

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 115

Introduced by Lautenbaugh, 18.

Read first time January 11, 2013

Committee:

A BILL

1 FOR AN ACT relating to homicide; to amend sections 28-302, 60-6,210,
2 and 83-961, Reissue Revised Statutes of Nebraska, and
3 sections 28-101, 28-111, 28-1351, 28-1354, 29-4003, and
4 84-205, Revised Statutes Cumulative Supplement, 2012; to
5 adopt, change, and eliminate provisions relating to
6 manslaughter; to eliminate certain jury verdict
7 determinations relating to homicide; to harmonize
8 provisions; to provide an operative date; to repeal the
9 original sections; and to outright repeal sections 28-305
10 and 29-2027, Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 28-101, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 28-101 Sections 28-101 to 28-1356 and sections 2 and 3 of
4 this act shall be known and may be cited as the Nebraska Criminal
5 Code.

6 Sec. 2. (1)(a) A person commits voluntary manslaughter if
7 he or she intentionally causes the death of another in a sudden
8 quarrel upon legally sufficient provocation.

9 (b) Voluntary manslaughter is a Class II felony.

10 (2) For purposes of this section:

11 (a) A sudden quarrel means the sudden happening or
12 occurrence of a provocation that renders a person's mind incapable of
13 conscious reflection and causes a reasonable person to lose normal
14 self-control; and

15 (b) Legally sufficient provocation means an event which
16 excites one's passion, causes more than mere anger, and motivates a
17 person to want to kill the provoker. The provocation must obscure and
18 disturb one's power of reasoning to the extent it would cause a
19 reasonable person to act rashly and from passion, without due
20 deliberation and reflection, rather than from judgment. Intoxication,
21 drug impairment, or other qualities peculiar to an individual which
22 render him or her particularly excitable are not to be considered
23 legally sufficient provocation.

24 Sec. 3. (1) A person commits involuntary manslaughter if
25 he or she causes the death of another unintentionally while in the

1 commission of an unlawful act.

2 (2) Involuntary manslaughter is a Class III felony.

3 Sec. 4. Section 28-111, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 28-111 Any person who commits one or more of the
6 following criminal offenses against a person or a person's property
7 because of the person's race, color, religion, ancestry, national
8 origin, gender, sexual orientation, age, or disability or because of
9 the person's association with a person of a certain race, color,
10 religion, ancestry, national origin, gender, sexual orientation, age,
11 or disability shall be punished by the imposition of the next higher
12 penalty classification than the penalty classification prescribed for
13 the criminal offense, unless such criminal offense is already
14 punishable as a Class IB felony or higher classification:
15 ~~Manslaughter, section 28-305; Voluntary manslaughter, section 2 of~~
16 this act; involuntary manslaughter, section 3 of this act; assault in
17 the first degree, section 28-308; assault in the second degree,
18 section 28-309; assault in the third degree, section 28-310;
19 terroristic threats, section 28-311.01; stalking, section 28-311.03;
20 kidnapping, section 28-313; false imprisonment in the first degree,
21 section 28-314; false imprisonment in the second degree, section
22 28-315; sexual assault in the first degree, section 28-319; sexual
23 assault in the second or third degree, section 28-320; sexual assault
24 of a child, sections 28-319.01 and 28-320.01; arson in the first
25 degree, section 28-502; arson in the second degree, section 28-503;

1 arson in the third degree, section 28-504; criminal mischief, section
2 28-519; unauthorized application of graffiti, section 28-524;
3 criminal trespass in the first degree, section 28-520; or criminal
4 trespass in the second degree, section 28-521.

5 Sec. 5. Section 28-302, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 28-302 As used in sections 28-302 to 28-306 and sections
8 2 and 3 of this act, unless the context otherwise requires:

9 (1) Homicide shall mean the killing of a person by
10 another;

11 (2) Person, when referring to the victim of a homicide,
12 shall mean a human being who had been born and was alive at the time
13 of the homicidal act; and

14 (3) Premeditation shall mean a design formed to do
15 something before it is done.

