

E AND R AMENDMENTS TO LB 97

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 21-20,177, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 21-20,177 (1) The registered agent of a foreign
6 corporation authorized to transact business in this state shall
7 be the corporation's agent for service of process, notice, or
8 demand required or permitted by law to be served on the foreign
9 corporation. By being authorized to transact business in this
10 state, the foreign corporation's agent for service of process
11 shall also consent to service of process directed to the foreign
12 corporation's agent in Nebraska for a search warrant issued
13 pursuant to sections 28-807 to 28-829, or for any other validly
14 issued and properly served subpoena, including those authorized
15 under section 86-2,112, for records or documents that are in the
16 possession of the foreign corporation and are located inside or
17 outside of this state. The consent to service of a subpoena or
18 search warrant applies to a foreign corporation that is a party or
19 nonparty to the matter for which the search warrant is sought.

20 (2) A foreign corporation may be served by registered
21 or certified mail, return receipt requested, addressed to the
22 secretary of the foreign corporation or the designated custodian
23 of records at its principal office shown in its application for a

1 certificate of authority or in its most recent annual report if the
2 foreign corporation has:

3 (a) No registered agent or its registered agent cannot
4 with reasonable diligence be served;

5 (b) Withdrawn from transacting business in this state
6 under section 21-20,178; or

7 (c) Had its certificate of authority revoked under
8 section 21-20,180.

9 (3) Service shall be perfected under subsection (2) of
10 this section at the earliest of:

11 (a) The date the foreign corporation receives the mail;

12 (b) The date shown on the return receipt if signed on
13 behalf of the foreign corporation; or

14 (c) Five days after its deposit in the United States
15 mail as evidenced by the postmark if mailed postage prepaid and
16 correctly addressed.

17 (4) This section shall not be construed to prescribe the
18 only means or necessarily the required means of serving a foreign
19 corporation.

20 Sec. 2. Section 21-20,179, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 21-20,179 The Secretary of State may commence a
23 proceeding under section 21-20,180 to revoke the certificate of
24 authority of a foreign corporation authorized to transact business
25 in this state if:

26 (1) The foreign corporation is without a registered agent
27 or registered office in this state for sixty days or more;

1 (2) The foreign corporation does not inform the Secretary
2 of State under section 21-20,175 or 21-20,176 that its registered
3 agent or registered office has changed, that its registered agent
4 has resigned, or that its registered office has been discontinued
5 within sixty days of the change, resignation, or discontinuance;

6 (3) An incorporator, director, officer, or agent of the
7 foreign corporation signed a document he or she knew was false in
8 any material respect with intent that the document be delivered to
9 the Secretary of State for filing; ~~or~~

10 (4) The foreign corporation or its agent for service of
11 process does not comply with section 21-20,177; or

12 ~~(4)~~ (5) The Secretary of State receives a duly
13 authenticated certificate from the official having custody of
14 the corporate records in the state or country under whose law
15 the foreign corporation is incorporated stating that it has been
16 dissolved or has disappeared as the result of a merger.

17 Sec. 3. (1) The following evidence is not admissible
18 in any civil or criminal proceeding involving alleged sexual
19 misconduct except as provided in subsections (2) and (3) of this
20 section:

21 (a) Evidence offered to prove that any victim engaged in
22 other sexual behavior; and

23 (b) Evidence offered to prove any victim's sexual
24 predisposition.

25 (2)(a) In a criminal case, the following evidence is
26 admissible, if otherwise admissible under the Nebraska Evidence
27 Rules:

1 (i) Evidence of specific instances of sexual behavior by
2 the victim offered to prove that a person other than the accused
3 was the source of semen, injury, or other physical evidence;

4 (ii) Evidence of specific instances of sexual behavior of
5 the victim with respect to the accused offered by the accused to
6 prove consent of the victim if it is first established to the court
7 that such behavior is similar to the behavior involved in the case
8 and tends to establish a pattern of behavior of the victim relevant
9 to the issue of consent; and

10 (iii) Evidence, the exclusion of which would violate the
11 constitutional rights of the accused.

12 (b) In a civil case, evidence offered to prove the sexual
13 behavior or sexual predisposition of any victim is admissible if it
14 is otherwise admissible under the Nebraska Evidence Rules and its
15 probative value substantially outweighs the danger of harm to any
16 victim and of unfair prejudice to any party. Evidence of a victim's
17 reputation is admissible only if it has been placed in controversy
18 by the victim.

19 (3)(a) A party intending to offer evidence under
20 subsection (2) of this section shall:

21 (i) File a written motion at least fifteen days before
22 trial specifically describing the evidence and stating the purpose
23 for which it is offered unless the court, for good cause, requires
24 a different time for filing or permits filing during trial; and

25 (ii) Serve the motion on all parties and notify
26 the victim or, when appropriate, the victim's guardian or
27 representative.

1 (b) Before admitting evidence under this section, the
2 court shall conduct a hearing in camera outside the presence of any
3 jury and afford the victim and parties a right to attend and be
4 heard.

5 Sec. 4. For purposes of sections 5 and 6 of this act,
6 offense of sexual assault means sexual assault under section 28-319
7 or 28-320, sexual assault of a child under section 28-319.01 or
8 28-320.01, sexual assault by use of an electronic communication
9 device under section 28-320.02, sexual abuse of an inmate or
10 parolee under sections 28-322.01 to 28-322.03, and sexual abuse of
11 protected persons under section 28-322.04.

12 Sec. 5. (1) In a criminal case in which the accused
13 is accused of an offense of sexual assault, evidence of the
14 accused's commission of another offense or offenses of sexual
15 assault is admissible if there is clear and convincing evidence
16 otherwise admissible under the Nebraska Evidence Rules that the
17 accused committed the other offense or offenses. If admissible,
18 such evidence may be considered for its bearing on any matter to
19 which it is relevant.

20 (2) In a case in which the prosecution intends to
21 offer evidence under this section, the prosecuting attorney shall
22 disclose the evidence to the accused, including statements of
23 witnesses or a summary of the substance of any testimony that is
24 expected to be offered, at least fifteen days before the scheduled
25 date of trial or at such later time as the court may allow for good
26 cause.

27 (3) Before admitting evidence of the accused's commission

1 of another offense or offenses of sexual assault under this
2 section, the court shall conduct a hearing outside the presence of
3 any jury and afford the victim and parties a right to attend and be
4 heard. At the hearing, the rules of evidence shall apply and the
5 court shall apply a section 27-403 balancing and admit the evidence
6 unless the risk of prejudice substantially outweighs the probative
7 value of the evidence. In assessing the balancing, the court may
8 consider any relevant factor such as (a) the probability that the
9 other offense occurred, (b) the proximity in time and intervening
10 circumstances of the other offenses, and (c) the similarity of the
11 other acts to the crime charged.

12 (4) This section shall not be construed to limit the
13 admission or consideration of evidence under any other section of
14 the Nebraska Evidence Rules.

15 Sec. 6. (1) In a civil case in which a claim for damages
16 or other relief is predicated on a party's alleged commission of
17 conduct constituting an offense of sexual assault, evidence of
18 that party's commission of another offense or offenses of sexual
19 assault is admissible if there is clear and convincing evidence
20 otherwise admissible under the Nebraska Evidence Rules that the
21 party committed the other offense or offenses. If admissible, such
22 evidence may be considered for its bearing on any matter to which
23 it is relevant.

