

AMENDMENTS TO LB881

(Amendments to Standing Committee amendments, AM2628)

Introduced by Lathrop, 12.

1 1. Insert the following new sections:

2 Sec. 2. Section 27-404, Revised Statutes Supplement, 2019, is
3 amended to read:

4 27-404 (1) Evidence of a person's character or a trait of his or her
5 character is not admissible for the purpose of proving that he or she
6 acted in conformity therewith on a particular occasion, except:

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

9 (b) Evidence of a pertinent trait of character of the victim of the
10 crime offered by an accused or by the prosecution to rebut the same, or
11 evidence of a character trait of peacefulness of the victim offered by
12 the prosecution in a homicide case to rebut evidence that the victim was
13 the first aggressor. In a sexual assault case, reputation, opinion, or
14 other evidence of past sexual behavior of the victim is governed by
15 section 27-412; or

16 (c) Evidence of the character of a witness as provided in sections
17 27-607 to 27-609.

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

23 (3) When such evidence is admissible pursuant to this section, in
24 criminal cases evidence of other crimes, wrongs, or acts of the accused
25 may be offered in evidence by the prosecution if the prosecution proves
26 to the court by clear and convincing evidence that the accused committed

1 the crime, wrong, or act. Such proof shall first be made outside the
2 presence of any jury.

3 (4) Regarding the admissibility in a civil or criminal action of
4 evidence of a person's commission of another offense or offenses of
5 sexual assault under sections 28-319 to 28-322.05 and section 12 of this
6 act, see sections 27-413 to 27-415.

7 Sec. 3. Section 27-413, Revised Statutes Supplement, 2019, is
8 amended to read:

9 27-413 For purposes of sections 27-414 and 27-415, offense of sexual
10 assault means sexual assault under section 28-319 or 28-320, sexual abuse
11 by a school employee under section 12 of this act, sexual assault of a
12 child under section 28-319.01 or 28-320.01, sexual assault by use of an
13 electronic communication device under section 28-320.02, sexual abuse of
14 an inmate or parolee under sections 28-322.01 to 28-322.03, sexual abuse
15 of a protected individual under section 28-322.04, sexual abuse of a
16 detainee under section 28-322.05, an attempt or conspiracy to commit any
17 of the crimes listed in this section, or the commission of or conviction
18 for a crime in another jurisdiction that is substantially similar to any
19 crime listed in this section.

20 Sec. 6. Section 28-101, Revised Statutes Supplement, 2019, is
21 amended to read:

22 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
23 12 of this act shall be known and may be cited as the Nebraska Criminal
24 Code.

25 Sec. 7. Section 28-311.11, Revised Statutes Supplement, 2019, is
26 amended to read:

27 28-311.11 (1) Any victim of a sexual assault offense may file a
28 petition and affidavit for a sexual assault protection order as provided
29 in subsection (3) of this section. Upon the filing of such a petition and
30 affidavit in support thereof, the court may issue a sexual assault
31 protection order without bond enjoining the respondent from (a) imposing

1 any restraint upon the person or liberty of the petitioner, (b)
2 harassing, threatening, assaulting, molesting, attacking, or otherwise
3 disturbing the peace of the petitioner, or (c) telephoning, contacting,
4 or otherwise communicating with the petitioner. The sexual assault
5 protection order shall specify to whom relief under this section was
6 granted.

7 (2) The petition for a sexual assault protection order shall state
8 the events and dates or approximate dates of acts constituting the sexual
9 assault offense, including the most recent and most severe incident or
10 incidents.

11 (3) A petition for a sexual assault protection order shall be filed
12 with the clerk of the district court and the proceeding may be heard by
13 the county court or the district court as provided in section 25-2740.

14 (4) A petition for a sexual assault protection order may not be
15 withdrawn except upon order of the court. A sexual assault protection
16 order shall specify that it is effective for a period of one year unless
17 renewed pursuant to subsection (12) of this section or otherwise
18 dismissed or modified by the court. Any person, except the petitioner,
19 who knowingly violates a sexual assault protection order after service or
20 notice as described in subdivision (9)(b) of this section shall be guilty
21 of a Class I misdemeanor, except that any person convicted of violating
22 such order who has a prior conviction for violating a sexual assault
23 protection order shall be guilty of a Class IV felony.

24 (5)(a) Fees to cover costs associated with the filing of a petition
25 for issuance or renewal of a sexual assault protection order or the
26 issuance or service of a sexual assault protection order seeking only the
27 relief provided by this section shall not be charged, except that a court
28 may assess such fees and costs if the court finds, by clear and
29 convincing evidence, that the statements contained in the petition were
30 false and that the sexual assault protection order was sought in bad
31 faith.

1 (b) A court may also assess costs associated with the filing of a
2 petition for issuance or renewal of a sexual assault protection order or
3 the issuance or service of a sexual assault protection order seeking only
4 the relief provided by this section against the respondent.

