

LEGISLATIVE BILL 285

Approved by the Governor May 29, 2009

Introduced by Pirsch, 4; Cornett, 45; Flood, 19; Friend, 10; Fulton, 29; Gay, 14; Schilz, 47; Janssen, 15.

FOR AN ACT relating to criminal procedure; to amend sections 29-2264, 29-4004, 29-4005, 29-4009, 29-4011, 29-4013, 29-4016, and 83-174.03, Reissue Revised Statutes of Nebraska, sections 29-4003, 29-4006, and 29-4007, Reissue Revised Statutes of Nebraska, as amended by sections 25, 26, and 27, respectively, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, and sections 14 and 24, Legislative Bill 97, One Hundred First Legislature, First Session, 2009; to change and eliminate provisions relating to the Sex Offender Registration Act; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 29-4010, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 14, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is amended to read:

Sec. 14. (1) Any person required to register under the Sex Offender Registration Act who ~~is found to be a sexually violent predator under subdivision (4)(c) of section 29-4005 or~~ is required to register because of a conviction for one or more of the following offenses, including any substantially equivalent offense committed in another state, territory, commonwealth, or other jurisdiction of the United States, and who knowingly and intentionally uses a social networking web site, or service, instant messaging, or chat room service that allows a person who is less than eighteen years of age to access or use its social networking web site, instant messaging, or chat room service, commits the offense of unlawful use of the Internet by a prohibited sex offender:

- (a) Kidnapping of a minor pursuant to section 28-313;
- (b) Sexual assault of a child in the first degree pursuant to section 28-319.01;
- (c) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;
- (d) Incest of a minor pursuant to section 28-703;
- (e) Pandering of a minor pursuant to section 28-802;
- (f) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;
- (g) Possessing any visual depiction of sexually explicit conduct pursuant to section 28-813.01;
- (h) Criminal child enticement pursuant to section 28-311;
- (i) Child enticement by means of an electronic communication device pursuant to section 28-320.02;
- (j) Enticement by electronic communication device pursuant to section 28-833; or
- (k) An attempt or conspiracy to commit an offense listed in subdivisions (1)(a) through (1)(j) of this section.

(2) Unlawful use of the Internet by a prohibited sex offender is a Class I misdemeanor for a first offense. Any second or subsequent conviction under this section is a Class IIIA felony.

Sec. 2. Section 29-2264, Reissue Revised Statutes of Nebraska, is amended to read:

29-2264 (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are restored two years after completion of probation. The order shall include information on restoring other civil rights through the pardon process, including application to and hearing by the Board of Pardons.

(2) Whenever any person is convicted of a misdemeanor or felony and is placed on probation by the court or is sentenced to a fine only, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any fine, petition the sentencing court to set aside the conviction.

(3) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;
 (b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(4) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction; and

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction.

(5) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the misdemeanor or felony whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the misdemeanor or felony in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act;

(g) Preclude use of the conviction as evidence of commission of the misdemeanor or felony for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1906.01 or the Child Care Licensing Act or a certificate issued under sections 79-806 to 79-815 should be denied, suspended, or revoked;

(h) Preclude proof of the conviction as evidence whenever the fact of the conviction is relevant to a determination of ~~risk of recidivism~~ the registration period under section 29-4013, 29-4005; or

(i) Relieve a person who is convicted of an offense for which registration is required under the Sex Offender Registration Act of the duty to register and to comply with the terms of the act.

(6) Except as otherwise provided for the notice in subsection (1) of this section, changes made to this section by Laws 2005, LB 713, shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to September 4, 2005.

