

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 609

Introduced by Bostar, 29.

Read first time January 22, 2025

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to fraud; to amend sections 28-512, 28-602,
2 28-603, 28-639, 28-1111, 28-1463.06, 28-1601, and 28-1602, Reissue
3 Revised Statutes of Nebraska, and sections 28-416 and 28-813.01,
4 Revised Statutes Cumulative Supplement, 2024; to adopt the
5 Controllable Electronic Record Fraud Prevention Act; to require
6 certain notice to purchasers of gift certificates or gift cards; to
7 define a term; to provide for forfeiture for convictions for certain
8 offenses involving theft by deception, forgery, and identity theft;
9 to provide for forfeiture of controllable electronic records; to
10 clarify and harmonize provisions; to provide severability; and to
11 repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 11 of this act shall be known and may be
2 cited as the Controllable Electronic Record Fraud Prevention Act.

3 **Sec. 2.** For purposes of the Controllable Electronic Record Fraud
4 Prevention Act:

5 (1) Blockchain analytics means the analysis of data from blockchains
6 or public distributed ledgers, including associated transaction
7 information;

8 (2) Blockchain analytics software means a software service that uses
9 blockchain analytics data to provide risk-specific information about
10 controllable electronic record addresses, among other things;

11 (3) Controllable electronic record address means an alphanumeric
12 identifier associated with a controllable electronic record wallet
13 identifying the location to which a controllable electronic record
14 transaction can be sent;

15 (4) Controllable electronic record means a digital representation of
16 value, other than a representation of the United States dollar or a
17 foreign currency, that functions as a unit of account, a store of value,
18 and a medium of exchange;

19 (5) Controllable electronic record kiosk means an electronic
20 terminal acting as a mechanical agent of the controllable electronic
21 record kiosk operator to enable the controllable electronic record kiosk
22 operator to facilitate the exchange of controllable electronic records
23 for money, bank credit, or other controllable electronic records,
24 including, but not limited to, by (a) connecting directly to a separate
25 controllable electronic record exchange that performs the actual
26 controllable electronic record transmission or (b) drawing upon the
27 controllable electronic record in the possession of the electronic
28 terminal's operator;

29 (6) Controllable electronic record kiosk operator means a person
30 that engages in controllable electronic record business activity via a
31 controllable electronic record kiosk located in this state or a person

1 that owns, operates, or manages a money transmission kiosk located in
2 this state through which controllable electronic record business activity
3 is offered;

4 (7) Controllable electronic record kiosk transaction means a
5 transaction conducted or performed, in whole or in part, by electronic
6 means via a controllable electronic record kiosk. Controllable electronic
7 record kiosk transaction includes a transaction made at a controllable
8 electronic record kiosk to purchase controllable electronic records with
9 United States dollars or to sell controllable electronic records for
10 United States dollars; and

11 (8) Controllable electronic record wallet means a software
12 application or other mechanism providing a means to hold the keys
13 necessary to access and transfer controllable electronic records;

14 (9) Customer means new customers and existing customers;

15 (10) Department means the Department of Banking and Finance;

16 (11) Existing customer means an individual whose first controllable
17 electronic record kiosk transaction with the controllable electronic
18 record kiosk operator was more than thirty days prior;

19 (12) New customer means an individual during the thirty-day period
20 after such individual's first transaction with the controllable
21 electronic record kiosk operator that the individual has never previously
22 transacted with. The individual shall remain defined as a new customer
23 during the thirty-day period after the first controllable electronic
24 record kiosk transaction with the controllable electronic record kiosk
25 operator; and

26 (13) Transaction hash means a unique identifier made up of a string
27 of characters that acts as a record of and provides proof that the
28 transaction was verified and added to the blockchain.

29 **Sec. 3.** (1) A controllable electronic record kiosk operator shall
30 not engage in controllable electronic record kiosk transactions or hold
31 itself out as being able to engage in such transactions with or on behalf

1 of another person unless the kiosk operator has a license issued pursuant
2 to the Nebraska Money Transmitters Act.

3 (2) A controllable electronic record kiosk operator shall not
4 locate, or allow a third party to locate, a controllable electronic
5 record kiosk in this state unless the operator registers the kiosk with
6 the department and obtains the prior approval of the department for the
7 kiosk.

8 (3) Each controllable electronic record kiosk operator shall submit
9 a report to the department within forty-five days after the end of each
10 calendar quarter. The report shall include, at a minimum, the following
11 information for each controllable electronic record kiosk operated by the
12 operator within the state:

13 (a) The location and physical address;

14 (b) The legal name and any fictitious or trade name of any location
15 of the kiosk;

16 (c) The start date of operation;

17 (d) The end date of operation, if applicable; and

18 (e) Any associated controllable electronic record address.

19 **Sec. 4.** (1) A controllable electronic record kiosk operator shall
20 disclose to a customer in a clear, conspicuous, and easily readable
21 manner in the chosen language of the customer, all relevant terms and
22 conditions generally associated with the products, services, and
23 activities of the operator and controllable electronic record.

24 (2) The controllable electronic record kiosk operator shall require
25 acknowledgement of receipt of all disclosures required by this section
26 via confirmation of consent by the customer.

27 (3) The disclosures shall include a statement, written prominently
28 and in bold type and provided separately from the other disclosures,
29 warning customers about the potential for criminals to exploit
30 controllable electronic record kiosks to commit illicit activity. The
31 controllable electronic record kiosk operator may tailor the warning

1 language to highlight evolving tactics and techniques. The warning
2 language shall be similar to the following form:

3 WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER
4 WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND THAT CRIMINAL ACTIVITY
5 MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

6 (1) Claims of a frozen bank account or credit card;

7 (2) Fraudulent bank transactions;

8 (3) Claims of identity theft or job offerings in exchange for
9 payments;

10 (4) Requests for payments to government agencies or companies;

11 (5) Requests for disaster relief donations or loans;

12 (6) Offers to purchase tickets for lotteries, sweepstakes, or
13 drawings for vehicles;

14 (7) Prompts to click on desktop pop-ups, such as virus warnings or
15 communication from alleged familiar merchants; and

16 (8) Communication from someone impersonating a representative of
17 your bank or a law enforcement officer.