5 (6) The clerk of the district court shall make available standard
6 application and affidavit forms for issuance and renewal of a sexual
7 assault protection order with instructions for completion to be used by a
8 petitioner. Affidavit forms shall request all relevant information,
9 including, but not limited to: A description of the most recent incident
10 that was the basis for the application for a sexual assault protection
11 order and the date or approximate date of the incident and, if there was
12 more than one incident, the most severe incident and the date or
13 approximate date of such incident. The clerk and his or her employees
14 shall not provide assistance in completing the forms. The State Court
15 Administrator shall adopt and promulgate the standard application and
16 affidavit forms provided for in this section as well as the standard
17 temporary ex parte and final sexual assault protection order forms and
18 provide a copy of such forms to all clerks of the district courts in this
19 state. Such standard temporary ex parte and final sexual assault
20 protection order forms shall be the only forms used in this state.

21 (7) A sexual assault protection order may be issued or renewed ex
22 parte without notice to the respondent if it reasonably appears from the
23 specific facts shown by affidavit of the petitioner that irreparable
24 harm, loss, or damage will result before the matter can be heard on
25 notice. If a sexual assault protection order is not issued ex parte, the
26 court shall immediately schedule an evidentiary hearing to be held within
27 fourteen days after the filing of the petition, and the court shall cause
28 notice of the application to be given to the respondent stating that he
29 or she may show cause why such order should not be entered. Any notice
30 provided to the respondent shall include notification that a court may
31 treat a petition for a sexual assault protection order as a petition for

1 a harassment protection order or a domestic abuse protection order if it
2 appears from the facts that such other protection order is more
3 appropriate and that the respondent shall have an opportunity to show
4 cause as to why such protection order should not be entered. If such ex
5 parte order is issued or renewed without notice to the respondent, the
6 court shall forthwith cause notice of the petition and order and a form
7 with which to request a show-cause hearing to be given the respondent
8 stating that, upon service on the respondent, the order shall remain in
9 effect for a period of one year unless the respondent shows cause why the
10 order should not remain in effect for a period of one year. If the
11 respondent wishes to appear and show cause why the order should not
12 remain in effect for a period of one year, he or she shall affix his or
13 her current address, telephone number, and signature to the form and
14 return it to the clerk of the district court within ten business days
15 after service upon him or her. Upon receipt of a timely request for a
16 show-cause hearing, the court shall immediately schedule a show-cause
17 hearing to be held within thirty days after the receipt of the request
18 for a show-cause hearing and shall notify the petitioner and respondent
19 of the hearing date. The petition and affidavit shall be deemed to have
20 been offered into evidence at any show-cause hearing. The petition and
21 affidavit shall be admitted into evidence unless specifically excluded by
22 the court.

23 (8) A court may treat a petition for a sexual assault protection
24 order as a petition for a harassment protection order or a domestic abuse
25 protection order if it appears from the facts in the petition, affidavit,
26 and evidence presented at a show-cause hearing that such other protection
27 order is more appropriate and if:

28 (a) The court makes specific findings that such other order is more
29 appropriate; or

30 (b) The petitioner has requested the court to so treat the petition.

31 (9)(a) Upon the issuance or renewal of any temporary ex parte or

1 final sexual assault protection order, the clerk of the court shall
2 forthwith provide the petitioner, without charge, with two certified
3 copies of such order. The clerk of the court shall also forthwith provide
4 the local police department or local law enforcement agency and the local
5 sheriff's office, without charge, with one copy each of such order and
6 one copy each of the sheriff's return thereon. The clerk of the court
7 shall also forthwith provide a copy of the sexual assault protection
8 order to the sheriff's office in the county where the respondent may be
9 personally served together with instructions for service. Upon receipt of
10 the order and instructions for service, such sheriff's office shall
11 forthwith serve the sexual assault protection order upon the respondent
12 and file its return thereon with the clerk of the court which issued the
13 sexual assault protection order within fourteen days of the issuance of
14 the initial or renewed sexual assault protection order. If any sexual
15 assault protection order is dismissed or modified by the court, the clerk
16 of the court shall forthwith provide the local police department or local
17 law enforcement agency and the local sheriff's office, without charge,
18 with one copy each of the order of dismissal or modification.

19 (b) If the respondent is present at a hearing convened pursuant to
20 this section and the sexual assault protection order is not dismissed,
21 such respondent shall be deemed to have notice by the court at such
22 hearing that the protection order will be granted and remain in effect
23 and further service of such notice described in this subsection shall not
24 be required for purposes of prosecution under this section.

25 (c) A temporary ex parte sexual assault protection order shall be
26 affirmed and deemed the final protection order and service of the
27 temporary ex parte order shall be notice of the final protection order if
28 the respondent has been properly served with the ex parte order and:

29 (i) The respondent fails to request a show-cause hearing within ten
30 business days after service upon him or her and no hearing was requested
31 by the petitioner or upon the court's own motion;

1 (ii) The respondent has been properly served with notice of any
2 hearing requested by the respondent or petitioner or upon the court's own
3 motion and the respondent fails to appear at such hearing; or

4 (iii) The respondent has been properly served with notice of any
5 hearing requested by the respondent, the petitioner, or upon the court's
6 own motion and the protection order was not dismissed at the hearing.

