

AMENDMENTS TO LB559

Introduced by Judiciary.

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

3 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
6 and sections 3 to 9 of this act shall be known and may be cited as the
7 Nebraska Criminal Code.

8 **Sec. 2.** Section 28-618, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-618 For purposes of sections 28-618 to 28-630 and sections 3 to 6
11 of this act:

12 (1) Account holder means ~~shall mean~~ the person or business entity
13 named on the face of a financial transaction device for whose benefit the
14 financial transaction device is issued by an issuer;

15 (2) Acquirer means ~~shall mean~~ any business organization, financial
16 institution, or agent of such organization or institution which
17 authorizes a merchant to accept payment by financial transaction device
18 for money, property, services, or anything else of value;

19 (3) Automated banking device means ~~shall mean~~ any machine which,
20 when properly activated by a financial transaction device or a personal
21 identification code, may be used for any purpose for which a financial
22 transaction device is issued;

23 (4) Counterfeit financial transaction device means ~~shall mean~~ any
24 financial transaction device which is fictitious, altered, forged,
25 stolen, obtained as part of a scheme to defraud, or otherwise unlawfully
26 obtained and which may or may not be embossed with account information or
27 a company logo or any facsimile, false representation, depiction, or

1 component of a financial transaction device;

2 (5) Embossing means ~~shall mean~~ any process in which account numbers
3 are placed on financial transaction devices that results in the number
4 being raised from the surface of the device;

5 (6) Expired financial transaction device means ~~shall mean~~ a
6 financial transaction device which is no longer valid because the term
7 shown on it has elapsed;

8 (7) Financial transaction device means ~~shall mean~~ any instrument or
9 device whether known as a credit card, credit plate, bank service card,
10 banking card, check guarantee card, debit card, electronic funds transfer
11 card, or account number representing a financial account. Such device
12 shall affect the financial interest, standing, or obligation of the
13 financial account for services or financial payments for money, credit,
14 property, or services;

15 (8) Financial-transaction-device-making equipment means ~~shall mean~~
16 any equipment, impression, machine, mechanism, plate, or other device
17 designed, used, or capable of being used to produce a financial
18 transaction device, a counterfeit financial transaction device, or any
19 aspect or component of a financial transaction device;

20 (9) Holographic means ~~shall mean~~ a photographic method that uses
21 laser light to produce three-dimensional images;

22 (10) Intent to defraud means ~~shall mean~~ an unlawful attempt to
23 secure money, credit, property, or services from an issuer, without
24 permission of the account holder, for the benefit of any person other
25 than the account holder;

26 (11) Issuer means ~~shall mean~~ any person or any financial or business
27 entity that acquires financial rights by issuing, canceling, controlling,
28 or distributing a financial transaction device;

29 (12) Magnetic encoding means ~~shall mean~~ any electronically encoded
30 account holder information which is placed on a magnetic strip on the
31 financial transaction device and is capable of being read by an

1 electronic terminal such as an automatic teller machine or an electronic
2 terminal at a merchant location also known as a point-of-sale terminal;

3 (13) Personal identification code means ~~shall mean~~ any grouping of
4 letters, numbers, or symbols assigned to the account holder of a
5 financial transaction device by the issuer to permit authorized
6 electronic access of that account;

7 (14) Receives or receiving means ~~shall mean~~ acquiring possession or
8 control of or accepting as security for a loan a financial transaction
9 device;

10 (15) Revoked financial transaction device means ~~shall mean~~ a
11 financial transaction device which is no longer valid because permission
12 to use it has been suspended or terminated by the issuer;

13 (16) Sales form means ~~shall mean~~ any written, electronic, magnetic,
14 or printed record of a financial transaction involving use of a financial
15 transaction device;

16 (17) Sales form processing services means ~~shall mean~~ services
17 provided to enable a person to obtain payment or credit for sales forms;

