

Nebraska Private Detective Statutes

Neb. Rev. Stat. § 71-3201. Terms, defined. As used in sections 71-3201 to 71-3213, unless the context otherwise requires:

- (1) Applicant shall mean any person who makes application for a license under such sections;
- (2) License shall mean a license to engage in the private detective business as a private detective, as a private detective agency, or as a plain clothes investigator in the State of Nebraska;
- (3) Licensee shall mean any person licensed under such sections;
- (4) Person shall mean and include any individual, firm, partnership, limited liability company, association, company, corporation, or other legal entity;
- (5) Plain clothes investigator shall mean and include any individual, other than a private detective, who as an employee and on behalf of a private detective agency without any identifying uniform performs services consisting wholly or partially of detective or investigative activity within the scope of the private detective business;
- (6) Private detective shall mean any individual who as a sole proprietor engages in the private detective business without the assistance of any employee;
- (7) Private detective agency shall mean any person who as other than a private detective or a plain clothes investigator engages in the private detective business;
- (8) Private detective business shall mean and include any private business engaged in by any person defined in subdivision (4) of this section who advertises or holds himself or herself out to the public, in any manner, as being engaged in the secret service or private policing business; and
- (9) Secretary shall mean the Secretary of State.

Neb. Rev. Stat. § 71-3202. License required; false representation of employment by licensee. No person shall, in the State of Nebraska after July 1, 1959, by any direct or indirect means, engage in the private detective business, as a private detective, as a private detective agency, or as a plain clothes investigator, act or assume to act as a licensee, or represent himself to be a licensee unless such person is duly licensed and holds a valid license under the provisions of sections 71-3201 to 71-3213; and no person shall in the State of Nebraska falsely represent that he is employed by or represents a licensee.

Neb. Rev. Stat. § 71-3203. Applicability of sections. The provisions of sections 71-3201 to 71-3213 shall not prevent the proper local authorities of any city or village, by ordinance or other proper manner within the exercise of the police power of such city or village, from appointing special policemen for such purposes and subject to such proper and reasonable restrictions, terms, and conditions as such local authorities may prescribe; but such police power shall not be so exercised as to infringe upon or nullify any license duly issued and held under the provisions of sections 71-3201 to 71-3213.

Neb. Rev. Stat. § 71-3204. Secretary of State; rules and regulations; fees.

- (1) The secretary shall have power and authority to adopt and promulgate and to alter from time to time rules and regulations relating to the administration of, but not inconsistent with, the provisions of sections 71-3201 to 71-3213.

(2) The secretary shall establish fees for initial and renewal applications for applicants at rates sufficient to cover the costs of administering sections 71-3201 to 71-3213.

Neb. Rev. Stat. § 71-3205. License; application; criminal history record check; investigation; qualifications; fee.

(1) Any person desiring to engage in the private detective business in the State of Nebraska and desiring to be licensed under sections 71-3201 to 71-3213 shall file with the secretary an application for a license. The application shall be made on a suitable form prescribed by the secretary; shall include the applicant's social security number if the applicant is an individual; shall be accompanied when filed by an application fee established pursuant to section 71-3204; shall be signed and verified by each individual connected with the applicant to whom the requirements of subsection (2) of this section apply; and may contain such information as may be required by the secretary. The applicant shall also submit two legible sets of fingerprints to the Nebraska State Patrol for a national criminal history record check through the Federal Bureau of Investigation.

(2) The secretary shall issue to the person if qualified therefore a nontransferable license to engage in the private detective business as a private detective, as a private detective agency, or as a plain clothes investigator in the State of Nebraska as follows: If the applicant is an individual, the individual; if the applicant is a corporation, each of its individual officers performing the duties of the president, the secretary, and the treasurer of the corporation and the duties of the manager of the business of the corporation in the State of Nebraska; or if the applicant is any person other than an individual or a corporation, each of the individual partners, members, managers, officers, or other individuals having a right to participate in the management of the applicant's business in the State of Nebraska.

