

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 991

Introduced by Halloran, 33; Briese, 41; Murman, 38.

Read first time January 14, 2020

Committee:

1 A BILL FOR AN ACT relating to sex offenses; to amend sections 28-311,
2 28-319.01, 28-320.02, 28-833, 28-1463.04, 29-2028, and 81-1850,
3 Reissue Revised Statutes of Nebraska, sections 42-1203 and
4 83-174.02, Revised Statutes Cumulative Supplement, 2018, and
5 sections 27-404, 27-412, 27-413, 28-101, 28-311.11, 28-318,
6 28-813.01, 28-1463.05, 29-110, 29-119, 29-4003, and 83-4,143,
7 Revised Statutes Supplement, 2019; to change provisions relating to
8 sexual assault under the Nebraska Evidence Rules, enhanced penalties
9 for certain sexual offenses, and sexual assault protection orders;
10 to create the offense of child enticement by a school official by
11 means of an electronic communication device; to create the offense
12 of sexual assault of a student; to define and redefine terms; to
13 prohibit enticement by electronic communication device by a school
14 official as prescribed; to provide a statute of limitations for
15 sexual assault of a student; to change provisions relating to
16 corroboration of victim testimony in sexual offenses; to add
17 registrable offenses under the Sex Offender Registration Act; to
18 change provisions relating to the Address Confidentiality Act,
19 victim notifications, evaluation of dangerous sex offenders, and
20 eligibility for participation in an incarceration work camp; to
21 change and provide penalties; to harmonize provisions; and to repeal
22 the original sections.
23 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 27-404, Revised Statutes Supplement, 2019, is
2 amended to read:

3 27-404 (1) Evidence of a person's character or a trait of his or her
4 character is not admissible for the purpose of proving that he or she
5 acted in conformity therewith on a particular occasion, except:

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

8 (b) Evidence of a pertinent trait of character of the victim of the
9 crime offered by an accused or by the prosecution to rebut the same, or
10 evidence of a character trait of peacefulness of the victim offered by
11 the prosecution in a homicide case to rebut evidence that the victim was
12 the first aggressor. In a sexual assault case, reputation, opinion, or
13 other evidence of past sexual behavior of the victim is governed by
14 section 27-412; or

15 (c) Evidence of the character of a witness as provided in sections
16 27-607 to 27-609.

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

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

28 (4) Regarding the admissibility in a civil or criminal action of
29 evidence of a person's commission of another offense or offenses of
30 sexual assault under sections 28-319 to 28-322.05 and section 10 of this
31 act, see sections 27-413 to 27-415.

1 Sec. 2. Section 27-412, Revised Statutes Supplement, 2019, is
2 amended to read:

3 27-412 (1) The following evidence is not admissible in any civil or
4 criminal proceeding involving alleged sexual misconduct except as
5 provided in subsections (2) and (3) of this section:

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

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

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

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

14 (ii) Evidence of specific instances of sexual behavior of the victim
15 with respect to the accused offered by the accused to prove consent of
16 the victim if it is first established to the court that such behavior is
17 similar to the behavior involved in the case and tends to establish a
18 pattern of behavior of the victim relevant to the issue of consent; and

19 (iii) Evidence, the exclusion of which would violate the
20 constitutional rights of the accused.

21 (b) In a civil case, evidence offered to prove the sexual behavior
22 or sexual predisposition of any victim is admissible if it is otherwise
23 admissible under the Nebraska Evidence Rules and its probative value
24 substantially outweighs the danger of harm to any victim and of unfair
25 prejudice to any party. Evidence of a victim's reputation is admissible
26 only if it has been placed in controversy by the victim.

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

29 (i) File a written motion at least fifteen days before trial
30 specifically describing the evidence and stating the purpose for which it
31 is offered unless the court, for good cause, requires a different time

1 for filing or permits filing during trial; and

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

4 (b) Before admitting evidence under this section, the court shall
5 conduct a hearing in camera outside the presence of any jury.

6 (4) Evidence of the victim's consent is not admissible in any civil
7 proceeding involving alleged:

8 (a) Sexual penetration when the actor is nineteen years of age or
9 older and the victim is less than sixteen years of age; ~~or~~

10 (b) Sexual contact when the actor is nineteen years of age or older
11 and the victim is less than fifteen years of age; or -

12 (c) Sexual penetration or sexual contact when the actor is a school
13 official who is at least nineteen years of age and the victim is a school
14 student at least sixteen years of age and less than nineteen years of
15 age. For purposes of this subdivision, the terms school and school
16 official have the same meanings as in section 10 of this act.

17 Sec. 3. Section 27-413, Revised Statutes Supplement, 2019, is
18 amended to read:

19 27-413 For purposes of sections 27-414 and 27-415, offense of sexual
20 assault means any violation of sections 28-319 to 28-322.05 or section 10
21 of this act ~~sexual assault under section 28-319 or 28-320, sexual assault~~
22 ~~of a child under section 28-319.01 or 28-320.01, sexual assault by use of~~
23 ~~an electronic communication device under section 28-320.02, sexual abuse~~
24 ~~of an inmate or parolee under sections 28-322.01 to 28-322.03, sexual~~
25 ~~abuse of a protected individual under section 28-322.04, sexual abuse of~~
26 ~~a detainee under section 28-322.05, an attempt or conspiracy to commit~~
27 ~~any such crime of the crimes listed in this section, or the commission of~~
28 ~~or conviction for a crime in another jurisdiction that is substantially~~
29 ~~similar to any such crime listed in this section.~~

30 Sec. 4. Section 28-101, Revised Statutes Supplement, 2019, is
31 amended to read:

1 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
2 10 of this act shall be known and may be cited as the Nebraska Criminal
3 Code.

4 Sec. 5. Section 28-311, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 28-311 (1)(a) No person, by any means and without privilege to do
7 so, shall knowingly solicit, coax, entice, or lure or attempt to solicit,
8 coax, entice, or lure any child under the age of fourteen years to enter
9 into any vehicle, whether or not the person knows the age of the child.

10 (b) No person, by any means and without privilege to do so, shall
11 solicit, coax, entice, or lure or attempt to solicit, coax, entice, or
12 lure any child under the age of fourteen years to enter into any place
13 with the intent to seclude the child from his or her parent, guardian, or
14 other legal custodian or the general public, whether or not the person
15 knows the age of the child. For purposes of this subdivision, seclude
16 means to take, remove, hide, secrete, conceal, isolate, or otherwise
17 unlawfully separate.

