NEBRASKA

Good Life. Great Future.

DEPARTMENT OF MOTOR VEHICLES

Pete Ricketts, Governor

July 11, 2017

John Gale
Secretary of State
State of Nebraska
State Capitol Building Suite 2300
1445 K St.
Lincoln, NE 68508

Re: Amended Rule TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 12 entitled **Rules and Regulations for Governing the Department of Motor Vehicles Recommendations to the Board of Pardons for Reprieve of Operator's Licenses Revoked Pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197 and 60-6,199 through 60-6,209, Pursuant to Neb. Rev. Stat. §§ 83-1,127 and 83-1,129.**

Dear Secretary Gale:

In compliance with the Administrative Procedure Act, 84-907.06, I am providing you with a copy of the hearing notice required by section 84-907, a draft copy of the proposed amended rule or regulation, and the information provided to the Governor pursuant to section 84-907.09.

The proposed amendment to the rule will be open for public comment. A public hearing is scheduled for August 25, 2017 beginning at 10:00 a.m. The hearing will be held in Conference Room "B" on the lower level of the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

Sincerely,

Kenneth Lackey
Attorney
Nebraska Department of Motor Vehicles

Enclosures.

Noelie Ackermann Sherdon, Legal Counsel
Department of Motor Vehicles | LEGAL DIVISION
P.O. Box 94699
301 Centennial Mall South
Lincoln, Nebraska 68509
OFFICE 402-471-9593
FAX 402-471-4828
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FILED
JUL 11 2017
By SECRETARY OF STATE

NOTICE OF PUBLIC HEARING and COMMENT PERIOD
for TITLE 247 NAC 12

NOTICE is hereby given that the Department of Motor Vehicles will hold a rulemaking amendment hearing on August 25, 2017, beginning at 10 a.m. in Room B, Lower Level of the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The PURPOSE of the hearing is to take testimony and evidence concerning the amendment of: TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 12 entitled **Rules and Regulations for Governing the Department of Motor Vehicles Recommendations to the Board of Pardons for Reprieve of Operator's Licenses Revoked Pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197 and 60-6,199 through 60-6,209, Pursuant to Neb. Rev. Stat. §§ 83-1,127 and 83-1,129.**

This rule and regulation governs the procedures followed by the Department of Motor Vehicles in making the recommendation to Nebraska Board of Pardons for an applicant's reprieve of the fifteen year license revocation. The amendment of this regulation will comply with the current Nebraska statute and LB 998 § 12 (2014).

THIS RULE MAKING HEARING is being conducted under the Nebraska Administrative Procedures Act, Neb. Rev. Stat. § 84-907, et. seq. Draft copies of the proposed regulations are available for public examination at the Department of Motor Vehicles, Legal Division, 1st Floor State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509-4699 and at the office of the Secretary of State, Rules and Regulations Division, Room 1305, State Capitol, 1st Floor, Lincoln, Nebraska 68509-4608. A copy of the proposed rule will also be available for downloading from the Nebraska Secretary of State Website prior to the date of the hearing at http://www.sos.ne.gov.

There is no new FISCAL IMPACT upon the state or political subdivisions from these rules and regulations and a copy of the fiscal impact statement is available at the above addresses.

ALL INTERESTED PERSONS are invited to attend and testify at the hearing. Interested persons may prefer to submit written comments during the PUBLIC COMMENT PERIOD. The public comment period begins with the publication of this notice and will close at the time of the public hearing. Any written comment received prior to or at the public hearing shall be made part of the hearing record at the time of the hearing. Written comments should be addressed to Kenneth Lackey, Department of Motor Vehicles, Legal Division, 1st Floor, State Office Building, 301 Centennial Mall South, Lincoln, NE 68509-4699 (fax 402-471-4828), or on-line at http://www.sos.ne.gov. If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above at (402) 471-9593 or, for persons with hearing impairment, (402) 471-4154.

DATED: 7-7-2017

Rhonda Lahm, Director
Department of Motor Vehicles
State of Nebraska

Nebraska Administrative Regulation
Fiscal Impact Statement

Agency:	Department of Motor Vehicles	Prepared By:	Bart Moore
Title:	247	Date Prepared:	5/8/2017
Chapter:	12	Phone:	471-3902
Name:	**RULES AND REGULATIONS**	Statement Status:	( ) Draft
	GOVERNING THE DEPARTMENT OF MOTOR VEHICLES		(X) Final
	RECOMMENDATIONS TO THE BOARD OF PARDONS		
	FOR REPRIEVE OF OPERATOR'S LICENSES REVOKED		
	PURSUANT TO NRS § 60-6,196, 60-6,197 AND , 60-6,199 THRU 60-6,209,		
	PURSUANT TO NRS 83-1,127 AND 83-1,129		

Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increase Costs	( )	( )	( )
Decrease Costs	( )	( )	( )

Description of Impact:

NONE

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SUBMIT TO GOVERNOR BEFORE SUBMITTING TO EXECUTIVE BOARD AND BEFORE PUBLIC HEARING DATE IS SET

PROPOSED REGULATION
GPRO COVERPAGE
(ATTACH TO PRE-REVIEW CHECKLIST)

RECEIVED
JUN 20 2017
Gov's Policy Research

Agency: **Nebraska Department of Motor Vehicles**
Title, Chapter of Rules submitted: **Title 247, N. A. C. Chapter 12: Rules and Regulations Governing the Department of Motor Vehicles Recommendations to the Board of Pardons for Reprieve of Operator's Licenses Revoked Pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197 and 60-6,199 through 60-6,209, Pursuant to Neb. Rev. Stat. §§ 83-1,127 and 83-1,129.**

LB 948 (2014)

Prepared by: **Kenneth Lackey, Attorney III**
Telephone: **471-9595**
Date submitted to Governor: June 20, 2017

Projected dates for public hearings September, 2017.