16 Sec. 6. Section 28-1351, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 28-1351 (1) A person commits the offense of unlawful
19 membership recruitment into an organization or association when he or
20 she knowingly and intentionally coerces, intimidates, threatens, or
21 inflicts bodily harm upon another person in order to entice that
22 other person to join or prevent that other person from leaving any
23 organization, group, enterprise, or association whose members,
24 individually or collectively, engage in or have engaged in any of the
25 following criminal acts for the benefit of, at the direction of, or

1 on behalf of the organization, group, enterprise, or association or
2 any of its members:

3 (a) Robbery under section 28-324;

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

6 (c) Burglary under section 28-507;

7 (d) Murder in the first degree, murder in the second
8 degree, ~~or voluntary manslaughter, or involuntary manslaughter~~ under
9 section 28-303, 28-304, or ~~28-305,~~ section 2 or 3 of this act,
10 respectively;

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

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

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

18 (h) Assault on an officer in the first, second, or third
19 degree under section 28-929, 28-930, or 28-931, respectively, or
20 assault on an officer using a motor vehicle under section 28-931.01;

21 (i) Theft by unlawful taking or disposition under section
22 28-511;

23 (j) Theft by receiving stolen property under section
24 28-517;

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

- 1 (l) Theft by extortion under section 28-513;
- 2 (m) Kidnapping under section 28-313;
- 3 (n) Any forgery offense under sections 28-602 to 28-605;
- 4 (o) Criminal impersonation under section 28-638;
- 5 (p) Tampering with a publicly exhibited contest under
6 section 28-614;
- 7 (q) Unauthorized use of a financial transaction device or
8 criminal possession of a financial transaction device under section
9 28-620 or 28-621, respectively;
- 10 (r) Pandering under section 28-802;
- 11 (s) Bribery, bribery of a witness, or bribery of a juror
12 under section 28-917, 28-918, or 28-920, respectively;
- 13 (t) Tampering with a witness or an informant or jury
14 tampering under section 28-919;
- 15 (u) Unauthorized application of graffiti under section
16 28-524;
- 17 (v) Dogfighting, cockfighting, bearbaiting, or pitting an
18 animal against another under section 28-1005; or
- 19 (w) Promoting gambling in the first degree under section
20 28-1102.
- 21 (2) Unlawful membership recruitment into an organization
22 or association is a Class IV felony.

23 Sec. 7. Section 28-1354, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 28-1354 For purposes of the Public Protection Act:

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

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

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

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

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

1 the following:

2 (a) Offenses against the person which include: Murder in
3 the first degree under section 28-303; murder in the second degree
4 under section 28-304; voluntary manslaughter under section 28-305; 2
5 of this act; involuntary manslaughter under section 3 of this act;
6 assault in the first degree under section 28-308; assault in the
7 second degree under section 28-309; assault in the third degree under
8 section 28-310; terroristic threats under section 28-311.01;
9 kidnapping under section 28-313; false imprisonment in the first
10 degree under section 28-314; false imprisonment in the second degree
11 under section 28-315; sexual assault in the first degree under
12 section 28-319; and robbery under section 28-324;

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

1 the intent to manufacture methamphetamine under section 28-452;

2 (c) Offenses against property which include: Arson in the
3 first degree under section 28-502; arson in the second degree under
4 section 28-503; arson in the third degree under section 28-504;
5 burglary under section 28-507; theft by unlawful taking or
6 disposition under section 28-511; theft by shoplifting under section
7 28-511.01; theft by deception under section 28-512; theft by
8 extortion under section 28-513; theft of services under section
9 28-515; theft by receiving stolen property under section 28-517;
10 criminal mischief under section 28-519; and unlawfully depriving or
11 obtaining property or services using a computer under section
12 28-1344;

13 (d) Offenses involving fraud which include: Burning to
14 defraud an insurer under section 28-505; forgery in the first degree
15 under section 28-602; forgery in the second degree under section
16 28-603; criminal possession of a forged instrument under section
17 28-604; criminal possession of forgery devices under section 28-605;
18 criminal impersonation under section 28-638; identity theft under
19 section 28-639; identity fraud under section 28-640; false statement
20 or book entry under section 28-612; tampering with a publicly
21 exhibited contest under section 28-614; issuing a false financial
22 statement for purposes of obtaining a financial transaction device
23 under section 28-619; unauthorized use of a financial transaction
24 device under section 28-620; criminal possession of a financial
25 transaction device under section 28-621; unlawful circulation of a