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

20 (a) The person had the express or implied permission of the parent,
21 guardian, or other legal custodian of the child in undertaking the
22 activity;

23 (b)(i) The person is a law enforcement officer, emergency services
24 provider as defined in section 71-507, firefighter, or other person who
25 regularly provides emergency services, is the operator of a bookmobile or
26 other such vehicle operated by the state or a political subdivision and
27 used for informing, educating, organizing, or transporting children, is a
28 paid employee of, or a volunteer for, a nonprofit or religious
29 organization which provides activities for children, or is an employee or
30 agent of or a volunteer acting under the direction of any board of
31 education and (ii) the person listed in subdivision (2)(b)(i) of this

1 section was, at the time the person undertook the activity, acting within
2 the scope of his or her lawful duties in that capacity; or

3 (c) The person undertook the activity in response to a bona fide
4 emergency situation or the person undertook the activity in response to a
5 reasonable belief that it was necessary to preserve the health, safety,
6 or welfare of the child.

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

21 Sec. 6. Section 28-311.11, Revised Statutes Supplement, 2019, is
22 amended to read:

23 28-311.11 (1) Any victim of a sexual assault offense may file a
24 petition and affidavit for a sexual assault protection order as provided
25 in subsection (3) of this section. Upon the filing of such a petition and
26 affidavit in support thereof, the court may issue a sexual assault
27 protection order without bond enjoining the respondent from (a) imposing
28 any restraint upon the person or liberty of the petitioner, (b)
29 harassing, threatening, assaulting, molesting, attacking, or otherwise
30 disturbing the peace of the petitioner, or (c) telephoning, contacting,
31 or otherwise communicating with the petitioner. The sexual assault

1 protection order shall specify to whom relief under this section was
2 granted.

3 (2) The petition for a sexual assault protection order shall state
4 the events and dates or approximate dates of acts constituting the sexual
5 assault offense, including the most recent and most severe incident or
6 incidents.

7 (3) A petition for a sexual assault protection order shall be filed
8 with the clerk of the district court and the proceeding may be heard by
9 the county court or the district court as provided in section 25-2740.

10 (4) A petition for a sexual assault protection order may not be
11 withdrawn except upon order of the court. A sexual assault protection
12 order shall specify that it is effective for a period of one year unless
13 renewed pursuant to subsection (12) of this section or otherwise
14 dismissed or modified by the court. Any person, except the petitioner,
15 who knowingly violates a sexual assault protection order after service or
16 notice as described in subdivision (9)(b) of this section shall be guilty
17 of a Class I misdemeanor, except that any person convicted of violating
18 such order who has a prior conviction for violating a sexual assault
19 protection order shall be guilty of a Class IV felony.

20 (5)(a) Fees to cover costs associated with the filing of a petition
21 for issuance or renewal of a sexual assault protection order or the
22 issuance or service of a sexual assault protection order seeking only the
23 relief provided by this section shall not be charged, except that a court
24 may assess such fees and costs if the court finds, by clear and
25 convincing evidence, that the statements contained in the petition were
26 false and that the sexual assault protection order was sought in bad
27 faith.

28 (b) A court may also assess costs associated with the filing of a
29 petition for issuance or renewal of a sexual assault protection order or
30 the issuance or service of a sexual assault protection order seeking only
31 the relief provided by this section against the respondent.

1 (6) The clerk of the district court shall make available standard
2 application and affidavit forms for issuance and renewal of a sexual
3 assault protection order with instructions for completion to be used by a
4 petitioner. Affidavit forms shall request all relevant information,
5 including, but not limited to: A description of the most recent incident
6 that was the basis for the application for a sexual assault protection
7 order and the date or approximate date of the incident and, if there was
8 more than one incident, the most severe incident and the date or
9 approximate date of such incident. The clerk and his or her employees
10 shall not provide assistance in completing the forms. The State Court
11 Administrator shall adopt and promulgate the standard application and
12 affidavit forms provided for in this section as well as the standard
13 temporary ex parte and final sexual assault protection order forms and
14 provide a copy of such forms to all clerks of the district courts in this
15 state. Such standard temporary ex parte and final sexual assault
16 protection order forms shall be the only forms used in this state.

17 (7) A sexual assault protection order may be issued or renewed ex
18 parte without notice to the respondent if it reasonably appears from the
19 specific facts shown by affidavit of the petitioner that irreparable
20 harm, loss, or damage will result before the matter can be heard on
21 notice. If a sexual assault protection order is not issued ex parte, the
22 court shall immediately schedule an evidentiary hearing to be held within
23 fourteen days after the filing of the petition, and the court shall cause
24 notice of the application to be given to the respondent stating that he
25 or she may show cause why such order should not be entered. Any notice
26 provided to the respondent shall include notification that a court may
27 treat a petition for a sexual assault protection order as a petition for
28 a harassment protection order or a domestic abuse protection order if it
29 appears from the facts that such other protection order is more
30 appropriate and that the respondent shall have an opportunity to show
31 cause as to why such protection order should not be entered. If such ex

1 parte order is issued or renewed without notice to the respondent, the
2 court shall forthwith cause notice of the petition and order and a form
3 with which to request a show-cause hearing to be given the respondent
4 stating that, upon service on the respondent, the order shall remain in
5 effect for a period of one year unless the respondent shows cause why the
6 order should not remain in effect for a period of one year. If the
7 respondent wishes to appear and show cause why the order should not
8 remain in effect for a period of one year, he or she shall affix his or
9 her current address, telephone number, and signature to the form and
10 return it to the clerk of the district court within ten business days
11 after service upon him or her. Upon receipt of a timely request for a
12 show-cause hearing, the court shall immediately schedule a show-cause
13 hearing to be held within thirty days after the receipt of the request
14 for a show-cause hearing and shall notify the petitioner and respondent
15 of the hearing date. The petition and affidavit shall be deemed to have
16 been offered into evidence at any show-cause hearing. The petition and
17 affidavit shall be admitted into evidence unless specifically excluded by
18 the court.

19 (8) A court may treat a petition for a sexual assault protection
20 order as a petition for a harassment protection order or a domestic abuse
21 protection order if it appears from the facts in the petition, affidavit,
22 and evidence presented at a show-cause hearing that such other protection
23 order is more appropriate and if:

24 (a) The court makes specific findings that such other order is more
25 appropriate; or

26 (b) The petitioner has requested the court to so treat the petition.

27 (9)(a) Upon the issuance or renewal of any temporary ex parte or
28 final sexual assault protection order, the clerk of the court shall
29 forthwith provide the petitioner, without charge, with two certified
30 copies of such order. The clerk of the court shall also forthwith provide
31 the local police department or local law enforcement agency and the local

1 sheriff's office, without charge, with one copy each of such order and
2 one copy each of the sheriff's return thereon. The clerk of the court
3 shall also forthwith provide a copy of the sexual assault protection
4 order to the sheriff's office in the county where the respondent may be
5 personally served together with instructions for service. Upon receipt of
6 the order and instructions for service, such sheriff's office shall
7 forthwith serve the sexual assault protection order upon the respondent
8 and file its return thereon with the clerk of the court which issued the
9 sexual assault protection order within fourteen days of the issuance of
10 the initial or renewed sexual assault protection order. If any sexual
11 assault protection order is dismissed or modified by the court, the clerk
12 of the court shall forthwith provide the local police department or local
13 law enforcement agency and the local sheriff's office, without charge,
14 with one copy each of the order of dismissal or modification.