7 (10) A peace officer shall, with or without a warrant, arrest a
8 person if (a) the officer has probable cause to believe that the person
9 has committed a violation of a sexual assault protection order issued
10 pursuant to this section or a violation of a valid foreign sexual assault
11 protection order recognized pursuant to section 28-311.12 and (b) a
12 petitioner under this section provides the peace officer with a copy of
13 such order or the peace officer determines that such an order exists
14 after communicating with the local law enforcement agency.

15 (11) A peace officer making an arrest pursuant to subsection (10) of
16 this section shall take such person into custody and take such person
17 before the county court or the court which issued the sexual assault
18 protection order within a reasonable time. At such time the court shall
19 establish the conditions of such person's release from custody, including
20 the determination of bond or recognizance, as the case may be. The court
21 shall issue an order directing that such person shall have no contact
22 with the alleged victim of the sexual assault offense.

23 (12)(a) An order issued under subsection (1) of this section may be
24 renewed annually. To request renewal of the order, the petitioner shall
25 file a petition for renewal and affidavit in support thereof at any time
26 within forty-five days prior to the date the order is set to expire,
27 including the date the order expires.

28 (b) A sexual assault protection order may be renewed on the basis of
29 the petitioner's affidavit stating that there has been no material change
30 in relevant circumstances since entry of the order and stating the reason
31 for the requested renewal if:

1 (i) The petitioner seeks no modification of the order; and

2 (ii)(A) The respondent has been properly served with notice of the
3 petition for renewal and notice of hearing and fails to appear at the
4 hearing; or

5 (B) The respondent indicates that he or she does not contest the
6 renewal.

7 (c) The petition for renewal shall state the reasons a renewal is
8 sought and shall be filed with the clerk of the district court, and the
9 proceeding thereon may be heard by the county court or the district court
10 as provided in section 25-2740. A petition for renewal will otherwise be
11 governed in accordance with the procedures set forth in subsections (4)
12 through (11) of this section. The renewed order shall specify that it is
13 effective for one year commencing on the first calendar day after
14 expiration of the previous order or on the calendar day the court grants
15 the renewal if such day is subsequent to the first calendar day after
16 expiration of the previous order.

17 (13) When provided by the petitioner, the court shall make
18 confidential numeric victim identification information, including social
19 security numbers and dates of birth, available to appropriate criminal
20 justice agencies engaged in protection order enforcement efforts. Such
21 agencies shall maintain the confidentiality of this information, except
22 for entry into state and federal data bases for protection order
23 enforcement.

24 (14) For purposes of this section, sexual assault offense means:

25 (a) Conduct amounting to sexual assault under section 28-319 or
26 28-320, sexual abuse by a school employee under section 12 of this act,
27 ~~or~~ sexual assault of a child under section 28-319.01 or 28-320.01, or an
28 attempt to commit any of such offenses; or

29 (b) Subjecting or attempting to subject another person to sexual
30 contact or sexual penetration without his or her consent, as such terms
31 are defined in section 28-318.

1 Sec. 8. Section 28-318, Revised Statutes Supplement, 2019, is
2 amended to read:

3 28-318 As used in sections 28-317 to 28-322.05, unless the context
4 otherwise requires:

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

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

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

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

13 (5) Sexual contact means the intentional touching of the victim's
14 sexual or intimate parts or the intentional touching of the victim's
15 clothing covering the immediate area of the victim's sexual or intimate
16 parts. Sexual contact also means the touching by the victim of the
17 actor's sexual or intimate parts or the clothing covering the immediate
18 area of the actor's sexual or intimate parts when such touching is
19 intentionally caused by the actor. Sexual contact includes only such
20 conduct which can be reasonably construed as being for the purpose of
21 sexual arousal or gratification of either party. Sexual contact also
22 includes the touching of a child with the actor's sexual or intimate
23 parts on any part of the child's body for purposes of sexual abuse by a
24 school employee under section 12 of this act or sexual assault of a child
25 under sections 28-319.01 and 28-320.01;

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

1 require emission of semen;

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

4 (8) Without consent means:

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

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

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

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

22 Sec. 9. Section 28-710, Revised Statutes Supplement, 2019, is
23 amended to read:

24 28-710 (1) Sections 28-710 to 28-727 shall be known and may be cited
25 as the Child Protection and Family Safety Act.

