile to the probation officer. The probation officer shall determine the need for detention of the juvenile as provided in section 43-260.01. Upon determining that the juvenile should be placed in a secure or nonsecure placement and securing placement in such secure or nonsecure setting by the probation officer, the peace officer shall implement the probation officer's decision to release or to detain and place the juvenile. When secure detention of a juvenile is necessary, such detention shall occur within a juvenile detention facility except:

(i) When a juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, is taken into temporary custody within a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed six hours, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(ii) When a juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, is taken into temporary custody outside of a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed twenty-four hours excluding nonjudicial days and while awaiting an initial court appearance, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(iii) Whenever a juvenile is held in a secure area of any jail or other facility intended or used for the detention of adults, there shall be no verbal, visual, or physical contact between the juvenile and any incarcerated adult and there shall be adequate staff to supervise and monitor the juvenile's activities at all times. This subdivision shall not apply to a juvenile charged with a felony as an adult in county or district court if he or she is sixteen years of age or older;

(iv) If a juvenile is under sixteen years of age or is a juvenile as described in subdivision (3) of section 43-247, he or she shall not be placed within a secure area of a jail or other facility intended or used for the detention of adults;

(v) If, within the time limits specified in subdivision (1)(c)(i) or (1)(c)(ii) of this section, a felony charge is filed against the juvenile as an adult in county or district court, he or she may be securely held in a jail or other facility intended or used for the detention of adults beyond the specified time limits;

(vi) A status offender or nonoffender taken into temporary custody shall not be held in a secure area of a jail or other facility intended or used for the detention of adults. Until January 1, 2013, a status offender accused of violating a valid court order may be securely detained in a juvenile detention facility longer than twenty-four hours if he or she

is afforded a detention hearing before a court within twenty-four hours, excluding nonjudicial days, and if, prior to a dispositional commitment to secure placement, a public agency, other than a court or law enforcement agency, is afforded an opportunity to review the juvenile's behavior and possible alternatives to secure placement and has submitted a written report to the court; and

(vii) A juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, may be held in a secure area of a jail or other facility intended or used for the detention of adults for up to six hours before and six hours after any court appearance.

(2) When a juvenile is taken into temporary custody pursuant to subdivision (2) or (7) of section 43-248, the peace officer shall deliver the custody of such juvenile to the Department of Health and Human Services which shall make a temporary placement of the juvenile in the least restrictive environment consistent with the best interests of the juvenile as determined by the department. The department shall supervise such placement and, if necessary, consent to any necessary emergency medical, psychological, or psychiatric treatment for such juvenile. The department shall have no other authority with regard to such temporary custody until or unless there is an order by the court placing the juvenile in the custody of the department. If the peace officer delivers temporary custody of the juvenile pursuant to this subsection, the peace officer shall make a full written report to the county attorney within twenty-four hours of taking such juvenile into temporary custody. If a court order of temporary custody is not issued within forty-eight hours of taking the juvenile into custody, the temporary custody by the department shall terminate and the juvenile shall be returned to the custody of his or her parent, guardian, custodian, or relative.

(3) If the peace officer takes the juvenile into temporary custody pursuant to subdivision (3) of section 43-248, the peace officer may place the juvenile at a mental health facility for evaluation and emergency treatment or may deliver the juvenile to the Department of Health and Human Services as provided in subsection (2) of this section. At the time of the admission or turning the juvenile over to the department, the peace officer responsible for taking the juvenile into custody shall execute a written certificate as prescribed by the Department of Health and Human Services which will indicate that the peace officer believes the juvenile to be mentally ill and dangerous, a summary of the subject's behavior supporting such allegations, and that the harm described in section 71-908 is likely to occur before proceedings before a juvenile court may be invoked to obtain custody of the juvenile. A copy of the certificate shall be forwarded to the county attorney. The peace officer shall notify the juvenile's parents, guardian, custodian, or relative of the juvenile's placement.

(4) When a juvenile is taken into temporary custody pursuant to subdivision (6) of section 43-248, the peace officer shall deliver the juvenile to the enrolled school of such juvenile.

(5) A juvenile taken into custody pursuant to a legal warrant of arrest shall be delivered to a probation officer who shall determine the need for detention of the juvenile as provided in section 43-260.01. If detention is not required, the juvenile may be released without bond if such release is in the best interests of the juvenile, the safety of the community is not at risk, and the court that issued the warrant is notified that the juvenile had been taken into custody and was released.