15 (b) If the respondent is present at a hearing convened pursuant to
16 this section and the sexual assault protection order is not dismissed,
17 such respondent shall be deemed to have notice by the court at such
18 hearing that the protection order will be granted and remain in effect
19 and further service of such notice described in this subsection shall not
20 be required for purposes of prosecution under this section.

21 (c) A temporary ex parte sexual assault protection order shall be
22 affirmed and deemed the final protection order and service of the
23 temporary ex parte order shall be notice of the final protection order if
24 the respondent has been properly served with the ex parte order and:

25 (i) The respondent fails to request a show-cause hearing within ten
26 business days after service upon him or her and no hearing was requested
27 by the petitioner or upon the court's own motion;

28 (ii) The respondent has been properly served with notice of any
29 hearing requested by the respondent or petitioner or upon the court's own
30 motion and the respondent fails to appear at such hearing; or

31 (iii) The respondent has been properly served with notice of any

1 hearing requested by the respondent, the petitioner, or upon the court's
2 own motion and the protection order was not dismissed at the hearing.

3 (10) A peace officer shall, with or without a warrant, arrest a
4 person if (a) the officer has probable cause to believe that the person
5 has committed a violation of a sexual assault protection order issued
6 pursuant to this section or a violation of a valid foreign sexual assault
7 protection order recognized pursuant to section 28-311.12 and (b) a
8 petitioner under this section provides the peace officer with a copy of
9 such order or the peace officer determines that such an order exists
10 after communicating with the local law enforcement agency.

11 (11) A peace officer making an arrest pursuant to subsection (10) of
12 this section shall take such person into custody and take such person
13 before the county court or the court which issued the sexual assault
14 protection order within a reasonable time. At such time the court shall
15 establish the conditions of such person's release from custody, including
16 the determination of bond or recognizance, as the case may be. The court
17 shall issue an order directing that such person shall have no contact
18 with the alleged victim of the sexual assault offense.

19 (12)(a) An order issued under subsection (1) of this section may be
20 renewed annually. To request renewal of the order, the petitioner shall
21 file a petition for renewal and affidavit in support thereof at any time
22 within forty-five days prior to the date the order is set to expire,
23 including the date the order expires.

24 (b) A sexual assault protection order may be renewed on the basis of
25 the petitioner's affidavit stating that there has been no material change
26 in relevant circumstances since entry of the order and stating the reason
27 for the requested renewal if:

28 (i) The petitioner seeks no modification of the order; and

29 (ii)(A) The respondent has been properly served with notice of the
30 petition for renewal and notice of hearing and fails to appear at the
31 hearing; or

1 (B) The respondent indicates that he or she does not contest the
2 renewal.

3 (c) The petition for renewal shall state the reasons a renewal is
4 sought and shall be filed with the clerk of the district court, and the
5 proceeding thereon may be heard by the county court or the district court
6 as provided in section 25-2740. A petition for renewal will otherwise be
7 governed in accordance with the procedures set forth in subsections (4)
8 through (11) of this section. The renewed order shall specify that it is
9 effective for one year commencing on the first calendar day after
10 expiration of the previous order or on the calendar day the court grants
11 the renewal if such day is subsequent to the first calendar day after
12 expiration of the previous order.

13 (13) When provided by the petitioner, the court shall make
14 confidential numeric victim identification information, including social
15 security numbers and dates of birth, available to appropriate criminal
16 justice agencies engaged in protection order enforcement efforts. Such
17 agencies shall maintain the confidentiality of this information, except
18 for entry into state and federal data bases for protection order
19 enforcement.

20 (14) For purposes of this section, sexual assault offense means:

21 (a) Conduct amounting to sexual assault under section 28-319 or
22 28-320, ~~or~~ sexual assault of a child under section 28-319.01 or
23 28-320.01, sexual assault of a student under section 10 of this act, or
24 an attempt to commit any of such offenses; or

25 (b) Subjecting or attempting to subject another person to sexual
26 contact or sexual penetration without his or her consent, as such terms
27 are defined in section 28-318.

28 Sec. 7. Section 28-318, Revised Statutes Supplement, 2019, is
29 amended to read:

30 28-318 As used in sections 28-317 to 28-322.05 and section 10 of
31 this act, unless the context otherwise requires:

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

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

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

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

9 (5) Sexual contact means the intentional touching of the victim's
10 sexual or intimate parts or the intentional touching of the victim's
11 clothing covering the immediate area of the victim's sexual or intimate
12 parts. Sexual contact also means the touching by the victim of the
13 actor's sexual or intimate parts or the clothing covering the immediate
14 area of the actor's sexual or intimate parts when such touching is
15 intentionally caused by the actor. Sexual contact includes only such
16 conduct which can be reasonably construed as being for the purpose of
17 sexual arousal or gratification of either party. Sexual contact also
18 includes the touching of a child with the actor's sexual or intimate
19 parts 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 ordinary
22 meaning, cunnilingus, fellatio, anal intercourse, or any intrusion,
23 however slight, of any part of the actor's or victim's body or any object
24 manipulated by the actor into the genital or anal openings of the
25 victim's body which can be reasonably construed as being for nonmedical,
26 nonhealth, or nonlaw enforcement purposes. Sexual penetration shall not
27 require emission of semen;

28 (7) Victim means the person alleging to have been sexually
29 assaulted;

30 (8) Without consent means:

31 (a)(i) The victim was compelled to submit due to the use of force or

1 threat of force or coercion, or (ii) the victim expressed a lack of
2 consent through words, or (iii) the victim expressed a lack of consent
3 through conduct, or (iv) the consent, if any was actually given, was the
4 result of the actor's deception as to the identity of the actor or the
5 nature or purpose of the act on the part of the actor;

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

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

11 (9) Force or threat of force means (a) the use of physical force
12 which overcomes the victim's resistance or (b) the threat of physical
13 force, express or implied, against the victim or a third person that
14 places the victim in fear of death or in fear of serious personal injury
15 to the victim or a third person where the victim reasonably believes that
16 the actor has the present or future ability to execute the threat.

17 Sec. 8. Section 28-319.01, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 28-319.01 (1) A person commits sexual assault of a child in the
20 first degree:

21 (a) When he or she subjects another person under twelve years of age
22 to sexual penetration and the actor is at least nineteen years of age or
23 older; or

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

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

30 (3) Any person who is found guilty of sexual assault of a child in
31 the first degree under this section and who has previously been convicted

1 (a) under this section, (b) under section 28-319 of first degree or
2 attempted first degree sexual assault, (c) under section 28-320.01 before
3 July 14, 2006, of sexual assault of a child or attempted sexual assault
4 of a child, (d) under section 28-320.01 on or after July 14, 2006, of
5 sexual assault of a child in the second or third degree or attempted
6 sexual assault of a child in the second or third degree, (e) under
7 section 10 of this act of sexual assault of a student in the first or
8 second degree, or (f) (e) in any other state or federal court under laws
9 with essentially the same elements as this section, section 28-319, or
10 section 28-320.01 as it existed before, on, or after July 14, 2006, shall
11 be guilty of a Class IB felony with a mandatory minimum sentence of
12 twenty-five years in prison.

