

AMENDMENTS TO LB 97

Introduced by Judiciary.

1           1. Strike the original sections and insert the following  
2 new sections:

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

5           21-20,177 (1) The registered agent of a foreign  
6 corporation authorized to transact business in this state shall  
7 be the corporation's agent for service of process, notice, or  
8 demand required or permitted by law to be served on the foreign  
9 corporation. By being authorized to transact business in this  
10 state, the foreign corporation's agent for service of process  
11 shall also consent to service of process directed to the foreign  
12 corporation's agent in Nebraska for a search warrant issued  
13 pursuant to sections 28-807 to 28-829, or for any other validly  
14 issued and properly served subpoena, including those authorized  
15 under section 86-2,112, for records or documents that are in the  
16 possession of the foreign corporation and are located inside or  
17 outside of this state. The consent to service of a subpoena or  
18 search warrant applies to a foreign corporation that is a party or  
19 nonparty to the matter for which the search warrant is sought.

20           (2) A foreign corporation may be served by registered  
21 or certified mail, return receipt requested, addressed to the  
22 secretary of the foreign corporation or the designated custodian  
23 of records at its principal office shown in its application for a

1 certificate of authority or in its most recent annual report if the  
2 foreign corporation has:

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

5 (b) Withdrawn from transacting business in this state  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

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

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

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

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

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

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

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

22 21-20,179 The Secretary of State may commence a  
23 proceeding under section 21-20,180 to revoke the certificate of  
24 authority of a foreign corporation authorized to transact business  
25 in this state if:

26 (1) The foreign corporation is without a registered agent  
27 or registered office in this state for sixty days or more;

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

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

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

12           ~~(4)~~ (5) The Secretary of State receives a duly  
13 authenticated certificate from the official having custody of  
14 the corporate records in the state or country under whose law  
15 the foreign corporation is incorporated stating that it has been  
16 dissolved or has disappeared as the result of a merger.

17           Sec. 3. Section 28-101, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           28-101 Sections 28-101 to 28-1350 and section 7 of this  
20 act shall be known and may be cited as the Nebraska Criminal Code.

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

23           28-311 (1) No person, by any means and without privilege  
24 to do so, shall knowingly solicit, coax, entice, or lure or attempt  
25 to solicit, coax, entice, or lure any child under the age of  
26 fourteen years to enter into any vehicle, whether or not the person  
27 knows the age of the child. ~~if~~

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

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

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

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

25           (3) Any person who violates this section commits criminal  
26 child enticement and is guilty of a Class I ~~misdemeanor.~~ IIIA  
27 felony. If such person has previously been convicted of (a)

1 criminal child enticement under this section, (b) sexual assault  
2 of a child in the first degree under section 28-319.01, (c)  
3 sexual assault of a child in the second or third degree under  
4 section 28-320.01, (d) child enticement by means of an electronic  
5 communication device under section 28-320.02, or ~~(d)~~ (e) assault  
6 under section 28-308, 28-309, or 28-310, kidnapping under section  
7 28-313, or false imprisonment under section 28-314 or 28-315 when  
8 the victim was under eighteen years of age when such person  
9 violates this section, such person is guilty of a Class ~~IV~~ III  
10 felony.

11 Sec. 5. Section 28-319.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 28-319.01 (1) A person commits sexual assault of a child  
14 in the first degree:

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

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

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

25 (3) Any person who is found guilty of sexual assault of a  
26 child in the first degree under this section and who has previously  
27 been convicted (a) under this section, (b) under section 28-319 of

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

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

14 Sec. 6. Section 28-320.02, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 28-320.02 (1) No person shall knowingly solicit, coax,  
17 entice, or lure (a) a child sixteen years of age or younger  
18 or (b) a peace officer who is believed by such person to be a  
19 child sixteen years of age or younger, by means of a ~~computer~~ an  
20 electronic communication device as that term is defined in section  
21 ~~28-1343, 28-833,~~ to engage in an act which would be in violation of  
22 section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of  
23 section 28-320. A person shall not be convicted of both a violation  
24 of this subsection and a violation of section 28-319, 28-319.01,  
25 or 28-320.01 or subsection (1) or (2) of section 28-320 if the  
26 violations arise out of the same set of facts or pattern of conduct  
27 and the individual solicited, coaxed, enticed, or lured under this

1 subsection is also the victim of the sexual assault under section  
2 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section  
3 28-320.

