

NEBRASKA REVISED STATUTES
ARTICLE 40
SEX OFFENDER REGISTRATION

Section

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§ 29-4001. Act, how cited.

Sections 29-4001 to 29-4013 shall be known and may be cited as the Sex Offender Registration Act.

Source: Laws 1996, LB 645, § 1.

§ 29-4002. Legislative findings.

The Legislature finds that sex offenders present a high risk to commit repeat offenses. The Legislature further finds that efforts of law enforcement agencies to protect their communities, conduct investigations, and quickly apprehend sex offenders are impaired by the lack of available information about individuals who have pleaded guilty to or have been found guilty of sex offenses and who live in their jurisdiction. The Legislature further finds that state policy should assist efforts of local law enforcement agencies to protect their communities by requiring sex offenders to register with local law enforcement agencies as provided by the Sex Offender Registration Act.

Source: Laws 1996, LB 645, § 2.

§ 29-4003. Applicability of act.

(1) The Sex Offender Registration Act shall apply to any person who on or after January 1, 1997:

(a) Pleads guilty to or is found guilty of:

- (i) Kidnapping of a minor pursuant to section 28-313, except when the person is the parent of the minor and was not convicted of any other offense in this section;
 - (ii) False imprisonment of a minor pursuant to section 28-314 or 28-315;
 - (iii) Sexual assault pursuant to section 28-319 or 28-320;
 - (iv) Sexual assault of a child pursuant to section 28-320.01;
 - (v) Sexual assault of a vulnerable adult pursuant to subdivision (1)(c) of section 28-386;
 - (vi) Incest of a minor pursuant to section 28-703;
 - (vii) Pandering of a minor pursuant to section 28-802
 - (viii) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05; or
 - (ix) Attempt, solicitation, or conspiracy to commit an offense listed in subdivisions (1)(a)(i) through (1)(a)(viii) of this section;
- (b) Enters the state and has pleaded guilty to or has been found guilty of any offense in another state, territory, commonwealth, or other jurisdiction of the United States that is substantially equivalent to the offenses listed in subdivision (1)(a) of this section; or
- (c) Is incarcerated in a jail, a penal facility, or any other public or private institution or is under probation or parole as a result of pleading guilty to or being found guilty of an offense listed in subdivisions (1)(a) and (b) of this section prior to January 1, 1997.
- (2) The registration requirements of the act shall not apply to any person while he or she is incarcerated in a jail, a penal facility, or any other public or private institution.
- (3) In the case of violations of sections 28-313, 28-314, or 28-315, the sentencing court shall determine at the time of sentencing, in light of all the facts, whether the convicted person shall be subject to the Sex Offender Registration Act.

Source: Laws 1996, LB 645, § 3.

§ 29-4004. Registration; sheriff; duties; Nebraska State Patrol; duties.

- (1) Any person who becomes subject to the Sex Offender Registration Act shall register with the sheriff of the county in which the person resides or is temporarily domiciled within five working days of becoming subject to the act.
- (2) If there is an address change for a person required to register, the person shall inform the sheriff with whom that person last registered of the new address, in writing, within five working days of the change. The sheriff shall forward this information to the sheriff in the new jurisdiction where the person is relocating and would be required to register within five working days of the receipt of the new address.
- (3) Each sheriff shall forward all written information, photographs, and fingerprints obtained pursuant to the act to the Nebraska State Patrol within five working days. The Nebraska State Patrol shall maintain a central registry of sex offenders required to register under the act.

Source: Laws 1996, LB 645, § 4.

§ 29-4005. Registration duration; sexually violent offender determination.

- (1) Except as provided in subsection (2) of this section, any person to whom the Sex offender

Registration Act applies shall be required to register during any period of probation or parole and shall continue to comply with the act for a period of ten years after the date of discharge from probation, parole, or release from incarceration, whichever date is most recent.

(2)(a) When sentencing a person for an offense listed in subdivision (1)(a) of section 29-4003, a court may also determine if the person is a sexually violent offender. When making its determination the court shall consider evidence from experts in the field of the behavior and treatment of sexual offenders.