24 (2) A party who intends to offer evidence under this
25 section shall disclose the evidence to the party against whom it
26 will be offered, including statements of witnesses or a summary of
27 the substance of any testimony that is expected to be offered, at

1 least fifteen days before the scheduled date of trial or at such
2 later time as the court may allow for good cause.

3 (3) Before admitting evidence of a party's commission of
4 another offense or offenses of sexual assault under this section,
5 the court shall conduct a hearing outside the presence of any
6 jury and afford the victim and parties a right to attend and be
7 heard. At the hearing, the rules of evidence shall apply and the
8 court shall apply a section 27-403 balancing and admit the evidence
9 unless the risk of prejudice substantially outweighs the probative
10 value of the evidence. In assessing the balancing, the court may
11 consider any relevant factor such as (a) the probability that the
12 other offense occurred, (b) the proximity in time and intervening
13 circumstances of the other offenses, and (c) the similarity of the
14 other acts to the crime charged.

15 (4) This section shall not be construed to limit the
16 admission or consideration of evidence under any other section of
17 the Nebraska Evidence Rules.

18 Sec. 7. Section 27-404, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 27-404 (1) Evidence of a person's character or a trait of
21 his or her character is not admissible for the purpose of proving
22 that he or she acted in conformity therewith on a particular
23 occasion, except:

24 (a) Evidence of a pertinent trait of his or her character
25 offered by an accused, or by the prosecution to rebut the same;

26 (b) Evidence of a pertinent trait of character of the
27 victim of the crime offered by an accused or by the prosecution to

1 rebut the same, or evidence of a character trait of peacefulness of
2 the victim offered by the prosecution in a homicide case to rebut
3 evidence that the victim was the first aggressor. In ~~the case of a~~
4 sexual assault case, reputation, ~~or~~ opinion, or other evidence of
5 ~~the past sexual behavior of the victim of the sexual assault will~~
6 ~~not be admissible;~~ is governed by section 3 of this act; or

7 (c) Evidence of the character of a witness as provided in
8 sections 27-607 to 27-609.

9 (2) Evidence of other crimes, wrongs, or acts is not
10 admissible to prove the character of a person in order to show
11 that he or she acted in conformity therewith. It may, however,
12 be admissible for other purposes, such as proof of motive,
13 opportunity, intent, preparation, plan, knowledge, identity, or
14 absence of mistake or accident.

15 (3) When such evidence is admissible pursuant to this
16 section, in criminal cases evidence of other crimes, wrongs, or
17 acts of the accused may be offered in evidence by the prosecution
18 if the prosecution proves to the court by clear and convincing
19 evidence that the accused committed the crime, wrong, or act. Such
20 proof shall first be made outside the presence of any jury.

21 (4) Regarding the admissibility in a civil or criminal
22 action of evidence of a person's commission of another offense or
23 offenses of sexual assault under sections 28-319 to 28-322.04, see
24 sections 4 to 6 of this act.

25 Sec. 8. Section 27-1103, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 27-1103 These rules and sections 3 to 6 of this act may

1 be known and cited as the Nebraska Evidence Rules.

2 Sec. 9. Section 28-101, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-101 Sections 28-101 to 28-1350 and section 14 of this
5 act shall be known and may be cited as the Nebraska Criminal Code.

6 Sec. 10. Section 28-311, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 28-311 (1) No person, by any means and without privilege
9 to do so, shall knowingly solicit, coax, entice, or lure or attempt
10 to solicit, coax, entice, or lure any child under the age of
11 fourteen years to enter into any vehicle, whether or not the person
12 knows the age of the child. ~~7 if+~~

13 (2) It is an affirmative defense to a charge under this
14 section that:

15 (a) The person ~~does not have~~ had the express or implied
16 permission of the parent, guardian, or other legal custodian of the
17 child in undertaking the activity; ~~and~~

18 (b) (i) The person is ~~not~~ a law enforcement officer,
19 emergency services provider as defined in section 71-507,
20 firefighter, or other person who regularly provides emergency
21 services, is ~~not~~ the operator of a bookmobile or other such vehicle
22 operated by the state or a political subdivision and used for
23 informing, educating, organizing, or transporting children, is ~~not~~
24 a paid employee of, or a volunteer for, a nonprofit or religious
25 organization which provides activities for children, ~~and or is not~~
26 an employee or agent of or a volunteer acting under the direction
27 of any board of education ~~or~~ and (ii) the person ~~is a person~~ listed

1 in subdivision ~~(1)(b)(i)~~ (2)(b)(i) of this section ~~but,~~ was, at the
2 time the person ~~undertakes~~ undertook the activity, he ~~or she is~~
3 ~~not~~ acting within the scope of his or her lawful duties in that
4 capacity; or-

5 ~~(2)~~ It is an affirmative defense to a charge under this
6 ~~section that the~~ (c) The person undertook the activity in response
7 to a bona fide emergency situation or ~~that~~ the person undertook the
8 activity in response to a reasonable belief that it was necessary
9 to preserve the health, safety, or welfare of the child.

10 (3) Any person who violates this section commits criminal
11 child enticement and is guilty of a Class ~~I~~ III
12 felony. If such person has previously been convicted of (a)
13 criminal child enticement under this section, (b) sexual assault
14 of a child in the first degree under section 28-319.01, (c)
15 sexual assault of a child in the second or third degree under
16 section 28-320.01, (d) child enticement by means of an electronic
17 communication device under section 28-320.02, or ~~(d)~~ (e) assault
18 under section 28-308, 28-309, or 28-310, kidnapping under section
19 28-313, or false imprisonment under section 28-314 or 28-315 when
20 the victim was under eighteen years of age when such person
21 violates this section, such person is guilty of a Class ~~IV~~ III
22 felony.

23 Sec. 11. Section 28-318, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-318 As used in sections 28-317 to ~~28-321,~~ 28-323,
26 unless the context otherwise requires:

27 (1) Actor means a person accused of sexual assault;

1 (2) Intimate parts means the genital area, groin, inner
2 thighs, buttocks, or breasts;

3 (3) Past sexual behavior means sexual behavior other than
4 the sexual behavior upon which the sexual assault is alleged;

5 (4) Serious personal injury means great bodily injury or
6 disfigurement, extreme mental anguish or mental trauma, pregnancy,
7 disease, or loss or impairment of a sexual or reproductive organ;

8 (5) Sexual contact means the intentional touching of the
9 victim's sexual or intimate parts or the intentional touching of
10 the victim's clothing covering the immediate area of the victim's
11 sexual or intimate parts. Sexual contact shall also mean the
12 touching by the victim of the actor's sexual or intimate parts or
13 the clothing covering the immediate area of the actor's sexual or
14 intimate parts when such touching is intentionally caused by the
15 actor. Sexual contact shall include only such conduct which can be
16 reasonably construed as being for the purpose of sexual arousal or
17 gratification of either party. Sexual contact shall also include
18 the touching of a child with the actor's sexual or intimate parts
19 on any part of the child's body for purposes of sexual assault of a
20 child under sections 28-319.01 and 28-320.01;