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

11 Sec. 7. (1) Any person required to register under the  
12 Sex Offender Registration Act who is found to be a sexually  
13 violent predator under subdivision (4)(c) of section 29-4005 or is  
14 required to register because of a conviction for one or more of the  
15 following offenses, including any substantially equivalent offense  
16 committed in another state, territory, commonwealth, or other  
17 jurisdiction of the United States and knowingly and intentionally  
18 uses a social networking web site or service, instant messaging, or  
19 chat room service that allows a person who is less than eighteen  
20 years of age to access or use its social networking web site,  
21 instant messaging, or chat room service, commits the offense of  
22 unlawful use of the Internet by a prohibited sex offender:

- 23 (a) Kidnapping of a minor pursuant to section 28-313;  
24 (b) Sexual assault of a child in the first degree  
25 pursuant to section 28-319.01;  
26 (c) Sexual assault of a child in the second or third  
27 degree pursuant to section 28-320.01;

- 1           (d) Incest of a minor pursuant to section 28-703;  
2           (e) Pandering of a minor pursuant to section 28-802;  
3           (f) Visual depiction of sexually explicit conduct of a  
4 child pursuant to section 28-1463.03 or 28-1463.05;  
5           (g) Possessing any visual depiction of sexually explicit  
6 conduct pursuant to section 28-813.01;  
7           (h) Criminal child enticement pursuant to section 28-311;  
8           (i) Child enticement by means of an electronic  
9 communication device pursuant to section 28-320.02;  
10           (j) Enticement by electronic communication device  
11 pursuant to section 28-833; or  
12           (k) An attempt or conspiracy to commit an offense listed  
13 in subdivisions (1) (a) through (1) (j) of this section.

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

17           Sec. 8. Section 28-813.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           28-813.01 (1) It shall be unlawful for a person to  
20 knowingly possess any visual depiction of sexually explicit  
21 conduct, as defined in section 28-1463.02, which has a child, as  
22 defined in such section, as one of its participants or portrayed  
23 observers.

24           ~~(2)~~ (2) (a) Any person who is under nineteen years of age  
25 at the time he or she violates this section shall be guilty of a  
26 Class IV felony for each offense.

27           (b) Any person who is nineteen years of age or older at

1 the time he or she violates this section shall be guilty of a Class  
2 III felony for each offense.

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

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

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

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

25 Sec. 9. Section 28-1010, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 28-1010 A person commits indecency with an animal when

1 such person subjects an animal to sexual penetration as defined in  
2 ~~subdivision (6) of~~ section 28-318. Indecency with an animal is a  
3 Class III misdemeanor.

4 Sec. 10. Section 28-1463.02, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 28-1463.02 As used in the Child Pornography Prevention  
7 Act, unless the context otherwise requires:

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

12 (2) Erotic fondling ~~shall mean~~ means touching a person's  
13 clothed or unclothed genitals or pubic area, breasts if the  
14 person is a female, or developing breast area if the person  
15 is a female child, for the purpose of real or simulated overt  
16 sexual gratification or sexual stimulation of one or more persons  
17 involved. Erotic fondling shall not be construed to include  
18 physical contact, even if affectionate, which is not for the  
19 purpose of real or simulated overt sexual gratification or sexual  
20 stimulation of one or more of the persons involved;

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

26 (4) Sadoomasochistic abuse ~~shall mean~~ means flagellation  
27 or torture by or upon a nude person or a person clad in

1 undergarments, a mask, or bizarre costume, or the condition of  
2 being fettered, bound, or otherwise physically restrained when  
3 performed to predominantly appeal to the morbid interest;

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

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

21 Sec. 11. Section 28-1463.03, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 28-1463.03 (1) It shall be unlawful for a person to  
24 knowingly make, publish, direct, create, provide, or in any manner  
25 generate any visual depiction of sexually explicit conduct which  
26 has a child as one of its participants or portrayed observers.

