

LEGISLATIVE BILL 97

Approved by the Governor May 20, 2009

Introduced by Lautenbaugh, 18; Friend, 10; Howard, 9; Rogert, 16; Flood, 19.

FOR AN ACT relating to law; to amend sections 21-20,177, 21-20,179, 27-404, 27-1103, 28-101, 28-311, 28-318, 28-319.01, 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007, 29-4008, and 83-4,143, Reissue Revised Statutes of Nebraska; to change provisions relating to service on and revocation of certificates of authority of foreign corporations; to adopt new rules of evidence relating to sexual misconduct and sexual offenses; to change and eliminate provisions relating to admissibility of evidence; to change provisions and penalties regarding criminal child enticement, use of a computer in sexual assault, sexual assault of a child, visual depictions of sexually explicit conduct, and the Child Pornography Prevention Act; to prohibit certain Internet use by sexually violent predators; to eliminate a statute of limitations for incest; to provide for confidentiality of certain property or material of a sexual nature held by law enforcement; to change provisions relating to the Sex Offender Registration Act; to prohibit certain convicted or charged individuals from providing transportation services for the Department of Health and Human Services; to provide a penalty; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal section 28-321, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

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

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

(2) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation or the designated custodian of records at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation has:

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

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

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

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

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

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

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

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

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

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

(1) The foreign corporation is without a registered agent or

registered office in this state for sixty days or more;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Before admitting evidence of the accused's commission of another offense or offenses of sexual assault under this section, the court shall

conduct a hearing outside the presence of any jury. At the hearing, the rules of evidence shall apply and the court shall apply a section 27-403 balancing and admit the evidence unless the risk of prejudice substantially outweighs the probative value of the evidence. In assessing the balancing, the court may consider any relevant factor such as (a) the probability that the other offense occurred, (b) the proximity in time and intervening circumstances of the other offenses, and (c) the similarity of the other acts to the crime charged.

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

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

(2) A party who intends to offer evidence under this section shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

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

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

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

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

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

(b) Evidence of a pertinent trait of character of the victim of the crime offered by an accused or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor. In the case of a sexual assault case, reputation, or opinion, or other evidence of the past sexual behavior of the victim of the sexual assault will not be admissible, is governed by section 3 of this act; or

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

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

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

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

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

27-1103 These rules and sections 3 to 6 of this act may be known and cited as the Nebraska Evidence Rules.

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

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

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

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

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

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

(b)(i) The person is ~~not~~ a law enforcement officer, emergency services provider as defined in section 71-507, firefighter, or other person who regularly provides emergency services, is ~~not~~ the operator of a bookmobile or other such vehicle operated by the state or a political subdivision and used for informing, educating, organizing, or transporting children, is ~~not~~ a paid employee of, or a volunteer for, a nonprofit or religious organization which provides activities for children, and or is not an employee or agent of or a volunteer acting under the direction of any board of education ~~or~~ and (ii) the person ~~is a person listed in subdivision (1)(b)(i)~~ (2)(b)(i) of this section ~~but, was,~~ at the time the person undertakes ~~undertook~~ the activity, ~~he or she is not~~ acting within the scope of his or her lawful duties in that capacity; ~~or-~~

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

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

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

28-318 As used in sections 28-317 to ~~28-321,~~ 28-322.04, unless the context otherwise requires:

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

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

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

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

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

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

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

(8) Without consent means:

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. Section 28-320.02, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 14. (1) Any person required to register under the Sex Offender Registration Act who is found to be a sexually violent predator under subdivision (4)(c) of section 29-4005 or is required to register because of a conviction for one or more of the following offenses, including any substantially equivalent offense committed in another state, territory, commonwealth, or other jurisdiction of the United States and knowingly and

intentionally uses a social networking web site or service, instant messaging, or chat room service that allows a person who is less than eighteen years of age to access or use its social networking web site, instant messaging, or chat room service, commits the offense of unlawful use of the Internet by a prohibited sex offender:

- (a) Kidnapping of a minor pursuant to section 28-313;
- (b) Sexual assault of a child in the first degree pursuant to section 28-319.01;
- (c) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;
- (d) Incest of a minor pursuant to section 28-703;
- (e) Pandering of a minor pursuant to section 28-802;
- (f) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;
- (g) Possessing any visual depiction of sexually explicit conduct pursuant to section 28-813.01;
- (h) Criminal child enticement pursuant to section 28-311;
- (i) Child enticement by means of an electronic communication device pursuant to section 28-320.02;
- (j) Enticement by electronic communication device pursuant to section 28-833; or
- (k) An attempt or conspiracy to commit an offense listed in subdivisions (1)(a) through (1)(j) of this section.