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

16 Sec. 9. Section 28-320.02, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 28-320.02 (1)(a) (1) No person shall knowingly solicit, coax,
19 entice, or lure (i) (a) a child sixteen years of age or younger or (ii)
20 (b) a peace officer who is believed by such person to be a child sixteen
21 years of age or younger, by means of an electronic communication device
22 ~~as that term is defined in section 28-833~~, to engage in an act which
23 would be in violation of section 28-319, 28-319.01, or 28-320.01 or which
24 would be second degree sexual assault under subsection (1) or (2) of
25 section 28-320.

26 (b) A person shall not be convicted of both a violation of this
27 subsection and a violation of section 28-319, 28-319.01, or 28-320.01 or
28 of second degree sexual assault under subsection (1) or (2) of section
29 28-320 if the violations arise out of the same set of facts or pattern of
30 conduct and the individual solicited, coaxed, enticed, or lured under
31 this subsection is also the victim of the sexual assault under such other

1 ~~section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of~~
2 ~~section 28-320.~~

3 (c) (2) A person who violates this subsection section is guilty of a
4 Class ID felony. If a person who violates this section has previously
5 been convicted of a violation of this section or section 28-308, 28-309,
6 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01,
7 28-813.01, 28-833, 28-1463.03, or 28-1463.05 or section 10 of this act or
8 of second degree sexual assault under or subsection (1) or (2) of section
9 28-320, the person is guilty of a Class IC felony.

10 (2)(a) No school official shall knowingly solicit, coax, entice, or
11 lure (i) a school student at least sixteen years of age and less than
12 nineteen years of age or (ii) a peace officer who is believed by such
13 school official to be a school student at least sixteen years of age and
14 less than nineteen years of age, by means of an electronic communication
15 device, to engage in an act which would be in violation of section 10 of
16 this act.

17 (b) A person shall not be convicted of both a violation of this
18 subsection and a violation of section 10 of this act if the violations
19 arise out of the same set of facts or pattern of conduct and the
20 individual solicited, coaxed, enticed, or lured under this subsection is
21 also the victim of the sexual assault of a student under section 10 of
22 this act.

23 (c) A person who violates this subsection is guilty of a Class II
24 felony. If a person who violates this section has previously been
25 convicted of a violation of this section or section 28-308, 28-309,
26 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01,
27 28-813.01, 28-833, 28-1463.03, or 28-1463.05 or section 10 of this act or
28 of second degree sexual assault under section 28-320, the person is
29 guilty of a Class ID felony.

30 (3) For purposes of this section:

31 (a) The terms school and school official have the same meanings as

1 in section 10 of this act; and

2 (b) Electronic communication device has the same meaning as in
3 section 28-833.

4 Sec. 10. (1) A school official commits the offense of sexual
5 assault of a student in the first degree if the school official engages
6 in sexual penetration with a school student who is at least sixteen years
7 of age and less than nineteen years of age and such school official is
8 nineteen years of age or older. Sexual assault of a student in the first
9 degree is a Class IC felony.

10 (2) A school official commits the offense of sexual assault of a
11 student in the second degree if the school official engages in sexual
12 contact with a school student who is at least sixteen years of age and
13 less than nineteen years of age and such school official is nineteen
14 years of age or older. Sexual assault of a student in the second degree
15 is a Class ID felony.

16 (3) It is not a defense to a charge under this section that the
17 school student consented to the sexual penetration or sexual contact.

18 (4) For purposes of this section:

19 (a) School means an elementary or secondary school and includes a
20 public, private, denominational, or parochial school which meets the
21 requirements for legal operation prescribed in Chapter 79, or a school
22 which elects pursuant to section 79-1601 not to meet accreditation or
23 approval requirements; and

24 (b)(i) School official means a teacher, a school official or
25 administrator, or a coach and includes volunteers acting as teachers or
26 coaches or assistants to teachers or coaches.

27 (ii) School official does not include a school student assisting a
28 school official.

29 Sec. 11. Section 28-813.01, Revised Statutes Supplement, 2019, is
30 amended to read:

31 28-813.01 (1) It shall be unlawful for a person nineteen years of

1 age or older to knowingly possess any visual depiction of sexually
2 explicit conduct which has a child as one of its participants or
3 portrayed observers. Violation of this subsection is a Class IIA felony.

4 (2) It shall be unlawful for a person under nineteen years of age to
5 knowingly and intentionally possess any visual depiction of sexually
6 explicit conduct which has a child other than the defendant as one of its
7 participants or portrayed observers. Violation of this subsection is a
8 Class I misdemeanor. A second or subsequent conviction under this
9 subsection is a Class IV felony.

10 (3) It shall be an affirmative defense to a charge made pursuant to
11 subsection (2) of this section that:

12 (a)(i) The defendant was less than nineteen years of age; (ii) the
13 visual depiction of sexually explicit conduct portrays a child who is
14 fifteen years of age or older; (iii) the visual depiction was knowingly
15 and voluntarily generated by the child depicted therein; (iv) the visual
16 depiction was knowingly and voluntarily provided by the child depicted in
17 the visual depiction; (v) the visual depiction contains only one child;
18 (vi) the defendant has not provided or made available the visual
19 depiction to another person except the child depicted who originally sent
20 the visual depiction to the defendant; and (vii) the defendant did not
21 coerce the child in the visual depiction to either create or send the
22 visual depiction; or

23 (b)(i) The defendant was less than eighteen years of age; (ii) the
24 difference in age between the defendant and the child portrayed is less
25 than four years; (iii) the visual depiction was knowingly and voluntarily
26 generated by the child depicted therein; (iv) the visual depiction was
27 knowingly and voluntarily provided by the child depicted in the visual
28 depiction; (v) the visual depiction contains only one child; (vi) the
29 defendant has not provided or made available the visual depiction to
30 another person except the child depicted who originally sent the visual
31 depiction to the defendant; and (vii) the defendant did not coerce the

1 child in the visual depiction to either create or send the visual
2 depiction.

3 (4) Any person who violates subsection (1) or (2) of this section
4 and has previously been convicted of a violation of this section or
5 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319,
6 28-319.01, 28-320.01, 28-833, 28-1463.03, or 28-1463.05 or section 10 of
7 this act or second degree sexual assault under subsection (1) or (2) of
8 section 28-320 shall be guilty of a Class IC felony for each offense.

9 (5) In addition to the penalties provided in this section, a
10 sentencing court may order that any money, securities, negotiable
11 instruments, firearms, conveyances, or electronic communication devices
12 as defined in section 28-833 or any equipment, components, peripherals,
13 software, hardware, or accessories related to electronic communication
14 devices be forfeited as a part of the sentence imposed if it finds by
15 clear and convincing evidence adduced at a separate hearing in the same
16 prosecution, conducted pursuant to section 28-1601, that any or all such
17 property was derived from, used, or intended to be used to facilitate a
18 violation of this section.

