

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1246**

FINAL READING

Introduced by Pansing Brooks, 28; Albrecht, 17; Geist, 25; Linehan, 39;  
Sanders, 45; Slama, 1; DeBoer, 10.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal procedure; to amend section  
2 55-182, Reissue Revised Statutes of Nebraska, section 29-4003,  
3 Revised Statutes Cumulative Supplement, 2020, and sections 79-2,144  
4 and 84-712.05, Revised Statutes Supplement, 2021; to provide for  
5 confidentiality of victims of sexual assault and sex trafficking  
6 prior to the filing of criminal charges; to define terms; to add a  
7 registrable offense and provide for applicability under the Sex  
8 Offender Registration Act; to change provisions relating to public  
9 records; to harmonize provisions; and to repeal the original  
10 sections.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section:

2           (a) Criminal justice agency has the same meaning as in section  
3 29-3509;

4           (b) Sex trafficking means sex trafficking or sex trafficking of a  
5 minor in violation of section 28-831; and

6           (c) Sexual assault means a violation of section 28-319, 28-319.01,  
7 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04,  
8 28-322.05, 28-703, or 28-1463.03 or subdivision (1)(c) or (g) of section  
9 28-386 or subdivision (1)(d), (e), or (f) of section 28-707.

10          (2) Except as provided in subsection (3) of this section, and unless  
11 otherwise required by statute, a criminal justice agency and any attorney  
12 involved in the investigation or prosecution of an alleged sexual assault  
13 or sex trafficking violation shall maintain the confidentiality of the  
14 identity and personal identifying information of the alleged victim. Such  
15 information may be shared by such criminal justice agencies and between  
16 such criminal justice agencies and attorneys as necessary to carry out  
17 their duties.

18          (3) The confidentiality required by subsection (2) of this section  
19 does not apply:

20           (a) To the extent waived by the alleged victim;

21           (b) If criminal charges involving the alleged sexual assault or sex  
22 trafficking are filed;

23           (c) If the victim has died as a result of, or in connection with,  
24 the alleged sexual assault or sex trafficking;

25           (d) In cases where personal identifying information or the identity  
26 of the victim are released as part of a child abduction alert system used  
27 by law enforcement agencies, such as the AMBER Alert system;

28           (e) To a person making a report of suspected child abuse or neglect  
29 as required in section 28-711;

30           (f) To the sharing of reports and information regarding child abuse  
31 and neglect with a child abuse and neglect investigation team or child

1 abuse and neglect treatment team provided for in section 28-728;

2 (g) To the Department of Health and Human Services and other  
3 assisting agencies as necessary to carry out their duties in  
4 investigations of child abuse or neglect;

5 (h) To communication with an individual that an educational entity,  
6 as defined in section 79-1201.01, has designated:

7 (i) As a Title IX coordinator; or

8 (ii) To receive reports related to sexual assault or sex trafficking  
9 or to provide supportive measures related to such reports; or

10 (i) To communication with advocates and health care providers as  
11 defined in section 29-4309.

12 Sec. 2. Section 29-4003, Revised Statutes Cumulative Supplement,  
13 2020, is amended to read:

14 29-4003 (1)(a) The Sex Offender Registration Act applies to any  
15 person who on or after January 1, 1997:

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

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

21 (B) False imprisonment of a minor pursuant to section 28-314 or  
22 28-315;

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

24 (D) Sexual abuse by a school employee pursuant to section 28-316.01;

25 (E) Sexual assault of a child in the second or third degree pursuant  
26 to section 28-320.01;

27 (F) Sexual assault of a child in the first degree pursuant to  
28 section 28-319.01;

29 (G) Sexual abuse of a vulnerable adult or senior adult pursuant to  
30 subdivision (1)(c) of section 28-386;

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

1 (I) Pandering of a minor pursuant to section 28-802;