Sec. 3. Section 24, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is amended to read:

Sec. 24. For purposes of the Sex Offender Registration Act:

(1) Aggravated offense means any registrable offense under section 29-4003 which involves the penetration of, direct genital touching of, oral to anal contact with, or oral to genital contact with (a) a victim age thirteen years or older without the consent of the victim, (b) a victim under the age of thirteen years, or (c) a victim who the sex offender knew or should have known was mentally or physically incapable of resisting or appraising the nature of his or her conduct;

~~(1)~~ (2) Blog means a web site contained on the Internet that is created, maintained, and updated in a log, journal, diary, or newsletter format by an individual, group of individuals, or corporate entity for the purpose of conveying information or opinions to Internet users who visit their web site;

~~(2)~~ (3) Chat room means a web site or server space on the Internet or communication network primarily designated for the virtually instantaneous exchange of text or voice transmissions or computer file attachments amongst two or more computers or electronic communication device users;

~~(3)~~ (4) Chat room identifiers means the username, password, symbol, image, or series of symbols, letters, numbers, or text characters used by a chat room participant to identify himself or herself in a chat room or to identify the source of any content transmitted from a computer or electronic

communication device to the web site or server space upon which the chat room is dedicated;

(5) DNA sample has the same meaning as in section 29-4103;

~~(4)~~ (6) Domain name means a series of text-based symbols, letters, numbers, or text characters used to provide recognizable names to numerically addressed Internet resources that are registered by the Internet Corporation for Assigned Names and Numbers;

~~(5)~~ (7) Email means the exchange of electronic text messages and computer file attachments between computers or other electronic communication devices over a communications network, such as a local area computer network or the Internet;

~~(6)~~ (8) Email address means the string of letters, numbers, and symbols used to specify the source or destination of an email message that is transmitted over a communication network;

(9) Habitual living location means any place that an offender may stay for a period of more than three days even though the sex offender maintains a separate permanent address or temporary domicile;

~~(7)~~ (10) Instant messaging means a direct, dedicated, and private communication service, accessed with a computer or electronic communication device, that enables a user of the service to send and receive virtually instantaneous text transmissions or computer file attachments to other selected users of the service through the Internet or a computer communications network;

~~(8)~~ (11) Instant messaging identifiers means the username, password, symbol, image, or series of symbols, letters, numbers, images, or text characters used by an instant messaging user to identify their presence to other instant messaging users or the source of any content sent from their computer or electronic communication device to another instant messaging user;
and

(12) Minor means a person under eighteen years of age;

~~(9)~~ (13) Social networking web site means a web page or collection of web sites contained on the Internet (a) that enables users or subscribers to create, display, and maintain a profile or Internet domain containing biographical data, personal information, photos, or other types of media, (b) that can be searched, viewed, or accessed by other users or visitors to the web site, with or without the creator's permission, consent, invitation, or authorization, and (c) that may permit some form of communication, such as direct comment on the profile page, instant messaging, or email, between the creator of the profile and users who have viewed or accessed the creator's profile;

(14) State DNA Data Base means the data base established pursuant to section 29-4104; and

(15) Temporary domicile means any place at which the person actually lives or stays for a period of at least three working days.

Sec. 4. Section 29-4003, Reissue Revised Statutes of Nebraska, as amended by section 25, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is amended to read:

29-4003 ~~(1)~~ Except as provided in subsection (2) of this section, the (1)(a) The Sex Offender Registration Act shall apply applies to any person who on or after January 1, 1997:

~~(a)~~ Pleas (i) Has ever pled guilty to, pled nolo contendere to, or been or is found guilty of any of the following:

~~(i)~~ (A) 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)~~ (B) False imprisonment of a minor pursuant to section 28-314 or 28-315;

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

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

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

~~(vi)~~ (F) Sexual assault abuse of a vulnerable adult pursuant to subdivision (1)(c) of section 28-386;

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

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

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

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

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

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

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

~~(xiv)~~ Enticement by electronic communication device pursuant to section 28-833; or

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

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

~~(e)~~ (iii) Is incarcerated in a jail, a penal or correctional 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 a registrable offense under subdivision ~~(1)(a)~~ or ~~(b)~~ (1)(a)(i) or (ii) of this section prior to January 1, 1997; or

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

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

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

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

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

(III) Manslaughter pursuant to section 28-305;

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

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

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

(VII) Stalking pursuant to section 28-311.03;

(VIII) Unlawful intrusion on a minor pursuant to section 28-311.08;

(IX) Kidnapping pursuant to section 28-313;

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

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

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

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

(XIV) Incest pursuant to section 28-703;

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

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

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

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

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

(iii) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth,

or other jurisdiction of the United States.

