

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 255

Final Reading

Introduced by McGill, 26.

Read first time January 16, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 28-801,
 2 28-801.01, 28-804, 28-830, and 28-831, Reissue Revised
 3 Statutes of Nebraska, and sections 28-707, 28-802,
 4 28-1354, 43-248, 43-250, and 81-1430, Revised Statutes
 5 Cumulative Supplement, 2012; to change provisions
 6 relating to child abuse; to change provisions and
 7 penalties relating to prostitution, solicitation of
 8 prostitution, pandering, and keeping a place of
 9 prostitution; to provide an affirmative defense to
 10 prosecution for prostitution for certain trafficking
 11 victims; to provide an affirmative defense to prosecution
 12 for solicitation of prostitution for certain trafficking
 13 victims; to provide immunity from prosecution for
 14 prostitution for persons under eighteen years of age; to
 15 define and redefine terms and change penalty provisions
 16 relating to human trafficking offenses; to provide for

1 temporary custody and disposition of juveniles committing
2 prostitution; to provide duties for the human trafficking
3 task force; to harmonize provisions; to provide an
4 operative date; to provide severability; and to repeal
5 the original sections.

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

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

3 28-707 (1) A person commits child abuse if he or she
4 knowingly, intentionally, or negligently causes or permits a minor
5 child to be:

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

8 (b) Cruelly confined or cruelly punished;

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

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

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

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

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

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

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

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

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

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

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

15 (9) For purposes of this section, negligently refers to
16 criminal negligence and means that a person knew or should have known
17 of the danger involved and acted recklessly, as defined in section
18 28-109, with respect to the safety or health of the minor child.

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

21 28-801 (1) ~~Any~~ Except as provided in subsection (5) of
22 this section, any person who performs, offers, or agrees to perform
23 any act of sexual contact or sexual penetration, as those terms are
24 defined in section 28-318, with any person not his or her spouse, in
25 exchange for money or other thing of value, commits prostitution.

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

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

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

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

22 (4) For purposes of this subsection, section, prior
23 conviction means any conviction on or after July 14, 2006, for
24 violation of subsection (1) of this section or any conviction on or
25 after July 14, 2006, for violation of a city or village ordinance

1 relating to prostitution.

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

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

16 28-801.01 (1) Any person who solicits another person not
17 his or her spouse to perform any act of sexual contact or sexual
18 penetration, as those terms are defined in section 28-318, in
19 exchange for money or other thing of value, commits solicitation of
20 prostitution.

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

23 (a) If such person has had no prior convictions, such
24 person shall be guilty of a Class I misdemeanor and pay a fine of not
25 less than two hundred fifty dollars, unless the person solicited is

1 under the age of eighteen years, in which case such person violating
2 this section shall be guilty of a Class IV felony. If the court
3 places such person on probation, such order of probation shall
4 include, as one of its conditions, the payment of a fine of not less
5 than two hundred fifty dollars and such person shall satisfactorily
6 attend and complete an appropriate mental health and substance abuse
7 assessment conducted by a licensed mental health professional or
8 substance abuse professional authorized to complete such assessment;
9 and

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

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

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

24 28-802 (1) A person commits pandering if such person:

25 (a) Entices another person to become a prostitute; or

1 (b) Procures or harbors therein an inmate for a house of
2 prostitution or for any place where prostitution is practiced or
3 allowed; or

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

7 (d) Receives or gives or agrees to receive or give any
8 money or other thing of value for procuring or attempting to procure
9 any person to become a prostitute or commit an act of prostitution or
10 come into this state or leave this state for the purpose of
11 prostitution or debauchery.

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

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

20 28-804 (1) Any person who has or exercises control over
21 the use of any place which offers seclusion or shelter for the
22 practice of prostitution and who knowingly grants or permits the use
23 of such place for the purpose of prostitution commits the offense of
24 keeping a place of prostitution.