(3) The applicant shall be at least twenty-one years of age, a citizen of the United States, and of good moral character, temperate habits, and good reputation for truth, honesty, and integrity and shall have such experience and competence in the detective business or otherwise as the secretary may determine to be reasonably necessary for the individual to perform the duties of his or her position in a manner consistent with the public interest and welfare.

(4) No license issued under sections 71-3201 to 71-3213 shall be issued or renewed to any person who in any manner engages in the business of debt collection in the State of Nebraska as licensee or employee of a licensee as provided in the Collection Agency Act. If any collection agency, or any person in the employ of such agency with knowledge of the owner or operator of such agency, engages in the business of a private detective or represents to others that he or she is engaged in such business, it shall be cause for suspension or revocation of such agency's license as a collection agency.

(5) Prior to the issuance of the license, the secretary shall notify the Nebraska State Patrol, and the patrol shall investigate the character and reputation of the applicant respecting his or her fitness to engage in the business of a private detective. Upon completion of the investigation, the patrol shall notify the secretary of the results of the investigation within ninety days after the date of the application. The license shall be issued by the secretary unless he or she has received within ninety days after the application is made for the license a report of investigation from the patrol stating that the applicant is not of the proper character and reputation to engage in the business of a private detective.

Neb. Rev. Stat. § 71-3206. Applicant for license; disqualification. No license shall be issued to any individual applicant, or to any applicant other than an individual, if such individual

applicant or if any one or more of those individuals participating or intending to participate directly in the management of such other applicant's business in the State of Nebraska has been convicted in the State of Nebraska or in any other state or territory of the United States of any felony or any misdemeanor involving a sex offense or involving moral turpitude; PROVIDED, this section shall not apply when a full pardon has been given.

Neb. Rev. Stat. § 71-3207. License; bond; conditions. Before the license may be issued or renewed, the applicant shall file and the licensee shall continuously maintain with the secretary a surety bond executed by a surety company authorized to do business in the State of Nebraska in the sum of ten thousand dollars conditioned for the faithful and honest conduct and compliance with the provisions of sections 71-3201 to 71-3213 upon the part of such applicant or licensee and upon the part of any plain clothes investigator employed by such applicant or licensee; and any person injured by the willful, malicious, or wrongful act of such applicant or licensee or any employee thereof within the scope of the license may bring an action on such bond in his own name to recover his damages; PROVIDED, that the aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving thirty days' notice to the secretary; PROVIDED, that such cancellation shall not affect any liability on the bond which accrued prior thereto.

Neb. Rev. Stat. § 71-3208. License; renewal; form and content; posting. The license when issued or renewed shall be of such form and content as the secretary may prescribe, shall be posted and prominently displayed in the licensee's principal place of engaging in the private detective business in the State of Nebraska, and shall include the name of the licensee, the name or names under which the licensee is licensed to engage in the private detective business in the State of Nebraska, and the number, date of issue or reissue and expiration date of the license.

Neb. Rev. Stat. § 71-3209. License; renewal; term; renewal fee; renewal application. Each license issued or renewed by the secretary shall expire on June 30 of the first even-numbered year following its issuance and may be renewed by the secretary upon the payment by the licensee, not later than the expiration date, of the license renewal fee established pursuant to section 71-3204 and upon the submission by such licensee of such a license renewal application as the secretary may prescribe as reasonably necessary to ascertain such licensee's continued compliance with the provisions of sections 71-3201 to 71-3213.