21 (6) Sexual penetration means sexual intercourse in its
22 ordinary meaning, cunnilingus, fellatio, anal intercourse, or any
23 intrusion, however slight, of any part of the actor's or victim's
24 body or any object manipulated by the actor into the genital
25 or anal openings of the victim's body which can be reasonably
26 construed as being for nonmedical or nonhealth purposes. Sexual
27 penetration shall not require emission of semen;

1 (7) Victim means the person alleging to have been
2 sexually assaulted;

3 (8) Without consent means:

4 (a) (i) The victim was compelled to submit due to the
5 use of force or threat of force or coercion, or (ii) the victim
6 expressed a lack of consent through words, or (iii) the victim
7 expressed a lack of consent through conduct, or (iv) the consent,
8 if any was actually given, was the result of the actor's deception
9 as to the identity of the actor or the nature or purpose of the act
10 on the part of the actor;

11 (b) The victim need only resist, either verbally or
12 physically, so as to make the victim's refusal to consent genuine
13 and real and so as to reasonably make known to the actor the
14 victim's refusal to consent; and

15 (c) A victim need not resist verbally or physically where
16 it would be useless or futile to do so; and

17 (9) Force or threat of force means (a) the use of
18 physical force which overcomes the victim's resistance or (b) the
19 threat of physical force, express or implied, against the victim or
20 a third person that places the victim in fear of death or in fear
21 of serious personal injury to the victim or a third person where
22 the victim reasonably believes that the actor has the present or
23 future ability to execute the threat.

24 Sec. 12. Section 28-319.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 28-319.01 (1) A person commits sexual assault of a child
27 in the first degree:

1 (a) When ~~if~~ he or she subjects another person under
2 twelve years of age to sexual penetration and the actor is at least
3 nineteen years of age or older; or-

4 (b) When he or she subjects another person who is at
5 least twelve years of age but less than sixteen years of age to
6 sexual penetration and the actor is twenty-five years of age or
7 older.

8 (2) Sexual assault of a child in the first degree is a
9 Class IB felony with a mandatory minimum sentence of fifteen years
10 in prison for the first offense.

11 (3) Any person who is found guilty of sexual assault of a
12 child in the first degree under this section and who has previously
13 been convicted (a) under this section, (b) under section 28-319 of
14 first degree or attempted first degree sexual assault, (c) under
15 section 28-320.01 before July 14, 2006, of sexual assault of a
16 child or attempted sexual assault of a child, (d) under section
17 28-320.01 on or after July 14, 2006, of sexual assault of a child
18 in the second or third degree or attempted sexual assault of a
19 child in the second or third degree, or (e) in any other state or
20 federal court under laws with essentially the same elements as this
21 section, section 28-319, or section 28-320.01 as it existed before,
22 on, or after July 14, 2006, shall be guilty of a Class IB felony
23 with a mandatory minimum sentence of twenty-five years in prison.

24 (4) In any prosecution under this section, the age of the
25 actor shall be an essential element of the offense that must be
26 proved beyond a reasonable doubt.

27 Sec. 13. Section 28-320.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 28-320.02 (1) No person shall knowingly solicit, coax,
3 entice, or lure (a) a child sixteen years of age or younger
4 or (b) a peace officer who is believed by such person to be a
5 child sixteen years of age or younger, by means of a ~~computer~~ an
6 electronic communication device as that term is defined in section
7 ~~28-1343,~~ 28-833, to engage in an act which would be in violation of
8 section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of
9 section 28-320. A person shall not be convicted of both a violation
10 of this subsection and a violation of section 28-319, 28-319.01,
11 or 28-320.01 or subsection (1) or (2) of section 28-320 if the
12 violations arise out of the same set of facts or pattern of conduct
13 and the individual solicited, coaxed, enticed, or lured under this
14 subsection is also the victim of the sexual assault under section
15 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section
16 28-320.

17 (2) A person who violates this section is guilty of
18 a Class ~~III~~ ID felony. If a person who violates this section
19 has previously been convicted of a violation of this section or
20 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315,
21 28-319, 28-319.01, ~~or~~ 28-320.01, 28-813.01, 28-833, 28-1463.03, or
22 28-1463.05 or subsection (1) or (2) of section 28-320, the person
23 is guilty of a Class ~~III~~ IC felony.

24 Sec. 14. (1) Any person required to register under the
25 Sex Offender Registration Act who is found to be a sexually
26 violent predator under subdivision (4)(c) of section 29-4005 or is
27 required to register because of a conviction for one or more of the

1 following offenses, including any substantially equivalent offense
2 committed in another state, territory, commonwealth, or other
3 jurisdiction of the United States and knowingly and intentionally
4 uses a social networking web site or service, instant messaging, or
5 chat room service that allows a person who is less than eighteen
6 years of age to access or use its social networking web site,
7 instant messaging, or chat room service, commits the offense of
8 unlawful use of the Internet by a prohibited sex offender:

9 (a) Kidnapping of a minor pursuant to section 28-313;

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

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

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

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

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

18 (g) Possessing any visual depiction of sexually explicit
19 conduct pursuant to section 28-813.01;

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

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

23 (j) Enticement by electronic communication device
24 pursuant to section 28-833; or

25 (k) An attempt or conspiracy to commit an offense listed
26 in subdivisions (1)(a) through (1)(j) of this section.

27 (2) Unlawful use of the Internet by a prohibited sex

1 offender is a Class I misdemeanor for a first offense. Any second
2 or subsequent conviction under this section is a Class IIIA felony.

3 Sec. 15. Section 28-813.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-813.01 (1) It shall be unlawful for a person to
6 knowingly possess any visual depiction of sexually explicit
7 conduct, as defined in section 28-1463.02, which has a child, as
8 defined in such section, as one of its participants or portrayed
9 observers.

10 ~~(2)~~ (2) (a) Any person who is under nineteen years of age
11 at the time he or she violates this section shall be guilty of a
12 Class IV felony for each offense.

13 (b) Any person who is nineteen years of age or older at
14 the time he or she violates this section shall be guilty of a Class
15 III felony for each offense.

16 (c) Any person who violates this section and has
17 previously been convicted of a violation of this section or
18 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315,
19 28-319, 28-319.01, 28-320.01, 28-833, 28-1463.03, or 28-1463.05 or
20 subsection (1) or (2) of section 28-320 shall be guilty of a Class
21 IC felony for each offense.

22 (3) It shall be an affirmative defense to a charge made
23 pursuant to this section that:

24 (a) The visual depiction portrays no person other than
25 the defendant; or

26 (b) (i) The defendant was less than nineteen years of age;
27 (ii) the visual depiction of sexually explicit conduct portrays

1 a child who is fifteen years of age or older; (iii) the visual
2 depiction was knowingly and voluntarily generated by the child
3 depicted therein; (iv) the visual depiction was knowingly and
4 voluntarily provided by the child depicted in the visual depiction;
5 (v) the visual depiction contains only one child; (vi) the
6 defendant has not provided or made available the visual depiction
7 to another person except the child depicted who originally sent the
8 visual depiction to the defendant; and (vii) the defendant did not
9 coerce the child in the visual depiction to either create or send
10 the visual depiction.

11 Sec. 16. Section 28-1010, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 28-1010 A person commits indecency with an animal when
14 such person subjects an animal to sexual penetration as defined in
15 ~~subdivision (6) of~~ section 28-318. Indecency with an animal is a
16 Class III misdemeanor.