2 (J) Visual depiction of sexually explicit conduct of a child  
3 pursuant to section 28-1463.03 or subdivision (2)(b) or (c) of section  
4 28-1463.05;

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

8 (L) Criminal child enticement pursuant to section 28-311;

9 (M) Child enticement by means of an electronic communication device  
10 pursuant to section 28-320.02;

11 (N) Debauching a minor pursuant to section 28-805; or

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

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

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

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

31 (b) In addition to the registrable offenses under subdivision (1)(a)

1 of this section, the Sex Offender Registration Act applies to any person  
2 who on or after January 1, 2010:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (XIII) Sexual abuse of a protected individual pursuant to section  
22 28-322.04;

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

24 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section  
25 28-707;

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

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

31 (B) In order for the Sex Offender Registration Act to apply to the

1 offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V),  
2 (VI), (VII), (IX), and (X) of this section, a court shall have found that  
3 evidence of sexual penetration or sexual contact, as those terms are  
4 defined in section 28-318, was present in the record, which shall include  
5 consideration of the factual basis for a plea-based conviction and  
6 information contained in the presentence report;

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

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

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

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

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

31 (d) In addition to the registrable offenses under subdivisions (1)

1 (a), (b), and (c) of this section, the Sex Offender Registration Act  
2 applies to any person who on or after January 1, 2023:

3 (i) Has ever pled guilty to, pled nolo contendere to, or been found  
4 guilty of human trafficking under subsection (1) or (2) of section  
5 28-831, and the court determines either by notification of sex offender  
6 registration responsibilities or notation in the sentencing order that  
7 the human trafficking was sex trafficking or sex trafficking of a minor  
8 and not solely labor trafficking or labor trafficking of a minor; or

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

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

20 Sec. 3. Section 55-182, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 55-182 The rights of a member of the Nebraska National Guard in the  
23 State of Nebraska shall include, but not be limited to, the right to:

24 (1) Seek employment with state, county, and local government;

25 (2) Not have membership in the Nebraska National Guard impact such  
26 member's right to donate to political parties when not on duty status;

27 (3) Participate with state, county, or local government in a law  
28 enforcement function as prescribed by that government;

29 (4) Receive the same protections a law enforcement officer is  
30 afforded under section 23-3211 if the member is acting as a law  
31 enforcement officer pursuant to subdivision (3) of this section; and

1 (5) Protection of such member's personal information as afforded  
2 personnel of public bodies pursuant to subdivision (8) ~~(7)~~ of section  
3 84-712.05, if the member is acting as a law enforcement officer pursuant  
4 to subdivision (3) of this section.

5 Sec. 4. Section 79-2,144, Revised Statutes Supplement, 2021, is  
6 amended to read:

7 79-2,144 The state school security director appointed pursuant to  
8 section 79-2,143 shall be responsible for providing leadership and  
9 support for safety and security for the public schools. Duties of the  
10 director include, but are not limited to:

11 (1) Collecting safety and security plans, required pursuant to rules  
12 and regulations of the State Department of Education relating to  
13 accreditation of schools, and other school security information from each  
14 school system in Nebraska. School districts shall provide the state  
15 school security director with the safety and security plans of the school  
16 district and any other security information requested by the director,  
17 but any plans or information submitted by a school district may be  
18 withheld by the department pursuant to subdivision (9) ~~(8)~~ of section  
19 84-712.05;

20 (2) Recommending minimum standards for school security on or before  
21 January 1, 2016, to the State Board of Education;

22 (3) Conducting an assessment of the security of each public school  
23 building, which assessment shall be completed by August 31, 2019;

24 (4) Identifying deficiencies in school security based on the minimum  
25 standards adopted by the State Board of Education and making  
26 recommendations to school boards for remedying such deficiencies;

27 (5) Establishing security awareness and preparedness tools and  
28 training programs for public school staff;

29 (6) Establishing research-based model instructional programs for  
30 staff, students, and parents to address the underlying causes for violent  
31 attacks on schools;