Neb. Rev. Stat. § 71-3210. Secretary of State; denial, suspension, or revocation of license; grounds. The secretary may from time to time, upon first giving the applicant or licensee an opportunity for a hearing on the matter, (1) deny any application for a license, (2) refuse to renew any license, (3) suspend any license for a time or upon a condition having a reasonable relation to the administration of the provisions of sections 71-3201 to 71-3213, or (4) revoke any license issued or renewed under the provisions of sections 71-3201 to 71-3213 (a) upon a determination that there has been a significant change in those individuals participating directly in the management of the applicant's or licensee's business in the State of Nebraska or that, (b) by reason of such applicant's or licensee's failure to comply with the provisions of sections 71-3201 to 71-3213, insolvency, bankruptcy or other bad or improper conduct upon the part of such applicant or licensee or upon the part of any officer, agent, or employee of such applicant or licensee within the scope of the office, authority, or employment of such

officer, agent or employee, or (c) when for any other suitable reason the granting of a license to such applicant or the continuation of such licensee's license is not consistent with the public interest and welfare.

Neb. Rev. Stat. § 71-3211. Appeal; procedure. Any applicant, licensee, or other person directly and adversely affected by any order of the secretary may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Neb. Rev. Stat. § 71-3212. Licensee; agents and employees; compliance required. It shall be the duty of every licensee and, so far as applicable, of every officer, agent, and employee of every licensee to comply with the provisions of sections 71-3201 to 71-3213 and with every applicable rule and regulation made and adopted by the secretary.

Neb. Rev. Stat. § 71-3213. Violations; penalty. Any person who violates any provision of sections 71-3201 to 71-3213 or fails to perform any duty imposed upon such person by the provisions of sections 71-3201 to 71-3213 shall be guilty of a Class II misdemeanor.

Nebraska Crime and Punishment Statutes

Neb. Rev. Stat. § 28-519. Criminal mischief; penalty.

- (1) A person commits criminal mischief if he or she:
 - (a) Damages property of another intentionally or recklessly; or
 - (b) Intentionally tampers with property of another so as to endanger person or property; or
 - (c) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.
- (2) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of one thousand five hundred dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.
- (3) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of five hundred dollars or more but less than one thousand five hundred dollars.
- (4) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of two hundred dollars or more but less than five hundred dollars.
- (5) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than two hundred dollars, or if his or her action results in no pecuniary loss.

Neb. Rev. Stat. § 28-520. Criminal trespass, first degree; penalty.

- (1) A person commits first degree criminal trespass if:
 - (a) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or
 - (b) He or she enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility.
- (2) First degree criminal trespass is a Class I misdemeanor.
- (3) For purposes of this section, public power infrastructure facility means a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in section 70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

Neb. Rev. Stat. § 28-521. Criminal trespass, second degree; penalty.

- (1) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:
 - (a) Actual communication to the actor; or
 - (b) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
 - (c) Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in section 28-520.
- (2) Second degree criminal trespass is a Class III misdemeanor, except as provided for in subsection (3) of this section.

(3) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person.

Neb. Rev. Stat. § 28-522. Criminal trespass; affirmative defenses.

It is an affirmative defense to prosecution under sections 28-520 and 28-521 that:

(1) A building or occupied structure involved in an offense under section 28-520 was abandoned; or

(2) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

(3) The actor reasonably believed that the owner of the premises or other person empowered to license access thereto would have licensed him to enter or remain; or

(4) The actor was in the process of navigating or attempting to navigate with a nonpowered vessel any stream or river in this state and found it necessary to portage or otherwise transport the vessel around any fence or obstructions in such stream or river.

Neb. Rev. Stat. § 28-523. Littering of public and private property; penalty.

(1) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(a) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or

(b) The litter is placed in a receptacle or container installed on such property for such purpose.

(2) The word litter as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. Waste material as used in this subsection shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(3) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

(4) A person who commits the offense of littering shall be guilty of a Class III misdemeanor. A person convicted of the offense of littering for the second time shall be guilty of a Class II misdemeanor. A person convicted of the offense of littering for the third or a subsequent time shall be guilty of a Class I misdemeanor.

Neb. Rev. Stat. § 28-1202. Carrying concealed weapon; penalty; affirmative defense.