19 (6) The definitions in section 28-1463.02 shall apply to this
20 section.

21 Sec. 12. Section 28-833, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-833 (1) A person who commits the offense of enticement by
24 electronic communication device if he or she is nineteen years of age or
25 older shall not over and knowingly and intentionally utilize utilizes an
26 electronic communication device to contact a child under sixteen years of
27 age or a peace officer who is believed by such person to be a child under
28 sixteen years of age and in so doing engage in conduct described in
29 subsection (3) of this section. ÷

30 (2) A school official who is nineteen years of age or older shall
31 not knowingly and intentionally utilize an electronic communication

1 device to contact a school student who is at least sixteen years of age
2 and less than nineteen years of age or a peace officer who is believed by
3 such person to be such a school student of such age and in so doing
4 engage in conduct described in subsection (3) of this section.

5 (3) This section applies to a person who, in using an electronic
6 communication device as described in subsection (1) or (2) of this
7 section:

8 (a) Uses or transmits any indecent, lewd, lascivious, or obscene
9 language, writing, or sound;

10 (b) Transmits or otherwise disseminates any visual depiction of
11 sexually explicit conduct as defined in section 28-1463.02; or

12 (c) Offers or solicits any indecent, lewd, or lascivious act.

13 ~~(4) A violation of this section (2) Enticement by electronic~~
14 ~~communication device~~ is a Class IV felony.

15 ~~(5) A violation of this section (3) Enticement by electronic~~
16 ~~communication device~~ is deemed to have been committed either at the place
17 where the communication was initiated or where it was received.

18 ~~(6) (4) For purposes of this section:~~

19 ~~(a) Electronic ,—electronic~~ communication device means any device
20 which, in its ordinary and intended use, transmits by electronic means
21 writings, sounds, visual images, or data of any nature to another
22 electronic communication device; ~~—~~

23 ~~(b) School~~ has the same meaning as in section 10 of this act; and

24 ~~(c) School official~~ has the same meaning as in section 10 of this
25 act.

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

28 28-1463.04 (1) Any person who is under nineteen years of age at the
29 time he or she violates section 28-1463.03 shall be guilty of a Class III
30 felony for each offense.

31 (2) Any person who is nineteen years of age or older at the time he

1 or she violates section 28-1463.03 shall be guilty of a Class ID felony
2 for each offense.

3 (3) Any person who violates section 28-1463.03 and has previously
4 been convicted of a violation of section 28-1463.03 or section 28-308,
5 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01,
6 28-320.01, 28-813, 28-833, or 28-1463.05 or section 10 of this act or
7 second degree sexual assault under subsection (1) or (2) of section
8 28-320 shall be guilty of a Class IC felony for each offense.

9 Sec. 14. Section 28-1463.05, Revised Statutes Supplement, 2019, is
10 amended to read:

11 28-1463.05 (1) It shall be unlawful for a person to knowingly
12 possess with intent to rent, sell, deliver, distribute, trade, or provide
13 to any person any visual depiction of sexually explicit conduct which has
14 a child other than the defendant as one of its participants or portrayed
15 observers.

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

19 (b) Any person who is nineteen years of age or older at the time he
20 or she violates this section shall be guilty of a Class IIA felony for
21 each offense.

22 (c) Any person who violates this section and has previously been
23 convicted of a violation of this section or section 28-308, 28-309,
24 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01,
25 28-813, 28-833, or 28-1463.03 or section 10 of this act or second degree
26 sexual assault under subsection (1) or (2) of section 28-320 shall be
27 guilty of a Class IC felony for each offense.

28 Sec. 15. Section 29-110, Revised Statutes Supplement, 2019, is
29 amended to read:

30 29-110 (1) Except as otherwise provided by law, no person shall be
31 prosecuted for any felony unless the indictment is found by a grand jury

1 within three years next after the offense has been done or committed or
2 unless a complaint for the same is filed before the magistrate within
3 three years next after the offense has been done or committed and a
4 warrant for the arrest of the defendant has been issued.

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

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

27 (4) Except as otherwise provided by law, no person shall be
28 prosecuted for a violation of subsection (2) or (3) of section 28-831 (a)
29 unless the indictment for such offense is found by a grand jury within
30 seven years next after the offense has been committed or within seven
31 years next after the victim's eighteenth birthday, whichever is later, or

1 (b) unless a complaint for such offense is filed before the magistrate
2 within seven years next after the offense has been committed or within
3 seven years next after the victim's eighteenth birthday, whichever is
4 later, and a warrant for the arrest of the defendant has been issued.

5 (5) Except as otherwise provided by law, no person shall be
6 prosecuted for an offense under section 28-813.01 or 28-1463.05 or
7 section 10 of this act (a) unless the indictment for such offense is
8 found by a grand jury within seven years next after the offense has been
9 committed or within seven years next after the victim's eighteenth
10 birthday, whichever is later, or (b) unless a complaint for such offense
11 is filed before the magistrate within seven years next after the offense
12 has been committed or within seven years next after the victim's
13 eighteenth birthday, whichever is later, and a warrant for the arrest of
14 the defendant has been issued.

15 (6) No person shall be prosecuted for a violation of the Securities
16 Act of Nebraska under section 8-1117 unless the indictment for such
17 offense is found by a grand jury within five years next after the offense
18 has been done or committed or unless a complaint for such offense is
19 filed before the magistrate within five years next after the offense has
20 been done or committed and a warrant for the arrest of the defendant has
21 been issued.

22 (7) No person shall be prosecuted for criminal impersonation under
23 section 28-638, identity theft under section 28-639, or identity fraud
24 under section 28-640 unless the indictment for such offense is found by a
25 grand jury within five years next after the offense has been done or
26 committed or unless a complaint for such offense is filed before the
27 magistrate within five years next after the offense has been done or
28 committed and a warrant for the arrest of the defendant has been issued.

29 (8) No person shall be prosecuted for a violation of section 68-1017
30 if the aggregate value of all funds and other benefits obtained or
31 attempted to be obtained is five hundred dollars or more unless the

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

6 (9) No person shall be prosecuted for knowing and intentional abuse,
7 neglect, or exploitation of a vulnerable adult or senior adult under
8 section 28-386 unless the indictment for such offense is found by a grand
9 jury within six years next after the offense has been done or committed
10 or unless a complaint for such offense is filed before the magistrate
11 within six years next after the offense has been done or committed and a
12 warrant for the arrest of the defendant has been issued.

13 (10) There shall not be any time limitations for prosecution or
14 punishment for treason, murder, arson, forgery, sexual assault in the
15 first or second degree under section 28-319 or 28-320, sexual assault of
16 a child in the second or third degree under section 28-320.01, incest
17 under section 28-703, sexual assault of a child in the first degree under
18 section 28-319.01, labor trafficking of a minor or sex trafficking of a
19 minor under subsection (1) of section 28-831, or an offense under section
20 28-1463.03; nor shall there be any time limitations for prosecution or
21 punishment for sexual assault in the third degree under section 28-320
22 when the victim is under sixteen years of age at the time of the offense.