17 Sec. 17. Section 28-1463.02, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-1463.02 As used in the Child Pornography Prevention
20 Act, unless the context otherwise requires:

21 (1) Child, in the case of a participant, ~~shall mean~~ means
22 any person under the age of eighteen years and, in the case of a
23 portrayed observer, ~~shall mean~~ means any person under the age of
24 sixteen years;

25 (2) Erotic fondling ~~shall mean~~ means touching a person's
26 clothed or unclothed genitals or pubic area, breasts if the
27 person is a female, or developing breast area if the person

1 is a female child, for the purpose of real or simulated overt
2 sexual gratification or sexual stimulation of one or more persons
3 involved. Erotic fondling shall not be construed to include
4 physical contact, even if affectionate, which is not for the
5 purpose of real or simulated overt sexual gratification or sexual
6 stimulation of one or more of the persons involved;

7 (3) Erotic nudity ~~shall mean~~ means the display of the
8 human male or female genitals or pubic area, the human female
9 breasts, or the developing breast area of the human female child,
10 for the purpose of real or simulated overt sexual gratification or
11 sexual stimulation of one or more of the persons involved;

12 (4) Sadomasochistic abuse ~~shall mean~~ means flagellation
13 or torture by or upon a nude person or a person clad in
14 undergarments, a mask, or bizarre costume, or the condition of
15 being fettered, bound, or otherwise physically restrained when
16 performed to predominantly appeal to the morbid interest;

17 (5) Sexually explicit conduct ~~shall mean+~~ means: (a) Real
18 or simulated intercourse, whether genital-genital, oral-genital,
19 anal-genital, or oral-anal between persons of the same or opposite
20 sex or between a human and an animal or with an artificial
21 genital; (b) real or simulated masturbation; (c) real or simulated
22 sadomasochistic abuse; (d) erotic fondling; (e) erotic nudity; or
23 (f) real or simulated defecation or urination for the purpose of
24 sexual gratification or sexual stimulation of one or more of the
25 persons involved; and

26 (6) Visual depiction ~~shall mean~~ means live performance or
27 photographic representation and includes any undeveloped film or

1 videotape or data stored on a computer disk or by other electronic
2 means which is capable of conversion into a visual image and
3 also includes any photograph, film, video, picture, digital image,
4 or computer-displayed image, video, or picture, whether made or
5 produced by electronic, mechanical, computer, digital, or other
6 means.

7 Sec. 18. Section 28-1463.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1463.03 (1) It shall be unlawful for a person to
10 knowingly make, publish, direct, create, provide, or in any manner
11 generate any visual depiction of sexually explicit conduct which
12 has a child as one of its participants or portrayed observers.

13 (2) It shall be unlawful for a person knowingly to
14 purchase, rent, sell, deliver, distribute, display for sale,
15 advertise, trade, or provide to any person any visual depiction
16 of sexually explicit conduct which has a child as one of its
17 participants or portrayed observers.

18 (3) It shall be unlawful for a person to knowingly
19 employ, force, authorize, induce, or otherwise cause a child to
20 engage in any visual depiction of sexually explicit conduct which
21 has a child as one of its participants or portrayed observers.

22 (4) It shall be unlawful for a parent, stepparent, legal
23 guardian, or any person with custody and control of a child,
24 knowing the content thereof, to consent to such child engaging in
25 any visual depiction of sexually explicit conduct which has a child
26 as one of its participants or portrayed observers.

27 (5) It shall be an affirmative defense to a charge

1 brought pursuant to subsection (1) of this section if the defendant
2 was less than eighteen years of age at the time the visual
3 depiction was created and the visual depiction of sexually explicit
4 conduct includes no person other than the defendant.

5 (6) It shall be an affirmative defense to a charge
6 brought pursuant to subsection (2) of this section if (a) the
7 defendant was less than eighteen years of age, (b) the visual
8 depiction of sexually explicit conduct includes no person other
9 than the defendant, (c) the defendant had a reasonable belief at
10 the time the visual depiction was sent to another that it was being
11 sent to a willing recipient, and (d) the recipient was at least
12 fifteen years of age at the time the visual depiction was sent.

13 Sec. 19. Section 28-1463.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-1463.04 (1) Any person who is under nineteen years
16 of age at the time he or she violates section 28-1463.03 shall
17 be guilty of a Class III felony for the first offense and shall
18 be guilty of a Class II felony for each subsequent offense. ~~each~~
19 offense.

20 (2) Any person who is nineteen years of age or older at
21 the time he or she violates section 28-1463.03 shall be guilty of a
22 Class ID felony for each offense.

23 (3) Any person who violates section 28-1463.03 and has
24 previously been convicted of a violation of section 28-1463.03 or
25 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315,
26 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.05 or
27 subsection (1) or (2) of section 28-320 shall be guilty of a Class

1 IC felony for each offense.

2 Sec. 20. Section 28-1463.05, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-1463.05 (1) It shall be unlawful for a person to
5 knowingly possess with intent to rent, sell, deliver, distribute,
6 trade, or provide to any person any visual depiction of sexually
7 explicit conduct which has a child as one of its participants or
8 portrayed observers.

9 ~~(2)~~ (2) (a) Any person who is under nineteen years of age
10 at the time he or she violates this section shall be guilty of a
11 Class IIIA felony for each offense.

12 (b) Any person who is nineteen years of age or older at
13 the time he or she violates this section shall be guilty of a Class
14 III felony for each offense.

15 (c) Any person who violates this section and has
16 previously been convicted of a violation of this section or section
17 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319,
18 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.03 or subsection
19 (1) or (2) of section 28-320 shall be guilty of a Class IC felony
20 for each offense.

21 Sec. 21. Section 29-110, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 29-110 (1) Except as otherwise provided by law, no person
24 shall be prosecuted for any felony unless the indictment is found
25 by a grand jury within three years next after the offense has
26 been done or committed or unless a complaint for the same is filed
27 before the magistrate within three years next after the offense

1 has been done or committed and a warrant for the arrest of the
2 defendant has been issued.

3 (2) Except as otherwise provided by law, no person shall
4 be prosecuted, tried, or punished for any misdemeanor or other
5 indictable offense below the grade of felony or for any fine or
6 forfeiture under any penal statute unless the suit, information,
7 or indictment for such offense is instituted or found within one
8 year and six months from the time of committing the offense or
9 incurring the fine or forfeiture or within one year for any offense
10 the punishment of which is restricted by a fine not exceeding one
11 hundred dollars and to imprisonment not exceeding three months.

12 (3) Except as otherwise provided by law, no person
13 shall be prosecuted for kidnapping under section 28-313, false
14 imprisonment under section 28-314 or 28-315, child abuse under
15 section 28-707, pandering under section 28-802, debauching a
16 minor under section 28-805, or an offense under section 28-813,
17 28-813.01, or 28-1463.03 when the victim is under sixteen years of
18 age at the time of the offense (a) unless the indictment for such
19 offense is found by a grand jury within seven years next after the
20 offense has been committed or within seven years next after the
21 victim's sixteenth birthday, whichever is later, or (b) unless a
22 complaint for such offense is filed before the magistrate within
23 seven years next after the offense has been committed or within
24 seven years next after the victim's sixteenth birthday, whichever
25 is later, and a warrant for the arrest of the defendant has been
26 issued.