1 financial transaction device in the first degree under section
2 28-622; unlawful circulation of a financial transaction device in the
3 second degree under section 28-623; criminal possession of a blank
4 financial transaction device under section 28-624; criminal sale of a
5 blank financial transaction device under section 28-625; criminal
6 possession of a forgery device under section 28-626; unlawful
7 manufacture of a financial transaction device under section 28-627;
8 laundering of sales forms under section 28-628; unlawful acquisition
9 of sales form processing services under section 28-629; unlawful
10 factoring of a financial transaction device under section 28-630; and
11 fraudulent insurance acts under section 28-631;

12 (e) Offenses involving governmental operations which
13 include: Abuse of public records under section 28-911; perjury or
14 subornation of perjury under section 28-915; bribery under section
15 28-917; bribery of a witness under section 28-918; tampering with a
16 witness or informant or jury tampering under section 28-919; bribery
17 of a juror under section 28-920; assault on an officer in the first
18 degree under section 28-929; assault on an officer in the second
19 degree under section 28-930; assault on an officer in the third
20 degree under section 28-931; and assault on an officer using a motor
21 vehicle under section 28-931.01;

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

1 section 28-1107;

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

25 (h) Any violation of the Securities Act of Nebraska

1 pursuant to section 8-1117;

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

4 (j) Offenses relating to public health and morals which
5 include: Prostitution under section 28-801; pandering under section
6 28-802; keeping a place of prostitution under section 28-804; human
7 trafficking or forced labor or services under section 28-831; a
8 violation of section 28-1005; and any act relating to the visual
9 depiction of sexually explicit conduct prohibited in the Child
10 Pornography Prevention Act; and

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

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

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

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

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

1 Sec. 8. Section 29-4003, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 29-4003 (1)(a) The Sex Offender Registration Act applies
4 to any person who on or after January 1, 1997:

5 (i) Has ever pled guilty to, pled nolo contendere to, or
6 been found guilty of any of the following:

7 (A) Kidnapping of a minor pursuant to section 28-313,
8 except when the person is the parent of the minor and was not
9 convicted of any other offense in this section;

10 (B) False imprisonment of a minor pursuant to section
11 28-314 or 28-315;

12 (C) Sexual assault pursuant to section 28-319 or 28-320;

13 (D) Sexual assault of a child in the second or third
14 degree pursuant to section 28-320.01;

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

17 (F) Sexual abuse of a vulnerable adult pursuant to
18 subdivision (1)(c) of section 28-386;

19 (G) Incest of a minor pursuant to section 28-703;

20 (H) Pandering of a minor pursuant to section 28-802;

21 (I) Visual depiction of sexually explicit conduct of a
22 child pursuant to section 28-1463.03 or 28-1463.05;

23 (J) Knowingly possessing any visual depiction of sexually
24 explicit conduct which has a child as one of its participants or
25 portrayed observers pursuant to section 28-813.01;

1 (K) Criminal child enticement pursuant to section 28-311;

2 (L) Child enticement by means of an electronic
3 communication device pursuant to section 28-320.02;

4 (M) Debauching a minor pursuant to section 28-805; or

5 (N) Attempt, solicitation, aiding or abetting, being an
6 accessory, or conspiracy to commit an offense listed in subdivisions
7 (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

8 (ii) Has ever pled guilty to, pled nolo contendere to, or
9 been found guilty of any offense that is substantially equivalent to
10 a registrable offense under subdivision (1)(a)(i) of this section by
11 any village, town, city, state, territory, commonwealth, or other
12 jurisdiction of the United States, by the United States Government,
13 by court-martial or other military tribunal, or by a foreign
14 jurisdiction, notwithstanding a procedure comparable in effect to
15 that described under section 29-2264 or any other procedure to
16 nullify a conviction other than by pardon;

17 (iii) Is incarcerated in a jail, a penal or correctional
18 facility, or any other public or private institution or is under
19 probation or parole as a result of pleading guilty to or being found
20 guilty of a registrable offense under subdivision (1)(a)(i) or (ii)
21 of this section prior to January 1, 1997; or

22 (iv) Enters the state and is required to register as a
23 sex offender under the laws of another village, town, city, state,
24 territory, commonwealth, or other jurisdiction of the United States.

