

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 559

FINAL READING

Introduced by Bosn, 25; Hallstrom, 1.

Read first time January 22, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-618, 28-1601, and 28-1602, Reissue Revised Statutes of Nebraska,
- 3 and section 28-101, Revised Statutes Cumulative Supplement, 2024; to
- 4 provide for offenses relating to skimmer devices and continuing
- 5 criminal enterprises involving financial offenses; to provide
- 6 penalties; to define terms; to provide for forfeiture; to clarify
- 7 and harmonize provisions; and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

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

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

8 28-618 For purposes of sections 28-618 to 28-630 and sections 3 to 6
9 of this act:

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

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

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

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

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

30 (6) Expired financial transaction device means ~~shall mean~~ a
31 financial transaction device which is no longer valid because the term

1 shown on it has elapsed;

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

9 (8) Financial-transaction-device-making equipment means ~~shall mean~~
10 any equipment, impression, machine, mechanism, plate, or other device
11 designed, used, or capable of being used to produce a financial
12 transaction device, a counterfeit financial transaction device, or any
13 aspect or component of a financial transaction device;

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

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

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

23 (12) Magnetic encoding means ~~shall mean~~ any electronically encoded
24 account holder information which is placed on a magnetic strip on the
25 financial transaction device and is capable of being read by an
26 electronic terminal such as an automatic teller machine or an electronic
27 terminal at a merchant location also known as a point-of-sale terminal;

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

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

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

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

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

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

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

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

22 (21) (20) To falsely alter a financial transaction device means
23 ~~shall mean~~ to change such device without the authority of anyone entitled
24 to grant such authority, whether in complete or incomplete form, by means
25 of erasure, obliteration, deletion, insertion of new matter,
26 transposition of matter, or any other means, so that such device in its
27 altered form falsely appears or purports to be in all respects an
28 authentic creation of or fully authorized by its ostensible issuer;

29 (22) (21) To falsely complete a financial transaction device means
30 ~~shall mean~~ to transform an incomplete device into a complete one by
31 adding, inserting, or changing matter without the authority of anyone

1 entitled to grant such authority, so that the complete device falsely
2 appears or purports to be in all respects an authentic creation of or
3 fully authorized by its ostensible issuer;

4 (23) (22) To falsely make a financial transaction device means shall
5 mean to make or manufacture a device, whether complete or incomplete,
6 which purports to be an authentic creation of its ostensible issuer but
7 which is fictitious or, if real, the ostensible issuer did not authorize
8 the making or the manufacturing thereof; and

9 (24) (23) Traffic means shall mean to distribute, dispense, sell,
10 transfer, or otherwise dispose of property or to buy, receive, possess,
11 obtain control of, or use property with the intent to dispense,
12 distribute, sell, transfer, or otherwise dispose of such property.

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

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

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

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

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

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

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

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

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

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

10 (4) For any second conviction under subdivision (2)(d) of this
11 section, any person so offending shall be guilty of a Class I
12 misdemeanor, and for any third or subsequent conviction under subdivision
13 (2)(d) of this section, the person so offending shall be guilty of a
14 Class IV felony.

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

19 (6) The value of the money, credit, property, or things of value
20 obtained, or the financial payments made, pursuant to one scheme or
21 course of conduct from one or more persons may be aggregated in the
22 indictment, information, or complaint in determining the classification
23 of the offense, except that amounts shall not be aggregated into more
24 than one offense.

25 (7) In any prosecution for a violation of this section, the total
26 value of the money, credit, property, or things of value obtained, or the
27 financial payments made, as a result of the violation, is an essential
28 element of the offense that must be proved beyond a reasonable doubt.

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

30 (a) Financial transaction offense means any violation of sections
31 28-618 to 28-630 and sections 3 and 4 of this act for which the

1 punishment is a felony; and

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

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

7 (a) Such offense is part of a continuing series of financial
8 transaction offenses;

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

12 (c) Such person obtains substantial income or resources from such
13 activities.

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

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

17 (i) Included three or fewer persons; or

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

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

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

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

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

29 (i) Included ten or more persons; or

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

1 **Sec. 6.** In addition to the existing penalties available for a
2 violation of sections 28-618 to 28-630 and sections 3 to 5 of this act, a
3 sentencing court may order forfeiture as provided in sections 28-1601 to
4 28-1603.

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

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

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

17 (a) Reselling, distributing, or otherwise reentering the retail
18 merchandise in commerce; or

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

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

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

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

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

31 (1) Knowingly commits an organized retail crime;

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

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

7 (4) Conspires with another person to commit an organized retail
8 crime;

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

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

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

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

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

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

24 (c) Class I misdemeanor when the aggregated retail market value of
25 the retail merchandise involved is more than five hundred dollars but
26 less than one thousand five hundred dollars.

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

29 (3) For a prior conviction to be used to enhance the penalty under
30 subsection (2) of this section, the prior conviction must have occurred
31 no more than ten years prior to the date of commission of the current

1 offense.