27 (4) No person shall be prosecuted for a violation of

1 the Securities Act of Nebraska under section 8-1117 unless the
2 indictment for such offense is found by a grand jury within five
3 years next after the offense has been done or committed or unless
4 a complaint for such offense is filed before the magistrate within
5 five years next after the offense has been done or committed and a
6 warrant for the arrest of the defendant has been issued.

7 (5) There shall not be any time limitations for
8 prosecution or punishment for treason, murder, arson, forgery,
9 sexual assault in the first or second degree under section 28-319
10 or 28-320, sexual assault of a child in the second or third degree
11 under section 28-320.01, incest under section 28-703, or sexual
12 assault of a child in the first degree under section 28-319.01; nor
13 shall there be any time limitations for prosecution or punishment
14 for sexual assault in the third degree under section 28-320 when
15 the victim is under sixteen years of age at the time of the
16 offense.

17 (6) The time limitations prescribed in this section shall
18 include all inchoate offenses pursuant to the Nebraska Criminal
19 Code and compounding a felony pursuant to section 28-301.

20 (7) The time limitations prescribed in this section shall
21 not extend to any person fleeing from justice.

22 (8) When any suit, information, or indictment for any
23 crime or misdemeanor is limited by any statute to be brought or
24 exhibited within any other time than is limited by this section,
25 then the suit, information, or indictment shall be brought or
26 exhibited within the time limited by such statute.

27 (9) If any suit, information, or indictment is quashed or

1 the proceedings set aside or reversed on writ of error, the time
2 during the pendency of such suit, information, or indictment so
3 quashed, set aside, or reversed shall not be reckoned within this
4 statute so as to bar any new suit, information, or indictment for
5 the same offense.

6 (10) The changes made to this section by Laws 2004, LB
7 943, shall apply to offenses committed prior to April 16, 2004, for
8 which the statute of limitations has not expired as of such date
9 and to offenses committed on or after such date.

10 (11) The changes made to this section by Laws 2005, LB
11 713, shall apply to offenses committed prior to September 4, 2005,
12 for which the statute of limitations has not expired as of such
13 date and to offenses committed on or after such date.

14 Sec. 22. (1) In any judicial or administrative
15 proceeding, any property or material that constitutes a visual
16 depiction of sexually explicit conduct, as defined in section
17 28-1463.02, and which has a child, as defined in such section,
18 as one of its participants or portrayed observers, shall remain
19 constantly and continuously in the care, custody, and control
20 of law enforcement, the prosecuting attorney, or the court
21 having properly received it into evidence, except as provided in
22 subsection (3) of this section.

23 (2) All courts and administrative agencies shall
24 unequivocally deny any request by the defendant, his or her
25 attorney, or any other person, agency, or organization, regardless
26 of whether such defendant, attorney, or other person, agency,
27 or organization is a party in interest or not, to acquire

1 possession of, copy, photograph, duplicate, or otherwise reproduce
2 any property or material that constitutes a visual depiction of
3 sexually explicit conduct, as defined in section 28-1463.02, and
4 which has a child, as defined in such section, as one of its
5 participants or portrayed observers, so long as the state makes
6 the property or material reasonably available to the defendant in
7 a criminal proceeding. Nothing in this section shall be deemed to
8 prohibit the review of the proscribed materials or property by a
9 federal court when considering a habeas corpus claim.

10 (3) (a) For purposes of this section, property or material
11 are deemed to be reasonably available to a defendant if the state
12 provides ample opportunity for inspection, viewing, examination,
13 and analysis of the property or material, at a law enforcement
14 or state-operated facility, to the defendant, his or her attorney,
15 and any individual the defendant seeks to use for the purpose of
16 furnishing expert testimony.

17 (b) Notwithstanding the provisions of this subsection, a
18 court may order a copy of the property or material to be delivered
19 to a person identified as a defense expert for the purpose of
20 evaluating the evidence, subject to the same restrictions placed
21 upon law enforcement. The defense expert shall return all copies
22 and materials to law enforcement upon completion of the evaluation.

23 (4) On or before July 1, 2009, the Supreme Court shall
24 adopt and promulgate rules and regulations regarding the proper
25 control, care, custody, transfer, and disposition of property or
26 material that constitutes a visual depiction of sexually explicit
27 conduct, as defined in section 28-1463.02, and which has a child,

1 as defined in such section, as one of its participants or portrayed
2 observers, that has been received into evidence at any judicial
3 or administrative proceeding. Among the issues addressed by these
4 rules and regulations, the Supreme Court should devise procedures
5 regarding the preparation and delivery of bills of exception
6 containing evidence as described in this section, as well as
7 procedures for storing, accessing, and disposing of such bills of
8 exception after preparation and receipt.

9 Sec. 23. Section 29-4001, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 29-4001 Sections 29-4001 to 29-4014 and section 24 of
12 this act shall be known and may be cited as the Sex Offender
13 Registration Act.

14 Sec. 24. As used in the Sex Offender Registration Act,
15 unless the context otherwise requires:

16 (1) Blog means a web site contained on the Internet
17 that is created, maintained, and updated in a log, journal, diary,
18 or newsletter format by an individual, group of individuals,
19 or corporate entity for the purpose of conveying information or
20 opinions to Internet users who visit their web site;

21 (2) Chat room means a web site or server space
22 on the Internet or communication network designated for the
23 virtually instantaneous exchange of text transmissions or computer
24 file attachments amongst two or more computers or electronic
25 communication device users;

26 (3) Chat room identifiers means the username, password,
27 symbol, image, or series of symbols, letters, numbers, or text

1 characters used by a chat room participant to identify himself or
2 herself in a chat room or to identify the source of any content
3 transmitted from a computer or electronic communication device to
4 the web site or server space upon which the chat room is dedicated;

5 (4) Email means the exchange of electronic text messages
6 and computer file attachments between computers or other electronic
7 communication devices over a communications network, such as a
8 local area computer network or the Internet;

9 (5) Email address means the string of letters,
10 numbers, and symbols used to specify the computer or electronic
11 communication device that is the source or destination of an email
12 message that is transmitted over a communication network;

13 (6) Instant messaging means a direct, dedicated, and
14 private communication service, accessed with a computer or
15 electronic communication device, that enables a user of the service
16 to send and receive virtually instantaneous text transmissions or
17 computer file attachments to other selected users of the service
18 through the Internet or a computer communications network;

19 (7) Instant messaging identifiers means the username,
20 password, symbol, image, or series of symbols, letters, numbers,
21 images, or text characters used by an instant messaging user to
22 identify their presence to other instant messaging users or the
23 source of any content sent from their computer or electronic
24 communication device to another instant messaging user;

25 (8) Social networking web site means a web page or
26 collection of web sites contained on the Internet (a) that enables
27 users or subscribers to create, display, and maintain a profile or

1 Internet domain containing biographical data, personal information,
2 photos, or other types of media, (b) that can be searched,
3 viewed, or accessed by other users or visitors to the web site,
4 with or without the creator's permission, consent, invitation, or
5 authorization, and (c) that may permit some form of communication,
6 such as direct comment on the profile page, instant messaging, or
7 email, between the creator of the profile and users who have viewed
8 or accessed the creator's profile; and

9 (9) Uniform resource locator means a series of text-based
10 symbols, letters, numbers, images, or text characters used to
11 specify the location and access method for every document, web
12 page, and resource catalogued on or accessible through the Internet
13 or a computer communications network.