18 IF YOU BELIEVE YOU ARE BEING SCAMMED, CALL YOUR LOCAL LAW
19 ENFORCEMENT AGENCY.

20 WARNING: TRANSACTIONS CONDUCTED ON THIS CONTROLLABLE ELECTRONIC
21 RECORD KIOSK ARE IRREVERSIBLE. PROTECT YOURSELF FROM FRAUD. NEVER SEND
22 MONEY TO SOMEONE YOU DON'T KNOW.

23 (4) The disclosure shall also include:

24 (a) The material risks associated with controllable electronic
25 records and controllable electronic record transactions, including:

26 (i) The operator's liability for unauthorized controllable
27 electronic record transactions;

28 (ii) The customer's liability for unauthorized currency
29 transactions;

30 (iii) A warning that controllable electronic records are not legal
31 tender, not backed or issued by the United States Government, and are not

1 subject to protections by the Federal Deposit Insurance Corporation,
2 National Credit Union Administration, or Securities Investor Protection
3 Corporation;

4 (iv) A warning that there may be delays in the processing and
5 confirmation of controllable electronic record transactions;

6 (v) A warning that the value of controllable electronic records is
7 derived from supply and demand in the global marketplace which can rise
8 or fall independently of any fiat currency. Holding controllable
9 electronic records carries exchange rate and other types of risk;

10 (vi) A warning that a person who accepts a controllable electronic
11 record as payment today is not required to accept and might not accept
12 controllable electronic records in the future;

13 (vii) A warning that the volatility and unpredictability of the
14 price of controllable electronic records relative to fiat currency may
15 result in a significant loss over a short period;

16 (viii) A warning that any bond or trust maintained by the
17 controllable electronic record kiosk operator for the benefit of a
18 customer may not cover all losses;

19 (b) The amount of the customer's controllable electronic record
20 kiosk transaction denominated in United States dollars as well as the
21 applicable controllable electronic records;

22 (c) Any fees or expenses charged by the controllable electronic
23 record kiosk operator;

24 (d) Any applicable exchange rates;

25 (e) The controllable electronic record transaction daily limit of
26 two thousand dollars for new customers;

27 (f) The controllable electronic record transaction daily limit of
28 five thousand dollars for existing customers;

29 (g) The name, address, and telephone number of the operator of the
30 controllable electronic record kiosk, the days, time, and means by which
31 a customer can contact the operator for customer assistance, and any

1 relevant state or local law enforcement agency or government agency for
2 reporting fraud, all of which shall be displayed on or at the location of
3 the controllable electronic record kiosk, or on the first screen of such
4 kiosk;

5 (h) Any other disclosures that are customarily given in connection
6 with a controllable electronic record kiosk transaction.

7 (5) Upon the completion of a controllable electronic record kiosk
8 transaction, the controllable electronic record kiosk operator shall
9 provide the customer with a receipt in the language chosen by such
10 customer. The receipt shall be physical where possible. If necessary, the
11 controllable electronic record kiosk operator may provide the receipt in
12 multiple communications. The receipt shall contain the following
13 information:

14 (a) The operator's name and contact information, including a
15 telephone number to answer questions and register complaints;

16 (b) Relevant state law enforcement agencies and government agencies
17 for reporting fraud;

18 (c) The type, value, date, and precise time of the transaction, the
19 transaction hash, and each applicable controllable electronic record
20 address;

21 (d) The name and contact information of the sender of the
22 controllable electronic record transaction;

23 (e) The name and contact information of the designated recipient of
24 the controllable electronic record transaction;

25 (f) All fees charged;

26 (g) The exchange rate of the controllable electronic record to
27 United States dollars;

28 (h) The operator's liability for nondelivery or delayed delivery;

29 (i) The operator's refund policy; and

30 (j) Any additional information the department may require.

31 **Sec. 5. (1) All controllable electronic record kiosk operators**

1 shall use blockchain analytics software to assist in the prevention of
2 sending purchased controllable electronic records from an operator to a
3 controllable electronic record wallet known to be affiliated with
4 fraudulent activity at the time of a transaction. The department may
5 request evidence from any controllable electronic record kiosk operator
6 of current use of blockchain analytics.

7 (2) All controllable electronic record kiosk operators shall take
8 reasonable steps to detect and prevent fraud, including establishing and
9 maintaining a written anti-fraud policy. The anti-fraud policy shall, at
10 a minimum, include:

11 (a) The identification and assessment of fraud-related risk areas;

12 (b) Procedures and controls to protect against identified risks;

13 (c) Allocation of responsibility for monitoring risks; and

14 (d) Procedures for the periodic evaluation and revision of the anti-
15 fraud procedures, controls, and monitoring mechanisms.

16 **Sec. 6.** (1) Each controllable electronic record kiosk operator
17 shall designate and employ a compliance officer on a full-time basis.

18 (2) The compliance officer shall be qualified to coordinate and
19 monitor compliance with the Controllable Electronic Record Fraud
20 Prevention Act and all other applicable federal and state laws, rules,
21 and regulations.

22 (3) The compliance officer shall not own more than twenty percent of
23 the controllable electronic record kiosk operator.

24 (4) All compliance responsibilities required under federal and state
25 laws, rules, and regulations shall be completed by full-time employees of
26 the controllable electronic record kiosk operator or by approved outside
27 vendors with compliance expertise supervised by full-time employees of
28 such operator.

29 **Sec. 7.** (1) If a new customer has been fraudulently induced to
30 engage in a controllable electronic record kiosk transaction and contacts
31 the controllable electronic record kiosk operator and a law enforcement

1 agency or government agency to inform the operator and agency of the
2 fraudulent nature of the transaction within ninety days after the
3 transaction then, upon request of the customer, the operator shall issue
4 a full refund for the fraudulently induced controllable electronic record
5 transaction, including fees charged in association with the transaction.

6 (2) If an existing customer has been fraudulently induced to engage
7 in a controllable electronic record kiosk transaction and contacts the
8 controllable electronic record kiosk operator and a law enforcement
9 agency or government agency to inform the operator and agency of the
10 fraudulent nature of the transaction within ninety days after the
11 transaction then, upon request of the customer, the operator shall issue
12 a full refund for the fees charged in association with the transaction.