(6) In determining the appropriate temporary placement of a juvenile under this section, the peace officer shall select the placement which is least restrictive of the juvenile's freedom so long as such placement is compatible with the best interests of the juvenile and the safety of the community.

Sec. 12. Section 81-1430, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-1430 (1) A task force is hereby established within the Nebraska Commission on Law Enforcement and Criminal Justice for the purposes of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking.

(2) The task force shall examine the extent to which human trafficking is prevalent in this state, the scope of efforts being taken to prevent human trafficking from occurring, and the services available to victims of human trafficking in this state. The task force shall utilize information and research available from the Innocence Lost National Initiative. The task force shall research and recommend a model of rehabilitative services for victims of human trafficking that includes input from the areas of law enforcement, social services, the legal profession,

the judiciary, mental health, and immigration. The task force shall also investigate the limitations upon victims who wish to come forward and seek medical attention; investigate the potential to stop human trafficking; and investigate the potential to promote recovery, to protect families and children who may be profoundly impacted by such abuse, and to save lives.

(3) (a) The Department of Labor shall work with the task force to develop or select informational posters for placement around the state. The posters shall be in English, Spanish, and any other language deemed appropriate by the task force. The posters shall include a toll-free telephone number a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline (888)373-7888.

(b) Posters shall be placed in rest stops and strip clubs. The task force shall work with local businesses and nonprofit entities associated with the prevention of human trafficking to voluntarily place additional signs in high schools, postsecondary educational institutions, gas stations, hotels, hospitals, health care clinics, urgent care centers, airports, train stations, bus stations, and other locations around the state deemed appropriate by the task force.

(4) The task force shall consist of the following members:

(a) The Attorney General or his or her designee;

(b) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(c) The Superintendent of Law Enforcement and Public Safety or his or her designee;

(d) The Director of Correctional Services or his or her designee;

(e) The chief of police or director of public safety of a city of two hundred thousand inhabitants or more;

(f) The chief of police or director of public safety of a city of less than two hundred thousand inhabitants;

(g) A county sheriff;

(h) A county attorney;

(i) A county commissioner;

(j) A mayor or city manager;

(k) A person involved with the control or prevention of juvenile delinquency;

(l) A person involved with the control or prevention of child abuse;

(m) The Commissioner of Education or his or her designee;

(n) The director of the Commission on Latino-Americans or his or her designee; and

(o) Six members, at least three of whom shall be women, from the public at large.

(5) The Governor shall appoint the members of the task force listed in subdivisions (4)(e) through (l) and (o) of this section for terms as provided in subsection (6) of this section. The membership of the task force shall represent varying geographic areas and large and small political subdivisions. One member from the public at large shall be a professional representing child welfare, and one member of the public at large shall represent juvenile pretrial diversion programs.

(6) The members of the task force appointed by the Governor shall serve six-year terms, except that of the members first appointed, four shall serve initial two-year terms, four shall serve initial four-year terms, and six shall serve initial six-year terms from January 1 next succeeding their appointments. Thereafter, all members shall serve six-year terms. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(7) No member shall serve beyond the time when he or she holds the office, employment, or status by reason of which he or she was initially eligible for appointment. Any member of the task force appointed by the Governor may be removed from the task force for cause upon notice and an opportunity to be heard at a public hearing. One of the causes for removal shall be absence from three regularly scheduled meetings of the task force during any six-month period when the member has failed to advise the task force in advance of such meeting that he or she will be absent and stating a reason therefor.

(8) The chairperson of the task force shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the task force but may delegate such of his or her duties to other members of the task force as may be authorized by the task force.

(9) Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the task force shall not disqualify

any member from holding any other public office or employment or cause the forfeiture thereof.

(10) The members of the task force shall serve on the task force without compensation, but they shall be entitled to receive reimbursement for any actual expenses incurred as necessary incident to such service as provided in sections 81-1174 to 81-1177.

(11) Eleven members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power of the task force. The task force shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.

(12) All appointments shall be made not later than thirty days after July 19, 2012. The chairperson shall meet with the task force not later than sixty days after July 19, 2012.

(13) Not later than one year after July 19, 2012, and every July 1 and December 1 thereafter, the task force shall report to the Clerk of the Legislature the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the report with the clerk.

Sec. 13. This act becomes operative on October 1, 2013.

Sec. 14. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 15. Original sections 28-801, 28-801.01, 28-804, 28-830, 28-831, and 43-247, Reissue Revised Statutes of Nebraska, and sections 28-707, 28-802, 28-1354, 43-248, 43-250, and 81-1430, Revised Statutes Cumulative Supplement, 2012, are repealed.