25 (b) In addition to the registrable offenses under

1 subdivision (1)(a) of this section, the Sex Offender Registration Act
2 applies to any person who on or after January 1, 2010:

3 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of
4 this section, has ever pled guilty to, pled nolo contendere to, or
5 been found guilty of any of the following:

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

8 (II) Murder in the second degree pursuant to section
9 28-304;

10 ~~(III) Manslaughter pursuant to section 28-305;~~

11 (III) Voluntary manslaughter pursuant to section 2 of
12 this act;

13 (IV) Involuntary manslaughter pursuant to section 3 of
14 this act;

15 ~~(IV)-(V) Assault in the first degree pursuant to section~~
16 28-308;

17 ~~(V)-(VI) Assault in the second degree pursuant to section~~
18 28-309;

19 ~~(VI)-(VII) Assault in the third degree pursuant to~~
20 section 28-310;

21 ~~(VII)-(VIII) Stalking pursuant to section 28-311.03;~~

22 ~~(VIII)-(IX) Unlawful intrusion pursuant to subsection (4)~~
23 of section 28-311.08;

24 ~~(IX)-(X) Kidnapping pursuant to section 28-313;~~

25 ~~(X)-(XI) False imprisonment pursuant to section 28-314 or~~

1 28-315;

2 ~~(XI)~~ (XII) Sexual abuse of an inmate or parolee in the
3 first degree pursuant to section 28-322.02;

4 ~~(XII)~~ (XIII) Sexual abuse of an inmate or parolee in the
5 second degree pursuant to section 28-322.03;

6 ~~(XIII)~~ (XIV) Sexual abuse of a protected individual
7 pursuant to section 28-322.04;

8 ~~(XIV)~~ (XV) Incest pursuant to section 28-703;

9 ~~(XV)~~ (XVI) Child abuse pursuant to subdivision (1)(d) or
10 (e) of section 28-707;

11 ~~(XVI)~~ (XVII) Enticement by electronic communication
12 device pursuant to section 28-833; or

13 ~~(XVII)~~ (XVIII) Attempt, solicitation, aiding or abetting,
14 being an accessory, or conspiracy to commit an offense listed in
15 subdivisions (1)(b)(i)(A)(I) through ~~(1)(b)(i)(A)(XVI)~~ (1)(b)(i)(A)
16 (XVII) of this section.

17 (B) In order for the Sex Offender Registration Act to
18 apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II),
19 (III), (IV), (V), (VI), (VII), ~~(IX)~~, ~~and (X)~~ (VIII), (X), and (XI) of
20 this section, a court shall have found that evidence of sexual
21 penetration or sexual contact, as those terms are defined in section
22 28-318, was present in the record, which shall include consideration
23 of the factual basis for a plea-based conviction and information
24 contained in the presentence report;

25 (ii) Has ever pled guilty to, pled nolo contendere to, or

1 been found guilty of any offense that is substantially equivalent to
2 a registrable offense under subdivision (1)(b)(i) of this section by
3 any village, town, city, state, territory, commonwealth, or other
4 jurisdiction of the United States, by the United States Government,
5 by court-martial or other military tribunal, or by a foreign
6 jurisdiction, notwithstanding a procedure comparable in effect to
7 that described under section 29-2264 or any other procedure to
8 nullify a conviction other than by pardon; or

9 (iii) Enters the state and is required to register as a
10 sex offender under the laws of another village, town, city, state,
11 territory, commonwealth, or other jurisdiction of the United States.

12 (2) A person appealing a conviction of a registrable
13 offense under this section shall be required to comply with the act
14 during the appeals process.