13 **Sec. 8.** A controllable electronic record kiosk operator shall not
14 accept transactions in a day in connection with controllable electronic
15 record kiosk transactions for a single customer in this state via one or
16 more controllable electronic record kiosks exceeding:

17 (1) For new customers, two thousand United States dollars or the
18 equivalent in controllable electronic records; or

19 (2) For existing customers, five thousand dollars or the equivalent
20 in controllable electronic records.

21 **Sec. 9.** The aggregate fees and charges, directly or indirectly,
22 charged to a customer related to a single transaction or series of
23 related transactions involving controllable electronic records effected
24 through a controllable electronic record kiosk in this state, including
25 any difference between the price charged to a customer to buy, sell,
26 exchange, swap, or convert controllable electronic records and the
27 prevailing market value of such controllable electronic records at the
28 time of such transaction, shall not exceed eighteen percent of the value
29 of the United States dollars involved in the transaction or transactions.

30 **Sec. 10.** All controllable electronic record kiosk operators
31 performing business in the state shall, at a minimum, provide live

1 customer service on Monday through Friday between the hours of 7:00 a.m.
2 and 9:00 p.m. via a toll-free telephone number. The telephone number
3 shall be displayed on the controllable electronic record kiosk or the
4 kiosk screens.

5 **Sec. 11.** All controllable electronic record kiosk operators
6 performing business in the state shall, at a minimum, have a dedicated
7 method of contact for law enforcement and regulatory agencies to contact
8 the controllable electronic record kiosk operator. This method of
9 communications shall be monitored at least daily. The contact method
10 shall be displayed and available on the controllable electronic record
11 kiosk operator's website and shall be updated as necessary.

12 **Sec. 12.** (1) For purposes of this section, gift certificate or gift
13 card means a certificate, electronic card, or other prefunded record that
14 (a) is usable at a single merchant or an affiliated group of merchants
15 that share the same name, mark, or logo, or is usable at multiple
16 unaffiliated merchants or service providers, (b) is issued in a specified
17 amount, (c) may or may not be increased in value or reloaded, (d) is
18 purchased or loaded on a prepaid basis for the future purchase or
19 delivery of any goods or services, and (e) is honored upon presentation.

20 (2) Except as provided in subsection (7) of this section, if any
21 person, firm, partnership, association, limited liability company,
22 corporation, or other business entity sells one or more gift certificates
23 or gift cards to a purchaser, the seller shall provide notice about the
24 potential fraud to the purchaser.

25 (3) Prior to enactment, the Consumer Protection Division of the
26 Office of the Attorney General shall release model notice language which
27 the entities listed in subsection (2) of this section may use to comply
28 with such subsection.

29 (4) The notice required pursuant to subsection (2) of this section
30 shall be provided conspicuously where gift certificates or gift cards are
31 displayed or sold or at point of sale on an electronic payment system

1 screen or in printed form.

2 (5) If the Attorney General has cause to believe this section has
3 been violated, the Attorney General may provide a written citation to the
4 violation. Any person, firm, partnership, association, limited liability
5 company, corporation, or other business entity that receives more than
6 one citation may be subject to a civil penalty of up to two hundred fifty
7 dollars. The first written citation shall be considered a warning.

8 (6) Subsection (2) of this section does not apply to a person, firm,
9 partnership, association, limited liability company, corporation, or
10 other business entity which sells only gift cards redeemable for goods or
11 services exclusively by the same person, firm, partnership, association,
12 limited liability company, corporation, or other business entity.

13 (7) This section does not apply to a general-use, prepaid card
14 issued by a financial institution as defined in section 8-101.03 in a
15 predetermined amount, whether or not that amount can be increased or
16 reloaded, which is usable at multiple unaffiliated sellers of goods or
17 services, automatic teller machines, or both.

18 **Sec. 13.** Section 28-416, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 28-416 (1) Except as authorized by the Uniform Controlled Substances
21 Act, it shall be unlawful for any person knowingly or intentionally: (a)
22 To manufacture, distribute, deliver, dispense, or possess with intent to
23 manufacture, distribute, deliver, or dispense a controlled substance; or
24 (b) to create, distribute, or possess with intent to distribute a
25 counterfeit controlled substance.

26 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
27 (10) of this section, any person who violates subsection (1) of this
28 section with respect to: (a) A controlled substance classified in
29 Schedule I, II, or III of section 28-405 which is an exceptionally
30 hazardous drug shall be guilty of a Class II felony; (b) any other
31 controlled substance classified in Schedule I, II, or III of section

1 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
2 substance classified in Schedule IV or V of section 28-405 shall be
3 guilty of a Class IIIA felony.

4 (3) A person knowingly or intentionally possessing a controlled
5 substance, except marijuana or any substance containing a quantifiable
6 amount of the substances, chemicals, or compounds described, defined, or
7 delineated in subdivision (c)(27) of Schedule I of section 28-405, unless
8 such substance was obtained directly or pursuant to a medical order
9 issued by a practitioner authorized to prescribe while acting in the
10 course of his or her professional practice, or except as otherwise
11 authorized by the act, shall be guilty of a Class IV felony. A person
12 shall not be in violation of this subsection if section 28-472 or 28-1701
13 applies.

14 (4)(a) Except as authorized by the Uniform Controlled Substances
15 Act, any person eighteen years of age or older who knowingly or
16 intentionally manufactures, distributes, delivers, dispenses, or
17 possesses with intent to manufacture, distribute, deliver, or dispense a
18 controlled substance or a counterfeit controlled substance (i) to a
19 person under the age of eighteen years, (ii) in, on, or within one
20 thousand feet of the real property comprising a public or private
21 elementary, vocational, or secondary school, a community college, a
22 public or private college, junior college, or university, or a
23 playground, or (iii) within one hundred feet of a public or private youth
24 center, public swimming pool, or video arcade facility shall be punished
25 by the next higher penalty classification than the penalty prescribed in
26 subsection (2), (7), (8), (9), or (10) of this section, depending upon
27 the controlled substance involved, for the first violation and for a
28 second or subsequent violation shall be punished by the next higher
29 penalty classification than that prescribed for a first violation of this
30 subsection, but in no event shall such person be punished by a penalty
31 greater than a Class IB felony.