26 (2) For purposes of the Child Protection and Family Safety Act:

27 (a) Alternative response means a comprehensive assessment of (i)
28 child safety, (ii) the risk of future child abuse or neglect, (iii)
29 family strengths and needs, and (iv) the provision of or referral for
30 necessary services and support. Alternative response is an alternative to
31 traditional response and does not include an investigation or a formal

1 determination as to whether child abuse or neglect has occurred, and the
2 subject of the report shall not be entered into the central registry of
3 child protection cases maintained pursuant to section 28-718;

4 (b) Child abuse or neglect means knowingly, intentionally, or
5 negligently causing or permitting a minor child to be:

6 (i) Placed in a situation that endangers his or her life or physical
7 or mental health;

8 (ii) Cruelly confined or cruelly punished;

9 (iii) Deprived of necessary food, clothing, shelter, or care;

10 (iv) Left unattended in a motor vehicle if such minor child is six
11 years of age or younger;

12 (v) Placed in a situation to be sexually abused;

13 (vi) Placed in a situation to be sexually exploited through sex
14 trafficking of a minor as defined in section 28-830 or by allowing,
15 encouraging, or forcing such person to engage in debauchery, public
16 indecency, or obscene or pornographic photography, films, or depictions;
17 or

18 (vii) Placed in a situation to be a trafficking victim as defined in
19 section 28-830;

20 (c) Comprehensive assessment means an analysis of child safety, risk
21 of future child abuse or neglect, and family strengths and needs on a
22 report of child abuse or neglect. Comprehensive assessment does not
23 include a determination as to whether the child abuse or neglect occurred
24 but does determine the need for services and support to address the
25 safety of children and the risk of future abuse or neglect;

26 (d) Department means the Department of Health and Human Services;

27 (e) Investigation means fact gathering related to the current safety
28 of a child and the risk of future child abuse or neglect that determines
29 whether child abuse or neglect has occurred and whether child protective
30 services are needed;

31 (f) Law enforcement agency means the police department or town

1 marshal in incorporated municipalities, the office of the sheriff in
2 unincorporated areas, and the Nebraska State Patrol;

3 (g) Out-of-home child abuse or neglect means child abuse or neglect
4 occurring outside of a child's family home, including in day care homes,
5 foster homes, day care centers, residential child-caring agencies as
6 defined in section 71-1926, other child care facilities or institutions,
7 and the community. Out-of-home child abuse or neglect also includes cases
8 in which the subject of the report of child abuse or neglect is not a
9 member of the child's household, no longer has access to the child, is
10 unknown, or cannot be identified;

11 (h) Review, Evaluate, and Decide Team means an internal team of
12 staff within the department and shall include no fewer than two
13 supervisors or administrators and two staff members knowledgeable on the
14 policies and practices of the department, including, but not limited to,
15 the structured review process. County attorneys, child advocacy centers,
16 or law enforcement agency personnel may attend team reviews upon request
17 of a party;

18 (i) School employee means a person nineteen years of age or older
19 who is employed by a public, private, denominational, or parochial school
20 approved or accredited by the State Department of Education;

21 (j) Student means a person less than nineteen years of age enrolled
22 in or attending a public, private, denominational, or parochial school
23 approved or accredited by the State Department of Education, or who was
24 such a person enrolled in or who attended such a school within ninety
25 days of any violation of section 12 of this act;

26 (k) ~~(i)~~ Traditional response means an investigation by a law
27 enforcement agency or the department pursuant to section 28-713 which
28 requires a formal determination of whether child abuse or neglect has
29 occurred; and

30 (l) ~~(j)~~ Subject of the report of child abuse or neglect or subject
31 of the report means the person or persons identified in the report as

1 responsible for the child abuse or neglect.

2 Sec. 10. Section 28-713, Revised Statutes Supplement, 2019, is
3 amended to read:

4 28-713 (1) Unless an intake is assigned to alternative response,
5 upon the receipt of a call reporting child abuse and neglect as required
6 by section 28-711:

7 (a) It is the duty of the law enforcement agency to investigate the
8 report, to take immediate steps to protect the child, and to institute
9 legal proceedings if appropriate. In situations of alleged out-of-home
10 child abuse or neglect if the person or persons to be notified have not
11 already been notified and the person to be notified is not the subject of
12 the report of child abuse or neglect, the law enforcement agency shall
13 immediately notify the person or persons having custody of each child who
14 has allegedly been abused or neglected that such report of alleged child
15 abuse or neglect has been made and shall provide such person or persons
16 with information of the nature of the alleged child abuse or neglect. The
17 law enforcement agency may request assistance from the department during
18 the investigation and shall, by the next working day, notify either the
19 hotline or the department of receipt of the report, including whether or
20 not an investigation is being undertaken by the law enforcement agency. A
21 copy of all reports, whether or not an investigation is being undertaken,
22 shall be provided to the department;

23 (b) In situations of alleged out-of-home child abuse or neglect if
24 the person or persons to be notified have not already been notified and
25 the person to be notified is not the subject of the report of child abuse
26 or neglect, the department shall immediately notify the person or persons
27 having custody of each child who has allegedly been abused or neglected
28 that such report of alleged child abuse or neglect has been made and
29 shall provide such person or persons with information of the nature of
30 the alleged child abuse or neglect and any other information that the
31 department deems necessary. The department shall investigate for the

1 purpose of assessing each report of child abuse or neglect to determine
2 the risk of harm to the child involved. The department shall also provide
3 such social services as are necessary and appropriate under the
4 circumstances to protect and assist the child and to preserve the family;