Projected deadline for final approval December, 2017.

A copy of the section of laws or federal regulations that triggered these changes is attached.

FOR GOVERNOR OFFICE RECORDS

Advisor Assigned: Erin Northwall
Date approved to proceed: June 21, 2017
Options for proceeding: A

X a) No further contact with GPRO is necessary until final rules have been approved by the Attorney General.

____ b) Contact Governor through GPRO concerning issues raised in Negotiated Rulemaking procedures.

____ c) Submit Rules and Regulations Policy Review Checklist to Governor if rules are changed hereafter and a new public hearing is scheduled.

____ d) Keep the Governor informed through GPRO as issues arise in negotiations, drafting sessions, advisory board meetings, and public hearings.

____ e) Specific policy comments per Governor's instructions is attached.

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PROPOSED REGULATION
POLICY PRE-REVIEW CHECKLIST

Agency: **Department of Motor Vehicles**
Title, Chapter of Rules submitted: **Title 247 NAC Ch. 12**
Subject: **Amended Rules and Regulations Governing the Department of Motor Vehicles Recommendations to the Board of Pardons For Reprieve of Operator's Licenses Revoked Pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197 and 60-6,199 through 60-6,209, Pursuant to Neb. Rev. Stat. §§ 83-1,127 and 83-1,129.**

Prepared by: **Kenneth Lackey, Attorney III**
Telephone: **471-9595**

A. Policy Changes and Impacts

1. What does the regulation do and whom does it impact? Provide a brief description of the proposed rule or regulation and its impact on state agencies, political subdivisions, and regulated persons or entities.

The Department of Motor Vehicles is required by statute to review and provide a recommendation for a reprieve for individuals whose operators license is revoked for fifteen years to the Nebraska Board of Pardons. This rule must be amended to comply with the LB 998 (2014) and NRS 60-6,209. The delay in promulgation is due to the Department having previously recommended a legislative bill proposal to update statute terminology in NRS 60-6,209 to be consistent with the Department's terminology and processes. The legislative proposal was not approved and therefore the Department is promulgating the rule to be in compliance with the statute at this time.

2. Describe changes being proposed to current policy and briefly provide rationale.

The sole purpose of the amendment is to bring the regulation in compliance with the current statute.

B. Why is the rule necessary? Explain and provide an identification of authorizing statute(s) or legislative bill(s).

1. Update of regulation – recodification of statute (repeal of obsolete statutes, reflect current policy, editing or technical language changes, etc.)
2. Annual changes - cost of living, hunting season schedules, etc.
X 3. Law was changed.
4. Extension of established policy or program, new initiatives or changes in policy (within statutory authority).
5. Constituent initiated.
6. Financial needs – increases/decreases in fees.
7. Litigation requires changes in rules.
8. Addresses legal or constitutional concerns of Attorney General's office.
9. Implements federal or court mandate.

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10. Other (explain)

C. What happens if these rules are not adopted?

The Department's rule would be out of compliance with the current statute.

D. Policy Checklist

1. Is this an update or editorial change reflecting essentially no change in policy?
   Yes.
2. Does the policy in the proposed regulation reflect legislative intent?
   Yes. The policy complies with statute.
3. Is the policy proposed in the regulation a state mandate on local government? Is it funded?
   The policy does not impose duties on local government. No new funds are required.
4. Is the policy proposed in the regulation a federal mandate on local government? Is it funded?
   No. No it is not funded.

E. Fiscal Impact. In addition to completing the required Fiscal Impact Statement (a copy must be attached to this document), the agency must address the following:

1. Will the proposed regulation reduce, increase or have no change in resources – funds, personnel or FTE?
   There is no expected change.
2. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation?
   The citizens affected by the proposed regulation are applicants for reprieve of fifteen year license revocations. The public has been made aware of the legislative change.
3. Does the proposed regulation impact another agency?
   No. The proposed regulation does not impact other agencies.
   Explain the impact.
   None.
4. Will the proposed regulation reduce, increase, or have no change on reporting requirements of businesses?
   It will not affect business reporting.
5. What is the agency's best estimate of the additional or reduced spending? If there is none, please note. If receipt of federal funds is contingent upon approval of the proposed regulation, then indicate the amount and nature of the federal funds affected, and enclose laws or correspondence from federal officials substantiating the information.
   There should not be any change in spending, either increased or reduced.
6. Include a description of the impact that the proposed regulation will have on the number of state employees and how the agency intends to address proposed increases or decreases in FTE.
   No impact.

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F. Unique problems or issues and recommendations. **None.**

G. Who is expected to be affected, or to oppose or support the proposed regulation? Explain what initial informal contacts have been made with organizations or citizens who may be affected by the regulation prior to the public hearing.

The citizens affected by the proposed regulation are applicants for reprieve of fifteen year license revocations. The public has been made aware of the legislative change. The new legislation requires the applicant to submit a $100 application fee.

H. Are these proposed rules a likely candidate for negotiated rulemaking? Explain. Has the process been completed? If so, explain how the issues were addressed.

The rule is not a candidate for negotiated rulemaking.

Director's Verification of Review

I have reviewed these proposals and verify that, at this stage of the regulation's development, these questions have been accurately addressed.

Director's Signature Rhonda K. Cal Date 16 June 2017

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60-6,209. License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.