18 (18) Sales form processor means ~~shall mean~~ any bank, financial
19 institution, or other entity which with authority from a bona fide
20 association of issuers provides sales form processing services;

21 (19) Service mark means ~~shall mean~~ a word, name, symbol, or other
22 device or any combination thereof to identify the goods or services of
23 the entity from the goods and services of another entity;

24 (20) Skimmer device means an electronic or other device used to
25 capture, record, store or transmit data from a financial transaction
26 device or to capture or record an account holder's personal
27 identification code;

28 (21) ~~(20)~~ To falsely alter a financial transaction device means
29 ~~shall mean~~ to change such device without the authority of anyone entitled
30 to grant such authority, whether in complete or incomplete form, by means
31 of erasure, obliteration, deletion, insertion of new matter,

1 transposition of matter, or any other means, so that such device in its
2 altered form falsely appears or purports to be in all respects an
3 authentic creation of or fully authorized by its ostensible issuer;

4 (22) ~~(21)~~ To falsely complete a financial transaction device means
5 ~~shall mean~~ to transform an incomplete device into a complete one by
6 adding, inserting, or changing matter without the authority of anyone
7 entitled to grant such authority, so that the complete device falsely
8 appears or purports to be in all respects an authentic creation of or
9 fully authorized by its ostensible issuer;

10 (23) ~~(22)~~ To falsely make a financial transaction device means ~~shall~~
11 ~~mean~~ to make or manufacture a device, whether complete or incomplete,
12 which purports to be an authentic creation of its ostensible issuer but
13 which is fictitious or, if real, the ostensible issuer did not authorize
14 the making or the manufacturing thereof; and

15 (24) ~~(23)~~ Traffic means ~~shall mean~~ to distribute, dispense, sell,
16 transfer, or otherwise dispose of property or to buy, receive, possess,
17 obtain control of, or use property with the intent to dispense,
18 distribute, sell, transfer, or otherwise dispose of such property.

19 **Sec. 3.** (1) It shall be unlawful to install a skimmer device,
20 without authorization, on an automated banking device or a point-of-sale
21 terminal, including any fuel pump, for the purpose of obtaining money,
22 credit, property, or anything of value, and with the intent to defraud.

23 (2) Installation of a skimmer device shall be considered done
24 without authorization if such installation is, for any reason, done
25 without authorization by the issuer, account holder, owner of the
26 automated banking device, or owner of the point-of-sale terminal.

27 (3) A violation of this section is a Class IV felony.

28 **Sec. 4.** (1) It shall be unlawful to use a skimmer device on an
29 automated banking device or any point-of-sale terminal, including any
30 fuel pump, for the purpose of obtaining money, credit, property, or
31 anything of value, and with the intent to defraud.

1 (2) A violation of this section shall be punished according to the
2 total value of the money, credit, property, or things of value obtained,
3 or the financial payments made, as a result of the violation. A violation
4 of this section shall be:

5 (a) A Class IIA felony when such value is five thousand dollars or
6 more;

7 (b) A Class IV felony when such value is one thousand five hundred
8 dollars or more but less than five thousand dollars;

9 (c) A Class I misdemeanor when such value is more than five hundred
10 dollars but less than one thousand five hundred dollars; and

11 (d) A Class II misdemeanor when such value is five hundred dollars
12 or less.

13 (3) For any second or subsequent conviction under subdivision (2)(c)
14 of this section, any person so offending shall be guilty of a Class IV
15 felony.

16 (4) For any second conviction under subdivision (2)(d) of this
17 section, any person so offending shall be guilty of a Class I
18 misdemeanor, and for any third or subsequent conviction under subdivision
19 (2)(d) of this section, the person so offending shall be guilty of a
20 Class IV felony.

21 (5) For a prior conviction to be used to enhance the penalty under
22 subsection (3) or (4) of this section, the prior conviction must have
23 occurred no more than ten years prior to the date of commission of the
24 current offense.