15 Sec. 9. Section 60-6,210, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-6,210 (1) If the driver of a motor vehicle involved in
18 an accident is transported to a hospital within or outside of
19 Nebraska and a sample of the driver's blood is withdrawn by a
20 physician, registered nurse, qualified technician, or hospital for
21 the purpose of medical treatment, the results of a chemical test of
22 the sample shall be admissible in a criminal prosecution for a
23 violation punishable under subdivision (3)(b) or (c) of section
24 28-306 or a violation of section ~~28-305~~, ~~60-6,196~~, or 60-6,198 or
25 section 2 or 3 of this act to show the alcoholic content of or the

1 presence of drugs or both in the blood at the time of the accident
2 regardless of whether (a) a peace officer requested the driver to
3 submit to a test as provided in section 60-6,197 or (b) the driver
4 had refused a chemical test.

5 (2) Any physician, registered nurse, qualified
6 technician, or hospital in this state performing a chemical test to
7 determine the alcoholic content of or the presence of drugs in such
8 blood for the purpose of medical treatment of the driver of a vehicle
9 involved in a motor vehicle accident shall disclose the results of
10 the test (a) to a prosecuting attorney who requests the results for
11 use in a criminal prosecution under subdivision (3)(b) or (c) of
12 section 28-306 or section ~~28-305, 60-6,196,~~ or 60-6,198 or section 2
13 or 3 of this act and (b) to any prosecuting attorney in another state
14 who requests the results for use in a criminal prosecution for
15 driving while intoxicated, driving under the influence, or motor
16 vehicle homicide under the laws of the other state if the other state
17 requires a similar disclosure by any hospital or person in such state
18 to any prosecuting attorney in Nebraska who requests the results for
19 use in such a criminal prosecution under the laws of Nebraska.

20 Sec. 10. Section 83-961, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-961 For purposes of the Correctional System
23 Overcrowding Emergency Act:

24 (1) Board means the Board of Parole;

25 (2) Committed offender has the definition found in

1 section 83-170;

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

4 (4) Design capacity means the total designed bed space in
5 facilities operated by the department, as certified by the director;

6 (5) Director means the Director of Correctional Services;

7 (6) Operational capacity means one hundred twenty-five
8 percent of design capacity;

9 (7) Population means the actual number of inmates
10 assigned to facilities operated by the department and does not
11 include inmates assigned to county-operated correctional
12 institutions; and

13 (8) Violent offense means any one or more of the
14 following crimes: Murder in the first degree, murder in the second
15 degree, voluntary manslaughter, involuntary manslaughter, assault in
16 the first degree, kidnapping, sexual assault in the first degree, or
17 robbery.

18 Sec. 11. Section 84-205, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 84-205 The duties of the Attorney General shall be:

21 (1) To appear and defend actions and claims against the
22 state;

23 (2) To investigate, commence, and prosecute any and all
24 actions resulting from violations of sections 32-1401 to 32-1417;

25 (3) To consult with and advise the county attorneys, when

1 requested by them, in all criminal matters and in matters relating to
2 the public revenue. He or she shall have authority to require aid and
3 assistance of the county attorney in all matters pertaining to the
4 duties of the Attorney General in the county of such county attorney
5 and may, in any case brought to the Court of Appeals or Supreme Court
6 from any county, demand and receive the assistance of the county
7 attorney from whose county such case is brought;

8 (4) To give, when required, without fee, his or her
9 opinion in writing upon all questions of law submitted to him or her
10 by the Governor, head of any executive department, Secretary of
11 State, State Treasurer, Auditor of Public Accounts, Board of
12 Educational Lands and Funds, State Department of Education, Public
13 Service Commission, or Legislature;

14 (5) At the request of the Governor, head of any executive
15 department, Secretary of State, State Treasurer, Auditor of Public
16 Accounts, Board of Educational Lands and Funds, State Department of
17 Education, or Public Service Commission, to prosecute any official
18 bond or any contract in which the state is interested which is
19 deposited with any of them and to prosecute or defend for the state
20 all civil or criminal actions and proceedings relating to any matter
21 connected with any of such officers' departments if, after
22 investigation, he or she is convinced there is sufficient legal merit
23 to justify the proceeding. Such officers shall not pay or contract to
24 pay from the funds of the state any money for special attorneys or
25 counselors-at-law unless the employment of such special counsel is

1 made upon the written authorization of the Governor or the Attorney
2 General;

3 (6) To enforce the proper application of money
4 appropriated by the Legislature to the various funds of the state and
5 prosecute breaches of trust in the administration of such funds;

