

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 785

Introduced by Hallstrom, 1.

Read first time January 07, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 28-101, 28-618, 28-627.03, 28-627.04, and 28-1601, Revised Statutes
3 Supplement, 2025; to define a term; to prohibit conduct involving
4 mail receptacle keys and locks and intent to defraud or deprive
5 another of property; to harmonize provisions; and to repeal the
6 original sections.

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

1 **Section 1.** Section 28-101, Revised Statutes Supplement, 2025, is
2 amended to read:

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

6 **Sec. 2.** Section 28-618, Revised Statutes Supplement, 2025, is
7 amended to read:

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

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

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

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

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

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

30 (6) Expired financial transaction device means a financial
31 transaction device which is no longer valid because the term shown on it

1 has elapsed;

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

9 (8) Financial-transaction-device-making equipment means any
10 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 a photographic method that uses laser light to
15 produce three-dimensional images;

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

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

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

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

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

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

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

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

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

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

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

28 (22) To falsely complete a financial transaction device means to
29 transform an incomplete device into a complete one by adding, inserting,
30 or changing matter without the authority of anyone entitled to grant such
31 authority, so that the complete device falsely appears or purports to be

1 in all respects an authentic creation of or fully authorized by its
2 ostensible issuer;

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

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

12 **Sec. 3.** (1) For purposes of this section, postal service means: (a)
13 The United States Postal Service or a contractor of the United States
14 Postal Service; or (b) any commercial courier that delivers mail.

15 (2) A person commits the offense of unlawful conduct involving a
16 mail receptacle key or lock if, with the intent to defraud or to deprive
17 another of that person's property, the person obtains, possesses,
18 duplicates, transfers, or uses a key or lock adopted by a postal service
19 for any box or other authorized receptacle for the deposit or delivery of
20 mail.

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

22 **Sec. 4.** Section 28-627.03, Revised Statutes Supplement, 2025, is
23 amended to read:

24 28-627.03 (1) For purposes of this section:

25 (a) Financial transaction offense means any violation of sections
26 28-618 to 28-630 and section 3 of this act for which the punishment is a
27 felony; and

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

31 (2) A person is engaged in a continuing criminal enterprise if such

1 person commits any financial transaction offense and:

2 (a) Such offense is part of a continuing series of financial
3 transaction offenses;

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

7 (c) Such person obtains substantial income or resources from such
8 activities.

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

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

12 (i) Included three or fewer persons; or

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

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

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

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

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

24 (i) Included ten or more persons; or

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

27 **Sec. 5.** Section 28-627.04, Revised Statutes Supplement, 2025, is
28 amended to read:

29 28-627.04 In addition to the existing penalties available for a
30 violation of sections 28-618 to 28-630 and section 3 of this act, a
31 sentencing court may order forfeiture as provided in sections 28-1601 to

1 28-1603.

2 **Sec. 6.** Section 28-1601, Revised Statutes Supplement, 2025, is
3 amended to read:

4 28-1601 (1) For purposes of sections 28-1601 to 28-1603:

5 (a) Covered offense means a violation of the Child Sexual Abuse
6 Material Prevention Act, subsection (1) of section 28-416, or section
7 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107 or a financial
8 transaction offense;

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

11 (c) Financial transaction offense means a violation of sections
12 28-618 to 28-630 and section 3 of this act; and

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

14 (2) In addition to existing penalties for a violation of a covered
15 offense, a court may order forfeiture of any money, securities,
16 negotiable instruments, firearms, conveyances, or electronic
17 communication devices; any equipment, components, peripherals, software,
18 hardware, or accessories related to electronic communication devices; or
19 any gambling devices if:

20 (a) The owner or possessor of the property has been convicted of a
21 covered offense;

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

25 (c) It is found by clear and convincing evidence that such property
26 was derived from, used, or intended to be used to facilitate a covered
27 offense.

28 (3) Following the filing of an information charging a violation of a
29 covered offense that specifically seeks forfeiture of any property listed
30 in subsection (2) of this section, the defendant may request a pretrial
31 hearing to determine the existence of probable cause to believe that the

1 property specifically sought to be forfeited was derived from, used, or
2 intended to be used to facilitate a covered offense. The request for a
3 hearing pursuant to this section must be filed with the district court in
4 which the criminal proceeding is pending within thirty days after the
5 filing of the information.

6 (4)(a) At any time after the filing of the information in district
7 court and prior to final disposition of the criminal case, any person,
8 other than the defendant, with a claimed legal interest in the property
9 may petition to intervene in the district court with jurisdiction over
10 the criminal case for the specific and limited purpose of demonstrating
11 such person's legal interest in the property and such person's lack of
12 actual knowledge that such property was derived from, used, or intended
13 to be used to facilitate a covered offense.