(1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles not more often than once per calendar year, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application and a nonrefundable application fee of one hundred dollars, the Director of Motor Vehicles shall review the application and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription;

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason; and

(f) Such person has agreed that, if the Board of Pardons reinstates such person's eligibility to apply for an ignition interlock permit, such person must provide proof, to the satisfaction of the department, that an ignition interlock device has been installed and is maintained on one or more motor vehicles such person operates for the duration of the original fifteen-year revocation period and such

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person must operate only motor vehicles so equipped for the duration of the original fifteen-year revocation period.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified or licensed by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period on such person's continued recovery and, if such person is a holder of an ignition interlock permit, shall be conditioned for the duration of the original revocation period on such person's operation of only motor vehicles equipped with an ignition interlock device. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State

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Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 1992, LB 291, § 10; R.S.Supp.,1992, § 39-669.19; Laws 1993, LB 370, § 304; Laws 1998, LB 309, § 18; Laws 2001, LB 38, § 54; Laws 2003, LB 209, § 13; Laws 2004, LB 208, § 12; Laws 2004, LB 1083, § 102; Laws 2008, LB736, § 9; Laws 2014, LB998, § 12.

Annotations

This section (60-6,209 (Reissue 1993)) clearly defines the 15-year revocation as serving as a punishment and is unconstitutional because it permits a judicial commutation of a sentence of punishment. Because this section permits the judicial branch to exercise the power of commutation, a power that clearly belongs to the executive branch, this section is unconstitutional as a violation of the separation of powers clause of the Nebraska Constitution. State v. Bainbridge, 249 Neb. 260, 543 N.W.2d 154 (1996).

The law does not grant an absolute right to defendant to a reduction of a term of revocation, but provides that the period of revocation "may" be reduced if the provisions of the statute are shown by the applicant to be satisfied by the preponderance of the evidence. State v. Packett, 246 Neb. 888, 523 N.W.2d 695 (1994).

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LEGISLATIVE BILL 998

Approved by the Governor April 9, 2014

Introduced by Karpisek, 32; Hadley, 37.

FOR AN ACT relating to public health and safety; to amend sections 12-1208, 38-1426, 38-1427, 60-6,209, 71-1356, 71-1373, and 83-1,127.02, Reissue Revised Statutes of Nebraska, sections 28-311.08, 28-367.01, 29-4003, 30-2201, 60-6,211.11, 71-605, and 71-4813, Revised Statutes Cumulative Supplement, 2012, and sections 28-830, 28-831, and 38-1425, Revised Statutes Supplement, 2013; to change provisions relating to disposition of human remains, offenses related to the person, sexual exploitation, labor trafficking, and sex trafficking, the Sex Offender Registration Act, and enforcement provisions regarding driving under the influence; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 12-1208, Reissue Revised Statutes of Nebraska, is amended to read:

12-1208 (1) Upon notification pursuant to section 12-1206, the society shall promptly assist in examining the discovered material to attempt to determine its origin and identity.

(2) If the society finds that the discovered human skeletal remains or burial goods are of non-American-Indian origin with a known or unknown identity, it shall notify the county attorney of the finding. Upon receipt of the finding, the county attorney shall cause the remains and associated burial goods to be interred in consultation with the county coroner. Reburial shall be in accordance with the wishes and at the expense of any known ~~relatives~~ persons in the order listed by section ~~38-1425~~ 8 of this act or, if no relatives are known, in an appropriate cemetery at the expense of the county in which the remains were discovered after a one-year scientific study period if such study period is considered necessary or desirable by the society. In no case shall any human skeletal remains that are reasonably identifiable as to familial or tribal origin be displayed by any entity which receives funding or official recognition from the state or any of its political subdivisions. In situations in which human skeletal remains or burial goods that are unidentifiable as to familial or tribal origin are clearly found to be of extremely important, irreplaceable, and intrinsic scientific value, the remains or goods may be curated by the society until the remains or goods may be reinterred as provided in this subsection without impairing their scientific value.

(3) If the society finds that the discovered human skeletal remains or burial goods are of American Indian origin, it shall promptly notify in writing the Commission on Indian Affairs and any known ~~relatives~~ persons in the order listed in section ~~38-1425~~ 8 of this act or, if no relatives are known, any Indian tribes reasonably identified as tribally linked to such remains or goods in order to ascertain and follow the wishes of the relative or Indian tribe, if any, as to reburial or other disposition. Reburial by any such relative or Indian tribe shall be by and at the expense of such relative or Indian tribe. In cases in which reasonably identifiable American Indian human skeletal remains or burial goods are unclaimed by the appropriate relative or Indian tribe, the society shall notify all other Indian tribes which can reasonably be determined to have lived in Nebraska in order to ascertain and follow the wishes of the tribe as to reburial or other disposition. Reburial by any such tribe shall be by and at the expense of the tribe. If such remains or goods are unclaimed by the appropriate tribe, the remains or goods shall be reburied, as determined by the commission, by one of the four federally recognized Indian tribes in Nebraska.

Sec. 2. Section 28-311.08, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-311.08 (1) It shall be unlawful for any person to knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion.

(2) It shall be unlawful for any person to knowingly photograph, film, record, or live broadcast an image of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether such other person is located in a public or private place.