5 (c) In situations of alleged out-of-home child abuse or neglect, if
6 the subject of the report of child abuse or neglect is a school employee
7 and the child is a student in the school to which such school employee is
8 assigned for work, the department shall immediately notify the
9 Commissioner of Education of receipt of the report, including whether or
10 not an investigation is being undertaken by the law enforcement agency or
11 the department;

12 (d) ~~(e)~~ The department may make a request for further assistance
13 from the appropriate law enforcement agency or take such legal action as
14 may be appropriate under the circumstances;

15 (e) ~~(d)~~ The department shall, by the next working day after
16 receiving a report of child abuse or neglect under this subsection of
17 this section, make a written report or a summary on forms provided by the
18 department to the proper law enforcement agency in the county and enter
19 in the tracking system of child protection cases maintained pursuant to
20 section 28-715 all reports of child abuse or neglect opened for
21 investigation and any action taken; and

22 (f) ~~(e)~~ The department shall, upon request, make available to the
23 appropriate investigating law enforcement agency and the county attorney
24 a copy of all reports relative to a case of suspected child abuse or
25 neglect.

26 (2)(a) In addition to the responsibilities under subsection (1) of
27 this section, upon the receipt of any report that a child is a reported
28 or suspected victim of sex trafficking of a minor or labor trafficking of
29 a minor as defined in section 28-830 and without regard to the subject of
30 the report, the department shall:

31 (i) Assign the case to staff for an in-person investigation. The

1 department shall assign a report for investigation regardless of whether
2 or not the subject of the report is a member of the child's household or
3 family or whether the subject is known or unknown, including cases of
4 out-of-home child abuse and neglect;

5 (ii) Conduct an in-person investigation and appropriately coordinate
6 with law enforcement agencies, the local child advocacy center, and the
7 child abuse and neglect investigation team under section 28-729;

8 (iii) Use specialized screening and assessment instruments to
9 identify whether the child is a victim of sex trafficking of a minor or
10 labor trafficking of a minor or at high risk of becoming such a victim
11 and determine the needs of the child and family to prevent or respond to
12 abuse, neglect, and exploitation. On or before December 1, 2019, the
13 department shall develop and adopt these instruments in consultation with
14 knowledgeable organizations and individuals, including representatives of
15 child advocacy centers, behavioral health providers, child welfare and
16 juvenile justice service providers, law enforcement representatives, and
17 prosecutors; and

18 (iv) Provide for or refer and connect the child and family to
19 services deemed appropriate by the department in the least restrictive
20 environment, or provide for safe and appropriate placement, medical
21 services, mental health care, or other needs as determined by the
22 department based upon the department's assessment of the safety, risk,
23 and needs of the child and family to respond to or prevent abuse,
24 neglect, and exploitation.

25 (b) On or before July 1, 2020, the department shall adopt rules and
26 regulations on the process of investigation, screening, and assessment of
27 reports of child abuse or neglect and the criteria for opening an ongoing
28 case upon allegations of sex trafficking of a minor or labor trafficking
29 of a minor.

30 (3) When a preponderance of the evidence indicates that a child is a
31 victim of abuse or neglect as a result of being a trafficking victim as

1 defined in section 28-830, the department shall identify the child as a
2 victim of trafficking, regardless of whether the subject of the report is
3 a member of the child's household or family or whether the subject is
4 known or unknown. The child shall be included in the department's data
5 and reporting on the numbers of child victims of abuse, neglect, and
6 trafficking.

7 Sec. 11. Section 28-713.01, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 28-713.01 (1) Upon completion of the investigation pursuant to
10 section 28-713:

11 (a) In situations of alleged out-of-home child abuse or neglect, the
12 person or persons having custody of the allegedly abused or neglected
13 child or children shall be given written notice of the results of the
14 investigation and any other information the law enforcement agency or
15 department deems necessary. Such notice and information shall be sent by
16 first-class mail;~~and~~

17 (b) The subject of the report of child abuse or neglect shall be
18 given written notice of the determination of the case and whether the
19 subject of the report of child abuse or neglect will be entered into the
20 central registry of child protection cases maintained pursuant to section
21 28-718 under the criteria provided in section 28-720; and -

22 (c) If the subject of the report of child abuse or neglect is a
23 school employee and the child is a student in the school to which such
24 school employee is assigned for work, the notice described in subdivision
25 (1)(b) of this section shall also be sent to the Commissioner of
26 Education.

27 (2) If the subject of the report will be entered into the central
28 registry, the notice to the subject shall be sent by certified mail with
29 return receipt requested or first-class mail to the last-known address of
30 the subject of the report of child abuse or neglect and shall include:

31 (a) The nature of the report;

1 (b) The classification of the report under section 28-720;

2 (c) Notification of the right of the subject of the report of child
3 abuse or neglect to request the department to amend or expunge
4 identifying information from the report or to remove the substantiated
5 report from the central registry in accordance with section 28-723; and

6 (d) If the subject of the report of child abuse or neglect is a
7 minor child who is twelve years of age or older but younger than nineteen
8 years of age:

9 (i) Notification of the mandatory expungement hearing to be held
10 according to section 28-721, a waiver form to waive the hearing, and an
11 explanation of the hearing process;

12 (ii) An explanation of the implications of being entered in the
13 central registry as a subject;

14 (iii) Notification of any other procedures determined appropriate in
15 rules and regulations adopted and promulgated by the department; and

16 (iv) Provision of a copy of all notice materials required to be
17 provided to the subject under this subsection to the minor child's
18 attorney of record, parent or guardian, and guardian ad litem, if
19 applicable.

