

LEGISLATIVE BILLS PASSED AND SIGNED
During the 106th Legislature
Second Session

Legislative Bill (LB)	Description/Statute	Effective Date <i>November 14, 2020 (unless otherwise indicated)</i>	Operative Date <i>(same as effective date unless noted below)</i>
	<i>Note:</i> The entries below are summaries of a select number of bills passed in the 2020 legislative session. To view an entire bill on the Legislature's website, please click the bill number on the far left column.		
<u>30</u>	Section 13 (81-8,202) Actions for enforcement of State Board of Landscape Architects decision or order, including injunctions, shall be filed in district court. Section 15 (81-8,205) Violation of Professional Landscape Architects Act, including unlicensed practice, is a Class III Misdemeanor for first offense and Class II Misdemeanor for subsequent offenses.		
<u>43</u>	Sections 1-8 (29-4308 to 29-4315) are to be known as the Sexual Assault Victims' Bill of Rights Act. Sections 10 & 11 (29-1917 & 29-1926) Allows sexual assault victims to have an advocate present during depositions.		
<u>93</u>	Section 1 (43-1411) Person claiming to be the biological father of a child in juvenile court may file a complaint to intervene to institute an action to establish paternity. The case requires no filing fee. At direction of the juvenile court, cost of genetic testing to be paid by the intervener, the county or the state.		
<u>107</u>	Section 8 (18-1914) Violation of city or village plumbing board ordinances, rules or regulations, is a misdemeanor. LB107 increases the penalty to not more than \$500 or less than \$50 per violation (was \$50/\$5).		
<u>247</u>	Sections 1-15 (30-4401 to 30-4415) Advance Mental Health Care Directives Act created. Allows person to create such a directive.		
<u>344</u>	Sections 1-57 (54-2901 to 54-2957) are to be known as the Animal Health and Disease Control Act. Section 46 (54-2946) Use of an inadequate vehicle to transport a dead animal is traffic infraction as defined in section 60-672. Section 53 (54-2953) Department of Agriculture may apply		

	for restraining orders or injunctions against person violating the act.		
381	Section 111 (81-1174) permits the Supreme Court to adopt a rule to allow expense reimbursement at a per diem rate.		1/1/2021
387	Sections 1-35 (25-1644 to 25-1678) to be known as the Jury Selection Act. Updates several statutes. For example, 25-1650 makes changes to disqualified/qualified jurors: 1) disqualifies only those convicted of a felony instead of any criminal offense punishable by imprisonment in a state correctional facility; 2) requires documentation for excusal for physical and mental disability, nursing mothers, and military active duty; 3) increases age exemption from 65 to 70 and 4) eliminates requirement that excuses and grounds for excusal be public record.		1/1/2021
450	Section 1 (85-505) increases tuition assistance benefits for baccalaureate and graduate degree programs for Nebraska National Guard members.		1/1/2021
477	Section 1 (77-2716) Establishes income tax exemption for Segal AmeriCorps Education Award.		
582	Section 1 (28-1212.03) Broadens the ability to prove possession of a stolen firearm (Class IIA felony).		
681	Section 3 (50-406) Petitions to quash or compel legislative subpoenas are heard in Lancaster County District Court. The court is required to issue a decision no later than 20 days after such a petition.		
705	Section 1 (77-1403) Distribution of funds upon death from better life experience account.		
755	Section 46 (80-1001) Encourages other state and local agencies, including courts, to include the question "Have you or a family member ever served in the military?" on intake forms and interviews.		
803	Section 18 (2-4118) Dry Pea & Lentil Resources Act. Violation of the act is a Class III misdemeanor.		
808	Section 10 (21-218.08) Model Business Corporation Act (MBCA 1.52) outlines court authority. Section 19 (30-4509) Uniform Trust Decanting Act outlines court authority.	8/16/2020	Sections: 1, 11-52, 94, 95, & 98 11/14/2020. Sections 2-10 & 99 7/1/2021