23 (11) The time limitations prescribed in this section shall include
24 all inchoate offenses pursuant to the Nebraska Criminal Code and
25 compounding a felony pursuant to section 28-301.

26 (12) The time limitations prescribed in this section shall not
27 extend to any person fleeing from justice.

28 (13) When any suit, information, or indictment for any crime or
29 misdemeanor is limited by any statute to be brought or exhibited within
30 any other time than is limited by this section, then the suit,
31 information, or indictment shall be brought or exhibited within the time

1 limited by such statute.

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

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

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

15 (17) The changes made to this section by Laws 2009, LB 97, and Laws
16 2006, LB 1199, shall apply to offenses committed prior to May 21, 2009,
17 for which the statute of limitations has not expired as of such date and
18 to offenses committed on or after such date.

19 (18) The changes made to this section by Laws 2010, LB809, shall
20 apply to offenses committed prior to July 15, 2010, for which the statute
21 of limitations has not expired as of such date and to offenses committed
22 on or after such date.

23 (19) The changes made to this section by Laws 2016, LB934, shall
24 apply to offenses committed prior to April 19, 2016, for which the
25 statute of limitations has not expired as of such date and to offenses
26 committed on or after such date.

27 (20) The changes made to this section by Laws 2019, LB519, shall
28 apply to offenses committed prior to September 1, 2019, for which the
29 statute of limitations has not expired as of such date and to offenses
30 committed on or after such date.

31 Sec. 16. Section 29-119, Revised Statutes Supplement, 2019, is

1 amended to read:

2 29-119 For purposes of this section and sections 23-1201, 29-120,
3 and 29-2261, unless the context otherwise requires:

4 (1) A plea agreement means that as a result of a discussion between
5 the defense counsel and the prosecuting attorney:

6 (a) A charge is to be dismissed or reduced; or

7 (b) A defendant, if he or she pleads guilty to a charge, may receive
8 less than the maximum penalty permitted by law; and

9 (2)(a) Victim means a person who has had a personal confrontation
10 with an offender as a result of a homicide under sections 28-302 to
11 28-306, a first degree assault under section 28-308, a second degree
12 assault under section 28-309, a third degree assault under section 28-310
13 when the victim is an intimate partner as defined in section 28-323, a
14 first degree false imprisonment under section 28-314, a first degree
15 sexual assault under section 28-319, a sexual assault of a child in the
16 first degree under section 28-319.01, a second or third degree sexual
17 assault under section 28-320, a sexual assault of a child in the second
18 or third degree under section 28-320.01, sexual assault of a student in
19 the first or second degree under section 10 of this act, domestic assault
20 in the first, second, or third degree under section 28-323, or a robbery
21 under section 28-324. Victim also includes a person who has suffered
22 serious bodily injury as defined in section 28-109 as a result of a motor
23 vehicle accident when the driver was charged with a violation of section
24 60-6,196 or 60-6,197 or with a violation of a city or village ordinance
25 enacted in conformance with either section.

26 (b) In the case of a homicide, victim means the nearest surviving
27 relative under the law as provided by section 30-2303 but does not
28 include the alleged perpetrator of the homicide.

29 (c) In the case of a violation of section 28-813.01, 28-1463.03,
30 28-1463.04, or 28-1463.05, victim means a person who was a child as
31 defined in section 28-1463.02 and a participant or portrayed observer in

1 the visual depiction of sexually explicit conduct which is the subject of
2 the violation and who has been identified and can be reasonably notified.

3 (d) In the case of a sexual assault of a child, sexual assault of a
4 student, a possession offense of a visual depiction of sexually explicit
5 conduct, or a distribution offense of a visual depiction of sexually
6 explicit conduct, victim means the child victim and the parents,
7 guardians, or duly appointed legal representative of the child victim but
8 does not include the alleged perpetrator of the crime.

9 (e) Victim also includes a person who was the victim of a theft
10 under section 28-511, 28-512, 28-513, or 28-517 when (i) the value of the
11 thing involved is five thousand dollars or more and (ii) the victim and
12 perpetrator were intimate partners as defined in section 28-323.

13 Sec. 17. Section 29-2028, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 29-2028 The testimony of a person who is a victim of an offense
16 under a sexual assault as defined in sections 28-319 to 28-322.05 and
17 section 10 of this act 28-319 to 28-320.01 shall not require
18 corroboration.

19 Sec. 18. Section 29-4003, Revised Statutes Supplement, 2019, is
20 amended to read:

21 29-4003 (1)(a) The Sex Offender Registration Act applies to any
22 person who on or after January 1, 1997:

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

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

28 (B) False imprisonment of a minor pursuant to section 28-314 or
29 28-315;

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

31 (D) Sexual assault of a child in the second or third degree pursuant

1 to section 28-320.01;

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

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

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

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

8 (I) Visual depiction of sexually explicit conduct of a child
9 pursuant to section 28-1463.03 or subdivision (2)(b) or (c) of section
10 28-1463.05;

11 (J) Knowingly possessing any visual depiction of sexually explicit
12 conduct which has a child as one of its participants or portrayed
13 observers pursuant to subsection (1) or (4) of section 28-813.01;

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

15 (L) Child enticement by means of an electronic communication device
16 pursuant to subsection (1) of section 28-320.02;

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

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

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

29 (iii) Is incarcerated in a jail, a penal or correctional facility,
30 or any other public or private institution or is under probation or
31 parole as a result of pleading guilty to or being found guilty of a

1 registrable offense under subdivision (1)(a)(i) or (ii) of this section
2 prior to January 1, 1997; or

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

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

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

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

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

14 (III) Manslaughter pursuant to section 28-305;

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

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

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

18 (VII) Stalking pursuant to section 28-311.03;

19 (VIII) Violation of section 28-311.08 requiring registration under
20 the act pursuant to subsection (6) of section 28-311.08;

21 (IX) Kidnapping pursuant to section 28-313;

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

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

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

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

29 (XIV) Incest pursuant to section 28-703;

30 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section
31 28-707;

1 (XVI) Enticement by electronic communication device pursuant to
2 subsection (1) of section 28-833; or

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

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

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

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

24 (c) In addition to the registrable offenses under subdivisions (1)
25 (a) and (b) of this section, the Sex Offender Registration Act applies to
26 any person who on or after January 1, 2020:

27 (i) Has ever pled guilty to, pled nolo contendere to, or been found
28 guilty of sexual abuse of a detainee under section 28-322.05; or

29 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
30 guilty of any offense that is substantially equivalent to a registrable
31 offense under subdivision (1)(c)(i) of this section by any village, town,

1 city, state, territory, commonwealth, or other jurisdiction of the United
2 States, by the United States Government, by court-martial or other
3 military tribunal, or by a foreign jurisdiction, notwithstanding a
4 procedure comparable in effect to that described under section 29-2264 or
5 any other procedure to nullify a conviction other than by pardon.