14 Sec. 25. Section 29-4003, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 29-4003 (1) Except as provided in subsection (2) of this
17 section, the Sex Offender Registration Act shall apply to any
18 person who on or after January 1, 1997:

19 (a) Pleads guilty to or is found guilty of:

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

23 (ii) False imprisonment of a minor pursuant to section
24 28-314 or 28-315;

25 (iii) Sexual assault pursuant to section 28-319 or
26 28-320;

27 (iv) Sexual assault of a child in the second or third

1 degree pursuant to section 28-320.01;

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

4 (vi) Sexual assault of a vulnerable adult pursuant to
5 subdivision (1)(c) of section 28-386;

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

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

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

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

13 (xi) Criminal child enticement pursuant to section
14 28-311;

15 (xii) Child enticement by means of a ~~computer~~ an
16 electronic communication device pursuant to section 28-320.02;

17 (xiii) Debauching a minor pursuant to section 28-805; ~~or~~

18 (xiv) Enticement by electronic communication device
19 pursuant to section 28-833; or

20 ~~(xiv)~~ (xv) Attempt, solicitation, or conspiracy to commit
21 an offense listed in subdivisions (1)(a)(i) through (1)(a)(xiii)
22 (1)(a)(xiv) of this section;

23 (b) Enters the state and has pleaded guilty to or has
24 been found guilty of any offense that is substantially equivalent
25 to a registrable offense under subdivision (1)(a) of this section
26 by any state, territory, commonwealth, or other jurisdiction of the
27 United States, by the United States Government, or by court-martial

1 or other military tribunal, notwithstanding a procedure comparable
2 in effect to that described under section 29-2264 or any other
3 procedure to nullify a conviction other than by pardon;

4 (c) Is incarcerated in a jail, a penal or correctional
5 facility, or any other public or private institution or is under
6 probation or parole as a result of pleading guilty to or being
7 found guilty of a registrable offense under subdivision (1)(a) or
8 (b) of this section prior to January 1, 1997; or

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

12 (2) In the case of a person convicted of a violation
13 of section 28-313, 28-314, 28-315, or 28-805, the convicted person
14 shall be subject to the Sex Offender Registration Act, unless the
15 sentencing court determines at the time of sentencing, in light
16 of all the facts, that the convicted person is not subject to the
17 act. The sentencing court shall make such determination part of the
18 sentencing order.

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

22 Sec. 26. Section 29-4006, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 29-4006 (1) Registration information required by the Sex
25 Offender Registration Act shall be in a form approved by the sex
26 offender registration and community notification division of the
27 Nebraska State Patrol and shall include the following information:

1 (a) The legal name and all aliases which the person has
2 used or under which the person has been known;

3 (b) A complete description of the person, including date
4 of birth, social security number, motor vehicle operator's license
5 number, photographs, and fingerprints;

6 (c) A listing of each registrable offense under section
7 29-4003 to which the person pleaded guilty or was found guilty, the
8 jurisdiction where each offense was committed, the court in which
9 the person pleaded guilty or was found guilty of each offense, and
10 the name under which the person pleaded guilty or was found guilty
11 of each offense;

12 (d) The name and location of each jail, penal or
13 correctional facility, or public or private institution to which
14 the person was incarcerated for each offense and the actual time
15 served or confined; ~~and~~

16 (e) The address of the person's current residence and
17 place of employment or vocation and any school he or she is
18 attending; ~~and-~~

19 (f) All email addresses, instant messaging identifiers,
20 chat room identifiers, and other Internet communication identifiers
21 that the person uses or plans to use, all uniform resource locators
22 registered or used by the registrant, and all blogs and Internet
23 sites maintained by the person or to which the person has uploaded
24 any content or posted any messages or information.

25 (2) When the person provides any information under
26 subdivision (f) of subsection (1) of this section, the registrant
27 shall sign a consent form, provided by the law enforcement agency

1 receiving this information, authorizing the:

2 (a) Search of all the computers or electronic
3 communication devices possessed or used by the person, at any time;
4 and

5 (b) Installation of hardware or software to monitor
6 the person's Internet usage on all the computers or electronic
7 communication devices possessed or used by the person.

8 ~~(2)~~ (3) For the duration of the registration period
9 required by the act, registration information shall be verified
10 annually within thirty days after the anniversary date of the
11 person's initial registration date. To properly verify, the
12 following shall occur:

13 (a) The sex offender registration and community
14 notification division of the Nebraska State Patrol shall mail a
15 nonforwardable verification form to the last-reported address of
16 the person;

17 (b) The verification form shall be signed by the person
18 and state whether the address last reported to the division is
19 still correct; and

20 (c) The person shall mail the verification form to the
21 division within ten days after receipt of the form.

22 ~~(3)~~ (4) If the person fails to complete and mail the
23 verification form to the sex offender registration and community
24 notification division of the Nebraska State Patrol within ten days
25 after receipt of the form, or the form cannot be delivered due to
26 the registrant not being at the address last reported, the person
27 shall be in violation of this section unless the person proves that

1 the address last reported to the division is still correct.

2 ~~(4)~~ (5) If the person falsifies the registration or
3 verification form or fails to provide or timely update law
4 enforcement of any of the information required to be provided
5 by the Sex Offender Registration Act, the person shall be in
6 violation of this section.

7 ~~(5)~~ (6) The requirement to verify the address of a
8 sexually violent predator quarterly as provided in section 29-4005
9 and the requirement to verify the address of any other registrant
10 annually as required in this section shall not apply during periods
11 of such registrant's incarceration. Address verification shall be
12 resumed as soon as such incarcerated person is placed on any type
13 of supervised release, parole, or probation or is released from
14 incarceration. Prior to any type of release from incarceration,
15 such person shall report the change of address to the sheriff of
16 the county in which he or she is incarcerated and the sheriff of
17 the county in which he or she resides or is temporarily domiciled.
18 The sheriff shall forward the change of address to the sex offender
19 registration and community notification division of the Nebraska
20 State Patrol.

21 ~~(6)~~ (7) Any person required to register under the Sex
22 Offender Registration Act shall inform the sheriff of any legal
23 change in name, in writing, within five working days after such
24 change, and provide a copy of the legal documentation supporting
25 the change in name. The sheriff shall forward the information to
26 the sex offender registration and community notification division
27 of the Nebraska State Patrol, in writing, within five working days

1 after receipt of the information.

2 (8) Any person required to register under the Sex
3 Offender Registration Act shall inform the sheriff with whom he or
4 she is required to register of any changes in or additions to such
5 person's list of email addresses, instant messaging identifiers,
6 chat room identifiers, and other Internet communication identifiers
7 that the registrant uses or plans to use, all uniform resource
8 locators registered or used by the person, and all blogs and
9 Internet web sites maintained by the person or to which the person
10 has uploaded any content or posted any messages or information,
11 in writing, by the next working day. The sheriff receiving this
12 updated information shall forward the information to the sex
13 offender registration and community notification division of the
14 Nebraska State Patrol, in writing, by the next working day after
15 receipt of the information.