<u>814</u>	<p>Section 3 (28-347) It is unlawful to perform or attempt to perform a dismemberment abortion. Upon motion of an accused persons memberment abortion, court must delay the beginning of a trial for up to 30 days to allow the Board of Medicine and Surgery to determine whether abortion was medically necessary.</p> <p>Section 4 (28-347.01) Provides cause of action for injunctive relief.</p> <p>Section 5 (28-347.02) Provides cause of action for civil damages.</p> <p>Section 7 (28-347.04) Penalty, Class IV felony.</p> <p>Section 8 (28-347.05) Court by motion or on its own can provide anonymity of the woman receiving the abortion. May include sealing of records and exclusion of individuals from the court proceedings. Person, other than public official, may use pseudonym.</p>		
<u>848</u>	<p>Section 2 (25-2221) establishes Indigenous Peoples' Day to correspond with Columbus Day.</p> <p>Section 4 (43-4503) redefines age of eligibility for accessing Bridge to Independence programming for tribal youth.</p>		Sections: 3-8 & 14 7/1/2021
<u>881</u>	Criminal and Civil Procedure changes (see Bill Summary below)		
<u>889</u>	<p>Section 1 (84-917) Judicial review under Administrative Procedure Act. Parties of record for the district court shall include any party who appeared in person or through an attorney and any participant in the agency's contested hearing treated as a party by the agency's hearing officer. Provides for service of agency and parties. Official record shall be considered by the judge without being offered or received into evidence. Court may affirm, reverse or modify the agency decision or remand the action back to the agency for further proceedings.</p>		
<u>909</u>	Sections 18-20 (8-2901 to 8-2903) Financial institution protection for accounts of vulnerable adult or senior adult.	7/25/2020	Sections: 9, 18-20, 22, 25- 43, 46, 55, & 57 11/14/2020
<u>912</u>	County Court Expedited Civil Actions Act and civil action procedure changes (See Bill Summary below.)		

<u>944</u>	<p>Section 64 (60-4,168) Disqualification from operating a commercial motor vehicle for life if person uses a vehicle in the commission of a felony involving human trafficking.</p> <p>Section 65 (60-4,182) Driving "not more than five miles per hour over the speed limit" no longer results in loss of a point from driver's license."</p> <p>Section 85 (75-398) includes Section 87 (75-3,100) related to unified carrier registration plan actions in misdemeanor penalty.</p>	8/7/2020	<p>Sections: 1, 2, 4-6, 9, 11-14, 16, 20, 24-29, 35, 37, 39, 51-54, 56-87 & 93 11/14/2020.</p> <p>Sections: 3, 10, 15, 17-19, 21-23, 30-34, 36, 38, 40-50, 55, 88-90, & 92 1/1/2021.</p>
<u>962</u>	Sections 1-9 (48-3601 to 48-3609) to be known as the Nebraska Fair Pay to Pay Act. Allows civil actions against post secondary institutions or collegiate athletic associations.		
<u>966</u>	<p>Sections 1-9 (30-201 to 30-209) to be known as Uniform Wills Recognition Act, related to international wills.</p> <p>Sections 11-13 (30-2312.01, 30-2312.02 & 30-2336) changes inheritance provisions. Sections 14-16 (30-2414, 30-2416, 30-2426) Will or authenticated copy of will probated in another jurisdiction can be submitted with petition for formal or informal probate of will to be delivered to court within 10 days of electronic filing.</p>		
<u>992</u>	Section 5 (86-5,106) Broadband Internet Service Infrastructure Act relates to causes of action, evidence, damages and limitations.		Section: 8 7/1/2022
<u>1008</u>	Fiscal Year 2020-2021 budget adjustments. Appropriated \$637,788 for mental health PSC and \$457,887 for young adult PSC. Juvenile Probation appropriation carried over from prior fiscal year reduced \$10 million.	8/7/2020	
<u>1028</u>	Change Provisions Relating to the Courts (see Bill Summary below)		
<u>1054</u>	Section 5 (24-701) Judges retirement: changes age for deferral of retirement distribution	7/25/2020	
<u>1064</u>	Increases age limit for use of cigarettes, cigars, tobacco, and electronic nicotine or alternative nicotine products from 19 to 21 (Sections 28-1418, 28-1418.01, 28-1419, 28-1421, 28-1424, 28-1425, 28-14-27). Section 3 (28-1419) Youth assisting law enforcement with uniform compliance checks must be 15-21 years old, not on probation, assigned to diversion or have pending criminal or Juvenile Code proceedings.	8/16/2020	10/1/2020