25 (6) The value of the money, credit, property, or things of value
26 obtained, or the financial payments made, pursuant to one scheme or
27 course of conduct from one or more persons may be aggregated in the
28 indictment, information, or complaint in determining the classification
29 of the offense, except that amounts shall not be aggregated into more
30 than one offense.

31 (7) In any prosecution for a violation of this section, the total

1 value of the money, credit, property, or things of value obtained, or the
2 financial payments made, as a result of the violation, is an essential
3 element of the offense that must be proved beyond a reasonable doubt.

4 **Sec. 5. (1) For purposes of this section:**

5 (a) Financial transaction offense means any violation of sections
6 28-618 to 28-630 and sections 3 and 4 of this act for which the
7 punishment is a felony; and

8 (b) Leadership position means a position in which a person acts as a
9 principal administrator, organizer, supervisor, or manager or otherwise
10 leads or directs other persons.

11 (2) A person is engaged in a continuing criminal enterprise if such
12 person commits any financial transaction offense and:

13 (a) Such offense is part of a continuing series of financial
14 transaction offenses;

15 (b) Such series of offenses is undertaken by such person in concert
16 with two or more other persons with respect to whom such person acts in a
17 leadership position; and

18 (c) Such person obtains substantial income or resources from such
19 activities.

20 (3) A violation of this section shall be punished as a:

21 (a) Class II felony if the enterprise, or any other enterprise in
22 which the defendant was in a leadership position:

23 (i) Included three or fewer persons; or

24 (ii) Had at least two million dollars but less than five million
25 dollars in gross receipts during any twelve-month period of the
26 enterprise's existence;

27 (b) Class ID felony if the enterprise, or any other enterprise in
28 which the defendant was in a leadership position:

29 (i) Included four or more persons but fewer than ten persons; or

30 (ii) Had at least five million dollars but less than ten million
31 dollars in gross receipts during any twelve-month period of the

1 enterprise's existence; and

2 (c) Class IC felony if the enterprise, or any other enterprise in
3 which the defendant was in a leadership position:

4 (i) Included ten or more persons; or

5 (ii) Had at least ten million dollars in gross receipts during any
6 twelve-month period of the enterprise's existence.

7 **Sec. 6.** In addition to the existing penalties available for a
8 violation of sections 28-618 to 28-630 and sections 3 to 5 of this act, a
9 sentencing court may order forfeiture as provided in sections 28-1601 to
10 28-1603.

11 **Sec. 7.** For purposes of sections 7 to 9 of this act:

12 (1) Aggregated retail market value means the total combined value of
13 all retail merchandise involved in a transaction, series of transactions,
14 occurrence, series of occurrences, or course of conduct which constitutes
15 a violation of section 8 of this act. Such value shall be calculated
16 based on the price at which the retail merchandise would ordinarily be
17 sold by a retailer in the ordinary course of business. If the value
18 cannot be reasonably ascertained in such manner, the value shall be
19 calculated based on the cost of replacing the retail merchandise within a
20 reasonable period after a violation of this section;

21 (2) Organized retail crime means the theft of retail merchandise
22 with the intent or purpose of:

23 (a) Reselling, distributing, or otherwise reentering the retail
24 merchandise in commerce; or

25 (b) Transferring the stolen retail merchandise to another retailer
26 or to any other person in exchange for anything of value;

27 (3) Retail commerce means the sale of articles, products,
28 commodities, items, or components to the public for use or consumption
29 rather than for resale;

30 (4) Retail merchandise means any article, product, commodity, item,
31 or component intended to be sold in retail commerce; and

1 (5) Retailer means a person that sells or facilitates the sale of
2 retail merchandise.

