

AMENDMENTS TO LB934

(Amendments to E and R amendments, ER178)

Introduced by Coash, 27.

1 1. Insert the following new sections:

2 Sec. 11. Section 29-4003, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 29-4003 (1)(a) The Sex Offender Registration Act applies to any
5 person who on or after January 1, 1997:

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

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

11 (B) False imprisonment of a minor pursuant to section 28-314 or
12 28-315;

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

14 (D) Sexual assault of a child in the second or third degree pursuant
15 to section 28-320.01;

16 (E) Sexual assault of a child in the first degree pursuant to
17 section 28-319.01;

18 (F) Sexual abuse of a vulnerable adult or senior adult pursuant to
19 subdivision (1)(c) of section 28-386;

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

21 (H) Pandering of a minor pursuant to section 28-802;

22 (I) Visual depiction of sexually explicit conduct of a child
23 pursuant to section 28-1463.03 or 28-1463.05;

24 (J) Knowingly possessing any visual depiction of sexually explicit
25 conduct which has a child as one of its participants or portrayed
26 observers pursuant to section 28-813.01;

1 (K) Criminal child enticement pursuant to section 28-311;

2 (L) Child enticement by means of an electronic communication device
3 pursuant to section 28-320.02;

4 (M) Debauching a minor pursuant to section 28-805; or

5 (N) Attempt, solicitation, aiding or abetting, being an accessory,
6 or conspiracy to commit an offense listed in subdivisions (1)(a)(i)(A)
7 through (1)(a)(i)(M) of this section;

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

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

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

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

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

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

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

- 1 (III) Manslaughter pursuant to section 28-305;
- 2 (IV) Assault in the first degree pursuant to section 28-308;
- 3 (V) Assault in the second degree pursuant to section 28-309;
- 4 (VI) Assault in the third degree pursuant to section 28-310;
- 5 (VII) Stalking pursuant to section 28-311.03;
- 6 (VIII) Violation of section 28-311.08 requiring registration under
- 7 the act pursuant to subsection (5) of section 28-311.08;
- 8 (IX) Kidnapping pursuant to section 28-313;
- 9 (X) False imprisonment pursuant to section 28-314 or 28-315;
- 10 (XI) Sexual abuse of an inmate or parolee in the first degree
- 11 pursuant to section 28-322.02;
- 12 (XII) Sexual abuse of an inmate or parolee in the second degree
- 13 pursuant to section 28-322.03;
- 14 (XIII) Sexual abuse of a protected individual pursuant to section
- 15 28-322.04;
- 16 (XIV) Incest pursuant to section 28-703;
- 17 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section
- 18 28-707;
- 19 (XVI) Enticement by electronic communication device pursuant to
- 20 section 28-833; or
- 21 (XVII) Attempt, solicitation, aiding or abetting, being an
- 22 accessory, or conspiracy to commit an offense listed in subdivisions (1)
- 23 (b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this section.
- 24 (B) In order for the Sex Offender Registration Act to apply to the
- 25 offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V),
- 26 (VI), (VII), (IX), and (X) of this section, a court shall have found that
- 27 evidence of sexual penetration or sexual contact, as those terms are
- 28 defined in section 28-318, was present in the record, which shall include
- 29 consideration of the factual basis for a plea-based conviction and
- 30 information contained in the presentence report;
- 31 (ii) Has ever pled guilty to, pled nolo contendere to, or been found

1 guilty of any offense that is substantially equivalent to a registrable
2 offense under subdivision (1)(b)(i) of this section by any village, town,
3 city, state, territory, commonwealth, or other jurisdiction of the United
4 States, by the United States Government, by court-martial or other
5 military tribunal, or by a foreign jurisdiction, notwithstanding a
6 procedure comparable in effect to that described under section 29-2264 or
7 any other procedure to nullify a conviction other than by pardon; or

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

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

14 Sec. 12. Section 29-4103, Revised Statutes Cumulative Supplement,
15 2014, is amended to read:

16 29-4103 For purposes of the DNA Identification Information Act:

17 (1) Combined DNA Index System means the Federal Bureau of
18 Investigation's national DNA identification index system that allows the
19 storage and exchange of DNA records submitted by state and local forensic
20 DNA laboratories;

21 (2) DNA means deoxyribonucleic acid which is located in the cells
22 and provides an individual's personal genetic blueprint. DNA encodes
23 genetic information that is the basis of human heredity and forensic
24 identification;

25 (3) DNA record means the DNA identification information stored in
26 the State DNA Data Base or the Combined DNA Index System which is derived
27 from DNA typing test results;

28 (4) DNA sample means a blood, tissue, or bodily fluid sample
29 provided by any person covered by the DNA Identification Information Act
30 for analysis or storage, or both;