<u>1107</u>	Adopts ImagiNE Nebraska Act. Amends other business incentive acts and property tax provisions. Section 32 (77-6832) provides for an appeal to district court.	8/18/2020	Sections: 1-110, 116-120, 124, 129, 133, 134, 138-140 & 147 1/1/2021
<u>1140</u>	Youth Rehabilitation Treatment Center (YRTC) provisions. Section 2 (43-427) requires Department of Health and Human Services (DHHS) to develop five-year operation plans. Section 6 (43-428) requires DHHS to prepare emergency plans. Implementation of emergency plan requires notification of State Court Administrator.	8/7/2020	Sections: 1, 9 & 10 11/14/2020
<u>1148</u>	<p>Section 7 (28-730) Requires a child advocacy center (CAC) to maintain video recordings of all forensic interviews. CAC is prohibited from releasing the video recordings, with some exceptions, to a party without a court order.</p> <p>Section 8 (29-1926) Defendant who obtains a copy of a video recording may file a motion requesting a court reporter/transcriber transcribe the video recording. Defendant may ask by motion the transcription of the recording be shared with an expert/investigator and to have the name/identifying information of the expert/investigator be sealed. Defendant/attorney must certify to the court and the parties that copies of such recordings have been returned.</p> <p>Section 10 (43-286) When juvenile has exhausted all levels of probation supervision and community-based services, a motion for commitment to a YRTC may be filed. Requires a copy of motion be served on the Office of Juvenile Services (OJS) and makes OJS a party to a case.</p> <p>Section 12 (43-407) Requires OJS to provide the committing court and interested parties with copy of treatment plan and seven-day notice of any placement change.</p> <p>Section (13 (43-408) During juvenile's YRTC term of commitment, any party may file a motion to review the commitment, and the court may enter orders regarding care and treatment as necessary, including discharge from commitment.</p>		
<u>1152</u>	Section 16 (28-476) Violation of Nebraska Hemp Farming Act is a Class IV misdemeanor and carries a potential fine of not more than \$1000. Does not apply to transporting hemp products purchased at retail in small amounts for personal or household use and not intended for resale.	8/8/2020	Sections: 12 & 18 7/1/2021

2020 Priority Bill Summary follows below....

2020 PRIORITY BILL SUMMARY

LB 881 - Criminal & Civil Procedure Changes

Sections 4-5 (27-707, 27-1103) Expert witness testimony may be admitted regarding eyewitness identification and memory in any criminal or civil proceeding.

Section 12 (28-316.01) creates offense of Sexual Abuse by School Employee

- 1st Degree (Penetration) is a Class IIA felony
- 2nd Degree (Contact) is a Class IIIA felony
- 3rd Degree (Pattern/Scheme of Conduct) is a Class IV felony

Section 13 (29-110) For purposes of failing to report child abuse/neglect, the statute of limitations is extended to 18 months after the incident or 18 months after the victim turns 19 years of age, whichever is later.

Section 14 (29-901) Any bailable defendant charged with one or more Class IIIA, IV, or V misdemeanors or city/village ordinances shall be released from custody on personal recognizance or under other conditions of release other than the payment of a bond, except when:

- Victim is an intimate partner
- Defendant is charged with DUI or refusal
- Defendant has failed to appear for a case in the last 6 months
- Defendant's release won't assure the appearance of the defendant or would jeopardize the safety of person or maintenance of evidence
- Defendant is arrested on a warrant

If the court requires a bond be posted, the court shall appoint counsel if the defendant is indigent and unable to pay the bond.

Section 16 (29-1407.01) Clarifies the availability of transcripts and exhibits when a grand jury, impaneled pursuant to subsection (4) of 29-1401, returns a no true bill and a true bill. If a grand jury returns a no true bill, then a copy of transcripts and exhibit are available for public view upon written request to the clerk of district court and no copies shall be made available. If a grand jury returns a true bill and a criminal case is filed, any of the parties to the criminal case may file a request to delay public view of the transcript. If the court grants the request for delay the transcript will not be available for public review until conclusion of criminal prosecution, and then only on written request to the clerk of district court. If the request for delay is denied, a copy of the transcript will be available for public review once the judge's order is filed with the clerk. If no motion for a protective order is filed within 5 days of the docketing of the case, a copy of the transcript will be available for public review, upon written request to the clerk.

Sections 17-18 (29-1822, 29-1823) Adds conditions of defendant becoming mentally incompetent during a trial (previously it was only prior to the trial, prior to sentencing, or prior to execution of the death penalty). If the judge finds that the defendant is not competent to stand trial but may become competent in a reasonable amount of time, the defendant may be

committed to DHHS. Requires the court to review the commitment to DHHS every 60 days to determine if the defendant is competent or is likely to become competent within a reasonable amount of time. If the defendant will not likely become competent within the *reasonably* foreseeable future, the state shall begin an action to commit or release the defendant. If the defendant becomes competent between hearings, DHHS will submit a report to the court and a hearing will be held within 7 days of filing. The defendant, by and through counsel, can move for discharge if there is not a substantial probability of competence. The defendant will not be held longer than potential sentence. If discharged, the court shall state whether the discharge is with or without prejudice.