(b) If the sentencing court determines that a person is a sexually violent offender, the person shall be required to register under the Sex Offender Registration Act until the sentencing court determines that the person no longer suffers from a mental abnormality or personality disorder that makes the person likely to engage in a sexually violent offense. Such determination shall not be made until ten years after the date of discharge from probation, parole, or release from incarceration, whichever date is most recent.

(c) In addition to complying with the annual verification requirements in section 29-4006, a person determined to be a sexually violent offender shall verify the registration information every three months after the initial registration date.

(d) For purposes of this section:

(i) Mental abnormality means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of a criminal sexual act to a degree that makes the person a menace to the health and safety of other persons; and

(ii) Sexually violent offender means a person who has been convicted of one or more offenses listed in subdivision (1)(a) of section 29-4003 and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at a stranger, or at a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

Source: Laws 1996, LB 645, § 5.

§ 29-4006. Registration form; contents; verification.

(1) Registration information required by the Sex Offender Registration Act shall be in a form approved by the Nebraska State Patrol and shall include the following information:

(a) The name and all aliases which the person has used or under which the person has been known;

(b) A complete description of the person, including date of birth, social security number, photographs, and fingerprints;

(c) A listing of each offense listed in section 29-4003 to which the person pleaded guilty or was found guilty, the jurisdiction where each offense was committed, the court in which the person pleaded guilty or was found guilty of each offense, and the name under which the person pleaded guilty or was found guilty of each offense;

(d) The name and location of each jail, penal facility, or public or private institution to which the person was incarcerated for each offense and the actual time served or confined; and

(e) The address of the person's current residence and place of employment.

(2) For the duration of the registration period required by the act, registration information

shall be verified annually within thirty days after the anniversary date of the person's initial registration date. To properly verify, the following shall occur:

(a) The Nebraska State Patrol shall mail a nonforwardable verification form to the last-reported address of the person;

(b) The verification form shall be signed by the person and state whether the person still resides at the address last reported to the patrol; and

(c) The person shall mail the verification form to the patrol within ten days after receipt of the form.

(3) If the person fails to complete and mail the verification form to the patrol within ten days after receipt of the form, the person shall be in violation of this section unless the person proves that he or she has not changed his or her residence address.

(4) If the person falsifies the registration or verification form, the person shall be in violation of this section.

Source: Laws 1996, LB 645, § 6.

§ 29-4007. Court; Department of Correctional Services; Department of Motor Vehicles; duty to notify; Attorney General; prepare form.

(1) The court shall provide written notification of the duty to register at the time of sentencing to any defendant who has pleaded guilty or has been found guilty of an offense listed in subdivision (1) (a) of section 29-4003. The written notification shall be signed by the defendant and retained by the court. A copy of the notification shall be provided to the court attorney and the defendant.

(2) The Department of Correctional Services shall provide written notification of the duty to register pursuant to the Sex Offender Registration Act to any person committed to its custody for an offense listed in subdivision (1) (a) of section 29-4003 prior to the person's release from incarceration. The written notification shall be signed by the person and retained by the department. A copy of the notification shall be provided to the person.

(3) The Department of Motor Vehicles shall cause written notification of the duty to register to be provided on the applications for a motor vehicle operator's license and for a commercial driver's license.

(4) All written notification as provided in this section shall be on a form prepared by the Attorney General.

Source: Laws 1996, LB 645 § 7; Laws 1998, LB 204, § 1.

§ 29-4008. False or misleading information prohibited.

No person subject to the Sex Offender Registration Act shall knowingly and willfully furnish any false or misleading information in the registration.

Source: Laws 1996, LB 645, § 8.

§ 29-4009. Information confidential; exceptions.

Information obtained under the Sex Offender Registration Act shall be confidential, except that:

- (1) Information shall be disclosed to law enforcement agencies for law enforcement purposes;
- (2) Information may be disclosed to governmental agencies conducting confidential background checks; and
- (3) The Nebraska State Patrol and any law enforcement agency authorized by the patrol shall release relevant information that is necessary to protect the public concerning a specific person required to register, except that the identity of a victim of an offense that requires registration shall not be released. Release of such information shall conform with the rules and regulations adopted and promulgated by the Nebraska State Patrol pursuant to section 29-4013.

Source: Laws 1996, LB 645, § 9; Laws 1998, LB 204, § 2.

§ 29-4010 Expungement; procedure.