3 **Sec. 8.** A person commits the offense of organized retail crime when
4 that person, acting alone or in association with another person, does any
5 of the following:

6 (1) Knowingly commits an organized retail crime;

7 (2) Organizes, supervises, finances, or otherwise manages or assists
8 another person in committing an organized retail crime;

9 (3) Removes, destroys, deactivates, or knowingly evades any
10 component of an antishoplifting or inventory-control device to prevent
11 the activation of that device or to facilitate another person in
12 committing an organized retail crime;

13 (4) Conspires with another person to commit an organized retail
14 crime;

15 (5) Receives, purchases, or possesses retail merchandise for sale or
16 resale if a reasonable person would know such retail merchandise to be
17 stolen;

18 (6) Uses any artifice, instrument, container, device, or other
19 article to facilitate the commission of an organized retail crime; or

20 (7) Knowingly causes a fire exit alarm to sound or otherwise
21 activate, or deactivates or prevents a fire exit alarm from sounding, in
22 the commission of an organized retail crime or to facilitate the
23 commission of an organized retail crime by another person.

24 **Sec. 9.** (1) A violation of section 8 of this act shall be a:

25 (a) Class IIA felony when the aggregated retail market value of the
26 retail merchandise involved is five thousand dollars or more;

27 (b) Class IV felony when the aggregated retail market value of the
28 retail merchandise involved is one thousand five hundred dollars or more
29 but less than five thousand dollars; and

30 (c) Class I misdemeanor when the aggregated retail market value of
31 the retail merchandise involved is more than five hundred dollars but

1 less than one thousand five hundred dollars.

2 (2) A second or subsequent conviction under subdivision (1)(c) of
3 this section shall be a Class IV felony.

4 (3) For a prior conviction to be used to enhance the penalty under
5 subsection (2) of this section, the prior conviction must have occurred
6 no more than ten years prior to the date of commission of the current
7 offense.

8 (4) The aggregated retail market value of amounts taken pursuant to
9 one organized retail crime scheme from one or more persons may be
10 aggregated in the same indictment, information, or complaint in
11 determining the classification of the offense, except that amounts shall
12 not be aggregated into more than one offense.

13 (5) In any prosecution of a violation of section 8 of this act,
14 aggregated retail market value shall be an essential element of the
15 offense that must be proved beyond a reasonable doubt.

16 **Sec. 10.** Section 28-1601, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 28-1601 (1) For purposes of sections 28-1601 to 28-1603:

19 (a) Covered offense means a violation of the Child Pornography
20 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
21 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107 or a financial
22 transaction offense;

23 (b) Electronic communication device has the same meaning as in
24 section 28-833;

25 (c) Financial transaction offense means a violation of sections
26 28-618 to 28-630 and sections 3 to 5 of this act; and

27 (d) Gambling device has the same meaning as in section 28-1101.

28 (2) ~~(1)~~ In addition to existing penalties for a violation of a
29 covered offense the Child Pornography Prevention Act, subsection (1) of
30 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
31 28-1105.01, or 28-1107, a court may order forfeiture of any money,

1 securities, negotiable instruments, firearms, conveyances, or electronic
2 communication devices; ~~as defined in section 28-833,~~ any equipment,
3 components, peripherals, software, hardware, or accessories related to
4 electronic communication devices; ~~or any gambling devices as defined in~~
5 ~~section 28-1101~~ if:

6 (a) The owner or possessor of the property has been convicted of a
7 covered offense ~~violation of the Child Pornography Prevention Act,~~
8 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
9 ~~28-1104, 28-1105, 28-1105.01, or 28-1107;~~

10 (b) The information charging such violation specifically requests
11 the forfeiture of property upon conviction and is prepared pursuant to
12 section 28-1602; and

13 (c) ~~It~~ The property is found by clear and convincing evidence that
14 such property was to have been derived from, used, or intended to be used
15 to facilitate a covered offense ~~violation of the Child Pornography~~
16 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
17 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