~~(2)~~ (3) For purposes of this section:

(a) Intimate area means the naked or undergarment-clad genitalia,

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pubic area, buttocks, or female breast of an individual;

~~(a)~~ (b) Intrude means either the:

(i) Viewing of another person in a state of undress as it is occurring; or

(ii) Recording by video, photographic, digital, or other electronic means of another person in a state of undress; and

~~(b)~~ (c) Place of solitude or seclusion means a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

~~(3)(a)~~ (4)(a) Violation of this section involving an intrusion as defined in subdivision ~~(2)(a)(i)~~ (3)(b)(i) of this section or violation under subsection (2) of this section is a Class I misdemeanor.

(b) ~~Violation~~ Subsequent violation of this section involving an intrusion as defined in subdivision (3)(b)(i) of this section, subsequent violation under subsection (2) of this section, or violation of this section involving an intrusion as defined in subdivision ~~(2)(a)(ii)~~ (3)(b)(ii) of this section is a Class IV felony.

(c) Violation of this section is a Class III felony if video or an image ~~from the intrusion~~ recorded in violation of this section is distributed to another person or otherwise made public in any manner which would enable it to be viewed by another person.

~~(4)~~ (5) As part of sentencing following a conviction for a violation of this section, the court shall make a finding as to the ages of the defendant and the victim at the time the offense occurred. If the defendant is found to have been nineteen years of age or older and the victim is found to have been less than eighteen years of age at such time, then the defendant shall be required to register under the Sex Offender Registration Act.

~~(5)~~ (6) No person shall be prosecuted ~~for unlawful intrusion~~ pursuant to subdivision ~~(3)(b)~~ (4)(b) or (c) of this section unless the indictment for such offense is found by a grand jury or a complaint filed before a magistrate within three years after the later of:

(a) The commission of the crime;

(b) Law enforcement's or a victim's receipt of actual or constructive notice of either the existence of a video or other electronic recording ~~of the unlawful intrusion~~ made in violation of this section or the distribution of images, video, or other electronic recording ~~of the unlawful intrusion;~~ made in violation of this section; or

(c) The youngest victim of ~~the intrusion~~ a violation of this section reaching the age of twenty-one years.

Sec. 3. Section 28-367.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-367.01 Sexual exploitation includes, but is not limited to, ~~unlawful intrusion as described in~~ a violation of section 28-311.08 and causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, in exhibitionism, in prostitution, or in the lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult.

Sec. 4. Section 28-830, Revised Statutes Supplement, 2013, is amended to read:

28-830 For purposes of sections 28-830 and 28-831, 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) Debt bondage means inducing another person to provide:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(b) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined;

~~(3)~~ (4) Financial harm means theft by extortion as described by section 28-513;

~~(4)~~ (5) 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~~

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~~the other person~~ as defined by section 28-318, on another person;

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

(c) Abusing or threatening to abuse the legal process against another person to cause arrest or deportation for violation of federal immigration law;

(d) Controlling or threatening to control another person's access to a controlled substance listed in Schedule I, II or III of section 28-405;

(e) Exploiting another person's substantial functional impairment as defined in section 28-368 or substantial mental impairment as defined in section 28-369;

~~(e)~~ (f) 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 the other person; or

~~(d)~~ (g) Causing or threatening to cause financial harm to ~~the other person;~~ another person, including debt bondage;

~~(5)~~ (6) Labor means work of economic or financial value;

~~(6)~~ (7) 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)~~ (8) 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)~~ (9) Maintain means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement by the other person to perform such type of service;

~~(9)~~ (10) Minor means a person younger than eighteen years of age;

~~(10)~~ (11) Obtain means, in relation to labor or services, to secure performance thereof;

~~(11)~~ (12) Services means an ongoing relationship between 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)~~ (13) 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)~~ (14) 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;

~~(14)~~ (15) 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

~~(15)~~ (16) Trafficking victim means a person subjected to any act or acts prohibited by section 28-831.

Sec. 5. Section 28-831, Revised Statutes Supplement, 2013, is amended to read:

28-831 (1) No person shall knowingly engage in labor trafficking or sex trafficking.

(2) If an actor knowingly 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, on another person, the actor is guilty of a Class III felony;

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

(c) Abusing or threatening to abuse the legal process against

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another person to cause arrest or deportation for violation of federal immigration law, the actor is guilty of a Class IV felony;

(d) Controlling or threatening to control another person's access to a controlled substance listed in Schedule I, II or III of section 28-405, the actor is guilty of a Class IV felony;

(e) Exploiting another person's substantial functional impairment as defined in section 28-368 or substantial mental impairment as defined in section 28-369, the actor is guilty of a Class IV felony;

~~(c)~~ (f) 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 the other person, the actor is guilty of a Class IV felony; or

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

~~(2)~~ (3) No person shall engage in labor trafficking of a minor or sex trafficking of a minor. An actor who 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, 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)~~ (4) Any person who 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 this section, is guilty of a Class IV felony.

Sec. 6. Section 29-4003, Revised Statutes Cumulative Supplement, 2012, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Is incarcerated in a jail, a penal or correctional facility,

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or any other public or private institution or is under probation or parole as a result of pleading guilty to or being found guilty of a registrable offense under subdivision (1)(a)(i) or (ii) of this section prior to January 1, 1997; or

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

(b) In addition to the registrable offenses under subdivision (1)(a) of this section, the Sex Offender Registration Act applies to any person who on or after January 1, 2010:

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

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

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

(III) Manslaughter pursuant to section 28-305;

(IV) Assault in the first degree pursuant to section 28-308;

(V) Assault in the second degree pursuant to section 28-309;

(VI) Assault in the third degree pursuant to section 28-310;

(VII) Stalking pursuant to section 28-311.03;

(VIII) ~~Unlawful intrusion~~ Violation of section 28-311.08 requiring registration under the act pursuant to subsection ~~(4)~~ (5) of section 28-311.08;

(IX) Kidnapping pursuant to section 28-313;

(X) False imprisonment pursuant to section 28-314 or 28-315;

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

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

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

(XIV) Incest pursuant to section 28-703;

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

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

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

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

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

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

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

Sec. 7. Section 30-2201, Revised Statutes Cumulative Supplement, 2012, is amended to read:

30-2201 Sections 30-2201 to 30-2902, 30-3901 to 30-3923, and 30-4001 to 30-4045 and section 8 of this act shall be known and may be cited as the Nebraska Probate Code.