1 (b) For purposes of this subsection:

2 (i) Playground means any outdoor facility, including any parking lot
3 appurtenant to the facility, intended for recreation, open to the public,
4 and with any portion containing three or more apparatus intended for the
5 recreation of children, including sliding boards, swingsets, and
6 teeterboards;

7 (ii) Video arcade facility means any facility legally accessible to
8 persons under eighteen years of age, intended primarily for the use of
9 pinball and video machines for amusement, and containing a minimum of ten
10 pinball or video machines; and

11 (iii) Youth center means any recreational facility or gymnasium,
12 including any parking lot appurtenant to the facility or gymnasium,
13 intended primarily for use by persons under eighteen years of age which
14 regularly provides athletic, civic, or cultural activities.

15 (5)(a) Except as authorized by the Uniform Controlled Substances
16 Act, it shall be unlawful for any person eighteen years of age or older
17 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
18 induce, entice, seduce, or coerce any person under the age of eighteen
19 years to manufacture, transport, distribute, carry, deliver, dispense,
20 prepare for delivery, offer for delivery, or possess with intent to do
21 the same a controlled substance or a counterfeit controlled substance.

22 (b) Except as authorized by the Uniform Controlled Substances Act,
23 it shall be unlawful for any person eighteen years of age or older to
24 knowingly and intentionally employ, hire, use, cause, persuade, coax,
25 induce, entice, seduce, or coerce any person under the age of eighteen
26 years to aid and abet any person in the manufacture, transportation,
27 distribution, carrying, delivery, dispensing, preparation for delivery,
28 offering for delivery, or possession with intent to do the same of a
29 controlled substance or a counterfeit controlled substance.

30 (c) Any person who violates subdivision (a) or (b) of this
31 subsection shall be punished by the next higher penalty classification

1 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
2 this section, depending upon the controlled substance involved, for the
3 first violation and for a second or subsequent violation shall be
4 punished by the next higher penalty classification than that prescribed
5 for a first violation of this subsection, but in no event shall such
6 person be punished by a penalty greater than a Class IB felony.

7 (6) It shall not be a defense to prosecution for violation of
8 subsection (4) or (5) of this section that the defendant did not know the
9 age of the person through whom the defendant violated such subsection.

10 (7) Any person who violates subsection (1) of this section with
11 respect to cocaine or any mixture or substance containing a detectable
12 amount of cocaine in a quantity of:

13 (a) One hundred forty grams or more shall be guilty of a Class IB
14 felony;

15 (b) At least twenty-eight grams but less than one hundred forty
16 grams shall be guilty of a Class IC felony; or

17 (c) At least ten grams but less than twenty-eight grams shall be
18 guilty of a Class ID felony.

19 (8) Any person who violates subsection (1) of this section with
20 respect to base cocaine (crack) or any mixture or substance containing a
21 detectable amount of base cocaine in a quantity of:

22 (a) One hundred forty grams or more shall be guilty of a Class IB
23 felony;

24 (b) At least twenty-eight grams but less than one hundred forty
25 grams shall be guilty of a Class IC felony; or

26 (c) At least ten grams but less than twenty-eight grams shall be
27 guilty of a Class ID felony.

28 (9) Any person who violates subsection (1) of this section with
29 respect to heroin or any mixture or substance containing a detectable
30 amount of heroin in a quantity of:

31 (a) One hundred forty grams or more shall be guilty of a Class IB

1 felony;

2 (b) At least twenty-eight grams but less than one hundred forty
3 grams shall be guilty of a Class IC felony; or

4 (c) At least ten grams but less than twenty-eight grams shall be
5 guilty of a Class ID felony.

6 (10) Any person who violates subsection (1) of this section with
7 respect to amphetamine, its salts, optical isomers, and salts of its
8 isomers, or with respect to methamphetamine, its salts, optical isomers,
9 and salts of its isomers, in a quantity of:

10 (a) One hundred forty grams or more shall be guilty of a Class IB
11 felony;

12 (b) At least twenty-eight grams but less than one hundred forty
13 grams shall be guilty of a Class IC felony; or

14 (c) At least ten grams but less than twenty-eight grams shall be
15 guilty of a Class ID felony.

16 (11) Any person knowingly or intentionally possessing marijuana
17 weighing more than one ounce but not more than one pound shall be guilty
18 of a Class III misdemeanor.

19 (12) Any person knowingly or intentionally possessing marijuana
20 weighing more than one pound shall be guilty of a Class IV felony.

21 (13) Except as provided in section 28-1701, any person knowingly or
22 intentionally possessing marijuana weighing one ounce or less or any
23 substance containing a quantifiable amount of the substances, chemicals,
24 or compounds described, defined, or delineated in subdivision (c)(27) of
25 Schedule I of section 28-405 shall:

26 (a) For the first offense, be guilty of an infraction, receive a
27 citation, be fined three hundred dollars, and be assigned to attend a
28 course as prescribed in section 29-433 if the judge determines that
29 attending such course is in the best interest of the individual
30 defendant;

31 (b) For the second offense, be guilty of a Class IV misdemeanor,

1 receive a citation, and be fined four hundred dollars and may be
2 imprisoned not to exceed five days; and

3 (c) For the third and all subsequent offenses, be guilty of a Class
4 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
5 be imprisoned not to exceed seven days.

6 (14) Any person convicted of violating this section, if placed on
7 probation, shall, as a condition of probation, satisfactorily attend and
8 complete appropriate treatment and counseling on drug abuse provided by a
9 program authorized under the Nebraska Behavioral Health Services Act or
10 other licensed drug treatment facility.

11 (15) Any person convicted of violating this section, if sentenced to
12 the Department of Correctional Services, shall attend appropriate
13 treatment and counseling on drug abuse.

14 (16) Any person knowingly or intentionally possessing a firearm
15 while in violation of subsection (1) of this section shall be punished by
16 the next higher penalty classification than the penalty prescribed in
17 subsection (2), (7), (8), (9), or (10) of this section, but in no event
18 shall such person be punished by a penalty greater than a Class IB
19 felony.

20 (17) A person knowingly or intentionally in possession of money used
21 or intended to be used to facilitate a violation of subsection (1) of
22 this section shall be guilty of a Class IV felony.