(2) Unlawful use of the Internet by a prohibited sex offender is a Class I misdemeanor for a first offense. Any second or subsequent conviction under this section is a Class IIIA felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

real or simulated overt sexual gratification or sexual stimulation of one or more persons involved. Erotic fondling shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more of the persons involved;

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

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

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

(6) Visual depiction ~~shall mean~~ means live performance or photographic representation and includes any undeveloped film or videotape or data stored on a computer disk or by other electronic means which is capable of conversion into a visual image and also includes any photograph, film, video, picture, digital image, or computer-displayed image, video, or picture, whether made or produced by electronic, mechanical, computer, digital, or other means.

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

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

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

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

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

(5) It shall be an affirmative defense to a charge brought pursuant to subsection (1) of this section if the defendant was less than eighteen years of age at the time the visual depiction was created and the visual depiction of sexually explicit conduct includes no person other than the defendant.

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

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

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

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

(3) Any person who violates section 28-1463.03 and has previously been convicted of a violation of section 28-1463.03 or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-813,

28-833, or 28-1463.05 or subsection (1) or (2) of section 28-320 shall be guilty of a Class IC felony for each offense.

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

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

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

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

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

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

29-110 (1) Except as otherwise provided by law, no person shall be prosecuted for any felony unless the indictment is found by a grand jury within three years next after the offense has been done or committed or unless a complaint for the same is filed before the magistrate within three years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

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

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

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

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

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

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

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

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

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

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

(12) The changes made to this section by this legislative bill and Laws 2006, LB 1199, shall apply to offenses committed prior to the operative date of this section for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

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

(2) All courts and administrative agencies shall unequivocally deny any request by the defendant, his or her attorney, or any other person, agency, or organization, regardless of whether such defendant, attorney, or other person, agency, or organization is a party in interest or not, to acquire possession of, copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes a visual depiction of sexually explicit conduct, as defined in section 28-1463.02, and which has a child, as defined in such section, as one of its participants or portrayed observers, so long as the state makes the property or material reasonably available to the defendant in a criminal proceeding. Nothing in this section shall be deemed to prohibit the review of the proscribed materials or property by a federal court when considering a habeas corpus claim.

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

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

(4) On or before July 1, 2009, the Supreme Court shall adopt and promulgate rules and regulations regarding the proper control, care, custody, transfer, and disposition of property or material that constitutes a visual depiction of sexually explicit conduct, as defined in section 28-1463.02, and which has a child, as defined in such section, as one of its participants or portrayed observers, that has been received into evidence at any judicial or administrative proceeding. Among the issues addressed by these rules and regulations, the Supreme Court should devise procedures regarding the preparation and delivery of bills of exception containing evidence as described in this section, as well as procedures for storing, accessing, and disposing of such bills of exception after preparation and receipt.

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

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

Sec. 24. For purposes of the Sex Offender Registration Act:

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

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

(3) Chat room identifiers means the username, password, symbol, image, or series of symbols, letters, numbers, or text characters used by a chat room participant to identify himself or herself in a chat room or to identify the source of any content transmitted from a computer or electronic communication device to the web site or server space upon which the chat room is dedicated;

(4) Domain name means a series of text-based symbols, letters, numbers, or text characters used to provide recognizable names to numerically addressed Internet resources that are registered by the Internet Corporation for Assigned Names and Numbers;

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

(6) Email address means the string of letters, numbers, and symbols used to specify the source or destination of an email message that is transmitted over a communication network;