- (1) Any person having a duty to register under the Sex Offender Registration Act may file a petition with the district court for an order to expunge the information.
- (2) The petition shall be filed in the district court of the county in which the petitioner was convicted of an offense listed in section 29-4003. If the petitioner was convicted in another state, the petition shall be filed in the district court of the county in which the petitioner resides. The county attorney shall be named as the respondent and shall be served with a copy of the petition.
- (3) The court may grant the petition and issue an order to expunge the information if the petitioner shows by clear and convincing evidence that the (a) petitioner's duty to register has expired, (b) petitioner does not have a criminal charge pending and is not under criminal investigation for an offense listed in section 29-4003, and (c) petitioner is not a substantial risk to commit another offense listed in section 29-4003.

Source: Laws 1996, LB 645, § 10.

§ 29-4011. Violations; penalties.

Any person required to register under the Sex Offender Registration Act who violates the act is guilty of a Class IV felony unless the act which caused the person to be placed on the registry was a misdemeanor, in which case a violation of the Sex Offender Registration Act shall be a crime of the same class or within the same penalty range as the original act.

Source: Laws 1996, LB 645, § 11.

§ 29-4012. Immunity from liability.

Law enforcement officials, their employees, and state officials shall be immune from liability for good faith conduct under the Sex Offender Registration Act.

Source: Laws 1996, LB 645, § 12.

§ 29-4013. Rules and regulations.

(1) The Nebraska State Patrol shall adopt and promulgate rules and regulations to carry out the registration provisions of the Sex Offender Registration Act.

(2)(a) The Nebraska State Patrol shall adopt and promulgate rules and regulations for the release of information to the community pursuant to subdivision (3) of section 29-4009.

(b) The rules and regulations adopted by the Nebraska State Patrol shall identify and incorporate factors relevant to the sex offender's risk of recidivism. Factors relevant to the risk of recidivism include, but are not limited to:

(i) Conditions of release that minimize the risk of recidivism, including probation, parole, counseling, therapy, or treatment;

(ii) Physical conditions that minimize the risk of recidivism, including advanced age or debilitating illness; and

(iii) Any criminal history of the sex offender indicative of a high risk of recidivism, including:

(A) Whether the conduct of the sex offender was found to be characterized by repetitive and compulsive behavior;

(B) Whether the sex offender committed the sexual offense against a child;

(C) Whether the sexual offense involved the use of a weapon, violence, or infliction of serious bodily injury;

(D) The number, date, and nature of prior offenses;

(E) Whether psychological or psychiatric profiles indicate a risk of recidivism;

(F) The sex offender's response to treatment;

(G) Any recent threats by the sex offender against a person or expressions of intent to commit additional crimes; and

(H) Behavior of the sex offender while confined.

(c) The procedures for release of information established by the Nebraska State Patrol shall provide for three levels of notification by the law enforcement agency in whose jurisdiction the sex offender is to be released depending on the risk of recidivism by the sex offender as follows:

(i) If the risk of recidivism is low, other law enforcement agencies likely to encounter the sex offender shall be notified;

(ii) If the risk of recidivism is moderate, in addition to the notice required by subdivision (i) of this subdivision, schools, daycare centers, and religious and youth organizations shall be notified; and

(iii) If the risk of recidivism is high, in addition to the notice required by subdivisions (i) and (ii) of this subdivision, the public shall be notified through means designed to reach members of the public likely to encounter the sex offender, which are limited to direct contact, news releases, or a system utilizing a telephone system which charges a fee for each use. If any means of notification proposes a fee for usage, then nonprofit organizations holding a certificate of exemption under section 501(c) of the Internal Revenue Code shall not be charged.

(d) The Nebraska State Patrol shall establish procedures for the evaluation of the risk of recidivism and implementation of community notification that promote the uniform application of the notification rules and regulations required by this section.

(e) The Nebraska State Patrol shall assign a notification level, based upon the risk of recidivism, to all persons required to register under the act.

(3) Nothing in subsection (2) of this section shall be construed to prevent law enforcement

officers from providing community notification concerning any person who poses a danger under circumstances that are not provided for in the act.

Source: Laws 1996, LB 645, § 13; Laws 1998, LB 204, § 3.