23 (18) In addition to the existing penalties available for a violation
24 of subsection (1) of this section, including any criminal attempt or
25 conspiracy to violate subsection (1) of this section, a sentencing court
26 may order forfeiture as provided in sections 28-1601 to 28-1603. ~~that any~~
27 ~~money, securities, negotiable instruments, firearms, conveyances, or~~
28 ~~electronic communication devices as defined in section 28-833 or any~~
29 ~~equipment, components, peripherals, software, hardware, or accessories~~
30 ~~related to electronic communication devices be forfeited as a part of the~~
31 ~~sentence imposed if it finds by clear and convincing evidence adduced at~~

1 ~~a separate hearing in the same prosecution, following conviction for a~~
2 ~~violation of subsection (1) of this section, and conducted pursuant to~~
3 ~~section 28-1601, that any or all such property was derived from, used, or~~
4 ~~intended to be used to facilitate a violation of subsection (1) of this~~
5 ~~section.~~

6 (19) In addition to the penalties provided in this section:

7 (a) If the person convicted or adjudicated of violating this section
8 is eighteen years of age or younger and has one or more licenses or
9 permits issued under the Motor Vehicle Operator's License Act:

10 (i) For the first offense, the court may, as a part of the judgment
11 of conviction or adjudication, (A) impound any such licenses or permits
12 for thirty days and (B) require such person to attend a drug education
13 class;

14 (ii) For a second offense, the court may, as a part of the judgment
15 of conviction or adjudication, (A) impound any such licenses or permits
16 for ninety days and (B) require such person to complete no fewer than
17 twenty and no more than forty hours of community service and to attend a
18 drug education class; and

19 (iii) For a third or subsequent offense, the court may, as a part of
20 the judgment of conviction or adjudication, (A) impound any such licenses
21 or permits for twelve months and (B) require such person to complete no
22 fewer than sixty hours of community service, to attend a drug education
23 class, and to submit to a drug assessment by a licensed alcohol and drug
24 counselor; and

25 (b) If the person convicted or adjudicated of violating this section
26 is eighteen years of age or younger and does not have a permit or license
27 issued under the Motor Vehicle Operator's License Act:

28 (i) For the first offense, the court may, as part of the judgment of
29 conviction or adjudication, (A) prohibit such person from obtaining any
30 permit or any license pursuant to the act for which such person would
31 otherwise be eligible until thirty days after the date of such order and

1 (B) require such person to attend a drug education class;

2 (ii) For a second offense, the court may, as part of the judgment of
3 conviction or adjudication, (A) prohibit such person from obtaining any
4 permit or any license pursuant to the act for which such person would
5 otherwise be eligible until ninety days after the date of such order and
6 (B) require such person to complete no fewer than twenty hours and no
7 more than forty hours of community service and to attend a drug education
8 class; and

9 (iii) For a third or subsequent offense, the court may, as part of
10 the judgment of conviction or adjudication, (A) prohibit such person from
11 obtaining any permit or any license pursuant to the act for which such
12 person would otherwise be eligible until twelve months after the date of
13 such order and (B) require such person to complete no fewer than sixty
14 hours of community service, to attend a drug education class, and to
15 submit to a drug assessment by a licensed alcohol and drug counselor.

16 A copy of an abstract of the court's conviction or adjudication
17 shall be transmitted to the Director of Motor Vehicles pursuant to
18 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
19 juvenile is prohibited from obtaining a license or permit under this
20 subsection.

21 **Sec. 14.** Section 28-512, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-512 (1) A person commits theft if he obtains property of another
24 by deception. A person deceives if he or she intentionally:

25 (a) ~~(1)~~ Creates or reinforces a false impression, including false
26 impressions as to law, value, intention, or other state of mind; but
27 deception as to a person's intention to perform a promise shall not be
28 inferred from the fact alone that he or she did not subsequently perform
29 the promise; or

30 (b) ~~(2)~~ Prevents another from acquiring information which would
31 affect his or her judgment of a transaction; or

1 (c) ~~(3)~~ Fails to correct a false impression which the deceiver
2 previously created or reinforced, or which the deceiver knows to be
3 influencing another to whom he or she stands in a fiduciary or
4 confidential relationship; or

5 (d) ~~(4)~~ Uses a credit card, charge plate, or any other instrument
6 which purports to evidence an undertaking to pay for property or services
7 delivered or rendered to or upon the order of a designated person or
8 bearer (a) where such instrument has been stolen, forged, revoked, or
9 canceled, or where for any other reason its use by the actor is
10 unauthorized, or (b) where the actor does not have the intention and
11 ability to meet all obligations to the issuer arising out of his or her
12 use of the instrument.

13 (2) The word deceive does not include falsity as to matters having
14 no pecuniary significance, or statements unlikely to deceive ordinary
15 persons in the group addressed.

16 (3) In addition to the existing penalties available for a violation
17 of this section, including any criminal attempt or conspiracy to violate
18 this section, a sentencing court may order forfeiture as provided in
19 sections 28-1601 to 28-1603.

20 **Sec. 15.** Section 28-602, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 28-602 (1) A person commits forgery in the first degree if, with
23 intent to deceive or harm, he or she falsely makes, completes, endorses,
24 alters, or utters a written instrument which is or purports to be, or
25 which is calculated to become or to represent if completed:

26 (a) Part of an issue of money, stamps, securities, or other valuable
27 instruments issued by a government or governmental agency; or

28 (b) Part of an issue of stock, bonds, bank notes, or other
29 instruments representing interests in or claims against a corporate or
30 other organization or its property.

31 (2) Forgery in the first degree is a Class III felony.

1 (3) In addition to the existing penalties available for a violation
2 of this section, including any criminal attempt or conspiracy to violate
3 this section, a sentencing court may order forfeiture as provided in
4 sections 28-1601 to 28-1603.

5 **Sec. 16.** Section 28-603, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 28-603 (1) Whoever, with intent to deceive or harm, falsely makes,
8 completes, endorses, alters, or utters any written instrument which is or
9 purports to be, or which is calculated to become or to represent if
10 completed, a written instrument which does or may evidence, create,
11 transfer, terminate, or otherwise affect a legal right, interest,
12 obligation, or status, commits forgery in the second degree.

13 (2) Forgery in the second degree is a Class IIA felony when the face
14 value, or purported face value, or the amount of any proceeds wrongfully
15 procured or intended to be procured by the use of such instrument, is
16 five thousand dollars or more.