6 (d) In addition to the registrable offenses under subdivisions (1)
7 (a), (b), and (c) of this section, the Sex Offender Registration Act
8 applies to any person who on or after October 1, 2020:

9 (i) Has ever pled guilty to, pled nolo contendere to, or been found
10 guilty of:

11 (A) Sexual assault of a student in the first or second degree under
12 section 10 of this act;

13 (B) Child enticement by a school official by means of an electronic
14 communication device under subsection (2) of section 28-320.02; or

15 (C) Enticement by electronic communication device by a school
16 official pursuant to subsection (2) of section 28-833; or

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

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

28 Sec. 19. Section 42-1203, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 42-1203 For purposes of the Address Confidentiality Act:

31 (1) Abuse means causing or attempting to cause physical harm,

1 placing another person in fear of physical harm, or causing another
2 person to engage involuntarily in sexual activity by force, threat of
3 force, or duress, when committed by (a) a person against his or her
4 spouse, (b) a person against his or her former spouse, (c) a person
5 residing with the victim if such person and the victim are or were in a
6 dating relationship, (d) a person who formerly resided with the victim if
7 such person and the victim are or were in a dating relationship, (e) a
8 person against a parent of his or her children, whether or not such
9 person and the victim have been married or resided together at any time,
10 (f) a person against a person with whom he or she is in a dating
11 relationship, (g) a person against a person with whom he or she formerly
12 was in a dating relationship, or (h) a person related to the victim by
13 consanguinity or affinity;

14 (2) Address means a residential street address, school address, or
15 work address of an individual as specified on the individual's
16 application to be a program participant;

17 (3) Dating relationship means an intimate or sexual relationship;

18 (4) Program participant means a person certified as a program
19 participant under section 42-1204;

20 (5) Sexual assault has the same meaning as in section 28-319,
21 28-319.01, 28-320, 28-320.01, or 28-386 or section 10 of this act;

22 (6) Stalking has the same meaning as in sections 28-311.02 to
23 28-311.05; and

24 (7) Trafficking victim has the same meaning as in section 28-830.

25 Sec. 20. Section 81-1850, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1850 (1) Upon request of the victim and at the time of conviction
28 of the offender, the county attorney of the jurisdiction in which a
29 person is convicted of a felony shall forward to the Board of Parole, the
30 Department of Correctional Services, the county corrections agency, or
31 the Department of Health and Human Services the name and address of any

1 victim, as defined in section 29-119, of the convicted person. The board,
2 the Department of Correctional Services, the county corrections agency,
3 or the Department of Health and Human Services shall include the name in
4 the file of the convicted person, but the name shall not be part of the
5 public record of any parole hearings of the convicted person. Any victim,
6 including a victim who has waived his or her right to notification at the
7 time of conviction, may request the notification prescribed in this
8 section, as applicable, by sending a written request to the board, the
9 Department of Correctional Services, the county corrections agency, or
10 the Department of Health and Human Services any time after the convicted
11 person is incarcerated and until the convicted person is no longer under
12 the jurisdiction of the board, the county corrections agency, or the
13 Department of Correctional Services or, if the person is under the
14 jurisdiction of the Department of Health and Human Services, within the
15 three-year period after the convicted person is no longer under the
16 jurisdiction of the board, the county corrections agency, or the
17 Department of Correctional Services.

18 (2) A victim whose name appears in the file of the convicted person
19 shall be notified by the Board of Parole:

20 (a) Within ninety days after conviction of an offender, of the
21 tentative date of release and the earliest parole eligibility date of
22 such offender;

23 (b) Of any parole hearings or proceedings;

24 (c) Of any decision of the Board of Parole;

25 (d) When a convicted person who is on parole is returned to custody
26 because of parole violations; and

27 (e) If the convicted person has been adjudged a mentally disordered
28 sex offender or is a convicted sex offender, when such person is released
29 from custody or treatment.

30 Such notification shall be given in person, by telecommunication, or
31 by mail.

1 (3) A victim whose name appears in the file of the convicted person
2 shall be notified by the Department of Correctional Services or a county
3 corrections agency:

4 (a) When a convicted person is granted a furlough or release from
5 incarceration for twenty-four hours or longer or any transfer of the
6 convicted person to community status;

7 (b) When a convicted person is released into community-based
8 programs, including educational release and work release programs. Such
9 notification shall occur at the beginning and termination of any such
10 program;

11 (c) When a convicted person escapes or does not return from a
12 granted furlough or release and again when the convicted person is
13 returned into custody;

14 (d) When a convicted person is discharged from custody upon
15 completion of his or her sentence. Such notice shall be given at least
16 thirty days before discharge, when practicable;

17 (e) Of the (i) department's calculation of the earliest parole
18 eligibility date of the prisoner with all potential good time or
19 disciplinary credits considered if the sentence exceeds ninety days or
20 (ii) county corrections agency's calculation of the earliest release date
21 of the prisoner. The victim may request one notice of the calculation
22 described in this subdivision. Such information shall be mailed not later
23 than thirty days after receipt of the request;

24 (f) Of any reduction in the prisoner's minimum sentence; and

25 (g) Of the victim's right to submit a statement as provided in
26 section 81-1848.

27 (4) A victim whose name appears in the file of a convicted person
28 shall be notified by the Department of Health and Human Services:

29 (a) When a person convicted of an offense listed in subsection (5)
30 of this section becomes the subject of a petition pursuant to the
31 Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act

1 prior to his or her discharge from custody upon the completion of his or
2 her sentence or within thirty days after such discharge. The county
3 attorney who filed the petition shall notify the Department of
4 Correctional Services of such petition. The Department of Correctional
5 Services shall forward the names and addresses of victims appearing in
6 the file of the convicted person to the Department of Health and Human
7 Services;

8 (b) When a person under a mental health board commitment pursuant to
9 subdivision (a) of this subsection escapes from an inpatient facility
10 providing board-ordered treatment and again when the person is returned
11 to an inpatient facility;

12 (c) When a person under a mental health board commitment pursuant to
13 subdivision (a) of this subsection is discharged or has a change in
14 disposition from inpatient board-ordered treatment;

15 (d) When a person under a mental health board commitment pursuant to
16 subdivision (a) of this subsection is granted a furlough or release for
17 twenty-four hours or longer; and

18 (e) When a person under a mental health board commitment pursuant to
19 subdivision (a) of this subsection is released into educational release
20 programs or work release programs. Such notification shall occur at the
21 beginning and termination of any such program.