1 (7) Overseeing suicide awareness and prevention training in public  
2 schools pursuant to section 79-2,146;

3 (8) Establishing tornado preparedness standards which shall include,  
4 but not be limited to, ensuring that every school conducts at least two  
5 tornado drills per year;

6 (9) Responding to inquiries and requests for assistance relating to  
7 school security from private, denominational, and parochial schools;

8 (10) Recommending curricular and extracurricular materials to assist  
9 school districts in preventing and responding to cyberbullying and  
10 digital citizenship issues; and

11 (11) Carrying out the department's responsibilities under the School  
12 Safety and Security Reporting System Act.

13 Sec. 5. Section 84-712.05, Revised Statutes Supplement, 2021, is  
14 amended to read:

15 84-712.05 The following records, unless publicly disclosed in an  
16 open court, open administrative proceeding, or open meeting or disclosed  
17 by a public entity pursuant to its duties, may be withheld from the  
18 public by the lawful custodian of the records:

19 (1) Personal information in records regarding a student, prospective  
20 student, or former student of any educational institution or exempt  
21 school that has effectuated an election not to meet state approval or  
22 accreditation requirements pursuant to section 79-1601 when such records  
23 are maintained by and in the possession of a public entity, other than  
24 routine directory information specified and made public consistent with  
25 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
26 regulations adopted thereunder;

27 (2) Medical records, other than records of births and deaths and  
28 except as provided in subdivision (5) of this section, in any form  
29 concerning any person; records of elections filed under section 44-2821;  
30 and patient safety work product under the Patient Safety Improvement Act;

31 (3) Trade secrets, academic and scientific research work which is in

1 progress and unpublished, and other proprietary or commercial information  
2 which if released would give advantage to business competitors and serve  
3 no public purpose;

4 (4) Records which represent the work product of an attorney and the  
5 public body involved which are related to preparation for litigation,  
6 labor negotiations, or claims made by or against the public body or which  
7 are confidential communications as defined in section 27-503;

8 (5) Records developed or received by law enforcement agencies and  
9 other public bodies charged with duties of investigation or examination  
10 of persons, institutions, or businesses, when the records constitute a  
11 part of the examination, investigation, intelligence information, citizen  
12 complaints or inquiries, informant identification, or strategic or  
13 tactical information used in law enforcement training, except that this  
14 subdivision shall not apply to records so developed or received:

15 (a) Relating to the presence of and amount or concentration of  
16 alcohol or drugs in any body fluid of any person; or

17 (b) Relating to the cause of or circumstances surrounding the death  
18 of an employee arising from or related to his or her employment if, after  
19 an investigation is concluded, a family member of the deceased employee  
20 makes a request for access to or copies of such records. This subdivision  
21 does not require access to or copies of informant identification, the  
22 names or identifying information of citizens making complaints or  
23 inquiries, other information which would compromise an ongoing criminal  
24 investigation, or information which may be withheld from the public under  
25 another provision of law. For purposes of this subdivision, family member  
26 means a spouse, child, parent, sibling, grandchild, or grandparent by  
27 blood, marriage, or adoption;

28 (6) The identity and personal identifying information of an alleged  
29 victim of sexual assault or sex trafficking as provided in section 1 of  
30 this act;

31 (7) {6} Appraisals or appraisal information and negotiation records

1 concerning the purchase or sale, by a public body, of any interest in  
2 real or personal property, prior to completion of the purchase or sale;

3 (8) ~~(7)~~ Personal information in records regarding personnel of  
4 public bodies other than salaries and routine directory information;

5 (9) ~~(8)~~ Information solely pertaining to protection of the security  
6 of public property and persons on or within public property, such as  
7 specific, unique vulnerability assessments or specific, unique response  
8 plans, either of which is intended to prevent or mitigate criminal acts  
9 the public disclosure of which would create a substantial likelihood of  
10 endangering public safety or property; computer or communications network  
11 schema, passwords, and user identification names; guard schedules; lock  
12 combinations; or public utility infrastructure specifications or design  
13 drawings the public disclosure of which would create a substantial  
14 likelihood of endangering public safety or property, unless otherwise  
15 provided by state or federal law;