(1)(a) Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun, a knife, brass or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon.

(b) It is an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property, or family.

(2) This section does not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon the defendant is carrying is a handgun.

(3) Carrying a concealed weapon is a Class I misdemeanor.

(4) In the case of a second or subsequent conviction under this section, carrying a concealed weapon is a Class IV felony.

Neb. Rev. Stat. § 28-1203. Transportation or possession of machine guns, short rifles, or short shotguns; penalty; exception.

(1) Any person or persons who shall transport or possess any machine gun, short rifle, or short shotgun commits a Class IV felony.

(2) The provisions of this section shall not be held to prohibit any act by peace officers, members of the United States armed services, or members of the National Guard of this state, in the lawful discharge of their duties, or persons qualified under the provisions of federal law relating to the short rifle, short shotgun, or machine gun.

Neb. Rev. Stat. § 28-1204. Unlawful possession of a handgun; exceptions; penalty.

(1) Any person under the age of eighteen years who possesses a handgun commits the offense of unlawful possession of a handgun.

(2) This section does not apply to the issuance of handguns to members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps, when on duty or training, or to the temporary loan of handguns for instruction under the immediate supervision of a parent or guardian or adult instructor.

(3) Unlawful possession of a handgun is a Class I misdemeanor.

Neb. Rev. Stat. § 28-1204.01. Unlawful transfer of a firearm to a juvenile; exceptions; penalty; county attorney; duty.

(1) Any person who knowingly and intentionally does or attempts to sell, provide, loan, deliver, or in any other way transfer the possession of a firearm to a juvenile commits the offense of unlawful transfer of a firearm to a juvenile. The county attorney shall have a copy of the petition served upon the owner of the firearm, if known, in person or by registered or certified mail at his or her last-known address.

(2) This section does not apply to the transfer of a firearm, other than a handgun, to a juvenile:

(a) From a person related to such juvenile within the second degree of consanguinity or affinity if the transfer of physical possession of such firearm does not occur until such time as express permission has been obtained from the juvenile's parent or guardian;

(b) For a legitimate and lawful sporting purpose; or

(c) Who is under direct adult supervision in an appropriate educational program.

(3) This section applies to the transfer of a handgun except as specifically provided in subsection (2) of section 28-1204.

(4) Unlawful transfer of a firearm to a juvenile is a Class III felony.

Neb. Rev. Stat. § 28-1204.02. Confiscation of firearm; disposition.

Any firearm in the possession of a person in violation of section 28-1204 or 28-1204.01 shall be confiscated by a peace officer or other authorized law enforcement officer. Such firearm shall be held by the agency employing such officer until it no longer is required as evidence.

Neb. Rev. Stat. § 28-1204.03. Firearms and violence; legislative findings.

The Legislature finds that:

- (1) Increased violence at schools has become a national, state, and local problem;
- (2) Increased violence and the threat of violence has a grave and detrimental impact on the educational process in Nebraska schools;
- (3) Increased violence has caused fear and concern among not only the schools and students but the public at large;
- (4) Firearms have contributed greatly to the increase of fear and concern among our citizens;
- (5) Schools have a duty to protect their students and provide an environment which promotes and provides an education in a nonthreatening manner;
- (6) An additional danger of firearms at schools is the risk of accidental discharge and harm to students and staff;
- (7) Firearms are an immediate and inherently dangerous threat to the safety and well-being of an educational setting; and
- (8) The ability to confiscate and remove firearms quickly from school grounds is a legitimate and necessary tool to protect students and the educational process.

Neb. Rev. Stat. § 28-1204.04. Unlawful possession of a firearm on school grounds; penalty; exceptions; confiscation of certain firearms; disposition.