27 (2) It shall be unlawful for a person knowingly to

1 purchase, rent, sell, deliver, distribute, display for sale,  
2 advertise, trade, or provide to any person any visual depiction  
3 of sexually explicit conduct which has a child as one of its  
4 participants or portrayed observers.

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

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

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

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

27 Sec. 12. Section 28-1463.04, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           28-1463.04 (1) Any person who is under nineteen years  
3 of age at the time he or she violates section 28-1463.03 shall  
4 be guilty of a Class III felony for the first offense and shall  
5 be guilty of a Class II felony for each subsequent offense. each  
6 offense.

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

10           (3) Any person who violates section 28-1463.03 and has  
11 previously been convicted of a violation of section 28-1463.03 or  
12 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315,  
13 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.05 or  
14 subsection (1) or (2) of section 28-320 shall be guilty of a Class  
15 IC felony for each offense.

16           Sec. 13. Section 28-1463.05, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           28-1463.05 (1) It shall be unlawful for a person to  
19 knowingly possess with intent to rent, sell, deliver, distribute,  
20 trade, or provide to any person any visual depiction of sexually  
21 explicit conduct which has a child as one of its participants or  
22 portrayed observers.

23           ~~(2)~~ (2) (a) Any person who is under nineteen years of age  
24 at the time he or she violates this section shall be guilty of a  
25 Class IIIA felony for each offense.

26           (b) Any person who is nineteen years of age or older at  
27 the time he or she violates this section shall be guilty of a Class

1 III felony for each offense.

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

8 Sec. 14. Section 29-110, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 29-110 (1) Except as otherwise provided by law, no person  
11 shall be prosecuted for any felony unless the indictment is found  
12 by a grand jury within three years next after the offense has  
13 been done or committed or unless a complaint for the same is filed  
14 before the magistrate within three years next after the offense  
15 has been done or committed and a warrant for the arrest of the  
16 defendant has been issued.

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

26 (3) Except as otherwise provided by law, no person  
27 shall be prosecuted for kidnapping under section 28-313, false

1 imprisonment under section 28-314 or 28-315, child abuse under  
2 section 28-707, pandering under section 28-802, debauching a  
3 minor under section 28-805, or an offense under section 28-813,  
4 28-813.01, or 28-1463.03 when the victim is under sixteen years of  
5 age at the time of the offense (a) unless the indictment for such  
6 offense is found by a grand jury within seven years next after the  
7 offense has been committed or within seven years next after the  
8 victim's sixteenth birthday, whichever is later, or (b) unless a  
9 complaint for such offense is filed before the magistrate within  
10 seven years next after the offense has been committed or within  
11 seven years next after the victim's sixteenth birthday, whichever  
12 is later, and a warrant for the arrest of the defendant has been  
13 issued.

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

21 (5) There shall not be any time limitations for  
22 prosecution or punishment for treason, murder, arson, forgery,  
23 sexual assault in the first or second degree under section 28-319  
24 or 28-320, sexual assault of a child in the second or third degree  
25 under section 28-320.01, incest under section 28-703, or sexual  
26 assault of a child in the first degree under section 28-319.01; nor  
27 shall there be any time limitations for prosecution or punishment

1 for sexual assault in the third degree under section 28-320 when  
2 the victim is under sixteen years of age at the time of the  
3 offense.

