

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 107

Introduced by McDonnell, 5.

Read first time January 06, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to offenses; to amend section 28-833, Reissue
- 2 Revised Statutes of Nebraska, and section 29-4003, Revised Statutes
- 3 Cumulative Supplement, 2022; to prohibit using an electronic
- 4 communication device or social media to engage in certain conduct
- 5 with minors; to define terms; to require registration under the Sex
- 6 Offender Registration Act; to harmonize provisions; and to repeal
- 7 the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-833, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-833 (1)(a) ~~(1)~~ A person commits the offense of enticement by
4 electronic communication device if he or she is nineteen years of age or
5 over and knowingly and intentionally utilizes an electronic communication
6 device to contact a child under sixteen years of age or a peace officer
7 who is believed by such person to be a child under sixteen years of age
8 and in so doing:

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

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

13 (iii) ~~(c)~~ Offers or solicits any indecent, lewd, or lascivious act.

14 (b) ~~(2)~~ Enticement by electronic communication device is a Class IV
15 felony.

16 (2)(a) A person commits the offense of digital grooming if he or she
17 is nineteen years of age or over and knowingly and intentionally uses an
18 electronic communication device or social media to communicate with a
19 child sixteen years of age or younger with the intent to:

20 (i) Engage in sexual contact or sexual penetration with the child,
21 regardless of when in the child's life the sexual contact or sexual
22 penetration would take place;

23 (ii) Receive a visual depiction of the child for purposes of sexual
24 gratification; or

25 (iii) Extort the child.

26 (b) Digital grooming is a Class IV felony.

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

30 (4) For purposes of this section: τ

31 (a) Electronic ~~electronic~~ communication device means any device

1 which, in its ordinary and intended use, transmits by electronic means
2 writings, sounds, visual images, or data of any nature to another
3 electronic communication device.

4 (b) Sexual contact has the same meaning as in section 28-318;

5 (c) Sexual penetration has the same meaning as in section 28-318;

6 (d) Sexually explicit conduct has the same meaning as in section
7 28-1463.02; and

8 (e) Visual depiction has the same meaning as in section 28-1463.02.

9 Sec. 2. Section 29-4003, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 29-4003 (1)(a) The Sex Offender Registration Act applies to any
12 person who on or after January 1, 1997:

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

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

18 (B) False imprisonment of a minor pursuant to section 28-314 or
19 28-315;

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

21 (D) Sexual abuse by a school employee pursuant to section 28-316.01;

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

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

26 (G) Sexual abuse of a vulnerable adult or senior adult pursuant to
27 subdivision (1)(c) of section 28-386;

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

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

30 (J) Visual depiction of sexually explicit conduct of a child
31 pursuant to section 28-1463.03 or subdivision (2)(b) or (c) of section

1 28-1463.05;

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

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

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

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

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

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

20 (iii) Is incarcerated in a jail, a penal or correctional facility,
21 or any other public or private institution or is under probation or
22 parole as a result of pleading guilty to or being found guilty of a
23 registrable offense under subdivision (1)(a)(i) or (ii) of this section
24 prior to January 1, 1997; or

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

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

31 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of this

1 section, has ever pled guilty to, pled nolo contendere to, or been found
2 guilty of any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

18 (XIII) Sexual abuse of a protected individual pursuant to section
19 28-322.04;

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

21 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section
22 28-707;

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

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

28 (B) In order for the Sex Offender Registration Act to apply to the
29 offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V),
30 (VI), (VII), (IX), and (X) of this section, a court shall have found that
31 evidence of sexual penetration or sexual contact, as those terms are

1 defined in section 28-318, was present in the record, which shall include
2 consideration of the factual basis for a plea-based conviction and
3 information contained in the presentence report;

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

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

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

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

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

28 (d) In addition to the registrable offenses under subdivisions (1)
29 (a), (b), and (c) of this section, the Sex Offender Registration Act
30 applies to any person who on or after January 1, 2023:

31 (i) Has ever pled guilty to, pled nolo contendere to, or been found

1 guilty of human trafficking under subsection (1) or (2) of section
2 28-831, and the court determines either by notification of sex offender
3 registration responsibilities or notation in the sentencing order that
4 the human trafficking was sex trafficking or sex trafficking of a minor
5 and not solely labor trafficking or labor trafficking of a minor; or

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

14 (e) In addition to the registrable offenses under subdivisions (1)
15 (a), (b), (c), and (d) of this section, the Sex Offender Registration Act
16 applies to any person who on or after the effective date of this act:

17 (i) Has ever pled guilty to, pled nolo contendere to, or been found
18 guilty of digital grooming under section 28-833; or

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

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

30 Sec. 3. Original section 28-833, Reissue Revised Statutes of
31 Nebraska, and section 29-4003, Revised Statutes Cumulative Supplement,

1 2022, are repealed.