Sec. 8. (1) Except as otherwise provided by section 23-1824, a person who is eighteen years of age or older and of sound mind, by testamentary disposition, by entering into a pre-need sale as defined by section 12-1102, or by affidavit as provided in subdivision (2)(a)(ii) of this section, may direct the location, manner, and conditions of disposition of his or her remains and the arrangements for funeral goods and services to be provided upon his or her death.

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(2) Except as set forth in subsection (3) of this section or in section 71-20,121, the right of disposition, including the right to control the disposition of the remains of a deceased person, the location, manner, and conditions of disposition, and the arrangements for funeral goods and services to be provided, vests in the following order if the person listed is eighteen years of age or older and is of sound mind:

(a)(i) A person designated by the decedent as the person with the right of disposition in an affidavit executed in accordance with subdivision (2)(a)(ii) of this section.

(ii) A person who is eighteen years of age or older and of sound mind wishing to convey the right of disposition to another person may execute an affidavit before a notary public in substantially the following form:

State of .....)

County of .....)

I, ..., do hereby designate ..... with the right to control the disposition of my remains upon my death. I (..... have) (..... have not) attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, so long as such directions are lawful and there are sufficient resources in my estate to carry out the directions. This affidavit does not constitute a durable power of attorney for health care.

..... (signature of person executing affidavit)

Subscribed and sworn to before me this ..... day of the month of ..... of the year ..... .

..... (signature of notary public);

(b) The surviving spouse of the decedent;

(c) The sole surviving child of the decedent or, if there is more than one child of the decedent, the majority of the surviving children, except that less than a majority of the surviving children shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving children of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving children;

(d) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent shall be vested with the right of disposition after reasonable efforts have been unsuccessful in locating the absent surviving parent;

(e) The surviving brother or sister of the decedent or, if there is more than one sibling of the decedent, the majority of the surviving siblings, except that less than the majority of the surviving siblings shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving siblings of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving siblings;

(f) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, the majority of the grandparents, except that less than the majority of the surviving grandparents shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving grandparents of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving grandparents;

(g) The person in the next degree of kinship, in descending order, under the laws of descent and distribution, to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(h) The guardian of the person of the decedent at the time of the decedent's death, if one had been appointed;

(i) The personal representative of the estate of the decedent. The powers and duties under this section of the personal representative shall commence upon his or her appointment. Such powers and duties of the personal representative shall relate back in time to give acts by the personal representative which are beneficial to the disposition of the decedent's remains occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, the personal representative may carry out written instructions of the decedent relating to his or her body, funeral, and burial arrangements. The personal representative may also ratify and accept acts regarding disposition of the decedent's remains done by others where the acts would have been proper for the personal representative;

(j) The State Anatomical Board or the county board of the county where the death occurred in the case of an indigent person or any other person the disposition of whose remains is a responsibility of the state or county;

(k) A representative as described in section 38-1426 or 38-1427 that

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has arranged with the funeral establishment, cemetery, or crematory authority to cremate or bury a body part in the case of body parts received from the entity described in section 38-1426 or 38-1427; and

(l) In the absence of any person listed in subdivisions (2)(a) through (k) of this section, any other person willing to assume the right of disposition, including the funeral director with custody of the body, after attesting, in writing, that a good faith effort has been made to no avail to contact the persons listed in subdivisions (2)(a) through (k) of this section.

(3) A person entitled under this section to the right of disposition shall forfeit that right and the right is passed on to the next qualifying person as listed in subdivisions (2)(a) through (l) of this section in the following circumstances:

(a) Any person charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death and whose charges are known to the funeral director. If the charges against such person are dismissed, or if such person is acquitted of the charges, the right of disposition is returned to such person;

(b) Any person who does not exercise his or her right of disposition within three days after notification of the death of the decedent or within four days after the decedent's death, whichever is earlier;

(c) If the person and the decedent are spouses and a petition to dissolve the marriage was pending at the time of the decedent's death; or

(d) If a county court pursuant to subsection (4) of this section determines that the person entitled to the right of disposition and the decedent were estranged at the time of death. For purposes of this subdivision, estranged means a physical and emotional separation from the decedent at the time of death which has existed for a period of time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4)(a) If two or more persons with the same relationship to the decedent hold the right of disposition and cannot by majority vote make a decision regarding the disposition of the decedent's remains, any of such persons or a funeral home with custody of the remains may file a petition asking the court to make a determination in the matter.

(b) Notwithstanding subsections (1) through (3) of this section, the county court of the county where the decedent died may award the right of disposition to the person determined by the court to be the most fit and appropriate to carry out the right of disposition and may make decisions regarding the decedent's remains if those sharing the right of disposition cannot agree.

(c) In making a determination under this subsection, the court shall consider the following:

(i) The reasonableness and practicality of the proposed funeral arrangements and disposition;

(ii) The degree of the personal relationship between the decedent and each of the persons claiming the right of disposition;

(iii) The desires of the person or persons who are ready, able, and willing to pay the cost of the funeral arrangements and disposition; and

(iv) The convenience and needs of other families and friends wishing to pay respects.