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

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

24 (a) That the claimant has a legally recognized interest in the
25 property; and

26 (b) Either (i) that such property was acquired by the claimant in
27 good faith and the claimant did not have actual knowledge that such
28 property was derived from, used, or intended to be used to facilitate a
29 covered offense or (ii) that the property seized was not derived from,
30 used, or intended to be used to facilitate a covered offense.

31 (6) The court, on its own motion or upon application of the

1 claimant, may permit the claimant to proceed in forma pauperis under
2 sections 25-2301 to 25-2310. The court, on its own motion or upon
3 application of the claimant, may appoint counsel to represent the
4 claimant if the claimant is indigent. If the claimant asserts indigency,
5 the court shall make a reasonable inquiry to determine the claimant's
6 financial condition and may require the claimant to execute an affidavit
7 of indigency for filing with the clerk of the court.

8 (7) After conviction but prior to sentencing for a covered offense
9 in cases in which the prosecuting authority has specifically requested
10 forfeiture of property, the district court shall conduct an evidentiary
11 hearing at which the prosecuting authority must prove by clear and
12 convincing evidence what specific amount or portion of the property
13 specifically enumerated in the criminal information was derived from,
14 used, or intended for use in furtherance of a covered offense. At the
15 conclusion of such hearing, the court shall make specific findings of
16 fact indicating what amount or portion of the property sought to be
17 forfeited by the state was derived from, used, or intended to be used to
18 facilitate a covered offense. The court shall order any amount or portion
19 of the property not proven by the state to be derived from, used, or
20 intended to be used to facilitate a covered offense or the fair market
21 value of the legally recognized interest in such property be returned to
22 its rightful and legal owner or interest holder.

23 (8)(a) The court shall order that any amount or portion of property
24 proven by the state by clear and convincing evidence to be derived from,
25 used, or intended to be used to facilitate a covered offense be forfeited
26 to the state and disposition of such property be conducted in accordance
27 with this subsection and section 28-1439.02 at such time as the property
28 is no longer required as evidence in any criminal proceeding.

29 (b) As part of any disposition of property, the court may order
30 that: (i) For a covered offense other than a financial transaction
31 offense, any money, securities, or negotiable instruments be distributed

1 as provided in Article VII, section 5, of the Constitution of Nebraska;
2 (ii) for a financial transaction offense, any money, securities, or
3 negotiable instruments be credited to the Financial Fraud Victims'
4 Reimbursement Fund for the purposes described in section 84-222; (iii)
5 any conveyances be sold or put to official use by the seizing agency for
6 a period of not more than one year and when such property is no longer
7 necessary for official use or at the end of two years, whichever comes
8 first, such property shall be sold. Proceeds from the sale of any
9 conveyance shall be distributed as provided in Article VII, section 5, of
10 the Constitution of Nebraska; (iv) any electronic communication devices,
11 any equipment, components, peripherals, software, hardware, or
12 accessories related to electronic communication devices, or any gambling
13 devices be destroyed by a law enforcement agency; and (v) the disposition
14 of firearms shall be effectuated pursuant to section 29-820.

15 (c) As used in this subsection, official use means use directly in
16 connection with enforcement of the Child Sexual Abuse Material Prevention
17 Act, the Uniform Controlled Substances Act, sections 28-618 to 28-630 and
18 section 3 of this act, or section 28-1102, 28-1103, 28-1104, 28-1105,
19 28-1105.01, or 28-1107.

20 (9) Any money, securities, negotiable instruments, firearms,
21 conveyances, or electronic communication devices; any equipment,
22 components, peripherals, software, hardware, or accessories related to
23 electronic communication devices; or any gambling devices may be
24 forfeited pursuant to a plea agreement between the state and the
25 defendant subject to notice to or approval of the court.

26 (10) Subdivision (2)(a) of this section does not apply if the owner
27 or possessor of the property dies or is removed from the United States
28 before charges are filed or a conviction obtained.

29 (11) Subdivision (2)(b) of this section does not apply if the owner
30 or possessor of the property dies or is removed from the United States
31 before charges are filed so long as the statute of limitations for a

1 covered offense has not expired.

2 (12) Subdivision (2)(a) of this section does not apply if the owner
3 or possessor of the property is unknown or incapable of being determined
4 for some legitimate reason or fails to appear in court as ordered after
5 prosecution for a covered offense is commenced and is not apprehended
6 within twelve months after the failure to appear order was issued by the
7 court.

8 (13) If the owner or possessor of the property fails to appear in
9 court as ordered after prosecution for a covered offense is commenced but
10 appears or is apprehended within twelve months after the failure to
11 appear order was issued by the court, the court may order the owner or
12 possessor of the property, as a part of any sentence imposed for either
13 the failure to appear or the conviction for a covered offense, to pay a
14 storage fee of one hundred dollars per month for each month the property
15 was held following the issuance of the failure to appear order.

16 **Sec. 7.** Original sections 28-101, 28-618, 28-627.03, 28-627.04, and
17 28-1601, Revised Statutes Supplement, 2025, are repealed.