6 (7) To prepare, when requested by the Governor, Secretary
7 of State, State Treasurer, or Auditor of Public Accounts or any other
8 executive department, proper drafts for contracts, forms, or other
9 writings which may be wanted for the use of the state and report to
10 the Legislature, whenever requested, upon any business pertaining to
11 the duties of his or her office. The report submitted to the
12 Legislature shall be submitted electronically;

13 (8) To pay all money received, belonging to the people of
14 the state, immediately upon receipt thereof, into the state treasury;

15 (9) To keep a record in proper books provided for that
16 purpose at the expense of the state, a register of all actions and
17 demands prosecuted or defended by him or her in behalf of the state
18 and all proceedings had in relation thereto, and deliver the same to
19 his or her successor in office;

20 (10) To appear for the state and prosecute and defend all
21 civil or criminal actions and proceedings in the Court of Appeals or
22 Supreme Court in which the state is interested or a party. When
23 requested by the Governor or the Legislature, the Attorney General
24 shall appear for the state and prosecute or defend any action or
25 conduct any investigation in which the state is interested or a party

1 before any court, officer, board, tribunal, or commission;

2 (11) To prepare and promulgate model rules of procedure
3 appropriate for use by as many agencies as possible. The Attorney
4 General shall add to, amend, or revise the model rules as necessary
5 for the proper guidance of agencies;

6 (12) To include within the budget of the office
7 sufficient funding to assure oversight and representation of the
8 State of Nebraska for district court appeals of administrative
9 license revocation proceedings under section 60-498.04; and

10 (13) To create a Child Protection Division to be staffed
11 by at least three assistant attorneys general who each have five or
12 more years of experience in the prosecution or defense of felonies or
13 misdemeanors, including two years in the prosecution or defense of
14 crimes against children. Upon the written request of a county
15 attorney, the division shall provide consultation and advise and
16 assist in the preparation of the trial of any case involving a crime
17 against a child, including, but not limited to, the following
18 offenses:

19 (a) Murder as defined in sections 28-303 and 28-304;

20 (b) ~~Manslaughter~~ Voluntary manslaughter as defined in
21 section ~~28-305~~; 2 of this act;

22 (c) Involuntary manslaughter as defined in section 3 of
23 this act;

24 ~~(e)~~-(d) Kidnapping as defined in section 28-313;

25 ~~(d)~~-(e) False imprisonment as defined in sections 28-314

1 and 28-315;

2 ~~(e)-(f)~~ Child abuse as defined in section 28-707;

3 ~~(f)-(g)~~ Pandering as defined in section 28-802;

4 ~~(g)-(h)~~ Debauching a minor as defined in section 28-805;

5 and

6 ~~(h)-(i)~~ Offenses listed in sections 28-813, 28-813.01,
7 and 28-1463.03.

8 Any offense listed in subdivisions (a) through ~~(h)-(i)~~ of
9 this subdivision shall include all inchoate offenses pursuant to the
10 Nebraska Criminal Code and compounding a felony pursuant to section
11 28-301. Such crimes shall not include matters involving dependent and
12 neglected children, infraction violations, custody, parenting time,
13 visitation, or other access matters, or child support. If the county
14 attorney declines in writing to prosecute a case involving a crime
15 against a child because of an ethical consideration, including the
16 presence or appearance of a conflict of interest, or for any other
17 reason, the division shall, upon the receipt of a written request of
18 the county attorney, the Department of Health and Human Services, the
19 minor child, the parents of the minor child, or any other interested
20 party, investigate the matter and either decline to prosecute the
21 matter or initiate the appropriate criminal proceedings in a court of
22 proper jurisdiction.

23 For purposes of this subdivision, child or children shall
24 mean an individual or individuals sixteen years of age or younger.

25 Sec. 12. Original sections 28-302, 60-6,210, and 83-961,

1 Reissue Revised Statutes of Nebraska, and sections 28-101, 28-111,
2 28-1351, 28-1354, 29-4003, and 84-205, Revised Statutes Cumulative
3 Supplement, 2012, are repealed.

4 Sec. 13. The following sections are outright repealed:

5 Sections 28-305 and 29-2027, Reissue Revised Statutes of Nebraska.