16 (10) ~~(9)~~ Information that relates details of physical and cyber  
17 assets of critical energy infrastructure or critical electric  
18 infrastructure, including (a) specific engineering, vulnerability, or  
19 detailed design information about proposed or existing critical energy  
20 infrastructure or critical electric infrastructure that (i) relates  
21 details about the production, generation, transportation, transmission,  
22 or distribution of energy, (ii) could be useful to a person in planning  
23 an attack on such critical infrastructure, and (iii) does not simply give  
24 the general location of the critical infrastructure and (b) the identity  
25 of personnel whose primary job function makes such personnel responsible  
26 for (i) providing or granting individuals access to physical or cyber  
27 assets or (ii) operating and maintaining physical or cyber assets, if a  
28 reasonable person, knowledgeable of the electric utility or energy  
29 industry, would conclude that the public disclosure of such identity  
30 could create a substantial likelihood of risk to such physical or cyber  
31 assets. Subdivision (10)(b) ~~(9)(b)~~ of this section shall not apply to the

1 identity of a chief executive officer, general manager, vice president,  
2 or board member of a public entity that manages critical energy  
3 infrastructure or critical electric infrastructure. The lawful custodian  
4 of the records must provide a detailed job description for any personnel  
5 whose identity is withheld pursuant to subdivision ~~(10)(b)~~ ~~(9)(b)~~ of this  
6 section. For purposes of subdivision ~~(10)~~ ~~(9)~~ of this section, critical  
7 energy infrastructure and critical electric infrastructure mean existing  
8 and proposed systems and assets, including a system or asset of the bulk-  
9 power system, whether physical or virtual, the incapacity or destruction  
10 of which would negatively affect security, economic security, public  
11 health or safety, or any combination of such matters;

12 ~~(11)~~ ~~(10)~~ The security standards, procedures, policies, plans,  
13 specifications, diagrams, access lists, and other security-related  
14 records of the Lottery Division of the Department of Revenue and those  
15 persons or entities with which the division has entered into contractual  
16 relationships. Nothing in this subdivision shall allow the division to  
17 withhold from the public any information relating to amounts paid persons  
18 or entities with which the division has entered into contractual  
19 relationships, amounts of prizes paid, the name of the prize winner, and  
20 the city, village, or county where the prize winner resides;

21 ~~(12)~~ ~~(11)~~ With respect to public utilities and except as provided in  
22 sections 43-512.06 and 70-101, personally identified private citizen  
23 account payment and customer use information, credit information on  
24 others supplied in confidence, and customer lists;

25 ~~(13)~~ ~~(12)~~ Records or portions of records kept by a publicly funded  
26 library which, when examined with or without other records, reveal the  
27 identity of any library patron using the library's materials or services;

28 ~~(14)~~ ~~(13)~~ Correspondence, memoranda, and records of telephone calls  
29 related to the performance of duties by a member of the Legislature in  
30 whatever form. The lawful custodian of the correspondence, memoranda, and  
31 records of telephone calls, upon approval of the Executive Board of the

1 Legislative Council, shall release the correspondence, memoranda, and  
2 records of telephone calls which are not designated as sensitive or  
3 confidential in nature to any person performing an audit of the  
4 Legislature. A member's correspondence, memoranda, and records of  
5 confidential telephone calls related to the performance of his or her  
6 legislative duties shall only be released to any other person with the  
7 explicit approval of the member;