~~(2) In the case of a person convicted of a violation of section 28-313, 28-314, 28-315, or 28-805, the convicted person shall be subject to the Sex Offender Registration Act, unless the sentencing court determines at the time of sentencing, in light of all the facts, that the convicted person is not subject to the act. The sentencing court shall make such determination part of the sentencing order.~~

~~(3) (2) A person appealing a conviction of a registrable offense under this section shall be required to comply with the act during the appeals process.~~

Sec. 5. Section 29-4004, Reissue Revised Statutes of Nebraska, is amended to read:

29-4004 (1) Any person 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 ~~three~~ working days of ~~after~~ becoming subject to the act at a location designated by the Nebraska State Patrol for purposes of accepting such registration.

(2) Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, if he or she has a new address, temporary domicile, or habitual living location, within such county within five ~~three~~ working days after ~~before~~ the address change. The sheriff shall ~~forward~~ submit such information to the sex offender registration and community notification division of the Nebraska State Patrol within five working days after receipt of the new address, on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

(3) Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, if he or she has a new address, temporary domicile, or habitual living location in a different county in this state, within five ~~three~~ working days after ~~before~~ the address change. The sheriff shall ~~forward~~ the new address submit such information to the sex offender registration and community notification division of the Nebraska State Patrol within five working days after receipt of the new address. ~~The~~ on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose. If the change in address, temporary domicile, or habitual living location is to a location within the State of Nebraska, the division shall notify the sheriff of the ~~each affected~~ county to which the person is relocating of the new address, temporary domicile, or habitual living location, within three working days. The person shall report to the county sheriff of his or her new county of residence and register with such county sheriff within five ~~three~~ working days after the address change.

(4) Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, if he or she moves to a new out-of-state address, within five ~~three~~ working days after ~~before~~ the address change. The sheriff shall ~~forward~~ the new out-of-state address submit such information to the sex offender registration and notification division of the Nebraska State Patrol within five working days after receipt of the new out-of-state address. ~~The division shall forward the new out-of-state address to the other state's central repository for sex offender registration, on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose.~~ If the change in address, temporary domicile, or habitual living location is to a location outside of the State of Nebraska, the division shall notify the sheriff of each affected county in Nebraska and the other state's, country's, or territory's central repository for sex offender registration of the new out-of-state address, temporary domicile, or habitual living location, within three working days.

(5) Any person required to register under the act who is employed, carries on a vocation, or attends school shall inform, in person, the sheriff of the county in which he or she is employed, carries on a vocation, or attends school and complete a form as prescribed by the Nebraska State Patrol for such purpose, within three working days after becoming employed, carrying on a vocation, or attending school. The person shall also notify the sheriff, in person, of any changes in employment, vocation, or school of attendance, and complete a form as prescribed by the Nebraska State Patrol for such purpose, within three working days after the change. The sheriff shall submit such information to the sex offender registration and community notification division of the Nebraska State Patrol on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose.

~~(5)~~ (6) Any person required to register under the act who is residing, has a temporary domicile, or is habitually living in another state or is temporarily domiciled in another state, and is employed, carries on a vocation, or attends school in this state, shall report and register, in person, with the sheriff of the county in which he or she is employed, carries on a vocation, or attends school in this state and complete a form as prescribed by the Nebraska State Patrol for such purpose, within five three working days after becoming employed, carrying on a vocation, or attending school. The person shall also notify the sheriff of any changes in employment, vocation, or school of attendance, in writing, person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, within five three working days after the change. The sheriff shall forward this submit such information to the sex offender registration and community notification division of the Nebraska State Patrol within five working days after receipt of such information, on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose. For purposes of this subsection:

(a) Attends school means enrollment in any educational institution in this state on a full-time or part-time basis; and