31 (5) DNA typing tests means the laboratory procedures which evaluate

1 the characteristics of a DNA sample which are of value in establishing
2 the identity of an individual;

3 (6) Law enforcement agency includes a police department, a town
4 marshal, a county sheriff, and the Nebraska State Patrol;

5 (7) Other specified offense means misdemeanor stalking pursuant to
6 sections 28-311.02 to 28-311.05 or false imprisonment in the second
7 degree pursuant to section 28-315 or an attempt, conspiracy, or
8 solicitation to commit stalking pursuant to sections 28-311.02 to
9 28-311.05, false imprisonment in the first degree pursuant to section
10 28-314, false imprisonment in the second degree pursuant to section
11 28-315, knowing and intentional sexual abuse of a vulnerable adult or
12 senior adult pursuant to subdivision (1)(c) of section 28-386, or a
13 violation of the Sex Offender Registration Act pursuant to section
14 29-4011; and

15 (8) Released means any release, parole, furlough, work release,
16 prerelease, or release in any other manner from a prison, a jail, or any
17 other detention facility or institution.

18 Sec. 32. Section 83-174.02, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-174.02 (1) The Department of Correctional Services shall order an
21 evaluation of the following individuals by a mental health professional
22 to determine whether or not the individual is a dangerous sex offender:

23 (a) Individuals who have been convicted of (i) sexual assault of a
24 child in the first degree pursuant to section 28-319.01 or (ii) sexual
25 assault in the first degree pursuant to section 28-319;

26 (b) Individuals who have been convicted of two or more offenses
27 requiring registration as a sex offender under section 29-4003 if one of
28 the convictions was for any of the following offenses: (i) Kidnapping of
29 a minor pursuant to section 28-313, except when the person is the parent
30 of the minor and was not convicted of any other offense; (ii) sexual
31 assault in the first degree pursuant to section 28-319 or sexual assault

1 in the second degree pursuant to section 28-320; (iii) sexual assault of
2 a child pursuant to section 28-320.01; (iv) sexual assault of a child in
3 the first degree pursuant to section 28-319.01; (v) sexual assault of a
4 child in the second or third degree pursuant to section 28-320.01; (vi)
5 sexual assault of a vulnerable adult or senior adult pursuant to
6 subdivision (1)(c) of section 28-386; (vii) incest of a minor pursuant to
7 section 28-703; (viii) visual depiction of sexually explicit conduct of a
8 child pursuant to section 28-1463.03; or (ix) any offense that is
9 substantially equivalent to an offense listed in this section by any
10 state, territory, commonwealth, or other jurisdiction of the United
11 States, by the United States Government, or by court-martial or other
12 military tribunal, notwithstanding a procedure comparable in effect to
13 that described in section 29-2264 or any other procedure to nullify a
14 conviction other than by pardon;

15 (c) Individuals convicted of a sex offense against a minor who have
16 refused to participate in or failed to successfully complete the sex
17 offender treatment program offered by the Department of Correctional
18 Services or the Department of Health and Human Services during the term
19 of incarceration. The failure to successfully complete a treatment
20 program due to time constraints or the unavailability of treatment
21 programming shall not constitute a refusal to participate in treatment;
22 and

23 (d) Individuals convicted of failure to comply with the registration
24 requirements of the Sex Offender Registration Act who have previously
25 been convicted for failure to comply with the registration requirements
26 of the act or a similar registration requirement in another state.

27 (2) The evaluation required by this section shall be ordered at
28 least one hundred eighty days before the scheduled release of the
29 individual. Upon completion of the evaluation, and not later than one
30 hundred fifty days prior to the scheduled release of the individual, the
31 department shall send written notice to the Attorney General, the county

1 attorney of the county where the offender is incarcerated, and the
2 prosecuting county attorney. The notice shall contain an affidavit of the
3 mental health professional describing his or her findings with respect to
4 whether or not the individual is a dangerous sex offender.

5 Sec. 34. Since an emergency exists, this act takes effect when
6 passed and approved according to law.

7 2. On page 2, strike beginning with the comma in line 11 through
8 "adult" in line 12.

9 3. On page 7, line 14; page 13, line 10; page 15, lines 2 and 25;
10 and page 17, lines 5 and 6 and 12, strike "12 to 21" and insert "14 to
11 23".

12 4. On page 11, line 24, strike "14" and insert "16".

13 5. On page 22, lines 1 and 3, strike "and"; in line 1 after the last
14 comma insert "and 83-174.02,"; and in line 3 after the last comma insert
15 "29-4003, and 29-4103,".

16 6. Renumber the remaining sections accordingly.