17 (3) Forgery in the second degree is a Class IV felony when the face
18 value, or purported face value, or the amount of any proceeds wrongfully
19 procured or intended to be procured by the use of such instrument, is one
20 thousand five hundred dollars or more but is less than five thousand
21 dollars.

22 (4) Forgery in the second degree is a Class I misdemeanor when the
23 face value, or purported face value, or the amount of any proceeds
24 wrongfully procured or intended to be procured by the use of such
25 instrument, is five hundred dollars or more but is less than one thousand
26 five hundred dollars.

27 (5) Forgery in the second degree is a Class II misdemeanor when the
28 face value, or purported face value, or the amount of any proceeds
29 wrongfully procured or intended to be procured by the use of such
30 instrument, is less than five hundred dollars.

31 (6) For the purpose of determining the class of penalty for forgery

1 in the second degree, the face values, or purported face values, or the
2 amounts of any proceeds wrongfully procured or intended to be procured by
3 the use of more than one such instrument, may be aggregated in the
4 indictment or information if such instruments were part of the same
5 scheme or course of conduct which took place within a sixty-day period
6 and within one county. Such values or amounts shall not be aggregated
7 into more than one offense.

8 (7) In addition to the existing penalties available for a violation
9 of this section, including any criminal attempt or conspiracy to violate
10 this section, a sentencing court may order forfeiture as provided in
11 sections 28-1601 to 28-1603.

12 **Sec. 17.** Section 28-639, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 28-639 (1) A person commits the crime of identity theft if he or she
15 knowingly takes, purchases, manufactures, records, possesses, or uses any
16 personal identifying information or entity identifying information of
17 another person or entity without the consent of that other person or
18 entity or creates personal identifying information for a fictional person
19 or entity, with the intent to obtain or use the other person's or
20 entity's identity for any unlawful purpose or to cause loss to a person
21 or entity whether or not the person or entity actually suffers any
22 economic loss as a result of the offense, or with the intent to obtain or
23 continue employment or with the intent to gain a pecuniary benefit for
24 himself, herself, or another.

25 (2) Identity theft is not:

26 (a) The lawful obtaining of credit information in the course of a
27 bona fide consumer or commercial transaction;

28 (b) The lawful, good faith exercise of a security interest or a
29 right of setoff by a creditor or a financial institution;

30 (c) The lawful, good faith compliance by any person when required by
31 any warrant, levy, garnishment, attachment, court order, or other

1 judicial or administrative order, decree, or directive; or

2 (d) The investigative activities of law enforcement.

3 (3)(a) Identity theft is a Class IIA felony if the credit, money,
4 goods, services, or other thing of value that was gained or was attempted
5 to be gained was five thousand dollars or more. Any second or subsequent
6 conviction under this subdivision is a Class II felony.

7 (b) Identity theft is a Class IV felony if the credit, money, goods,
8 services, or other thing of value that was gained or was attempted to be
9 gained was one thousand five hundred dollars or more but less than five
10 thousand dollars. Any second or subsequent conviction under this
11 subdivision is a Class III felony.

12 (c) Identity theft is a Class I misdemeanor if the credit, money,
13 goods, services, or other thing of value that was gained or was attempted
14 to be gained was five hundred dollars or more but less than one thousand
15 five hundred dollars. Any second or subsequent conviction under this
16 subdivision is a Class IV felony.

17 (d) Identity theft is a Class II misdemeanor if no credit, money,
18 goods, services, or other thing of value was gained or was attempted to
19 be gained, or if the credit, money, goods, services, or other thing of
20 value that was gained or was attempted to be gained was less than five
21 hundred dollars. Any second conviction under this subdivision is a Class
22 I misdemeanor, and any third or subsequent conviction under this
23 subdivision is a Class IV felony.

24 (e) A person found guilty of violating this section may, in addition
25 to the penalties under this subsection, be ordered to make restitution
26 pursuant to sections 29-2280 to 29-2289.

27 (4) In addition to the existing penalties available for a violation
28 of this section, including any criminal attempt or conspiracy to violate
29 this section, a sentencing court may order forfeiture as provided in
30 sections 28-1601 to 28-1603.

31 **Sec. 18.** Section 28-813.01, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 28-813.01 (1) It shall be unlawful for a person nineteen years of
3 age or older to knowingly possess any visual depiction of sexually
4 explicit conduct which has a child as one of its participants or
5 portrayed observers. Violation of this subsection is a Class IIA felony.

6 (2) It shall be unlawful for a person under nineteen years of age to
7 knowingly and intentionally possess any visual depiction of sexually
8 explicit conduct which has a child other than the defendant as one of its
9 participants or portrayed observers. Violation of this subsection is a
10 Class I misdemeanor. A second or subsequent conviction under this
11 subsection is a Class IV felony.

12 (3) It shall be an affirmative defense to a charge made pursuant to
13 subsection (2) of this section that:

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

25 (b)(i) The defendant was less than eighteen years of age; (ii) the
26 difference in age between the defendant and the child portrayed is less
27 than four years; (iii) the visual depiction was knowingly and voluntarily
28 generated by the child depicted therein; (iv) the visual depiction was
29 knowingly and voluntarily provided by the child depicted in the visual
30 depiction; (v) the visual depiction contains only one child; (vi) the
31 defendant has not provided or made available the visual depiction to

1 another person except the child depicted who originally sent the visual
2 depiction to the defendant; and (vii) the defendant did not coerce the
3 child in the visual depiction to either create or send the visual
4 depiction.

5 (4) Any person who violates subsection (1) or (2) of this section
6 and 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, 28-319,
8 28-319.01, 28-320.01, 28-833, 28-1463.03, or 28-1463.05 or subsection (1)
9 or (2) of section 28-320 shall be guilty of a Class IC felony for each
10 offense.

11 (5) In addition to the penalties provided in this section, a
12 sentencing court may order forfeiture as provided in sections 28-1601 to
13 28-1603. ~~that any money, securities, negotiable instruments, firearms,~~
14 ~~conveyances, or electronic communication devices as defined in section~~
15 ~~28-833 or any equipment, components, peripherals, software, hardware, or~~
16 ~~accessories related to electronic communication devices be forfeited as a~~
17 ~~part of the sentence imposed if it finds by clear and convincing evidence~~
18 ~~adduced at a separate hearing in the same prosecution, conducted pursuant~~
19 ~~to section 28-1601, that any or all such property was derived from, used,~~
20 ~~or intended to be used to facilitate a violation of this section.~~

21 (6) The definitions in section 28-1463.02 shall apply to this
22 section.