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

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

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

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

20 (10) The changes made to this section by Laws 2004, LB  
21 943, shall apply to offenses committed prior to April 16, 2004, for  
22 which the statute of limitations has not expired as of such date  
23 and to offenses committed on or after such date.

24 (11) The changes made to this section by Laws 2005, LB  
25 713, shall apply to offenses committed prior to September 4, 2005,  
26 for which the statute of limitations has not expired as of such  
27 date and to offenses committed on or after such date.

1           Sec. 15. (1) In any judicial or administrative  
2 proceeding, any property or material that constitutes a visual  
3 depiction of sexually explicit conduct, as defined in section  
4 28-1463.02, and which has a child, as defined in such section,  
5 as one of its participants or portrayed observers, shall remain  
6 constantly and continuously in the care, custody, and control  
7 of law enforcement, the prosecuting attorney, or the court  
8 having properly received it into evidence, except as provided in  
9 subsection (3) of this section.

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

24           (3) (a) For purposes of this section, property or material  
25 are deemed to be reasonably available to a defendant if the state  
26 provides ample opportunity for inspection, viewing, examination,  
27 and analysis of the property or material, at a law enforcement

1 or state-operated facility, to the defendant, his or her attorney,  
2 and any individual the defendant seeks to use for the purpose of  
3 furnishing expert testimony.

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

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

23 Sec. 16. Section 29-4001, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 29-4001 Sections 29-4001 to 29-4014 and section 17 of  
26 this act shall be known and may be cited as the Sex Offender  
27 Registration Act.

1           Sec. 17. As used in the Sex Offender Registration Act,  
2 unless the context otherwise requires:

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

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

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

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

23           (5) Email address means the string of letters,  
24 numbers, and symbols used to specify the computer or electronic  
25 communication device that is the source or destination of an email  
26 message that is transmitted over a communication network;

27           (6) Instant messaging means a direct, dedicated, and

1 private communication service, accessed with a computer or  
2 electronic communication device, that enables a user of the service  
3 to send and receive virtually instantaneous text transmissions or  
4 computer file attachments to other selected users of the service  
5 through the Internet or a computer communications network;

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

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

23 (9) Uniform resource locator means a series of text  
24 based symbols, letters, numbers, images, or text characters used  
25 to specify the location and access method for every document, web  
26 page, and resource catalogued on or accessible through the Internet  
27 or a computer communications network.

1           Sec. 18. Section 29-4003, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           29-4003 (1) Except as provided in subsection (2) of this  
4 section, the Sex Offender Registration Act shall apply to any  
5 person who on or after January 1, 1997:

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

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

10          (ii) False imprisonment of a minor pursuant to section  
11 28-314 or 28-315;

12          (iii) Sexual assault pursuant to section 28-319 or  
13 28-320;

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

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

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

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

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

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

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

27          (xi) Criminal child enticement pursuant to section

1 28-311;

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

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

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

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

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

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

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

26 (2) In the case of a person convicted of a violation  
27 of section 28-313, 28-314, 28-315, or 28-805, the convicted person

1 shall be subject to the Sex Offender Registration Act, unless the  
2 sentencing court determines at the time of sentencing, in light  
3 of all the facts, that the convicted person is not subject to the  
4 act. The sentencing court shall make such determination part of the  
5 sentencing order.

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

9 Sec. 19. Section 29-4006, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 29-4006 (1) Registration information required by the Sex  
12 Offender Registration Act shall be in a form approved by the sex  
13 offender registration and community notification division of the  
14 Nebraska State Patrol and shall include the following information:

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

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

20 (c) A listing of each registrable offense under section  
21 29-4003 to which the person pleaded guilty or was found guilty, the  
22 jurisdiction where each offense was committed, the court in which  
23 the person pleaded guilty or was found guilty of each offense, and  
24 the name under which the person pleaded guilty or was found guilty  
25 of each offense;

26 (d) The name and location of each jail, penal or  
27 correctional facility, or public or private institution to which

1 the person was incarcerated for each offense and the actual time  
2 served or confined; ~~and~~

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

6 (f) All email addresses, instant messaging identifiers,  
7 chat room identifiers, and other Internet communication identifiers  
8 that the person uses or plans to use, all uniform resource locators  
9 registered or used by the registrant, and all blogs and Internet  
10 sites maintained by the person or to which the person has uploaded  
11 any content or posted any messages or information.