(1) Any person who possesses a firearm in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event is guilty of the offense of unlawful possession of a firearm at a school. Unlawful possession of a firearm at a school is a Class IV felony. This subsection shall not apply to (a) the issuance of firearms to or possession by members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training, (b) firearms which may lawfully be possessed by the person receiving instruction, for instruction under the immediate supervision of an adult instructor, (c) firearms which may lawfully be possessed by a member of a college or university rifle team, within the scope of such person's duties as a member of the team, (d) firearms which may lawfully be possessed by a person employed by a college or university in this state as part of an agriculture or a natural resources program of such college or university, within the scope of such person's employment, (e) firearms contained within a private vehicle operated by a nonstudent adult which are not loaded and (i) are encased or (ii) are in a locked firearm rack that is on a motor vehicle, or (f) a handgun carried as a concealed handgun by a valid holder of a permit issued under the Concealed Handgun Permit Act in a vehicle or on his or her person while riding in or on a vehicle into or onto any parking area, which is open to the public and used by a school if, prior to exiting the vehicle, the handgun is locked inside the glove box, trunk, or other compartment of the vehicle, a storage box securely attached to the vehicle, or, if the vehicle is a motorcycle, a hardened compartment securely attached to the motorcycle while the vehicle is in or on such parking area, except as prohibited by federal law. For purposes of this subsection, encased means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied, or otherwise fastened with no part of the firearm exposed.

(2) Any firearm possessed in violation of subsection (1) of this section shall be confiscated without warrant by a peace officer or may be confiscated without warrant by school administrative or teaching personnel. Any firearm confiscated by school administrative or teaching personnel shall be delivered to a peace officer as soon as practicable.

(3) Any firearm confiscated by or given to a peace officer pursuant to subsection (2) of this section shall be declared a common nuisance and shall be held by the peace officer prior to

his or her delivery of the firearm to the property division of the law enforcement agency which employs the peace officer. The property division of such law enforcement agency shall hold such firearm for as long as the firearm is needed as evidence. After the firearm is no longer needed as evidence, it shall be destroyed in such manner as the court may direct.

(4) Whenever a firearm is confiscated and held pursuant to this section or section 28-1204.02, the peace officer who received such firearm shall cause to be filed within ten days after the confiscation a petition for destruction of such firearm. The petition shall be filed in the district court of the county in which the confiscation is made. The petition shall describe the firearm held, state the name of the owner, if known, allege the essential elements of the violation which caused the confiscation, and conclude with a prayer for disposition and destruction in such manner as the court may direct. At any time after the confiscation of the firearm and prior to court disposition, the owner of the firearm seized may petition the district court of the county in which the confiscation was made for possession of the firearm. The court shall release the firearm to such owner only if the claim of ownership can reasonably be shown to be true and either (a) the owner of the firearm can show that the firearm was taken from his or her property or place of business unlawfully or without the knowledge and consent of the owner and that such property or place of business is different from that of the person from whom the firearm was confiscated or (b) the owner of the firearm is acquitted of the charge of unlawful possession of a handgun in violation of section 28-1204, unlawful transfer of a firearm to a juvenile, or unlawful possession of a firearm at a school. No firearm having significant antique value or historical significance as determined by the Nebraska State Historical Society shall be destroyed. If a firearm has significant antique value or historical significance, it shall be sold at auction and the proceeds shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Neb. Rev. Stat. § 28-1205. Use of a deadly weapon to commit a felony; possession of a deadly weapon during the commission of a felony; penalty; separate and distinct offense; proof of possession.

(1)(a) Any person who uses a firearm, a knife, brass or iron knuckles, or any other deadly weapon to commit any felony which may be prosecuted in a court of this state commits the offense of use of a deadly weapon to commit a felony.

(b) Use of a deadly weapon, other than a firearm, to commit a felony is a Class II felony.

(c) Use of a deadly weapon, which is a firearm, to commit a felony is a Class IC felony.

(2)(a) Any person who possesses a firearm, a knife, brass or iron knuckles, or a destructive device during the commission of any felony which may be prosecuted in a court of this state commits the offense of possession of a deadly weapon during the commission of a felony.