(d) In the event of a dispute regarding the right of disposition, a funeral establishment, cemetery, or crematory authority is not liable for refusing to accept the remains or to inter or otherwise dispose of the remains of the decedent or complete the arrangements for the final disposition of the remains until the funeral establishment, cemetery, or crematory authority receives a court order or other written agreement signed by the parties in disagreement that decides the final disposition of the remains. If the funeral establishment, cemetery, or crematory authority retains the remains for final disposition while the parties are in disagreement, the funeral establishment may embalm or refrigerate and shelter the body, or both, in order to preserve it while awaiting the final decision of the court and may add the cost of embalming or refrigeration and sheltering to the final disposition costs. If a funeral home brings an action under this subsection, the funeral establishment, cemetery, or crematory authority may add the legal fees and court costs associated with a petition under this subsection to the cost of final disposition. This subsection may not be construed to require or to impose a duty upon a funeral establishment, cemetery, or crematory authority to bring an action under this subsection.

(e) Except to the degree it may be considered by the court under subdivision (4)(c)(iii) of this section, the fact that a person has paid or agreed to pay for all or part of the funeral arrangements and final disposition does not give that person a greater claim to the right of

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disposition than the person would otherwise have. The personal representative of the estate of the decedent does not, by virtue of being the personal representative, have a greater claim to the right of disposition than the personal representative would otherwise have.

Sec. 9. Section 38-1425, Revised Statutes Supplement, 2013, is amended to read:

38-1425 ~~(1) Except as otherwise provided in subsection (2) of this section or section 71-20,121, the right to control the disposition of the remains of a deceased person, except in the case of a minor subject to section 23-1824 and unless other directions have been given by the decedent in the form of a testamentary disposition or a pre-need contract, vests in the following persons in the order named:~~

~~(a) Any person authorized to direct the disposition of the decedent's body pursuant to a notarized affidavit authorizing such disposition and signed and sworn to by the decedent. Such an affidavit shall be sufficient legal authority for authorizing disposition without additional authorization from the decedent, the decedent's family, or the decedent's estate. Such person shall not be considered an attorney in fact pursuant to sections 30-3401 to 30-3432;~~

~~(b) The surviving spouse of the decedent;~~

~~(c) If the surviving spouse is incompetent or not available or if there is no surviving spouse, the decedent's surviving adult children. If there is more than one adult child, any adult child, after confirmation in writing of the notification of all other adult children, may direct the manner of disposition unless the funeral establishment or crematory authority receives written objection to the manner of disposition from another adult child;~~

~~(d) The decedent's surviving parents;~~

~~(e) The persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may direct the manner of disposition;~~

~~(f) A guardian of the person of the decedent at the time of such person's death;~~

~~(g) The personal representative of the decedent;~~

~~(h) The State Anatomical Board or county board in the case of an indigent person or any other person the disposition of whose remains is the responsibility of the state or county; or~~

~~(i) A representative of an entity described in section 38-1426 that has arranged with the funeral establishment or crematory authority to cremate a body part in the case of body parts received from such entity described in section 38-1426.~~

(1) Any person signing a funeral service agreement, a cremation authorization form, or any other authorization for disposition shall be deemed to warrant the truthfulness of any facts set forth in such agreement, form, or authorization, including the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of and the person's right of disposition. A funeral establishment, cemetery, or crematory authority shall have the right to rely on such agreement, form, or authorization and shall have the authority to carry out the instructions of the person or persons whom the funeral establishment, cemetery, or crematory authority reasonably believes holds the right of disposition. No funeral establishment, cemetery, or crematory authority shall have the responsibility to contact or to independently investigate the existence of any next-of-kin or relative of the decedent. If there is more than one person in a class equal in priority and the funeral establishment, cemetery, or crematory authority has no knowledge of any objection by other members of such class, the funeral establishment, cemetery, or crematory authority shall be entitled to rely on and act according to the instructions of the first such person in the class to make funeral and disposition arrangements so long as no other person in such class provides written notice of his or her objections to the funeral establishment, cemetery, or crematory authority, as the case may be.

(2) The liability for the reasonable cost of the final disposition of the remains of the decedent devolves jointly and severally upon all kin of the decedent in the same degree of kindred into which the right of disposition fell and upon the estate of the decedent and, in cases where a county board has the right to control disposition of the remains under subdivision (2)(j) of section 8 of this act, upon the county in which the death occurred from funds available for such purpose.

~~(2)~~ (3) If the decedent died during active military service, as provided in 10 U.S.C. 1481 (a)(1) through (8), in any branch of the United States armed forces, United States reserve forces, or national guard, the

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person authorized by the decedent to direct disposition pursuant to section 564 of Public Law 109-163, as listed on the decedent's United States Department of Defense record of emergency data, DD Form 93, or its successor form, shall take priority over all other persons described in ~~subsection (1) of this section.~~section 8 of this act.

~~(3) A funeral director, funeral establishment, crematory authority, or crematory operator shall not be subject to criminal prosecution or civil liability for carrying out the otherwise lawful instructions of the person or persons described in this section if the funeral director or crematory authority or operator reasonably believes such person is entitled to control the final disposition of the remains of the deceased person.~~

~~(4) The liability for the reasonable cost of the final disposition of the remains of the deceased person devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent and, in cases when the county board has the right to control disposition of the remains under subdivision (1)(h) of this section, upon the county in which death occurred from funds available for such purpose.~~

Sec. 10. Section 38-1426, Reissue Revised Statutes of Nebraska, is amended to read:

38-1426 (1) A decedent, prior to his or her death, may direct the preparation for the final disposition of his or her remains by written instructions as provided in section 38-1425 and section 8 of this act. If such instructions are in a will or other written instrument, the decedent may direct that the whole or any part of such remains be given to a teaching institution, university, college, or legally licensed hospital, to the director, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the director under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under this section shall faithfully carry out the directions of the decedent.