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

16 (a) Search of all the computers or electronic  
17 communication devices possessed or used by the person, at any time;  
18 and

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

22 ~~(2)~~ (3) For the duration of the registration period  
23 required by the act, registration information shall be verified  
24 annually within thirty days after the anniversary date of the  
25 person's initial registration date. To properly verify, the  
26 following shall occur:

27 (a) The sex offender registration and community

1 notification division of the Nebraska State Patrol shall mail a  
2 nonforwardable verification form to the last-reported address of  
3 the person;

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

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

9 ~~(3)~~ (4) If the person fails to complete and mail the  
10 verification form to the sex offender registration and community  
11 notification division of the Nebraska State Patrol within ten days  
12 after receipt of the form, or the form cannot be delivered due to  
13 the registrant not being at the address last reported, the person  
14 shall be in violation of this section unless the person proves that  
15 the address last reported to the division is still correct.

16 ~~(4)~~ (5) If the person falsifies the registration or  
17 verification form or fails to provide or timely update law  
18 enforcement of any of the information required to be provided  
19 by the Sex Offender Registration Act, the person shall be in  
20 violation of this section.

21 ~~(5)~~ (6) The requirement to verify the address of a  
22 sexually violent predator quarterly as provided in section 29-4005  
23 and the requirement to verify the address of any other registrant  
24 annually as required in this section shall not apply during periods  
25 of such registrant's incarceration. Address verification shall be  
26 resumed as soon as such incarcerated person is placed on any type  
27 of supervised release, parole, or probation or is released from

1 incarceration. Prior to any type of release from incarceration,  
2 such person shall report the change of address to the sheriff of  
3 the county in which he or she is incarcerated and the sheriff of  
4 the county in which he or she resides or is temporarily domiciled.  
5 The sheriff shall forward the change of address to the sex offender  
6 registration and community notification division of the Nebraska  
7 State Patrol.

8 ~~(6)~~ (7) Any person required to register under the Sex  
9 Offender Registration Act shall inform the sheriff of any legal  
10 change in name, in writing, within five working days after such  
11 change, and provide a copy of the legal documentation supporting  
12 the change in name. The sheriff shall forward the information to  
13 the sex offender registration and community notification division  
14 of the Nebraska State Patrol, in writing, within five working days  
15 after receipt of the information.

16 (8) Any person required to register under the Sex  
17 Offender Registration Act shall inform the sheriff with whom he or  
18 she is required to register of any changes in or additions to such  
19 person's list of email addresses, instant messaging identifiers,  
20 chat room identifiers, and other Internet communication identifiers  
21 that the registrant uses or plans to use, all uniform resource  
22 locators registered or used by the person, and all blogs and  
23 Internet web sites maintained by the person or to which the person  
24 has uploaded any content or posted any messages or information,  
25 in writing, by the next working day. The sheriff receiving this  
26 updated information shall forward the information to the sex  
27 offender registration and community notification division of the

1 Nebraska State Patrol, in writing, by the next working day after  
2 receipt of the information.

3           Sec. 20. Section 29-4007, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           29-4007 (1) When sentencing a person convicted of a  
6 registrable offense under section 29-4003, the court shall:

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

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

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

24           (iii) Inform the defendant that if he or she moves to  
25 another state, he or she must report the change of address to the  
26 county sheriff of the county where he or she has been residing  
27 and must comply with the registration requirements of the state to

1 which he or she is moving. The notice must be given within five  
2 working days after his or her move;