20 (3) If the subject of the report will not be entered into the
21 central registry, the notice to the subject shall be sent by first-class
22 mail and shall include:

23 (a) The nature of the report; and

24 (b) The classification of the report under section 28-720.

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

26 (a) Sexual contact has the same meaning as in section 28-318;

27 (b) Sexual penetration has the same meaning as in section 28-318;

28 (c) School employee means a person nineteen years of age or older
29 who is employed by a public, private, denominational, or parochial school
30 approved or accredited by the State Department of Education; and

31 (d) Student means a person at least sixteen but not more than

1 nineteen years of age enrolled in or attending a public, private,
2 denominational, or parochial school approved or accredited by the State
3 Department of Education, or who was such a person enrolled in or who
4 attended such a school within ninety days of any violation of this
5 section.

6 (2) A person commits the offense of sexual abuse by a school
7 employee if a school employee subjects a student in the school to which
8 such employee is assigned for work to sexual penetration or sexual
9 contact, or engages in a pattern or scheme of conduct to subject a
10 student in the school to which such employee is assigned for work to
11 sexual penetration or sexual contact. It is not a defense to a charge
12 under this section that the student consented to such sexual penetration
13 or sexual contact.

14 (3) Any school employee who engages in sexual penetration with a
15 student is guilty of sexual abuse by a school employee in the first
16 degree. Sexual abuse by a school employee in the first degree is a Class
17 IIA felony.

18 (4) Any school employee who engages in sexual contact with a student
19 is guilty of sexual abuse by a school employee in the second degree.
20 Sexual abuse by a school employee in the second degree is a Class IIIA
21 felony.

22 (5) Any school employee who engages in a pattern or scheme of
23 conduct with the intent to subject a student to sexual penetration or
24 sexual contact is guilty of sexual abuse by a school employee in the
25 third degree. Sexual abuse by a school employee in the third degree is a
26 Class IV felony.

27 Sec. 13. Section 29-110, Revised Statutes Supplement, 2019, is
28 amended to read:

29 29-110 (1) Except as otherwise provided by law, no person shall be
30 prosecuted for any felony unless the indictment is found by a grand jury
31 within three years next after the offense has been done or committed or

1 unless a complaint for the same is filed before the magistrate within
2 three years next after the offense has been done or committed and a
3 warrant for the arrest of the defendant has been issued.

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

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

26 (4) Except as otherwise provided by law, no person shall be
27 prosecuted for a violation of subsection (2) or (3) of section 28-831 (a)
28 unless the indictment for such offense is found by a grand jury within
29 seven years next after the offense has been committed or within seven
30 years next after the victim's eighteenth birthday, whichever is later, or
31 (b) unless a complaint for such offense is filed before the magistrate

1 within seven years next after the offense has been committed or within
2 seven years next after the victim's eighteenth birthday, whichever is
3 later, and a warrant for the arrest of the defendant has been issued.

4 (5) Except as otherwise provided by law, no person shall be
5 prosecuted for an offense under section 28-813.01 or 28-1463.05 (a)
6 unless the indictment for such offense is found by a grand jury within
7 seven years next after the offense has been committed or within seven
8 years next after the victim's eighteenth birthday, whichever is later, or
9 (b) unless a complaint for such offense is filed before the magistrate
10 within seven years next after the offense has been committed or within
11 seven years next after the victim's eighteenth birthday, whichever is
12 later, and a warrant for the arrest of the defendant has been issued.

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

20 (7) No person shall be prosecuted for criminal impersonation under
21 section 28-638, identity theft under section 28-639, or identity fraud
22 under section 28-640 unless the indictment for such offense is found by a
23 grand jury within five years next after the offense has been done or
24 committed or unless a complaint for such offense is filed before the
25 magistrate within five years next after the offense has been done or
26 committed and a warrant for the arrest of the defendant has been issued.

27 (8) No person shall be prosecuted for a violation of section 68-1017
28 if the aggregate value of all funds and other benefits obtained or
29 attempted to be obtained is five hundred dollars or more unless the
30 indictment for such offense is found by a grand jury within five years
31 next after the offense has been done or committed or unless a complaint

1 for such offense is filed before the magistrate within five years next
2 after the offense has been done or committed and a warrant for the arrest
3 of the defendant has been issued.

4 (9) No person shall be prosecuted for knowing and intentional abuse,
5 neglect, or exploitation of a vulnerable adult or senior adult under
6 section 28-386 unless the indictment for such offense is found by a grand
7 jury within six years next after the offense has been done or committed
8 or unless a complaint for such offense is filed before the magistrate
9 within six years next after the offense has been done or committed and a
10 warrant for the arrest of the defendant has been issued.