(b) Possession of a deadly weapon, other than a firearm, during the commission of a felony is a Class III felony.

(c) Possession of a deadly weapon, which is a firearm, during the commission of a felony is a Class II felony.

(3) The crimes defined in this section shall be treated as separate and distinct offenses from the felony being committed, and sentences imposed under this section shall be consecutive to any other sentence imposed.

(4) Possession of a deadly weapon may be proved through evidence demonstrating either actual or constructive possession of a firearm, a knife, brass or iron knuckles, or a

destructive device during, immediately prior to, or immediately after the commission of a felony.

(5) For purposes of this section:

(a) Destructive device has the same meaning as in section 28-1213; and

(b) Use of a deadly weapon includes the discharge, employment, or visible display of any part of a firearm, a knife, brass or iron knuckles, any other deadly weapon, or a destructive device during, immediately prior to, or immediately after the commission of a felony or communication to another indicating the presence of a firearm, a knife, brass or iron knuckles, any other deadly weapon, or a destructive device during, immediately prior to, or immediately after the commission of a felony, regardless of whether such firearm, knife, brass or iron knuckles, deadly weapon, or destructive device was discharged, actively employed, or displayed.

Neb. Rev. Stat. § 29-402. Arrest by person not an officer.

Any person not an officer may, without warrant, arrest any person, if a petit larceny or a felony has been committed, and there is reasonable ground to believe the person arrested guilty of such offense, and may detain him until a legal warrant can be obtained.

Nebraska Telecommunications and Technology Statutes

Neb. Rev. Stat. § 86-290. Unlawful acts; penalty.

(1) Except as otherwise specifically provided in sections 86-271 to 86-295, it is unlawful to:

(a) Intentionally intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept any wire, electronic, or oral communication;

(b) Intentionally use, endeavor to use, or procure any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when (i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication or (ii) such device transmits communications by radio or interferes with the transmission of such communication;

(c) Intentionally disclose or endeavor to disclose to any other person the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subsection;

(d) Intentionally use or endeavor to use the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subsection; or

(e) Having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under sections 86-271 to 86-2,115 to intercept a wire, oral, or electronic communication, give notice or attempt to give notice of the possible interception to any person in order to obstruct, impede, or prevent such interception.

Except as provided in subdivisions (4)(a) and (5)(b) of this section, any person who violates this subsection is guilty of a Class IV felony.

(2)(a) It is not unlawful under sections 86-271 to 86-295 for an employer on his, her, or its business premises, for an operator of a switchboard, or for an officer, employee, or agent of any provider, the facilities of which are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his, her, or its employment while engaged in any activity which is a necessary incident to the rendition of his, her, or its service or to the protection of the rights or property of the carrier or provider of such communication services. Such employers and providers shall not utilize service observing or random monitoring except for mechanical, service quality, or performance control checks as long as reasonable notice of the policy of random monitoring is provided to their employees.

(b) It is not unlawful under sections 86-271 to 86-295 for a person acting under color of law to intercept a wire, electronic, or oral communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(c) It is not unlawful under sections 86-271 to 86-295 for a person not acting under color of law to intercept a wire, electronic, or oral communication when such person is a party to the communication or when one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

(d) It is not unlawful under sections 86-271 to 86-295:

(i) To intercept or access an electronic communication made through an electronic communications system that is configured so that such electronic communication is readily accessible to the general public;

(ii) To intercept any radio communication which is transmitted:

(A) By any station for the use of the general public or that relates to ships, aircraft, vehicles, or persons in distress;

(B) By any governmental, law enforcement, emergency management, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(C) By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(D) By any marine or aeronautical communications system;

(iii) To intercept or receive, or to assist in the interception or receipt of:

(A) Any communications service offered over a cable system as provided in 47 U.S.C. 553, as such section existed on January 1, 2002; or

(B) Any satellite cable programming for private viewing as provided in 47 U.S.C. 605, as such section existed on January 1, 2002;

(iv) To intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment to the extent necessary to identify the source of such interference; or

(v) For other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system if such communication is not scrambled or encrypted.