25 (2) Keeping a place of prostitution is a Class I

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

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

7 28-830 For purposes of sections 28-830 to 28-832, the
8 following definitions apply:

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

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

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

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

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

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

23 (c) Knowingly destroying, concealing, removing,
24 confiscating, or possessing any actual or purported passport or other
25 immigration document or any other actual or purported government

1 identification document of ~~another~~ the other person; or

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

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

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

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

16 ~~(6)-(8)~~ Maintain means, in relation to labor or services,
17 to secure continued performance thereof, regardless of any initial
18 agreement by the ~~victim~~ other person to perform such type of service;

19 ~~(7)-(9)~~ Minor means a person younger than eighteen years
20 of age;

21 ~~(8)-(10)~~ Obtain means, in relation to labor or services,
22 to secure performance thereof;

23 ~~(9)-(11)~~ Services means an ongoing relationship between a
24 ~~person and the actor~~ and another person in which the person performs
25 activities under the supervision of or for the benefit of the actor.

1 Commercial sexual activity and sexually-explicit performances are
2 forms of services under this section. Nothing in this subdivision
3 shall be construed to legalize prostitution;

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

13 (13) Sex trafficking of a minor means knowingly
14 recruiting, enticing, harboring, transporting, providing, or
15 obtaining by any means or knowingly attempting to recruit, entice,
16 harbor, transport, provide, or obtain by any means a minor for the
17 purpose of having such minor engage in commercial sexual activity,
18 sexually explicit performance, or the production of pornography or to
19 cause or attempt to cause a minor to engage in commercial sexual
20 activity, sexually explicit performance, or the production of
21 pornography;

22 ~~(10)~~(14) Sexually-explicit performance means a live or
23 public play, dance, show, or other exhibition intended to arouse or
24 gratify sexual desire or to appeal to prurient interests; and

25 ~~(11)~~(15) Trafficking victim means a person subjected to

1 any act or acts prohibited by section 28-831.

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

4 28-831 (1) No person shall knowingly ~~subject or attempt~~
5 ~~to subject another person to forced labor or services. engage in~~
6 labor trafficking or sex trafficking. If an actor knowingly ~~subjects~~
7 ~~another person to forced labor or services by:~~ engages in labor
8 trafficking or sex trafficking by:

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

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

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

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

23 (2) No person shall ~~knowingly recruit, entice, harbor,~~
24 ~~transport, provide, or obtain by any means or attempt to recruit,~~
25 ~~entice, harbor, provide, or obtain by any means a minor for the~~

1 ~~purpose of having such minor engage in commercial sexual activity,~~
2 ~~sexually explicit performance, or the production of pornography, or~~
3 ~~to cause or attempt to cause a minor to engage in commercial sexual~~
4 ~~activity, sexually explicit performance, or the production of~~
5 ~~pornography. A person engage in labor trafficking of a minor or sex~~
6 ~~trafficking of a minor. An actor who violates this subsection engages~~
7 ~~in labor trafficking of a minor or sex trafficking of a minor shall~~
8 be punished as follows:

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

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

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

20 (3) Any person who knowingly ~~(a) recruits, entices,~~
21 ~~harbors, transports, provides, or obtains by any means, or attempts~~
22 ~~to recruit, entice, harbor, transport, provide, or obtain by any~~
23 ~~means, a person eighteen years of age or older, intending or knowing~~
24 ~~that the person will be subjected to forced labor or services or (b)~~
25 benefits, financially or by receiving anything of value, from

1 participation in a venture which has, as part of the venture, an act
2 that is in violation of ~~subsection (1) of this section~~, is guilty of
3 a Class IV felony.

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

6 28-1354 For purposes of the Public Protection Act:

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

12 (2) Pattern of racketeering activity means a cumulative
13 loss for one or more victims or gains for the enterprise of not less
14 than one thousand five hundred dollars resulting from at least two
15 acts of racketeering activity, one of which occurred after August 30,
16 2009, and the last of which occurred within ten years, excluding any
17 period of imprisonment, after the commission of a prior act of
18 racketeering activity;

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

22 (4) Prosecutor includes the Attorney General of the State
23 of Nebraska, the deputy attorney general, assistant attorneys
24 general, a county attorney, a deputy county attorney, or any person
25 so designated by the Attorney General, a county attorney, or a court

1 of the state to carry out the powers conferred by the act;

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

8 (a) Offenses against the person which include: Murder in
9 the first degree under section 28-303; murder in the second degree
10 under section 28-304; manslaughter under section 28-305; assault in
11 the first degree under section 28-308; assault in the second degree
12 under section 28-309; assault in the third degree under section
13 28-310; terroristic threats under section 28-311.01; kidnapping under
14 section 28-313; false imprisonment in the first degree under section
15 28-314; false imprisonment in the second degree under section 28-315;
16 sexual assault in the first degree under section 28-319; and robbery
17 under section 28-324;