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

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

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

12 28-1601 (1) For purposes of sections 28-1601 to 28-1603:

13 (a) Covered offense means a violation of the Child Pornography
14 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
15 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107 or a financial
16 transaction offense;

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

19 (c) Financial transaction offense means a violation of sections
20 28-618 to 28-630 and sections 3 to 5 of this act; and

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

22 (2) ~~(1)~~ In addition to existing penalties for a violation of a
23 covered offense the Child Pornography Prevention Act, subsection (1) of
24 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
25 28-1105.01, or 28-1107, a court may order forfeiture of any money,
26 securities, negotiable instruments, firearms, conveyances, or electronic
27 communication devices; as defined in section 28-833, any equipment,
28 components, peripherals, software, hardware, or accessories related to
29 electronic communication devices; , or any gambling devices as defined in
30 section 28-1101 if:

31 (a) The owner or possessor of the property has been convicted of a

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

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

7 (c) ~~It~~ The property is found by clear and convincing evidence ~~that~~
8 ~~such property was to have been~~ derived from, used, or intended to be used
9 to facilitate a covered offense ~~violation of the Child Pornography~~
10 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
11 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

12 (3) ~~(2)~~ Following the filing of an information charging a violation
13 of a covered offense ~~the Child Pornography Prevention Act, subsection (1)~~
14 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
15 ~~28-1105, 28-1105.01, or 28-1107~~ that specifically seeks forfeiture of any
16 property listed in subsection (2) ~~(1)~~ of this section, the defendant may
17 request a pretrial hearing to determine the existence of probable cause
18 to believe that the property specifically sought to be forfeited was
19 derived from, used, or intended to be used to facilitate a covered
20 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
21 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
22 ~~28-1105, 28-1105.01, or 28-1107.~~ The request for a hearing pursuant to
23 this section must be filed with the district court in which the criminal
24 proceeding is pending within thirty days after the filing of the
25 information.

26 (4)(a) ~~(3)~~ At any time after the filing of the information in
27 district court and prior to final disposition of the criminal case, any
28 person ~~or entity~~, other than the defendant, with a claimed legal interest
29 in the property may petition to intervene in the district court with
30 jurisdiction over the criminal case for the specific and limited purpose
31 of demonstrating such person's ~~his, her, or its~~ legal interest in the

1 property and such person's ~~his, her, or its~~ lack of actual knowledge that
2 such property was derived from, used, or intended to be used to
3 facilitate a covered offense ~~in violation of the Child Pornography~~
4 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
5 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

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

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

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

19 (b) Either ~~either~~ (i) that such property was acquired by the
20 claimant in good faith and the claimant ~~he, she, or it~~ did not have
21 actual knowledge that such property was derived from, used, or intended
22 to be used to facilitate a covered offense ~~violation of the Child~~
23 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
24 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107~~ or
25 (ii) that the property seized was not derived from, used, or intended to
26 be used to facilitate a covered offense ~~violation of the Child~~
27 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
28 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

29 (6) The court, on its own motion or upon application of the
30 ~~intervening~~ claimant, may permit the claimant ~~such person~~ to proceed in
31 forma pauperis under sections 25-2301 to 25-2310. The court, on its own

1 motion or upon application of the ~~intervening~~ claimant, may appoint
2 counsel to represent the claimant ~~such person~~ if the claimant ~~such person~~
3 is indigent. If the claimant ~~he or she~~ asserts indigency, the court shall
4 make a reasonable inquiry to determine the claimant's ~~such person's~~
5 financial condition and may require the claimant ~~him or her~~ to execute an
6 affidavit of indigency for filing with the clerk of the court.

7 (7) ~~(4)~~ After conviction but prior to sentencing for a covered
8 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
9 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
10 ~~28-1105, 28-1105.01, or 28-1107~~ in cases in which the prosecuting
11 authority has specifically requested forfeiture of property, the district
12 court shall conduct an evidentiary hearing at which the prosecuting
13 authority must prove by clear and convincing evidence what specific
14 amount or portion of the property specifically enumerated in the criminal
15 information was derived from, used, or intended for use in furtherance of
16 a covered offense ~~violation of the Child Pornography Prevention Act,~~
17 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
18 ~~28-1104, 28-1105, 28-1105.01, or 28-1107.~~ At the conclusion of such
19 hearing, the court shall make specific findings of fact indicating what
20 amount or portion of the property sought to be forfeited by the state was
21 derived from, used, or intended to be used to facilitate a covered
22 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
23 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
24 ~~28-1105, 28-1105.01, or 28-1107.~~ The court shall order any amount or
25 portion of the property not proven by the state to be derived from, used,
26 or intended to be used to facilitate a covered offense ~~violation of the~~
27 ~~Child Pornography Prevention Act, subsection (1) of section 28-416, or~~
28 ~~section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
29 ~~28-1107~~ or the fair market value of the legally recognized interest in
30 such property be returned to its rightful and legal owner or interest
31 holder.