16 Sec. 27. Section 29-4007, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-4007 (1) When sentencing a person convicted of a
19 registrable offense under section 29-4003, the court shall:

20 (a) Provide written notification of the duty to register
21 under the Sex Offender Registration Act at the time of sentencing
22 to any defendant who has pleaded guilty or has been found
23 guilty of a registrable offense under section 29-4003. The written
24 notification shall:

25 (i) Inform the defendant that if he or she moves to
26 another address within the same county or ceases to have a
27 residence or temporary domicile, he or she must report all address

1 changes, including not having a residence or temporary domicile, to
2 the county sheriff in the county where he or she has been residing
3 within five working days after his or her move;

4 (ii) Inform the defendant that if he or she moves to
5 another county in the State of Nebraska, he or she must notify the
6 county sheriff in the county where he or she had been last residing
7 and the county sheriff in the county where he or she is living of
8 his or her current address. The notice must be given within five
9 working days after his or her move;

10 (iii) Inform the defendant that if he or she moves to
11 another state, he or she must report the change of address to the
12 county sheriff of the county where he or she has been residing
13 and must comply with the registration requirements of the state to
14 which he or she is moving. The notice must be given within five
15 working days after his or her move;

16 (iv) Inform the defendant that he or she shall (A) inform
17 the sheriff of the county in which he or she resides, in writing,
18 of each postsecondary educational institution at which he or she
19 is employed, carries on a vocation, or attends school, within five
20 working days after such employment or attendance and (B) notify the
21 sheriff of any change in such employment or attendance status of
22 such person at such postsecondary educational institution;

23 (v) Inform the defendant that if he or she goes to
24 another state to work or goes to another state as a student and
25 still resides or is temporarily domiciled in this state, he or she
26 must comply with the registration requirements of both states; and

27 (vi) Inform the defendant that fingerprints and a

1 photograph will be obtained by any registering entity in order to
2 comply with the registration requirements;

3 (vii) Inform the defendant that he or she must provide a
4 list to all sheriffs with whom he or she must register of all email
5 addresses, instant messaging identifiers, chat room identifiers,
6 and other Internet communication identifiers that the defendant
7 uses or plans to use, all uniform resource locators registered
8 or used by the defendant, and all blogs and Internet web sites
9 maintained by the defendant or to which the defendant has uploaded
10 any content or posted any messages or information;

11 (viii) Inform the defendant that he or she is required to
12 inform the sheriff with whom he or she is required to register of
13 any changes in or additions to his or her list of email addresses,
14 instant messaging identifiers, chat room identifiers, and other
15 Internet communication identifiers that the defendant uses or plans
16 to use, all uniform resource locators registered or used by the
17 defendant, and all blogs and Internet web sites maintained by the
18 defendant or to which the defendant has uploaded any content or
19 posted any messages or information, in writing, within five working
20 days after such change or addition; and

21 (ix) Inform the defendant that throughout the applicable
22 registration period, if applicable, he or she is prohibited from
23 accessing or using any Internet social networking web site or any
24 instant messaging or chat room service that has the potential or
25 likelihood of allowing the defendant to have contact with any child
26 who is under the age of eighteen years should the Nebraska State
27 Patrol classify such defendant as a level II or level III sex

1 offender or the defendant has been convicted and is currently being
2 sentenced for:

3 (A) Kidnapping of a minor pursuant to section 28-313;

4 (B) False imprisonment of a minor pursuant to section
5 28-314 or 28-315;

6 (C) Sexual assault in the first degree pursuant to
7 subdivision (1)(c) of section 28-319 or sexual assault of a child
8 in the first degree pursuant to section 28-319.01;

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

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

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

14 (G) Knowingly possessing any visual depiction of sexually
15 explicit conduct pursuant to section 28-813.01;

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

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

19 (J) Enticement by electronic communication device
20 pursuant to section 28-833; or

21 (K) Any attempt or conspiracy to commit an offense
22 listed in subdivisions (1)(a)(ix)(A) through (1)(a)(ix)(J) of this
23 section;

24 (b) Require the defendant to read and sign a form stating
25 that the duty of the defendant to register under the Sex Offender
26 Registration Act has been explained;

27 (c) Retain a copy of the written notification signed by

1 the defendant; and

2 (d) If the defendant is adjudicated a sexually violent
3 predator, include the supporting reports and other information
4 supporting this finding.

5 A copy of the signed, written notification and the
6 journal entry of the court shall be provided to the county
7 attorney, the defendant, the sex offender registration and
8 community notification division of the Nebraska State Patrol, and
9 the county sheriff of the county in which the defendant resides
10 or is temporarily domiciled.

11 (2) When a person is convicted of a registrable offense
12 under section 29-4003 and is not subject to immediate incarceration
13 upon sentencing, prior to being released by the court, the
14 sentencing court shall ensure that the defendant is registered
15 by the sheriff of the county in which the defendant is convicted
16 no later than the time of sentencing. The sheriff shall obtain
17 full registration information and documents as required by section
18 29-4006, and forward the information and documents to the sex
19 offender registration and community notification division of the
20 Nebraska State Patrol within five working days.

21 (3) (a) The Department of Correctional Services or a city
22 or county correctional or jail facility shall provide written
23 notification of the duty to register pursuant to the Sex Offender
24 Registration Act to any person committed to its custody for a
25 registrable offense under section 29-4003 prior to the person's
26 release from incarceration. The written notification shall:

27 (i) Inform the person that if he or she moves to another

1 address within the same county, he or she must report all address
2 changes to the county sheriff in the county where he or she has
3 been residing within five working days after his or her move;

4 (ii) Inform the person that if he or she moves to another
5 county in the State of Nebraska, he or she must notify the county
6 sheriff in the county where he or she had been last residing and
7 the county sheriff in the county where he or she is living of
8 his or her current address. The notice must be given within five
9 working days after his or her move;

10 (iii) Inform the person that if he or she moves to
11 another state, he or she must report the change of address to the
12 county sheriff of the county where he or she has been residing
13 and must comply with the registration requirements of the state to
14 which he or she is moving. The notice must be given within five
15 working days after his or her move;

16 (iv) Inform the person that he or she shall (A) inform
17 the sheriff of the county in which he or she resides, in writing,
18 of each postsecondary educational institution at which he or she
19 is employed, carries on a vocation, or attends school, within five
20 working days after such employment or attendance and (B) notify the
21 sheriff of any change in such employment or attendance status of
22 such person at such postsecondary educational institution;

23 (v) Inform the person that if he or she goes to another
24 state to work or goes to another state as a student and still
25 resides or is temporarily domiciled in this state, he or she must
26 comply with the registration requirements of both states; and

27 (vi) Inform the defendant that fingerprints and a

1 photograph will be obtained by any registering entity in order to
2 comply with the registration requirements:—

3 (vii) Inform the defendant that he or she must provide a
4 list to all sheriffs with whom he or she must register of all email
5 addresses, instant messaging identifiers, chat room identifiers,
6 and other Internet communication identifiers that the defendant
7 uses or plans to use, all uniform resource locators registered
8 or used by the defendant, and all blogs and Internet web sites
9 maintained by the defendant or to which the defendant has uploaded
10 any content or posted any messages or information;