22 (5) Subsection (4) of this section applies to persons convicted of
23 at least one of the following offenses which is also alleged to be the
24 recent act or threat underlying the commitment of such persons as
25 mentally ill and dangerous or as dangerous sex offenders as defined in
26 section 83-174.01:

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

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

29 (c) Kidnapping pursuant to section 28-313;

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

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

- 1 (f) Sexual assault in the first degree pursuant to section 28-319;
- 2 (g) Sexual assault in the second degree pursuant to section 28-320;
- 3 (h) Sexual assault of a child in the first degree pursuant to
4 section 28-319.01;
- 5 (i) Sexual assault of a child in the second or third degree pursuant
6 to section 28-320.01;
- 7 (j) Sexual assault of a student in the first or second degree
8 pursuant to section 10 of this act;
- 9 (k) ~~(j)~~ Stalking pursuant to section 28-311.03; or
- 10 (l) ~~(k)~~ An attempt, solicitation, or conspiracy to commit an offense
11 listed in subdivisions (a) through (k) ~~(j)~~ of this subsection.
- 12 (6) A victim whose name appears in the file of a convicted person
13 shall be notified by the Board of Pardons:
- 14 (a) Of any pardon or commutation proceedings; and
- 15 (b) If a pardon or commutation has been granted.
- 16 (7) The Board of Parole, the Department of Correctional Services,
17 the Department of Health and Human Services, and the Board of Pardons
18 shall adopt and promulgate rules and regulations as needed to carry out
19 this section.
- 20 (8) The victim's address and telephone number maintained by the
21 Department of Correctional Services, the Department of Health and Human
22 Services, the county corrections agency, or the Board of Parole pursuant
23 to subsection (1) of this section shall be exempt from disclosure under
24 public records laws and federal freedom of information laws, as such laws
25 existed on January 1, 2004.
- 26 Sec. 21. Section 83-174.02, Revised Statutes Cumulative Supplement,
27 2018, is amended to read:
- 28 83-174.02 (1) The Department of Correctional Services shall order an
29 evaluation of the following individuals by a mental health professional
30 to determine whether or not the individual is a dangerous sex offender:
- 31 (a) Individuals who have been convicted of:

1 (i) Sexual ~~sexual~~ assault of a child in the first degree pursuant to
2 section 28-319.01; or

3 (ii) Sexual ~~sexual~~ assault in the first degree pursuant to section
4 28-319;

5 (b) Individuals who have been convicted of two or more offenses
6 requiring registration as a sex offender under section 29-4003 if one of
7 the convictions was for any of the following offenses:

8 (i) Kidnapping of a minor pursuant to section 28-313, except when
9 the person is the parent of the minor and was not convicted of any other
10 offense;

11 (ii) Sexual ~~sexual~~ assault in the first degree pursuant to section
12 28-319 or sexual assault in the second degree pursuant to section 28-320;
13 ~~(iii) sexual assault of a child pursuant to section 28-320.01;~~

14 (iii) Sexual ~~(iv) sexual~~ assault of a child in the first degree
15 pursuant to section 28-319.01;

16 (iv) Sexual ~~(v) sexual~~ assault of a child in the second or third
17 degree pursuant to section 28-320.01;

18 (v) Sexual assault of a student in the first or second degree
19 pursuant to section 10 of this act;

20 (vi) Sexual ~~sexual~~ assault of a vulnerable adult or senior adult
21 pursuant to subdivision (1)(c) of section 28-386;

22 (vii) Incest ~~incest~~ of a minor pursuant to section 28-703;

23 (viii) Visual ~~visual~~ depiction of sexually explicit conduct of a
24 child pursuant to section 28-1463.03; or

25 (ix) Any ~~any~~ offense that is substantially equivalent to an offense
26 listed in this section by any state, territory, commonwealth, or other
27 jurisdiction of the United States, by the United States Government, or by
28 court-martial or other military tribunal, notwithstanding a procedure
29 comparable in effect to that described in section 29-2264 or any other
30 procedure to nullify a conviction other than by pardon;

31 (c) Individuals convicted of a sex offense against a minor who have

1 refused to participate in or failed to successfully complete the sex
2 offender treatment program offered by the Department of Correctional
3 Services or the Department of Health and Human Services during the term
4 of incarceration. The failure to successfully complete a treatment
5 program due to time constraints or the unavailability of treatment
6 programming shall not constitute a refusal to participate in treatment;
7 and

8 (d) Individuals convicted of failure to comply with the registration
9 requirements of the Sex Offender Registration Act who have previously
10 been convicted for failure to comply with the registration requirements
11 of the act or a similar registration requirement in another state.

12 (2) The evaluation required by this section shall be ordered at
13 least one hundred eighty days before the scheduled release of the
14 individual. Upon completion of the evaluation, and not later than one
15 hundred fifty days prior to the scheduled release of the individual, the
16 department shall send written notice to the Attorney General, the county
17 attorney of the county where the offender is incarcerated, and the
18 prosecuting county attorney. The notice shall contain an affidavit of the
19 mental health professional describing his or her findings with respect to
20 whether or not the individual is a dangerous sex offender.

21 Sec. 22. Section 83-4,143, Revised Statutes Supplement, 2019, is
22 amended to read:

23 83-4,143 (1) It is the intent of the Legislature that the Board of
24 Parole may recommend placement of felony offenders at the incarceration
25 work camp. The offenders recommended by the board shall be offenders
26 currently housed at other Department of Correctional Services adult
27 correctional facilities and shall complete the incarceration work camp
28 programming prior to release on parole.

29 (2) When the Board of Parole is of the opinion that a felony
30 offender currently incarcerated in a Department of Correctional Services
31 adult correctional facility may benefit from a brief and intensive period

1 of regimented, structured, and disciplined programming immediately prior
2 to release on parole, the board may direct placement of such an offender
3 in an incarceration work camp for a period not to exceed one hundred
4 eighty days as a condition of release on parole. The board may consider
5 such placement if the felony offender (a) is medically and mentally fit
6 to participate, with allowances given for reasonable accommodation as
7 determined by medical and mental health professionals, and (b) has not
8 previously been incarcerated for a violent felony crime. Offenders
9 convicted of a crime under sections 28-319 to 28-322.05 and section 10 of
10 this act or of any capital crime are not eligible to be placed in an
11 incarceration work camp.

12 (3) The Director of Correctional Services may assign a felony
13 offender to an incarceration work camp if he or she believes it is in the
14 best interests of the felony offender and of society, except that
15 offenders convicted of a crime under sections 28-319 to 28-322.05 and
16 section 10 of this act or of any capital crime are not eligible to be
17 assigned to an incarceration work camp pursuant to this subsection.

18 Sec. 23. Original sections 28-311, 28-319.01, 28-320.02, 28-833,
19 28-1463.04, 29-2028, and 81-1850, Reissue Revised Statutes of Nebraska,
20 sections 42-1203 and 83-174.02, Revised Statutes Cumulative Supplement,
21 2018, and sections 27-404, 27-412, 27-413, 28-101, 28-311.11, 28-318,
22 28-813.01, 28-1463.05, 29-110, 29-119, 29-4003, and 83-4,143, Revised
23 Statutes Supplement, 2019, are repealed.