Section 20 (29-2004) Court may impanel up to 6 alternate jurors, who shall replace excused jurors in the order of selection. The court can retain the alternate jurors during the jury deliberation and outlines peremptory challenges during selection of alternate jurors.

Section 22 (29-1007) A defendant awaiting trial shall not be held in custody longer than maximum sentence for the offenses charged. Once this deadline has been reached, the defendant shall be released on personal recognizance, and subject to any conditions the court may impose.

Section 23 (29-2206) A court or magistrate may only deduct fines from a bond with the consent of the offender, and if the bond is not otherwise encumbered by lien, levy, execution or assignment.

Section 24 (29-2264) Expands ability to set aside a conviction when a defendant is sentenced to community service or on an offense when he/she was not imprisoned for more than one year. A petition to set aside a conviction for an offense when a defendant was not imprisoned for more than one year will be denied if the defendant:

- Has pending charges
- Is required to register as a sex offender
- Is convicted of a misdemeanor or felony motor vehicle offense under 28-306 or the Nebraska Rules of the Road
- Has been denied a set aside within the last 2 years

The order to set aside of conviction shall notify the offender that they should consult with an attorney regarding their ability to possess a firearm. Setting aside the conviction shall not:

- Preclude use of the conviction for purposes of the offense of possession of a deadly weapon by a prohibited person
- Affect the right of a victim of a crime to prosecute or defend a civil action
- Affect DMV points on the defendant's driver's license
- Affect the defendant's obligation for a commercial driver's license.

Defendant is eligible for set aside under these rules regardless of the date of conviction.

LB 912 - County Court Expedited Civil Action Act

Sections 1-9 (25-2741 to 25-2749) Creates the **County Court Expedited Civil Actions Act**. The act applies to civil actions in county court in which the sole relief is a money judgment and the plaintiff's claim is less than or equal to the county court jurisdictional amount. The act does not apply to small claims, or domestic relations matters, including custody and paternity.

Eligible plaintiff can proceed under the act by certifying on form approved by the Supreme Court.

The court can terminate the application by showing cause or upon filing of a counterclaim for an amount greater than that allowed under the act.

Discovery must be completed no later than 60 days before trial unless modified by order of the court and only allows for limited discovery (provides for the number of interrogatories, requests for production, requests for admissions, number of depositions and number of experts).

Trial must not be longer than 2 days, with each side allowed 6 hours including jury selection. Parties must stipulate as much as possible.

Report of health care provider can be submitted in lieu of deposition (must be on a form adopted by the Supreme Court).

Supreme Court may promulgate rules and forms.

The act applies to civil actions filed on or after January 1, 2022.

Section 10 (24-734) Allows a judge to permit a witness to appear by telephone, videoconferencing or other similar methods, unless a party can show by a preponderance of the evidence that such testimony would be unreliable or unfair. The requesting party must provide and pay for the remote service used.

Section 11 (25-1237) The clerk of district court can issue subpoenas for discovery for civil cases in a foreign jurisdiction when authorized under Supreme Court Rules, and the statute allows a fee.

Section 12 (25-1223) Provides language for a trial subpoena for a state or political subdivision employee or privately employed security guard regarding compensation.

Section 17 (43-2939) Clarifies duties of attorneys serving as mediators under the Parenting Act.

LB 1028 - Change Provisions Relating to the Courts

Section 2 (24-1005) Allows the clerk of district court or other court of record to maintain records in an electronic format and not just in microfilm.

Sections 3-4 (25-1301, 25-1301.01) Distinguishes a “civil judgment” (appealable) from an “order” (only final orders are appealable) as mutually exclusive for appeal purposes and reinstates language so parties will receive notice of both civil judgments and final orders entered by the court.

Section 5 (25-2804) By rule, the Supreme Court can include other methods for filing small claims cases (i.e., electronic) other than in person or mail. Also removes the requirement that the form be completed in the presence of judge, county court staff or notary. [Note: per statute, acknowledgement language will still remain on the form with qualification language.]

Section 6 (29-2702) increases the time allowed for court clerk to pay money owed to the county from 10 to 30 days.