11 (10) Except as otherwise provided by law, no person shall be
12 prosecuted for an offense under section 28-717 (a) unless the indictment
13 for such offense is found by a grand jury within one year and six months
14 next after the offense has been committed or within one year and six
15 months next after the child reaches the age of majority, whichever is
16 later, or (b) unless a complaint for such offense is filed before the
17 magistrate within one year and six months next after the offense has been
18 committed or within one year and six months next after the child reaches
19 the age of majority, whichever is later, and a warrant for the arrest of
20 the defendant has been issued.

21 (11) ~~(10)~~ There shall not be any time limitations for prosecution or
22 punishment for treason, murder, arson, forgery, sexual assault in the
23 first or second degree under section 28-319 or 28-320, sexual assault of
24 a child in the second or third degree under section 28-320.01, incest
25 under section 28-703, sexual assault of a child in the first degree under
26 section 28-319.01, labor trafficking of a minor or sex trafficking of a
27 minor under subsection (1) of section 28-831, or an offense under section
28 28-1463.03; nor shall there be any time limitations for prosecution or
29 punishment for sexual assault in the third degree under section 28-320
30 when the victim is under sixteen years of age at the time of the offense.

31 (12) ~~(11)~~ The time limitations prescribed in this section shall

1 include all inchoate offenses pursuant to the Nebraska Criminal Code and
2 compounding a felony pursuant to section 28-301.

3 (13) ~~(12)~~ The time limitations prescribed in this section shall not
4 extend to any person fleeing from justice.

5 (14) ~~(13)~~ When any suit, information, or indictment for any crime or
6 misdemeanor is limited by any statute to be brought or exhibited within
7 any other time than is limited by this section, then the suit,
8 information, or indictment shall be brought or exhibited within the time
9 limited by such statute.

10 (15) ~~(14)~~ If any suit, information, or indictment is quashed or the
11 proceedings set aside or reversed on writ of error, the time during the
12 pendency of such suit, information, or indictment so quashed, set aside,
13 or reversed shall not be reckoned within this statute so as to bar any
14 new suit, information, or indictment for the same offense.

15 (16) ~~(15)~~ The changes made to this section by Laws 2004, LB 943,
16 shall apply to offenses committed prior to April 16, 2004, for which the
17 statute of limitations has not expired as of such date and to offenses
18 committed on or after such date.

19 (17) ~~(16)~~ The changes made to this section by Laws 2005, LB 713,
20 shall apply to offenses committed prior to September 4, 2005, for which
21 the statute of limitations has not expired as of such date and to
22 offenses committed on or after such date.

23 (18) ~~(17)~~ The changes made to this section by Laws 2009, LB 97, and
24 Laws 2006, LB 1199, shall apply to offenses committed prior to May 21,
25 2009, for which the statute of limitations has not expired as of such
26 date and to offenses committed on or after such date.

27 (19) ~~(18)~~ The changes made to this section by Laws 2010, LB809,
28 shall apply to offenses committed prior to July 15, 2010, for which the
29 statute of limitations has not expired as of such date and to offenses
30 committed on or after such date.

31 (20) ~~(19)~~ The changes made to this section by Laws 2016, LB934,

1 shall apply to offenses committed prior to April 19, 2016, for which the
2 statute of limitations has not expired as of such date and to offenses
3 committed on or after such date.

4 (21) ~~(20)~~ The changes made to this section by Laws 2019, LB519,
5 shall apply to offenses committed prior to September 1, 2019, for which
6 the statute of limitations has not expired as of such date and to
7 offenses committed on or after such date.

8 Sec. 26. Section 29-4003, Revised Statutes Supplement, 2019, is
9 amended to read:

10 29-4003 (1)(a) The Sex Offender Registration Act applies to any
11 person who on or after January 1, 1997:

12 (i) Has ever pled guilty to, pled nolo contendere to, or been found
13 guilty of any of the following:

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

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

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

20 (D) Sexual abuse by a school employee pursuant to section 12 of this
21 act;

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

24 (F) ~~(E)~~ Sexual assault of a child in the first degree pursuant to
25 section 28-319.01;

26 (G) ~~(F)~~ Sexual abuse of a vulnerable adult or senior adult pursuant
27 to subdivision (1)(c) of section 28-386;

28 (H) ~~(G)~~ Incest of a minor pursuant to section 28-703;

29 (I) ~~(H)~~ Pandering of a minor pursuant to section 28-802;

30 (J) ~~(I)~~ Visual depiction of sexually explicit conduct of a child
31 pursuant to section 28-1463.03 or subdivision (2)(b) or (c) of section

1 28-1463.05;

2 ~~(K)~~ ~~(J)~~ Knowingly possessing any visual depiction of sexually
3 explicit conduct which has a child as one of its participants or
4 portrayed observers pursuant to subsection (1) or (4) of section
5 28-813.01;

6 ~~(L)~~ ~~(K)~~ Criminal child enticement pursuant to section 28-311;

7 ~~(M)~~ ~~(L)~~ Child enticement by means of an electronic communication
8 device pursuant to section 28-320.02;