(b) Is employed or carries on a vocation means any full-time or part-time employment, with or without compensation, which lasts for a duration of more than fourteen days or for an aggregate period exceeding thirty days in a calendar year; and

~~(c) Temporarily domiciled means a place at which the person actually lives or stays on a temporary basis even though he or she may plan to return to his or her permanent address or to another temporary address. For purposes of this section, a temporary domicile means any place at which the person actually lives or stays for a period of at least five working days.~~

~~(6)~~ (7) Any person incarcerated for a registrable offense under section 29-4003 in a jail, penal or correctional facility, or other public or private institution who is not already registered shall be registered by the jail, penal or correctional facility, or public or private institution prior to his or her discharge, parole, furlough, work release, or release. The person shall be informed and information shall be obtained as required in section 29-4006.

~~(7) Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, of each postsecondary educational institution at which he or she is employed, carries on a vocation, or attends school, within five working days after such employment or attendance. The person shall also notify the sheriff of any change in such employment or attendance status at the postsecondary educational institution, in writing, within five working days after such change. The sheriff shall forward the information regarding such employment or attendance to the sex offender registration and community notification division of the Nebraska State Patrol within five working days after receipt of the information.~~

(8) Any person required to register or who is registered under the act, but is incarcerated for more than five three working days, whether or not in his or her own county of residence or temporary domicile, shall inform the sheriff of the county in which such person would reside or would be temporarily domiciled if he or she was not incarcerated, he or she is incarcerated, in writing, within five three working days after incarceration, of his or her incarceration and his or her expected release date, if any such date is available. The sheriff shall forward the information regarding incarceration to the sex offender registration and community notification division of the Nebraska State Patrol immediately on the day on which it was received and in a manner prescribed by the Nebraska State Patrol for such purpose. within five working days after receipt of the information.

(9) Any person required to register or who is registered under the act who no longer has a residence, or temporary domicile, or habitual living location shall notify the county sheriff in which he or she is located, in writing, report such change in person to the sheriff of the county in which he or she is located, within five three working days after such change in residence, or temporary domicile, or habitual living location. Such person shall update his or her registration, in writing, person, to the sheriff of the county in which he or she is located, on a form approved by the sex offender registration and community notification division of the Nebraska State Patrol at least once every thirty calendar days during the time he or she remains without residence, or temporary domicile, or habitual living location.

(10) Each registering entity shall forward all written information, photographs, and fingerprints obtained pursuant to the act to the sex offender

registration and community notification division of the Nebraska State Patrol within five working days on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose. The information shall be forwarded on forms furnished by the division. The division shall maintain a central registry of sex offenders required to register under the act. Any collected DNA samples shall be forwarded to the State DNA Data Base.

Sec. 6. Section 29-4005, Reissue Revised Statutes of Nebraska, is amended to read:

29-4005 ~~(1)~~ (1)(a) Except as provided in ~~subsections (2) and (3)~~ subsection (2) of this section, any person to whom the Sex Offender Registration Act applies shall be required to register during any period of supervised release, probation, or parole and shall continue to comply with the act for a the period of ten years time after the date of discharge from probation, parole, or supervised release or release from incarceration, whichever date is most recent, as set forth in subdivision (b) of this subsection. ~~The ten-year registration requirement shall not apply to any person while he or she is incarcerated in a jail, a penal or correctional facility, or any other public or private institution. The ten-year registration requirement does not include any~~ A sex offender shall keep the registration current for the full registration period but shall not be subject to verification procedures during any time the sex offender is in custody or under an inpatient civil commitment, unless the sex offender is allowed a reduction in his or her registration period under subsection (2) of this section.

(b) The full registration period is as follows:

(i) Fifteen years, if the sex offender was convicted of a registrable offense under section 29-4003 not punishable by imprisonment for more than one year;

(ii) Twenty-five years, if the sex offender was convicted of a registrable offense under section 29-4003 punishable by imprisonment for more than one year; or

(iii) Life, if the sex offender was convicted of a registrable offense under section 29-4003 punishable by imprisonment for more than one year and was convicted of an aggravated offense or had a prior sex offense conviction or has been determined to be a lifetime registrant in another state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction.