18 (3) ~~(2)~~ Following the filing of an information charging a violation
19 of a covered offense ~~the Child Pornography Prevention Act, subsection (1)~~
20 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
21 ~~28-1105, 28-1105.01, or 28-1107~~ that specifically seeks forfeiture of any
22 property listed in subsection ~~(2)~~ (1) of this section, the defendant may
23 request a pretrial hearing to determine the existence of probable cause
24 to believe that the property specifically sought to be forfeited was
25 derived from, used, or intended to be used to facilitate a covered
26 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
27 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
28 ~~28-1105, 28-1105.01, or 28-1107.~~ The request for a hearing pursuant to
29 this section must be filed with the district court in which the criminal
30 proceeding is pending within thirty days after the filing of the
31 information.

1 (4)(a) ~~(3)~~ At any time after the filing of the information in
2 district court and prior to final disposition of the criminal case, any
3 person ~~or entity~~, other than the defendant, with a claimed legal interest
4 in the property may petition to intervene in the district court with
5 jurisdiction over the criminal case for the specific and limited purpose
6 of demonstrating such person's ~~his, her, or its~~ legal interest in the
7 property and such person's ~~his, her, or its~~ lack of actual knowledge that
8 such property was derived from, used, or intended to be used to
9 facilitate a covered offense in violation of the Child Pornography
10 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
11 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.

12 (b) In the petition to intervene, the intervening person ~~or entity~~
13 shall, at a minimum, state facts demonstrating such person's ~~his, her, or~~
14 ~~its~~ legal interest in the property and such person's ~~his, her, or its~~
15 lack of actual knowledge regarding the use or intended use of the
16 property.

17 (5) Within thirty days after filing a motion to intervene, the
18 district court shall conduct an evidentiary hearing on the matter. At the
19 conclusion of such hearing, the court may order that any or all of the
20 property be returned to the intervening claimant after it is no longer
21 needed as evidence in the criminal case upon a showing by the claimant by
22 a preponderance of the evidence;

23 (a) That the claimant ~~that he, she, or it~~ has a legally recognized
24 interest in the property; and

25 (b) Either ~~either~~ (i) that such property was acquired by the
26 claimant in good faith and the claimant ~~he, she, or it~~ did not have
27 actual knowledge that such property was derived from, used, or intended
28 to be used to facilitate a covered offense ~~violation of the Child~~
29 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
30 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107~~ or
31 (ii) that the property seized was not derived from, used, or intended to

1 be used to facilitate a covered offense ~~violation of the Child~~
2 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
3 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

4 (6) The court, on its own motion or upon application of the
5 ~~intervening~~ claimant, may permit the claimant ~~such person~~ to proceed in
6 forma pauperis under sections 25-2301 to 25-2310. The court, on its own
7 motion or upon application of the ~~intervening~~ claimant, may appoint
8 counsel to represent the claimant ~~such person~~ if the claimant ~~such person~~
9 is indigent. If the claimant ~~he or she~~ asserts indigency, the court shall
10 make a reasonable inquiry to determine the claimant's ~~such person's~~
11 financial condition and may require the claimant ~~him or her~~ to execute an
12 affidavit of indigency for filing with the clerk of the court.

13 (7) ~~(4)~~ After conviction but prior to sentencing for a covered
14 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
15 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
16 ~~28-1105, 28-1105.01, or 28-1107~~ in cases in which the prosecuting
17 authority has specifically requested forfeiture of property, the district
18 court shall conduct an evidentiary hearing at which the prosecuting
19 authority must prove by clear and convincing evidence what specific
20 amount or portion of the property specifically enumerated in the criminal
21 information was derived from, used, or intended for use in furtherance of
22 a covered offense ~~violation of the Child Pornography Prevention Act,~~
23 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
24 ~~28-1104, 28-1105, 28-1105.01, or 28-1107.~~ At the conclusion of such
25 hearing, the court shall make specific findings of fact indicating what
26 amount or portion of the property sought to be forfeited by the state was
27 derived from, used, or intended to be used to facilitate a covered
28 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
29 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
30 ~~28-1105, 28-1105.01, or 28-1107.~~ The court shall order any amount or
31 portion of the property not proven by the state to be derived from, used,

1 or intended to be used to facilitate a covered offense ~~violation of the~~
2 ~~Child Pornography Prevention Act, subsection (1) of section 28-416, or~~
3 ~~section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
4 ~~28-1107~~ or the fair market value of the legally recognized interest in
5 such property be returned to its rightful and legal owner or interest
6 holder.