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

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

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

17 (vii) Inform the defendant that he or she must provide a  
18 list to all sheriffs with whom he or she must register of all email  
19 addresses, instant messaging identifiers, chat room identifiers,  
20 and other Internet communication identifiers that the defendant  
21 uses or plans to use, all uniform resource locators registered  
22 or used by the defendant, and all blogs and Internet web sites  
23 maintained by the defendant or to which the defendant has uploaded  
24 any content or posted any messages or information;

25 (viii) Inform the defendant that he or she is required to  
26 inform the sheriff with whom he or she is required to register of  
27 any changes in or additions to his or her list of email addresses,

1 instant messaging identifiers, chat room identifiers, and other  
2 Internet communication identifiers that the defendant uses or plans  
3 to use, all uniform resource locators registered or used by the  
4 defendant, and all blogs and Internet web sites maintained by the  
5 defendant or to which the defendant has uploaded any content or  
6 posted any messages or information, in writing, within five working  
7 days after such change or addition; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (2) When a person is convicted of a registrable offense  
26 under section 29-4003 and is not subject to immediate incarceration  
27 upon sentencing, prior to being released by the court, the

1 sentencing court shall ensure that the defendant is registered  
2 by the sheriff of the county in which the defendant is convicted  
3 no later than the time of sentencing. The sheriff shall obtain  
4 full registration information and documents as required by section  
5 29-4006, and forward the information and documents to the sex  
6 offender registration and notification division of the Nebraska  
7 State Patrol within five working days.

8 (3) (a) The Department of Correctional Services or a city  
9 or county correctional or jail facility shall provide written  
10 notification of the duty to register pursuant to the Sex Offender  
11 Registration Act to any person committed to its custody for a  
12 registrable offense under section 29-4003 prior to the person's  
13 release from incarceration. The written notification shall:

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

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

24 (iii) Inform the person that if he or she moves to  
25 another state, he or she must report the change of address to the  
26 county sheriff of the county where he or she has been residing  
27 and must comply with the registration requirements of the state to

1 which he or she is moving. The notice must be given within five  
2 working days after his or her move;

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

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

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

17 (vii) Inform the defendant that he or she must provide a  
18 list to all sheriffs with whom he or she must register of all email  
19 addresses, instant messaging identifiers, chat room identifiers,  
20 and other Internet communication identifiers that the defendant  
21 uses or plans to use, all uniform resource locators registered  
22 or used by the defendant, and all blogs and Internet web sites  
23 maintained by the defendant or to which the defendant has uploaded  
24 any content or posted any messages or information;

25 (viii) Inform the defendant that he or she is required to  
26 inform the sheriff with whom he or she is required to register of  
27 any changes in or additions to his or her list of email addresses,

1 instant messaging identifiers, chat room identifiers, and other  
2 Internet communication identifiers that the defendant uses or plans  
3 to use, all uniform resource locators registered or used by the  
4 defendant, and all blogs and Internet web sites maintained by the  
5 defendant or to which the defendant has uploaded any content or  
6 posted any messages or information, in writing, within five working  
7 days after such change or addition; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3                   Sec. 21. Section 29-4008, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5                   29-4008 No person subject to the Sex Offender  
6 Registration Act shall knowingly and willfully furnish any false or  
7 misleading information in the registration or fail to provide or  
8 timely update law enforcement of any of the information required  
9 to be provided by the act.

10                  Sec. 22. If any section in this act or any part of any  
11 section is declared invalid or unconstitutional, the declaration  
12 shall not affect the validity or constitutionality of the remaining  
13 portions.

14                  Sec. 23. Original sections 21-20,177, 21-20,179, 28-101,  
15 28-311, 28-319.01, 28-320.02, 28-813.01, 28-1010, 28-1463.02,  
16 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003,  
17 29-4006, 29-4007, and 29-4008, Reissue Revised Statutes of  
18 Nebraska, are repealed.

19                  Sec. 24. Since an emergency exists, this act takes effect  
20 when passed and approved according to law.