

## 28-1463.05.

### Visual depiction of sexually explicit acts related to possession; violation; penalty.

(1) It shall be unlawful for a person to knowingly possess with intent to rent, sell, deliver, distribute, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers.

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

(b) Any person who is nineteen years of age or older at the time he or she violates this section shall be guilty of a Class IIA felony for each offense.

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

### Source

- Laws 1985, LB 668, § 4;
- Laws 1986, LB 788, § 2;
- [Laws 2004, LB 943, § 7](#);
- [Laws 2009, LB97, § 20](#);
- [Laws 2015, LB605, § 58](#);
- [Laws 2019, LB630, § 6](#).
- **Effective Date: September 1, 2019**

### Cross References

- **Registration of sex offenders**, see sections [29-4001](#) to [29-4014](#).

### Annotations

- Prosecutor is free to prosecute conduct arguably within this provision under another provision with harsher penalties, so long as decision is not based on race, religion, or other arbitrary classification. *State v. Burke*, 225 Neb. 625, 408 N.W.2d 239 (1987).