9 ~~(N)~~ ~~(M)~~ Debauching a minor pursuant to section 28-805; or

10 ~~(O)~~ ~~(N)~~ Attempt, solicitation, aiding or abetting, being an
11 accessory, or conspiracy to commit an offense listed in subdivisions (1)
12 (a)(i)(A) through ~~(1)(a)(i)(N)~~ ~~(1)(a)(i)(M)~~ of this section;

13 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
14 guilty of any offense that is substantially equivalent to a registrable
15 offense under subdivision (1)(a)(i) of this section by any village, town,
16 city, state, territory, commonwealth, or other jurisdiction of the United
17 States, by the United States Government, by court-martial or other
18 military tribunal, or by a foreign jurisdiction, notwithstanding a
19 procedure comparable in effect to that described under section 29-2264 or
20 any other procedure to nullify a conviction other than by pardon;

21 (iii) Is incarcerated in a jail, a penal or correctional facility,
22 or any other public or private institution or is under probation or
23 parole as a result of pleading guilty to or being found guilty of a
24 registrable offense under subdivision (1)(a)(i) or (ii) of this section
25 prior to January 1, 1997; or

26 (iv) Enters the state and is required to register as a sex offender
27 under the laws of another village, town, city, state, territory,
28 commonwealth, or other jurisdiction of the United States.

29 (b) In addition to the registrable offenses under subdivision (1)(a)
30 of this section, the Sex Offender Registration Act applies to any person
31 who on or after January 1, 2010:

1 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of this
2 section, has ever pled guilty to, pled nolo contendere to, or been found
3 guilty of any of the following:

4 (I) Murder in the first degree pursuant to section 28-303;

5 (II) Murder in the second degree pursuant to section 28-304;

6 (III) Manslaughter pursuant to section 28-305;

7 (IV) Assault in the first degree pursuant to section 28-308;

8 (V) Assault in the second degree pursuant to section 28-309;

9 (VI) Assault in the third degree pursuant to section 28-310;

10 (VII) Stalking pursuant to section 28-311.03;

11 (VIII) Violation of section 28-311.08 requiring registration under
12 the act pursuant to subsection (6) of section 28-311.08;

13 (IX) Kidnapping pursuant to section 28-313;

14 (X) False imprisonment pursuant to section 28-314 or 28-315;

15 (XI) Sexual abuse of an inmate or parolee in the first degree
16 pursuant to section 28-322.02;

17 (XII) Sexual abuse of an inmate or parolee in the second degree
18 pursuant to section 28-322.03;

19 (XIII) Sexual abuse of a protected individual pursuant to section
20 28-322.04;

21 (XIV) Incest pursuant to section 28-703;

22 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section
23 28-707;

24 (XVI) Enticement by electronic communication device pursuant to
25 section 28-833; or

26 (XVII) Attempt, solicitation, aiding or abetting, being an
27 accessory, or conspiracy to commit an offense listed in subdivisions (1)
28 (b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this section.

29 (B) In order for the Sex Offender Registration Act to apply to the
30 offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V),
31 (VI), (VII), (IX), and (X) of this section, a court shall have found that

1 evidence of sexual penetration or sexual contact, as those terms are
2 defined in section 28-318, was present in the record, which shall include
3 consideration of the factual basis for a plea-based conviction and
4 information contained in the presentence report;

5 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
6 guilty of any offense that is substantially equivalent to a registrable
7 offense under subdivision (1)(b)(i) of this section by any village, town,
8 city, state, territory, commonwealth, or other jurisdiction of the United
9 States, by the United States Government, by court-martial or other
10 military tribunal, or by a foreign jurisdiction, notwithstanding a
11 procedure comparable in effect to that described under section 29-2264 or
12 any other procedure to nullify a conviction other than by pardon; or

13 (iii) Enters the state and is required to register as a sex offender
14 under the laws of another village, town, city, state, territory,
15 commonwealth, or other jurisdiction of the United States.

16 (c) In addition to the registrable offenses under subdivisions (1)
17 (a) and (b) of this section, the Sex Offender Registration Act applies to
18 any person who on or after January 1, 2020:

19 (i) Has ever pled guilty to, pled nolo contendere to, or been found
20 guilty of sexual abuse of a detainee under section 28-322.05; or

21 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
22 guilty of any offense that is substantially equivalent to a registrable
23 offense under subdivision (1)(c)(i) of this section by any village, town,
24 city, state, territory, commonwealth, or other jurisdiction of the United
25 States, by the United States Government, by court-martial or other
26 military tribunal, or by a foreign jurisdiction, notwithstanding a
27 procedure comparable in effect to that described under section 29-2264 or
28 any other procedure to nullify a conviction other than by pardon.

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

- 1 2. On page 1, line 3, strike "September" and insert "December"; and
- 2 in line 17 strike "2" and insert "4".
- 3 3. On page 23, line 25, strike "2" and insert "4"; and in line 26
- 4 strike "9" and insert "19".
- 5 4. Renumber the remaining sections and correct the repealer
- 6 accordingly.