7 (8)(a) ~~(5)(a)~~ The court shall order that any amount or portion of
8 property proven by the state by clear and convincing evidence to be
9 derived from, used, or intended to be used to facilitate a covered
10 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
11 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
12 ~~28-1105, 28-1105.01, or 28-1107~~ be forfeited to the state and disposition
13 of such property be conducted in accordance with this subsection and
14 section 28-1439.02 at such time as the property is no longer required as
15 evidence in any criminal proceeding.

16 (b) As part of any disposition of property, the court may order
17 that: (i) For a covered offense other than a financial transaction
18 offense, any Any money, securities, or negotiable instruments be
19 distributed as provided in Article VII, section 5, of the Constitution of
20 Nebraska; (ii) for a financial transaction offense, any money,
21 securities, or negotiable instruments be credited to the Financial Fraud
22 Victims' Reimbursement Fund for the purposes described in section 12 of
23 this act; (iii) any conveyances be sold or put to official use by the
24 seizing agency for a period of not more than one year and when such
25 property is no longer necessary for official use or at the end of two
26 years, whichever comes first, such property shall be sold. Proceeds from
27 the sale of any conveyance shall be distributed as provided in Article
28 VII, section 5, of the Constitution of Nebraska; (iv) ~~(iii)~~ any
29 electronic communication devices ~~as defined in section 28-833,~~ any
30 equipment, components, peripherals, software, hardware, or accessories
31 related to electronic communication devices, or any gambling devices as

1 ~~defined in section 28-1101~~ be destroyed by a law enforcement agency; and
2 (v) ~~(iv)~~ the disposition of firearms shall be effectuated pursuant to
3 section 29-820.

4 (c) As used in this subsection, official use means use directly in
5 connection with enforcement of the Child Pornography Prevention Act, the
6 Uniform Controlled Substances Act, sections 28-618 to 28-630 and sections
7 3 to 6 of this act, or section 28-813.01, 28-1102, 28-1103, 28-1104,
8 28-1105, 28-1105.01, or 28-1107.

9 (9) ~~(6)~~ Any money, securities, negotiable instruments, firearms,
10 conveyances, or electronic communication devices; ~~as defined in section~~
11 ~~28-833,~~ any equipment, components, peripherals, software, hardware, or
12 accessories related to electronic communication devices; ~~or any~~
13 ~~gambling devices as defined in section 28-1101~~ may be forfeited pursuant
14 to a plea agreement between the state and the defendant subject to notice
15 to or approval of the court.

16 (10) ~~(7)~~ Subdivision (2)(a) ~~(1)(a)~~ of this section does not apply if
17 the owner or possessor of the property dies or is removed from the United
18 States before charges are filed or a conviction obtained.

19 (11) ~~(8)~~ Subdivision (2)(b) ~~(1)(b)~~ of this section does not apply if
20 the owner or possessor of the property dies or is removed from the United
21 States before charges are filed so long as the statute of limitations for
22 a covered offense violation of the Child Pornography Prevention Act,
23 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
24 ~~28-1104, 28-1105, 28-1105.01, or 28-1107~~ has not expired.

25 (12) ~~(9)~~ Subdivision (2)(a) ~~(1)(a)~~ of this section does not apply if
26 the owner or possessor of the property is unknown or incapable of being
27 determined for some legitimate reason or fails to appear in court as
28 ordered after prosecution for a covered offense violation of the Child
29 Pornography Prevention Act, ~~subsection (1) of section 28-416, or section~~
30 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107~~ is
31 commenced and is not apprehended within twelve months after the failure

1 to appear order was issued by the court.