18 (b) Offenses relating to controlled substances which
19 include: To unlawfully manufacture, distribute, deliver, dispense, or
20 possess with intent to manufacture, distribute, deliver, or dispense
21 a controlled substance under subsection (1) of section 28-416;
22 possession of marijuana weighing more than one pound under subsection
23 (12) of section 28-416; possession of money used or intended to be
24 used to facilitate a violation of subsection (1) of section 28-416
25 prohibited under subsection (17) of section 28-416; any violation of

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

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

18 (d) Offenses involving fraud which include: Burning to
19 defraud an insurer under section 28-505; forgery in the first degree
20 under section 28-602; forgery in the second degree under section
21 28-603; criminal possession of a forged instrument under section
22 28-604; criminal possession of forgery devices under section 28-605;
23 criminal impersonation under section 28-638; identity theft under
24 section 28-639; identity fraud under section 28-640; false statement
25 or book entry under section 28-612; tampering with a publicly

1 exhibited contest under section 28-614; issuing a false financial
2 statement for purposes of obtaining a financial transaction device
3 under section 28-619; unauthorized use of a financial transaction
4 device under section 28-620; criminal possession of a financial
5 transaction device under section 28-621; unlawful circulation of a
6 financial transaction device in the first degree under section
7 28-622; unlawful circulation of a financial transaction device in the
8 second degree under section 28-623; criminal possession of a blank
9 financial transaction device under section 28-624; criminal sale of a
10 blank financial transaction device under section 28-625; criminal
11 possession of a forgery device under section 28-626; unlawful
12 manufacture of a financial transaction device under section 28-627;
13 laundering of sales forms under section 28-628; unlawful acquisition
14 of sales form processing services under section 28-629; unlawful
15 factoring of a financial transaction device under section 28-630; and
16 fraudulent insurance acts under section 28-631;

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

1 vehicle under section 28-931.01;

2 (f) Offenses involving gambling which include: Promoting
3 gambling in the first degree under section 28-1102; possession of
4 gambling records under section 28-1105; gambling debt collection
5 under section 28-1105.01; and possession of a gambling device under
6 section 28-1107;

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

1 the use of explosives or placing a false bomb under section 28-1221;
2 using explosives to commit a felony under section 28-1222; using
3 explosives to damage or destroy property under section 28-1223; and
4 using explosives to kill or injure any person under section 28-1224;

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

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

9 (j) Offenses relating to public health and morals which
10 include: Prostitution under section 28-801; pandering under section
11 28-802; keeping a place of prostitution under section 28-804; ~~human~~
12 ~~trafficking or forced labor or services~~ labor trafficking, sex
13 trafficking, labor trafficking of a minor, or sex trafficking of a
14 minor under section 28-831; a violation of section 28-1005; and any
15 act relating to the visual depiction of sexually explicit conduct
16 prohibited in the Child Pornography Prevention Act; and

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

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

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

23 (a) Incurred or contracted in gambling activity which was
24 in violation of federal law or the law of the state or which is
25 unenforceable under state or federal law in whole or in part as to

1 principal or interest because of the laws relating to usury; or

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

7 Sec. 9. Section 43-248, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 43-248 A peace officer may take a juvenile into temporary
10 custody without a warrant or order of the court and proceed as
11 provided in section 43-250 when:

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

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

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

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

25 (5) A probation officer has reasonable cause to believe

1 that a juvenile is in violation of probation and that the juvenile
2 will attempt to leave the jurisdiction or place lives or property in
3 danger; ~~or~~

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

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

9 Sec. 10. Section 43-250, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 43-250 (1) A peace officer who takes a juvenile into
12 temporary custody under section 29-401 or subdivision (1), (4), or
13 (5) of section 43-248 shall immediately take reasonable measures to
14 notify the juvenile's parent, guardian, custodian, or relative and
15 shall proceed as follows:

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

19 (b) The peace officer may require a juvenile taken into
20 temporary custody under section 29-401 or subdivision (1) or (4) of
21 section 43-248 to appear before the court of the county in which such
22 juvenile was taken into custody at a time and place specified in the
23 written notice prepared in triplicate by the peace officer or at the
24 call of the court. The notice shall also contain a concise statement
25 of the reasons such juvenile was taken into custody. The peace