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

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

(9) Social networking web site means a web page or collection of web sites contained on the Internet (a) that enables users or subscribers to create, display, and maintain a profile or Internet domain containing biographical data, personal information, photos, or other types of media, (b) that can be searched, viewed, or accessed by other users or visitors to the web site, with or without the creator's permission, consent, invitation, or authorization, and (c) that may permit some form of communication, such as direct comment on the profile page, instant messaging, or email, between the creator of the profile and users who have viewed or accessed the creator's profile.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section;

(b) Enters the state and has pleaded guilty to or has been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(a) of this section by any state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, or by court-martial or other military tribunal, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon;

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

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

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

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

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

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

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

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

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

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

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

(f) All email addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the person uses or plans to use, all domain names registered by the registrant, and all blogs and Internet sites maintained by the person or to which the person has uploaded any content or posted any messages or information.

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

(a) Search of all the computers or electronic communication devices possessed by the person; and

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

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

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

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

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

~~(3)~~ (4) If the person fails to complete and mail the verification form to the sex offender registration and community notification division of

the Nebraska State Patrol within ten days after receipt of the form, or the form cannot be delivered due to the registrant not being at the address last reported, the person shall be in violation of this section unless the person proves that the address last reported to the division is still correct.

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

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

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

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

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

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

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

(i) Inform the defendant that if he or she moves to another address within the same county or ceases to have a residence or temporary domicile, he or she must report all address changes, including not having a residence or temporary domicile, to the county sheriff in the county where he or she has been residing within five working days after his or her move;

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

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

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

(v) Inform the defendant that if he or she goes to another state to work or goes to another state as a student and still resides or is temporarily domiciled in this state, he or she must comply with the registration

requirements of both states; and

(vi) Inform the defendant that fingerprints and a photograph will be obtained by any registering entity in order to comply with the registration requirements;

(vii) Inform the defendant that he or she must provide a list to all sheriffs with whom he or she must register of all email addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information;

(viii) Inform the defendant that he or she is required to inform the sheriff with whom he or she is required to register of any changes in or additions to his or her list of email addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information, in writing, by the next working day after such change or addition; and

(ix) Inform the defendant that throughout the applicable registration period, if applicable, he or she is prohibited from accessing or using any Internet social networking web site or any instant messaging or chat room service that has the likelihood of allowing the defendant to have contact with any child who is under the age of eighteen years should the Nebraska State Patrol classify such defendant as a level II or level III sex offender or the defendant has been convicted and is currently being sentenced for:

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

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

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

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

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

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

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

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

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

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

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

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

(c) Retain a copy of the written notification signed by the defendant; and

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

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

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

(3)(a) The Department of Correctional Services or a city or county correctional or jail facility shall provide written notification of the duty to register pursuant to the Sex Offender Registration Act to any person committed to its custody for a registrable offense under section 29-4003 prior

to the person's release from incarceration. The written notification shall:

(i) Inform the person that if he or she moves to another address within the same county, he or she must report all address changes to the county sheriff in the county where he or she has been residing within five working days after his or her move;

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

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

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

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

(vi) Inform the defendant that fingerprints and a photograph will be obtained by any registering entity in order to comply with the registration requirements;

(vii) Inform the defendant that he or she must provide a list to all sheriffs with whom he or she must register of all email addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information;

(viii) Inform the defendant that he or she is required to inform the sheriff with whom he or she is required to register of any changes in or additions to his or her list of email addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information, in writing, by the next working day after such change or addition; and

(ix) Inform the defendant that throughout the applicable registration period, if applicable, he or she is prohibited from accessing or using any Internet social networking web site or any instant messaging or chat room service that has the likelihood of allowing the defendant to have contact with any child who is under the age of eighteen years should the Nebraska State Patrol classify such defendant as a level II or level III sex offender or the defendant has been convicted and is currently being sentenced for:

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

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

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

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

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

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

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

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

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

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

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

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

(i) Require the person to read and sign the notification form stating that the duty to register under the Sex Offender Registration Act has been explained;

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

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

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

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

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

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

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

83-4,143 (1) It is the intent of the Legislature that the court target the felony offender (a) who is eligible and by virtue of his or her criminogenic needs is suitable to be sentenced to intensive supervision probation with placement at the incarceration work camp, (b) for whom the court finds that other conditions of a sentence of intensive supervision probation, in and of themselves, are not suitable, and (c) who, without the existence of an incarceration work camp, would, in all likelihood, be sentenced to prison.