(2) If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

(3) This section shall be administered and construed to the end that such expressed instructions of any person shall be faithfully and promptly performed.

(4) A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, and any teaching institution, university, college, or legally licensed hospital or the director shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as set forth in this section.

Sec. 11. Section 38-1427, Reissue Revised Statutes of Nebraska, is amended to read:

38-1427 A written authorization for an autopsy given by the ~~survivor or survivors, as enumerated~~ person listed in section ~~38-1425,~~ 8 of this act having the right ~~to control the~~ of disposition of the remains may, subject to section 23-1824 and when not inconsistent with any directions given by the decedent pursuant to section 38-1426, include authorization for the removal of any specifically named organ or organs for therapeutic or scientific purposes. Pursuant to any such written authorization, any structure or organ may be given to the director or to any other therapeutic service operated by any nonprofit agency approved by the director, including, but not limited to, a teaching institution, university, college, legally licensed hospital, nonprofit blood bank, nonprofit artery bank, nonprofit eye bank, or nationally recognized nonprofit hormone and pituitary program. The person or persons performing any autopsy shall do so within a reasonable time and without delay and shall not exceed the removal permission contained in such written authorization, and the remains shall not be significantly altered in external appearance nor shall any portion thereof be removed for purposes other than those expressly permitted in this section.

Sec. 12. Section 60-6,209, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,209 (1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles not more often than once per calendar year, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application and a nonrefundable application fee of one hundred dollars, the

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Director of Motor Vehicles shall review the application ~~if such person has served at least seven years of such revocation~~ and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription; ~~and~~

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason; and~~.~~

(f) Such person has agreed that, if the Board of Pardons reinstates such person's eligibility to apply for an ignition interlock permit, such person must provide proof, to the satisfaction of the department, that an ignition interlock device has been installed and is maintained on one or more motor vehicles such person operates for the duration of the original fifteen-year revocation period and such person must operate only motor vehicles so equipped for the duration of the original fifteen-year revocation period.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified or licensed by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period on such person's continued recovery and, if such person is a holder of an ignition interlock permit, shall be conditioned for the duration of the original revocation period on such person's operation of only motor vehicles equipped with an ignition interlock device. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Sec. 13. Section 60-6,211.11, Revised Statutes Cumulative Supplement, 2012, is amended to read:

60-6,211.11 (1) ~~Any~~ Except as provided in subsection (2) of this section, any person ~~who~~ ordered by a court or the Department of Motor Vehicles

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to operate only motor vehicles equipped with an ignition interlock device is guilty of a Class I misdemeanor if he or she (a) tampers with or circumvents and then operates a motor vehicle equipped with an ignition interlock device installed under ~~a~~ the court order or Department of Motor Vehicles order while the order is in effect or ~~who~~ (b) operates a motor vehicle which is not equipped with an ignition interlock device in violation of ~~a~~ the court order or Department of Motor Vehicles order. ~~shall be guilty of a Class IV felony.~~

(2) Any person ordered by a court or the Department of Motor Vehicles to operate only motor vehicles equipped with an ignition interlock device is guilty of a Class IV felony if he or she (a)(i) tampers with or circumvents and then operates a motor vehicle equipped with an ignition interlock device installed under the court order or Department of Motor Vehicles order while the order is in effect or (ii) operates a motor vehicle which is not equipped with an ignition interlock device in violation of the court order or Department of Motor Vehicles order and (b) operates the motor vehicle as described in subdivision (a)(i) or (ii) of this subsection when he or she has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

~~(2)~~ (3) Any person who otherwise operates a motor vehicle equipped with an ignition interlock device in violation of the requirements of the court order or Department of Motor Vehicles order under which the device was installed shall be guilty of a Class III misdemeanor.

Sec. 14. Section 71-605, Revised Statutes Cumulative Supplement, 2012, is amended to read:

71-605 (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign in his or her own handwriting or by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate in his or her own handwriting or by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the

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necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the ~~next of kin of the deceased, as~~ person listed in section ~~38-1425,~~ 8 of this act or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

Sec. 15. Section 71-1356, Reissue Revised Statutes of Nebraska, is amended to read:

71-1356 For purposes of the Cremation of Human Remains Act, unless the context otherwise requires:

(1) Alternative container means a container in which human remains are placed in a cremation chamber for cremation;

(2) Authorizing agent means a person vested with the right to control the disposition of human remains pursuant to section ~~38-1425;~~ 8 of this act;

(3) Casket means a rigid container made of wood, metal, or other similar material, ornamented and lined with fabric, which is designed for the encasement of human remains;

(4) Cremated remains means the residue of human remains recovered after cremation and the processing of such remains by pulverization, leaving only bone fragments reduced to unidentifiable dimensions, and the unrecoverable residue of any foreign matter, such as eyeglasses, bridgework, or other similar material, that was cremated with the human remains;

(5) Cremated remains receipt form means a form provided by a crematory authority to an authorizing agent or his or her representative that identifies cremated remains and the person authorized to receive such remains;

(6) Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments;