23 **Sec. 19.** Section 28-1111, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 28-1111 In addition to any penalty provided in section 28-1102,
26 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107, a sentencing court may
27 order forfeiture as provided in sections 28-1601 to 28-1603. ~~that any~~
28 ~~money, securities, negotiable instruments, firearms, conveyances, or~~
29 ~~electronic communication devices as defined in section 28-833 or any~~
30 ~~equipment, components, peripherals, software, hardware, or accessories~~
31 ~~related to electronic communication devices, or any gambling devices be~~

1 ~~forfeited as a part of the sentence imposed if it finds by clear and~~
2 ~~convincing evidence adduced at a separate hearing in the same~~
3 ~~prosecution, conducted pursuant to section 28-1601, that any or all such~~
4 ~~property was derived from, used, or intended to be used to facilitate a~~
5 ~~violation of section 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
6 ~~28-1107.~~

7 **Sec. 20.** Section 28-1463.06, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 28-1463.06 In addition to the penalties provided in the Child
10 Pornography Prevention Act, a sentencing court may order forfeiture as
11 provided in sections 28-1601 to 28-1603. ~~that any money, securities,~~
12 ~~negotiable instruments, firearms, conveyances, or electronic~~
13 ~~communication devices as defined in section 28-833 or any equipment,~~
14 ~~components, peripherals, software, hardware, or accessories related to~~
15 ~~electronic communication devices be forfeited as a part of the sentence~~
16 ~~imposed if it finds by clear and convincing evidence adduced at a~~
17 ~~separate hearing in the same prosecution, conducted pursuant to section~~
18 ~~28-1601, that any or all such property was derived from, used, or~~
19 ~~intended to be used to facilitate a violation of the Child Pornography~~
20 ~~Prevention Act.~~

21 **Sec. 21.** Section 28-1601, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-1601 (1) For purposes of sections 28-1601 to 28-1603:

24 (a) Controllable electronic record has the same meaning as in
25 section 8-3003;

26 (b) Covered offense means a violation of the Child Pornography
27 Prevention Act, subsection (1) of section 28-416, or section 28-512,
28 28-602, 28-603, 28-639, 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
29 28-1105.01, or 28-1107;

30 (c) Electronic communication device has the same meaning as in
31 section 28-833; and

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

2 (2) (1) In addition to existing penalties for a violation of a
3 covered offense ~~the Child Pornography Prevention Act, subsection (1) of~~
4 ~~section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,~~
5 ~~28-1105.01, or 28-1107,~~ a court may order forfeiture of any money,
6 securities, negotiable instruments, controllable electronic records,
7 firearms, conveyances, or electronic communication devices; ~~as defined in~~
8 ~~section 28-833,~~ any equipment, components, peripherals, software,
9 hardware, or accessories related to electronic communication devices; ~~r~~
10 or any gambling devices ~~as defined in section 28-1101~~ if:

11 (a) The owner or possessor of the property has been convicted of a
12 covered offense ~~violation of the Child Pornography Prevention Act,~~
13 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
14 ~~28-1104, 28-1105, 28-1105.01, or 28-1107;~~

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

18 (c) It ~~The~~ property is found by clear and convincing evidence that
19 such property was to have been derived from, used, or intended to be used
20 to facilitate a covered offense ~~violation of the Child Pornography~~
21 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
22 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

23 (3) (2) Following the filing of an information charging a violation
24 of a covered offense ~~the Child Pornography Prevention Act, subsection (1)~~
25 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
26 ~~28-1105, 28-1105.01, or 28-1107~~ that specifically seeks forfeiture of any
27 property listed in subsection (2) (1) of this section, the defendant may
28 request a pretrial hearing to determine the existence of probable cause
29 to believe that the property specifically sought to be forfeited was
30 derived from, used, or intended to be used to facilitate a covered
31 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~

1 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
2 ~~28-1105, 28-1105.01, or 28-1107.~~ The request for a hearing pursuant to
3 this section must be filed with the district court in which the criminal
4 proceeding is pending within thirty days after the filing of the
5 information.

6 (4)(a) ~~(3)~~ At any time after the filing of the information in
7 district court and prior to final disposition of the criminal case, any
8 person ~~or entity~~, other than the defendant, with a claimed legal interest
9 in the property may petition to intervene in the district court with
10 jurisdiction over the criminal case for the specific and limited purpose
11 of demonstrating such person's ~~his, her, or its~~ legal interest in the
12 property and such person's ~~his, her, or its~~ lack of actual knowledge that
13 such property was derived from, used, or intended to be used to
14 facilitate a covered offense in violation of the Child Pornography
15 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
16 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.

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

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

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

30 (b) Either ~~either~~ (i) that such property was acquired by the
31 claimant in good faith and the claimant ~~he, she, or it~~ did not have

1 actual knowledge that such property was derived from, used, or intended
2 to be used to facilitate a covered offense violation of the Child
3 Pornography Prevention Act, subsection (1) of section 28-416, or section
4 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107 or
5 (ii) that the property seized was not derived from, used, or intended to
6 be used to facilitate a covered offense violation of the Child
7 Pornography Prevention Act, subsection (1) of section 28-416, or section
8 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.

9 (6) The court, on its own motion or upon application of the
10 ~~intervening~~ claimant, may permit the claimant ~~such person~~ to proceed in
11 forma pauperis under sections 25-2301 to 25-2310. The court, on its own
12 motion or upon application of the intervening claimant, may appoint
13 counsel to represent the claimant ~~such person~~ if the claimant ~~such person~~
14 is indigent. If the claimant ~~he or she~~ asserts indigency, the court shall
15 make a reasonable inquiry to determine the claimant's ~~such person's~~
16 financial condition and may require the claimant ~~him or her~~ to execute an
17 affidavit of indigency for filing with the clerk of the court.