(2) When the court is of the opinion that imprisonment is appropriate, but that a brief and intensive period of regimented, structured, and disciplined programming within a secure facility may better serve the interests of society, the court may place an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of a sentence of intensive supervision probation. The court may consider such placement if the offender (a) is a male or female offender convicted of a felony offense in a district court, (b) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (c) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to ~~28-321~~ 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

(3) It is also the intent of the Legislature that the Board of Parole may recommend placement of felony offenders at the incarceration work camp. The offenders recommended by the board shall be offenders currently housed at other Department of Correctional Services adult correctional facilities and shall complete the incarceration work camp programming prior to release on parole.

(4) When the Board of Parole is of the opinion that a felony offender currently incarcerated in a Department of Correctional Services adult correctional facility may benefit from a brief and intensive period of regimented, structured, and disciplined programming immediately prior to release on parole, the board may direct placement of such an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of release on parole. The board may consider such placement if the felony offender (a) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (b) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to ~~28-321~~ 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

Sec. 30. (1) No individual who has been convicted of a felony or of any crime involving moral turpitude, or who has been charged with or indicted for a felony or crime involving moral turpitude and there has been no final resolution of the prosecution of the crime, shall provide transportation services under contract with the Department of Health and Human Services, whether as an employee or as a volunteer, for vulnerable adults as defined in

section 28-371 or for persons under nineteen years of age.

(2) In order to assure compliance with subsection (1) of this section, any individual who will be providing such transportation services to such vulnerable adults or persons under nineteen years of age and any individual who is providing such services on the operative date of this section shall be subject to a national criminal history record information check by the Department of Health and Human Services through the Nebraska State Patrol.

(3) In addition to the national criminal history record information check required in subsection (2) of this section, all individuals employed to provide transportation services under contract with the Department of Health and Human Services to vulnerable adults or persons under nineteen years of age shall submit to a national criminal history record information check every two years during the period of such employment.

(4) Individuals shall submit two full sets of fingerprints to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for the national criminal history record information check required under this section. The individual shall pay the actual cost of fingerprinting and the national criminal history record information check.

(5) (a) Individuals shall authorize release of the results and contents of a national criminal history record information check under this section to the employer and the Department of Health and Human Services as provided in this section.

(b) The Nebraska State Patrol shall not release the contents of a national criminal history record information check under this section to the employer or the individual but shall only indicate in writing to the employer and the individual whether the individual has a criminal record.

(c) The Nebraska State Patrol shall release the results and the contents of a national criminal history record information check under this section in writing to the department in accordance with applicable federal law.

(6) The Department of Health and Human Services may develop and implement policies that provide for administrative exceptions to the prohibition in subsection (1) of this section, including, but not limited to, situations in which relatives of the vulnerable adult or person under nineteen years of age provide transportation services for such vulnerable adult or person under nineteen years of age or situations in which the circumstances of the crime or the elapsed time since the commission of the crime do not warrant the prohibition. Any decision made by the department regarding an administrative exception under this section is discretionary and is not appealable.

(7) An individual who does not comply with this section is guilty of a Class V misdemeanor.

Sec. 31. The Revisor of Statutes shall assign sections 3 to 6 of this act to Chapter 27, article 4, of the Nebraska Evidence Rules.

Sec. 32. Sections 3, 4, 5, 6, 7, 8, 11, 29, 31, 34, and 36 of this act become operative on January 1, 2010. Section 30 of this act becomes operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 33. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 34. Original sections 27-404, 27-1103, 28-318, and 83-4,143, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 35. Original sections 21-20,177, 21-20,179, 28-101, 28-311, 28-319.01, 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007, and 29-4008, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 36. The following section is outright repealed: Section 28-321, Reissue Revised Statutes of Nebraska.

Sec. 37. Since an emergency exists, this act takes effect when passed and approved according to law.