(e) It is not unlawful under sections 86-271 to 86-295 and 86-298 to 86-2,101:

(i) To use a pen register or a trap-and-trace device; or

(ii) For a provider of an electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service from fraudulent, unlawful, or abusive use of such service.

(3)(a) Except as provided in subsection (1) of this section and subdivision (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication, other than one to such person or entity or an agent thereof, while in transmission on such service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing an electronic communication service to the public may divulge the contents of any such communication:

(i) As otherwise authorized in subdivision (a) of this subsection or section 86-292;

(ii) With the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) Which was inadvertently obtained by the provider and which appears to pertain to the commission of a crime if such divulgence is made to a law enforcement officer.

(4)(a) If the offense is a first offense under subsection (1) of this section and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain and the wire or electronic communication with respect to the offense

under subsection (1) of this section is a radio communication that is not scrambled or encrypted, then:

(i) If the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication and the conduct is not that described in subsection (5) of this section, the offense is a Class I misdemeanor; or

(ii) If the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication, the offense is a Class III misdemeanor.

(b) Conduct, otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted: (i) To a broadcasting station for purposes of retransmission to the general public; or (ii) as an audio subcarrier intended for redistribution to facilities open to the public but not including data transmissions or telephone calls, is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

(5)(a) If the communication is: (i) A private satellite video communication that is not scrambled or encrypted and the conduct in violation of sections 86-271 to 86-295 is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or (ii) a radio communication that is transmitted on frequencies allocated for remote pickup broadcast stations under subpart D of 47 C.F.R. part 74, as such regulations existed on January 1, 2002, and that is not scrambled or encrypted and the conduct in violation of sections 86-271 to 86-295 is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the person who engages in such conduct shall be subject to suit by the state in a court of competent jurisdiction.

(b) In an action under this subsection:

(i) If the violation is a first offense by the person under subsection (1) of this section and such person has not been found liable in a civil action under section 86-297, the state shall be entitled to appropriate injunctive relief; and

(ii) If the violation is a second or subsequent offense under subsection (1) of this section or such person has been found liable in any prior civil action under section 86-297, the person shall be subject to a mandatory five-hundred-dollar civil fine.

(c) The court may use any means within its authority to enforce an injunction issued under this subsection and shall impose a civil fine of not less than five hundred dollars for each violation of such an injunction.

Neb. Rev. Stat. § 86-291. Interception; court order.

The Attorney General or any county attorney may make application to any district court of this state for an order authorizing or approving the interception of wire, electronic, or oral communications, and such court may grant, subject to sections 86-271 to 86-295, an order authorizing or approving the interception of wire, electronic, or oral communications by law enforcement officers having responsibility for the investigation of the offense as to which application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, robbery, bribery, extortion, dealing in narcotic or other dangerous drugs, sexual assault of a child or a vulnerable adult, visual depiction or possessing a visual depiction of sexually explicit conduct of a child, or child enticement by means of a computer, or any conspiracy to commit any such offense.

At the same time a county attorney first makes application to the district court for an initial order authorizing or approving the interception of wire, electronic, or oral communications, the county attorney shall submit the application to the Attorney General or his or her designated deputy or assistant. Within twenty-four hours of receipt by the office of the Attorney General of the application from the county attorney, the Attorney General or his or her designated deputy or assistant, as the case may be, shall state to the district court where the order is sought his or her recommendation as to whether the order should be granted. The court shall not issue the order until it has received the recommendation or until seventy-two hours after receipt of the application from the county attorney, whichever is sooner, unless the court finds exigent circumstances existing which necessitate the immediate issuance of the order. The court may issue the order and disregard the recommendation of the Attorney General or his or her designated deputy or assistant.