1 officer shall deliver one copy of the notice to such juvenile and
2 require such juvenile or his or her parent, guardian, other
3 custodian, or relative, or both, to sign a written promise that such
4 signer will appear at the time and place designated in the notice.
5 Upon the execution of the promise to appear, the peace officer shall
6 immediately release such juvenile. The peace officer shall, as soon
7 as practicable, file one copy of the notice with the county attorney
8 or city attorney and, when required by the court, also file a copy of
9 the notice with the court or the officer appointed by the court for
10 such purpose; or

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

25 (i) When a juvenile described in subdivision (1) or (2)

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

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

21 (iii) Whenever a juvenile is held in a secure area of any
22 jail or other facility intended or used for the detention of adults,
23 there shall be no verbal, visual, or physical contact between the
24 juvenile and any incarcerated adult and there shall be adequate staff
25 to supervise and monitor the juvenile's activities at all times. This

1 subdivision shall not apply to a juvenile charged with a felony as an
2 adult in county or district court if he or she is sixteen years of
3 age or older;

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

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

13 (vi) A status offender or nonoffender taken into
14 temporary custody shall not be held in a secure area of a jail or
15 other facility intended or used for the detention of adults. Until
16 January 1, 2013, a status offender accused of violating a valid court
17 order may be securely detained in a juvenile detention facility
18 longer than twenty-four hours if he or she is afforded a detention
19 hearing before a court within twenty-four hours, excluding
20 nonjudicial days, and if, prior to a dispositional commitment to
21 secure placement, a public agency, other than a court or law
22 enforcement agency, is afforded an opportunity to review the
23 juvenile's behavior and possible alternatives to secure placement and
24 has submitted a written report to the court; and

25 (vii) A juvenile described in subdivision (1) or (2) of

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

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

24 (3) If the peace officer takes the juvenile into
25 temporary custody pursuant to subdivision (3) of section 43-248, the

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

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

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

1 into custody and was released.

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

7 Sec. 11. Section 81-1430, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 81-1430 (1) A task force is hereby established within the
10 Nebraska Commission on Law Enforcement and Criminal Justice for the
11 purposes of investigating and studying human trafficking, the methods
12 for advertising human trafficking services, and the victimization of
13 individuals coerced to participate in human trafficking.

14 (2) The task force shall examine the extent to which
15 human trafficking is prevalent in this state, the scope of efforts
16 being taken to prevent human trafficking from occurring, and the
17 services available to victims of human trafficking in this state. The
18 task force shall utilize information and research available from the
19 Innocence Lost National Initiative. The task force shall research and
20 recommend a model of rehabilitative services for victims of human
21 trafficking that includes input from the areas of law enforcement,
22 social services, the legal profession, the judiciary, mental health,
23 and immigration. The task force shall also investigate the
24 limitations upon victims who wish to come forward and seek medical
25 attention; investigate the potential to stop human trafficking; and

1 investigate the potential to promote recovery, to protect families
2 and children who may be profoundly impacted by such abuse, and to
3 save lives.

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

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

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

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

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

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

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

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

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

7 (g) A county sheriff;

8 (h) A county attorney;

9 (i) A county commissioner;

10 (j) A mayor or city manager;

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

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

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

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

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

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

1 and one member of the public at large shall represent juvenile
2 pretrial diversion programs.

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

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

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

1 (9) Notwithstanding any provision of law, ordinance, or
2 charter provision to the contrary, membership on the task force shall
3 not disqualify any member from holding any other public office or
4 employment or cause the forfeiture thereof.

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

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

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

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

23 Sec. 12. This act becomes operative on October 1, 2013.

24 Sec. 13. If any section in this act or any part of any
25 section is declared invalid or unconstitutional, the declaration

1 shall not affect the validity or constitutionality of the remaining
2 portions.

3 Sec. 14. Original sections 28-801, 28-801.01, 28-804,
4 28-830, and 28-831, Reissue Revised Statutes of Nebraska, and
5 sections 28-707, 28-802, 28-1354, 43-248, 43-250, and 81-1430,
6 Revised Statutes Cumulative Supplement, 2012, are repealed.