18 (7) (4) After conviction but prior to sentencing for a covered
19 offense violation of the Child Pornography Prevention Act, subsection (1)
20 of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
21 28-1105, 28-1105.01, or 28-1107 in cases in which the prosecuting
22 authority has specifically requested forfeiture of property, the district
23 court shall conduct an evidentiary hearing at which the prosecuting
24 authority must prove by clear and convincing evidence what specific
25 amount or portion of the property specifically enumerated in the criminal
26 information was derived from, used, or intended for use in furtherance of
27 a covered offense violation of the Child Pornography Prevention Act,
28 subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,
29 28-1104, 28-1105, 28-1105.01, or 28-1107. At the conclusion of such
30 hearing, the court shall make specific findings of fact indicating what
31 amount or portion of the property sought to be forfeited by the state was

1 derived from, used, or intended to be used to facilitate a covered
2 offense violation of the Child Pornography Prevention Act, subsection (1)
3 of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
4 28-1105, 28-1105.01, or 28-1107. The court shall order any amount or
5 portion of the property not proven by the state to be derived from, used,
6 or intended to be used to facilitate a covered offense violation of the
7 Child Pornography Prevention Act, subsection (1) of section 28-416, or
8 section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or
9 28-1107 or the fair market value of the legally recognized interest in
10 such property be returned to its rightful and legal owner or interest
11 holder.

12 (8)(a) ~~(5)(a)~~ The court shall order that any amount or portion of
13 property proven by the state by clear and convincing evidence to be
14 derived from, used, or intended to be used to facilitate a covered
15 offense violation of the Child Pornography Prevention Act, subsection (1)
16 of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
17 28-1105, 28-1105.01, or 28-1107 be forfeited to the state and disposition
18 of such property be conducted in accordance with this subsection and
19 section 28-1439.02 at such time as the property is no longer required as
20 evidence in any criminal proceeding.

21 (b) As part of any disposition of property, the court may order
22 that: (i) Any money, securities, or negotiable instruments be distributed
23 as provided in Article VII, section 5, of the Constitution of Nebraska;
24 (ii) any conveyances be sold or put to official use by the seizing agency
25 for a period of not more than one year and when such property is no
26 longer necessary for official use or at the end of two years, whichever
27 comes first, such property shall be sold. Proceeds from the sale of any
28 conveyance shall be distributed as provided in Article VII, section 5, of
29 the Constitution of Nebraska; (iii) any electronic communication devices
30 ~~as defined in section 28-833,~~ any equipment, components, peripherals,
31 software, hardware, or accessories related to electronic communication

1 devices, or any gambling devices ~~as defined in section 28-1101~~ be
2 destroyed by a law enforcement agency; and (iv) the disposition of
3 firearms shall be effectuated pursuant to section 29-820.

4 (c) As used in this subsection, official use means use directly in
5 connection with enforcement of the Child Pornography Prevention Act, the
6 Uniform Controlled Substances Act, or section ~~28-813.01,~~ 28-1102,
7 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.

8 (9) ~~(6)~~ Any money, securities, negotiable instruments, firearms,
9 conveyances, or electronic communication devices; ~~as defined in section~~
10 ~~28-833,~~ any equipment, components, peripherals, software, hardware, or
11 accessories related to electronic communication devices; ~~or any~~
12 ~~gambling devices as defined in section 28-1101~~ may be forfeited pursuant
13 to a plea agreement between the state and the defendant subject to notice
14 to or approval of the court.

15 (10) ~~(7)~~ Subdivision (2)(a) ~~(1)(a)~~ of this section does not apply if
16 the owner or possessor of the property dies or is removed from the United
17 States before charges are filed or a conviction obtained.

18 (11) ~~(8)~~ Subdivision (2)(b) ~~(1)(b)~~ of this section does not apply if
19 the owner or possessor of the property dies or is removed from the United
20 States before charges are filed so long as the statute of limitations for
21 a covered offense violation of the Child Pornography Prevention Act,
22 ~~subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,~~
23 ~~28-1104, 28-1105, 28-1105.01, or 28-1107~~ has not expired.

24 (12) ~~(9)~~ Subdivision (2)(a) ~~(1)(a)~~ of this section does not apply if
25 the owner or possessor of the property is unknown or incapable of being
26 determined for some legitimate reason or fails to appear in court as
27 ordered after prosecution for a covered offense violation of the Child
28 ~~Pornography Prevention Act, subsection (1) of section 28-416, or section~~
29 ~~28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107~~ is
30 commenced and is not apprehended within twelve months after the failure
31 to appear order was issued by the court.

1 (13) ~~(10)~~ If the owner or possessor of the property fails to appear
2 in court as ordered after prosecution for a covered offense ~~violation of~~
3 ~~the Child Pornography Prevention Act, subsection (1) of section 28-416,~~
4 ~~or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or~~
5 ~~28-1107~~ is commenced but appears or is apprehended within twelve months
6 after the failure to appear order was issued by the court, the court may
7 order the owner or possessor of the property, as a part of any sentence
8 imposed for either the failure to appear or the conviction for a covered
9 offense ~~of the Child Pornography Prevention Act, subsection (1) of~~
10 ~~section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,~~
11 ~~28-1105.01, or 28-1107,~~ to pay a storage fee of one hundred dollars per
12 month for each month the property was held following the issuance of the
13 failure to appear order.

14 **Sec. 22.** Section 28-1602, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 28-1602 (1) The prosecuting authority must specifically plead its
17 intent to seek forfeiture of any property upon a conviction for a covered
18 offense ~~violation of the Child Pornography Prevention Act, subsection (1)~~
19 ~~of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,~~
20 ~~28-1105, 28-1105.01, or 28-1107~~ in the same criminal information charging
21 the underlying covered offense ~~violation of the Child Pornography~~
22 ~~Prevention Act, subsection (1) of section 28-416, or section 28-813.01,~~
23 ~~28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or 28-1107.~~

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

1 **Sec. 23.** If any section in this act or any part of any section is
2 declared invalid or unconstitutional, the declaration shall not affect
3 the validity or constitutionality of the remaining portions.

4 **Sec. 24.** Original sections 28-512, 28-602, 28-603, 28-639, 28-1111,
5 28-1463.06, 28-1601, and 28-1602, Reissue Revised Statutes of Nebraska,
6 and sections 28-416 and 28-813.01, Revised Statutes Cumulative
7 Supplement, 2024, are repealed.