8 (15) ~~(14)~~ Records or portions of records kept by public bodies which  
9 would reveal the location, character, or ownership of any known  
10 archaeological, historical, or paleontological site in Nebraska when  
11 necessary to protect the site from a reasonably held fear of theft,  
12 vandalism, or trespass. This section shall not apply to the release of  
13 information for the purpose of scholarly research, examination by other  
14 public bodies for the protection of the resource or by recognized tribes,  
15 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or  
16 the federal Native American Graves Protection and Repatriation Act;

17 (16) ~~(15)~~ Records or portions of records kept by public bodies which  
18 maintain collections of archaeological, historical, or paleontological  
19 significance which reveal the names and addresses of donors of such  
20 articles of archaeological, historical, or paleontological significance  
21 unless the donor approves disclosure, except as the records or portions  
22 thereof may be needed to carry out the purposes of the Unmarked Human  
23 Burial Sites and Skeletal Remains Protection Act or the federal Native  
24 American Graves Protection and Repatriation Act;

25 (17) ~~(16)~~ Library, archive, and museum materials acquired from  
26 nongovernmental entities and preserved solely for reference, research, or  
27 exhibition purposes, for the duration specified in subdivision (17)(b)  
28 ~~(16)(b)~~ of this section, if:

29 (a) Such materials are received by the public custodian as a gift,  
30 purchase, bequest, or transfer; and

31 (b) The donor, seller, testator, or transferor conditions such gift,

1 purchase, bequest, or transfer on the materials being kept confidential  
2 for a specified period of time;

3 (18) ~~(17)~~ Job application materials submitted by applicants, other  
4 than finalists or a priority candidate for a position described in  
5 section 85-106.06 selected using the enhanced public scrutiny process in  
6 section 85-106.06, who have applied for employment by any public body as  
7 defined in section 84-1409. For purposes of this subdivision, (a) job  
8 application materials means employment applications, resumes, reference  
9 letters, and school transcripts and (b) finalist means any applicant who  
10 is not an applicant for a position described in section 85-106.06 and (i)  
11 who reaches the final pool of applicants, numbering four or more, from  
12 which the successful applicant is to be selected, (ii) who is an original  
13 applicant when the final pool of applicants numbers less than four, or  
14 (iii) who is an original applicant and there are four or fewer original  
15 applicants;

16 (19)(a) ~~(18)(a)~~ Records obtained by the Public Employees Retirement  
17 Board pursuant to section 84-1512 and (b) records maintained by the board  
18 of education of a Class V school district and obtained by the board of  
19 trustees or the Public Employees Retirement Board for the administration  
20 of a retirement system provided for under the Class V School Employees  
21 Retirement Act pursuant to section 79-989;

22 (20) ~~(19)~~ Social security numbers; credit card, charge card, or  
23 debit card numbers and expiration dates; and financial account numbers  
24 supplied to state and local governments by citizens;

25 (21) ~~(20)~~ Information exchanged between a jurisdictional utility and  
26 city pursuant to section 66-1867;

27 (22) ~~(21)~~ Draft records obtained by the Nebraska Retirement Systems  
28 Committee of the Legislature and the Governor from Nebraska Public  
29 Employees Retirement Systems pursuant to subsection (4) of section  
30 84-1503;

31 (23) ~~(22)~~ All prescription drug information submitted pursuant to

1 section 71-2454, all data contained in the prescription drug monitoring  
2 system, and any report obtained from data contained in the prescription  
3 drug monitoring system; and

4 (24) ~~(23)~~ Information obtained by any government entity, whether  
5 federal, state, county, or local, regarding firearm registration,  
6 possession, sale, or use that is obtained for purposes of an application  
7 permitted or required by law or contained in a permit or license issued  
8 by such entity. Such information shall be available upon request to any  
9 federal, state, county, or local law enforcement agency.

10 Sec. 6. Original section 55-182, Reissue Revised Statutes of  
11 Nebraska, section 29-4003, Revised Statutes Cumulative Supplement, 2020,  
12 and sections 79-2,144 and 84-712.05, Revised Statutes Supplement, 2021,  
13 are repealed.