11 (viii) Inform the defendant that he or she is required to
12 inform the sheriff with whom he or she is required to register of
13 any changes in or additions to his or her list of email addresses,
14 instant messaging identifiers, chat room identifiers, and other
15 Internet communication identifiers that the defendant uses or plans
16 to use, all uniform resource locators registered or used by the
17 defendant, and all blogs and Internet web sites maintained by the
18 defendant or to which the defendant has uploaded any content or
19 posted any messages or information, in writing, within five working
20 days after such change or addition; and

21 (ix) Inform the defendant that throughout the applicable
22 registration period, if applicable, he or she is prohibited from
23 accessing or using any Internet social networking web site or any
24 instant messaging or chat room service that has the potential or
25 likelihood of allowing the defendant to have contact with any child
26 who is under the age of eighteen years should the Nebraska State
27 Patrol classify such defendant as a level II or level III sex

1 offender or the defendant has been convicted and is currently being
2 sentenced for:

3 (A) Kidnapping of a minor pursuant to section 28-313;

4 (B) False imprisonment of a minor pursuant to section
5 28-314 or 28-315;

6 (C) Sexual assault in the first degree pursuant to
7 subdivision (1)(c) of section 28-319 or sexual assault of a child
8 in the first degree pursuant to section 28-319.01;

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

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

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

14 (G) Knowingly possessing any visual depiction of sexually
15 explicit conduct pursuant to section 28-813.01;

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

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

19 (J) Enticement by electronic communication device
20 pursuant to section 28-833; or

21 (K) Any attempt or conspiracy to commit an offense
22 listed in subdivisions (3)(a)(ix)(A) through (3)(a)(ix)(J) of this
23 section.

24 (b) The Department of Correctional Services or a city or
25 county correctional or jail facility shall:

26 (i) Require the person to read and sign the notification
27 form stating that the duty to register under the Sex Offender

1 Registration Act has been explained;

2 (ii) Retain a signed copy of the written notification to
3 register; and

4 (iii) Provide a copy of the notification to register
5 to the person, the sex offender registration and community
6 notification division of the Nebraska State Patrol, and the sheriff
7 of the county in which the person will be residing upon release
8 from the institution. If the person is going to reside outside
9 of the State of Nebraska, then notification to the sheriff is not
10 required.

11 (4) The Department of Motor Vehicles shall cause written
12 notification of the duty to register to be provided on the
13 applications for a motor vehicle operator's license and for a
14 commercial driver's license.

15 (5) All written notification as provided in this section
16 shall be on a form prepared by the Attorney General.

17 Sec. 28. Section 29-4008, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 29-4008 No person subject to the Sex Offender
20 Registration Act shall knowingly and willfully furnish any false or
21 misleading information in the registration or fail to provide or
22 timely update law enforcement of any of the information required
23 to be provided by the act.

24 Sec. 29. Section 83-4,143, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 83-4,143 (1) It is the intent of the Legislature that
27 the court target the felony offender (a) who is eligible and

1 by virtue of his or her criminogenic needs is suitable to be
2 sentenced to intensive supervision probation with placement at the
3 incarceration work camp, (b) for whom the court finds that other
4 conditions of a sentence of intensive supervision probation, in
5 and of themselves, are not suitable, and (c) who, without the
6 existence of an incarceration work camp, would, in all likelihood,
7 be sentenced to prison.

8 (2) When the court is of the opinion that imprisonment is
9 appropriate, but that a brief and intensive period of regimented,
10 structured, and disciplined programming within a secure facility
11 may better serve the interests of society, the court may place an
12 offender in an incarceration work camp for a period not to exceed
13 one hundred eighty days as a condition of a sentence of intensive
14 supervision probation. The court may consider such placement if the
15 offender (a) is a male or female offender convicted of a felony
16 offense in a district court, (b) is medically and mentally fit
17 to participate, with allowances given for reasonable accommodation
18 as determined by medical and mental health professionals, and (c)
19 has not previously been incarcerated for a violent felony crime.
20 Offenders convicted of a crime under sections 28-319 to ~~28-321~~
21 28-323 or of any capital crime are not eligible to be placed in an
22 incarceration work camp.

23 (3) It is also the intent of the Legislature that the
24 Board of Parole may recommend placement of felony offenders at
25 the incarceration work camp. The offenders recommended by the
26 board shall be offenders currently housed at other Department
27 of Correctional Services adult correctional facilities and shall

1 complete the incarceration work camp programming prior to release
2 on parole.

3 (4) When the Board of Parole is of the opinion that
4 a felony offender currently incarcerated in a Department of
5 Correctional Services adult correctional facility may benefit
6 from a brief and intensive period of regimented, structured, and
7 disciplined programming immediately prior to release on parole, the
8 board may direct placement of such an offender in an incarceration
9 work camp for a period not to exceed one hundred eighty days as
10 a condition of release on parole. The board may consider such
11 placement if the felony offender (a) is medically and mentally fit
12 to participate, with allowances given for reasonable accommodation
13 as determined by medical and mental health professionals, and (b)
14 has not previously been incarcerated for a violent felony crime.
15 Offenders convicted of a crime under sections 28-319 to ~~28-321~~
16 28-323 or of any capital crime are not eligible to be placed in an
17 incarceration work camp.

18 Sec. 30. The Revisor of Statutes shall assign sections 3
19 to 6 of this act to Chapter 27, article 4, of the Nebraska Evidence
20 Rules.

21 Sec. 31. Sections 3, 4, 5, 6, 7, 8, 11, 29, 30, and 33 of
22 this act become operative on January 1, 2010. The other sections of
23 this act become operative on their effective date.

24 Sec. 32. If any section in this act or any part of any
25 section is declared invalid or unconstitutional, the declaration
26 shall not affect the validity or constitutionality of the remaining
27 portions.

1 Sec. 33. Original sections 27-404, 27-1103, 28-318, and
2 83-4,143, Reissue Revised Statutes of Nebraska, are repealed.

3 Sec. 34. Original sections 21-20,177, 21-20,179, 28-101,
4 28-311, 28-319.01, 28-320.02, 28-813.01, 28-1010, 28-1463.02,
5 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003,
6 29-4006, 29-4007, and 29-4008, Reissue Revised Statutes of
7 Nebraska, are repealed.

8 Sec. 35. Since an emergency exists, this act takes effect
9 when passed and approved according to law.

10 2. On page 1, strike lines 2 through 14 and insert
11 "21-20,179, 27-404, 27-1103, 28-101, 28-311, 28-318, 28-319.01,
12 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03, 28-1463.04,
13 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007, 29-4008,
14 and 83-4,143, Reissue Revised Statutes of Nebraska; to change
15 provisions relating to service on and revocation of certificates
16 of authority of foreign corporations; to adopt new rules of
17 evidence relating to sexual offenses; to change provisions relating
18 to admissibility of evidence; to change provisions and penalties
19 regarding criminal child enticement, use of a computer in sexual
20 assault, sexual assault of a child, visual depictions of sexually
21 explicit conduct, and the Child Pornography Prevention Act; to
22 prohibit certain Internet use by sexually violent predators; to
23 eliminate a statute of limitations for incest; to provide for
24 confidentiality of certain property or material of a sexual nature
25 held by law enforcement; to change provisions relating to the Sex
26 Offender Registration Act; to harmonize provisions; to provide a
27 duty for the Revisor of Statutes; to provide operative dates;

1 to provide severability; to repeal the original sections; and to
2 declare an emergency.".

3 3. On page 2, strike lines 1 through 3.