2 ~~(13) (10)~~ If the owner or possessor of the property fails to appear
3 in court as ordered after prosecution for a covered offense ~~violation of~~
4 ~~the Child Pornography Prevention Act, subsection (1) of section 28-416,~~
5 ~~or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
6 ~~28-1107~~ is commenced but appears or is apprehended within twelve months
7 after the failure to appear order was issued by the court, the court may
8 order the owner or possessor of the property, as a part of any sentence
9 imposed for either the failure to appear or the conviction for a covered
10 offense ~~of the Child Pornography Prevention Act, subsection (1) of~~
11 ~~section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,~~
12 ~~28-1105.01, or 28-1107,~~ to pay a storage fee of one hundred dollars per
13 month for each month the property was held following the issuance of the
14 failure to appear order.

15 **Sec. 11.** Section 28-1602, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 28-1602 (1) The prosecuting authority must specifically plead its
18 intent to seek forfeiture of any property upon a conviction for a covered
19 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
20 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
21 ~~28-1105, 28-1105.01, or 28-1107~~ in the same criminal information charging
22 the underlying covered offense ~~violation of the Child Pornography~~
23 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
24 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

25 (2) In pleading its intent to seek forfeiture, the information shall
26 specifically (a) state the date the property was seized, (b) state the
27 place the property was seized from, (c) describe the property sought to
28 be forfeited, and (d) if known, state the name of the owner of the
29 property, the name of the person or persons in possession of the property
30 or in physical proximity to the property when it was seized, and the name
31 of any other person or entity that may have a claim or interest in the

1 property.

2 **Sec. 12.** (1) For purposes of this section:

3 (a) Financial transaction offense has the same meaning as in section
4 28-1601; and

5 (b) Victim includes both individuals and persons, including, but not
6 limited to, financial institutions.

7 (2) The Financial Fraud Victims' Reimbursement Fund is created. The
8 fund shall be administered by the Attorney General. The fund shall
9 consist of assets forfeited from financial transaction offenses as
10 provided in subdivision (8)(b)(ii) of section 28-1601. Any money in the
11 fund available for investment shall be invested by the state investment
12 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
13 State Funds Investment Act.

14 (3) A victim who has suffered loss as a result of a financial
15 transaction offense may apply for reimbursement from the fund. An
16 application shall be submitted in a form and manner prescribed by the
17 Attorney General.

18 (4) The Attorney General shall determine whether an applicant has
19 suffered a qualifying loss and, if so, the extent of reimbursement that
20 shall be made. An applicant shall only be eligible to receive
21 reimbursement from the funds forfeited as a result of the financial
22 transaction offense of which the applicant was a victim. If there are
23 more applicants with qualified losses than there are funds available, the
24 Attorney General shall distribute the funds on a pro rata basis according
25 to the amount of the qualifying loss suffered.

26 (5) Funds relating to a financial transaction offense that are
27 transferred into the Financial Fraud Victims' Reimbursement Fund as
28 provided in subdivision (8)(b)(ii) of section 28-1601 shall remain in the
29 Financial Fraud Victims' Reimbursement Fund until the later of:

30 (a) Thirty-six months following the date of such transfer; or

31 (b) Resolution of any applications filed during such thirty-six

1 month period.

2 (6) Upon the expiration of the period described in subsection (5) of
3 this section, such funds shall be remitted to the State Treasurer for
4 distribution in accordance with Article VII, section 5, of the
5 Constitution of Nebraska.

6 **Sec. 13.** Original sections 28-618, 28-1601, and 28-1602, Reissue
7 Revised Statutes of Nebraska, and section 28-101, Revised Statutes
8 Cumulative Supplement, 2024, are repealed.