1 ~~(8)(a) (5)(a)~~ The court shall order that any amount or portion of
2 property proven by the state by clear and convincing evidence to be
3 derived from, used, or intended to be used to facilitate a covered
4 offense violation of the Child Pornography Prevention Act, subsection (1)
5 of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
6 28-1105, 28-1105.01, or 28-1107 be forfeited to the state and disposition
7 of such property be conducted in accordance with this subsection and
8 section 28-1439.02 at such time as the property is no longer required as
9 evidence in any criminal proceeding.

10 (b) As part of any disposition of property, the court may order
11 that: (i) For a covered offense other than a financial transaction
12 offense, any Any money, securities, or negotiable instruments be
13 distributed as provided in Article VII, section 5, of the Constitution of
14 Nebraska; (ii) for a financial transaction offense, any money,
15 securities, or negotiable instruments be credited to the Financial Fraud
16 Victims' Reimbursement Fund for the purposes described in section 12 of
17 this act; (iii) any conveyances be sold or put to official use by the
18 seizing agency for a period of not more than one year and when such
19 property is no longer necessary for official use or at the end of two
20 years, whichever comes first, such property shall be sold. Proceeds from
21 the sale of any conveyance shall be distributed as provided in Article
22 VII, section 5, of the Constitution of Nebraska; (iv) ~~(iii)~~ any
23 electronic communication devices ~~as defined in section 28-833,~~ any
24 equipment, components, peripherals, software, hardware, or accessories
25 related to electronic communication devices, or any gambling devices ~~as~~
26 ~~defined in section 28-1101~~ be destroyed by a law enforcement agency; and
27 (v) ~~(iv)~~ the disposition of firearms shall be effectuated pursuant to
28 section 29-820.

29 (c) As used in this subsection, official use means use directly in
30 connection with enforcement of the Child Pornography Prevention Act, the
31 Uniform Controlled Substances Act, sections 28-618 to 28-630 and sections

1 3 to 6 of this act, or section 28-813.01, 28-1102, 28-1103, 28-1104,
2 28-1105, 28-1105.01, or 28-1107.

3 (9) ~~(6)~~ Any money, securities, negotiable instruments, firearms,
4 conveyances, or electronic communication devices; ~~as defined in section~~
5 ~~28-833,~~ any equipment, components, peripherals, software, hardware, or
6 accessories related to electronic communication devices; ~~or any~~
7 ~~gambling devices as defined in section 28-1101~~ may be forfeited pursuant
8 to a plea agreement between the state and the defendant subject to notice
9 to or approval of the court.

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

13 (11) ~~(8)~~ Subdivision (2)(b) ~~(1)(b)~~ of this section does not apply if
14 the owner or possessor of the property dies or is removed from the United
15 States before charges are filed so long as the statute of limitations for
16 a covered offense ~~violation of the Child Pornography Prevention Act,~~
17 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
18 ~~28-1104, 28-1105, 28-1105.01, or 28-1107~~ has not expired.

19 (12) ~~(9)~~ Subdivision (2)(a) ~~(1)(a)~~ of this section does not apply if
20 the owner or possessor of the property is unknown or incapable of being
21 determined for some legitimate reason or fails to appear in court as
22 ordered after prosecution for a covered offense ~~violation of the Child~~
23 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
24 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107~~ is
25 commenced and is not apprehended within twelve months after the failure
26 to appear order was issued by the court.

27 (13) ~~(10)~~ If the owner or possessor of the property fails to appear
28 in court as ordered after prosecution for a covered offense ~~violation of~~
29 ~~the Child Pornography Prevention Act, subsection (1) of section 28-416,~~
30 ~~or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
31 ~~28-1107~~ is commenced but appears or is apprehended within twelve months

1 after the failure to appear order was issued by the court, the court may
2 order the owner or possessor of the property, as a part of any sentence
3 imposed for either the failure to appear or the conviction for a covered
4 offense of the Child Pornography Prevention Act, subsection (1) of
5 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
6 28-1105.01, or 28-1107, to pay a storage fee of one hundred dollars per
7 month for each month the property was held following the issuance of the
8 failure to appear order.

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

11 28-1602 (1) The prosecuting authority must specifically plead its
12 intent to seek forfeiture of any property upon a conviction for a covered
13 offense violation of the Child Pornography Prevention Act, subsection (1)
14 of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
15 28-1105, 28-1105.01, or 28-1107 in the same criminal information charging
16 the underlying covered offense violation of the Child Pornography
17 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
18 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.

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

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

28 (a) Financial transaction offense has the same meaning as in section
29 28-1601; and

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

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

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

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

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

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

25 (b) Resolution of any applications filed during such thirty-six
26 month period.

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

31 **Sec. 13.** Original sections 28-618, 28-1601, and 28-1602, Reissue

- 1 Revised Statutes of Nebraska, and section 28-101, Revised Statutes
- 2 Cumulative Supplement, 2024, are repealed.