(7) Cremation chamber means the enclosed space within which a cremation takes place;

(8) Crematory means a building or portion of a building which

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contains a cremation chamber and holding facility;

(9) Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation;

(10) Crematory operator means a person who is responsible for the operation of a crematory;

(11) Delivery receipt form means a form provided by a funeral establishment to a crematory authority to document the receipt of human remains by such authority for the purpose of cremation;

(12) Department means the Division of Public Health of the Department of Health and Human Services;

(13) Director means the Director of Public Health of the Division of Public Health;

(14) Funeral director has the same meaning as in section 71-507;

(15) Funeral establishment has the same meaning as in section 38-1411;

(16) Holding facility means the area of a crematory designated for the retention of human remains prior to cremation and includes a refrigerated facility;

(17) Human remains means the body of a deceased person, or a human body part, in any stage of decomposition and includes limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research;

(18) Permanent container means a receptacle made of durable material for the long-term placement of cremated remains; and

(19) Temporary container means a receptacle made of cardboard, plastic, or other similar material in which cremated remains are placed prior to the placement of such remains in an urn or other permanent container.

Sec. 16. Section 71-1373, Reissue Revised Statutes of Nebraska, is amended to read:

71-1373 The right to authorize the cremation of human remains and the final disposition of the cremated remains, except in the case of a minor subject to section 23-1824 and unless other directions have been given by the decedent in the form of a testamentary disposition or a pre-need contract, vests pursuant to section ~~38-1425,~~ 8 of this act.

Sec. 17. Section 71-4813, Revised Statutes Cumulative Supplement, 2012, is amended to read:

71-4813 (1) When an autopsy is performed by the physician authorized by the county coroner to perform such autopsy, the physician or an appropriately qualified designee with training in ophthalmologic techniques, as provided for in subsection (2) of this section, may remove eye tissue of the decedent for the purpose of transplantation. The physician may also remove the pituitary gland for the purpose of research and treatment of hypopituitary dwarfism and of other growth disorders. Removal of the eye tissue or the pituitary gland shall only take place if the:

(a) Autopsy was authorized by the county coroner;

(b) County coroner receives permission from the person having control of the disposition of the decedent's remains pursuant to section ~~38-1425;~~ ~~and~~ 8 of this act; and

(c) Removal of eye tissue or of the pituitary gland will not interfere with the course of any subsequent investigation or alter the decedent's post mortem facial appearance.

(2) An appropriately qualified designee of a physician with training in ophthalmologic techniques or a funeral director and embalmer licensed pursuant to the Funeral Directing and Embalming Practice Act upon (a) successfully completing a course in eye enucleation and (b) receiving a certificate of competence from the Department of Ophthalmology of the University of Nebraska Medical Center may enucleate the eyes of the donor.

(3) The removed eye tissue or pituitary gland shall be transported to the Department of Health and Human Services or any desired institution or health facility as prescribed by section 38-1427.

Sec. 18. Section 83-1,127.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,127.02 (1) The Board of Pardons may, in its sole discretion, when granting a reprieve to any person who has made application pursuant to section 60-6,209, order such person to obtain an ignition interlock permit and to operate only motor vehicles equipped with an ignition interlock device approved by the Director of Motor Vehicles. The Board of Pardons may order the person to hold the ignition interlock permit and use an ignition interlock device for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(2) Any person ordered by the Board of Pardons to operate only

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motor vehicles equipped with such an ignition interlock device shall make application to the director for the issuance of an ignition interlock permit pursuant to section 60-4,118.06.

~~(3)~~ ~~Any~~ (3)(a) Except as provided in subdivision (3)(b) of this subsection, any such person restricted to operating a motor vehicle equipped with such an ignition interlock device ~~who~~ is guilty of a Class I misdemeanor if he or she (i) operates upon the highways of this state a motor vehicle without such an ignition interlock device, ~~who~~ (ii) operates a motor vehicle equipped with such an ignition interlock device which has been disabled, bypassed, or altered in any way, or ~~who~~ (iii) operates a motor vehicle equipped with such an ignition interlock device without obtaining an ignition interlock permit. ~~, is guilty of a Class IV felony.~~

(b) Any such person restricted to operating a motor vehicle equipped with such an ignition interlock device is guilty of a Class IV felony if he or she (i)(A) operates upon the highways of this state a motor vehicle without such an ignition interlock device, (B) operates a motor vehicle equipped with such an ignition interlock device which has been disabled, bypassed, or altered in any way, or (C) operates a motor vehicle equipped with such an ignition interlock device without obtaining an ignition interlock permit and (ii) operates the motor vehicle as described in subdivision (i)(A), (B), or (C) of this subdivision when he or she has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(4) The court shall, as a part of the judgment of conviction for a violation of subdivision (3)(b) of this section, order such person not to drive any motor vehicle for any purpose for a period of fifteen years from the date ordered by the court. The court shall also order that the operator's license of such person be revoked for a like period. The revocation shall be administered upon sentencing, upon the final judgment of any appeal or review, or upon the date that any probation is revoked.

Sec. 19. Original sections 12-1208, 38-1426, 38-1427, 60-6,209, 71-1356, 71-1373, and 83-1,127.02, Reissue Revised Statutes of Nebraska, sections 28-311.08, 28-367.01, 29-4003, 30-2201, 60-6,211.11, 71-605, and 71-4813, Revised Statutes Cumulative Supplement, 2012, and sections 28-830, 28-831, and 38-1425, Revised Statutes Supplement, 2013, are repealed.

Sec. 20. Since an emergency exists, this act takes effect when passed and approved according to law.

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