(2) A sex offender who is required to register for fifteen years may request a reduction in the registration period to ten years upon completion of ten years of the registration period after the date of discharge from probation, parole, supervised release, or incarceration, whichever date is most recent. The sex offender shall make the request to the Nebraska State Patrol. The sex offender shall provide proof that, during such registration period, he or she:

(a) Was not convicted of any offense for which imprisonment for more than one year could have been imposed;

(b) Was not convicted of any sex offense;

(c) Successfully completed any period of probation, parole, supervised release, or incarceration; and

(d) Successfully completed an appropriate sex offender treatment program.

(3) Any time period when any person who is required to register under the act knowingly or willfully fails to comply with such registration requirement shall not be counted as completed registration time and shall be used to recalculate the registration period. The recalculation shall be completed by the sex offender registration and community notification division of the Nebraska State Patrol.

~~(2) A person required to register under section 29-4003 shall be required to register under the act for the rest of his or her life if the offense creating the obligation to register is an aggravated offense, if the person has a prior conviction for a registrable offense, or if the person is required to register as a sex offender for the rest of his or her life under the laws of another state, territory, commonwealth, or other jurisdiction of the United States. A sentencing court shall make that fact part of the sentencing order.~~

~~(3)(a) When sentencing a person for a registrable offense under section 29-4003, a court may also determine if the person is a sexually violent predator. When making its determination the court shall consider information contained in the presentence report and the recommendation of experts in the behavior and treatment of sex offenders, victims' rights advocates, and representatives of law enforcement agencies.~~

~~(b) In addition to complying with the annual verification requirements in section 29-4006 and the lifetime registration requirements of subsection (2) of this section, a person determined to be a sexually violent predator shall verify the registration information quarterly after the initial registration date.~~

~~(4) For purposes of this section:~~

~~(a) Aggravated offense means any registrable offense under section 29-4003 which involves the penetration of (i) a victim age twelve years or more through the use of force or the threat of serious violence or (ii) a victim under the age of twelve years;~~

~~(b) 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~~

~~(c) Sexually violent predator means a person who has been convicted of one or more registrable offenses under 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.~~

Sec. 7. Section 29-4006, Reissue Revised Statutes of Nebraska, as amended by section 26, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is amended to read:

29-4006 (1) Registration information required by the Sex Offender Registration Act shall be in a form entered into a data base in a format approved by the sex offender registration and community notification division of the Nebraska State Patrol and shall include, but not be limited to, the following information:

(a) The legal 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, motor vehicle operator's license number, photographs, and fingerprints;

(c) A listing of each registrable offense under 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 or correctional facility, or public or private institution to which the person was incarcerated for each offense and the actual time served or confined;

(e) The address of the person's current residence and place of employment or vocation and any school he or she is attending; and

(b) The person's date of birth and any alias dates of birth;

(c) The person's social security number;

(d) The address of each residence at which the person resides, has a temporary domicile, has a habitual living location, or will reside;

(e) The name and address of any place where the person is an employee or will be an employee, including work locations without a single worksite;

(f) The name and address of any place where the person is a student or will be a student;

(g) The license plate number and a description of any vehicle owned or operated by the person and its regular storage location;

(h) The person's motor vehicle operator's license number, including the person's valid motor vehicle operator's license or state identification card submitted for photocopying;

(i) The person's original travel and immigration documents submitted for photocopying;

(j) The person's original professional licenses or certificates submitted for photocopying;

(k) The person's remote communication device identifiers and addresses, including, but not limited to, all global unique identifiers, serial numbers, Internet protocol addresses, telephone numbers, and account numbers specific to the device;

(l) The person's telephone numbers;

(m) A physical description of the person;

(n) A digital link to the text of the provision of law defining the criminal offense or offenses for which the person is registered under the act;

(o) Access to the criminal history of the person, including the date of all arrests and convictions, the status of parole, probation, or supervised

release, registration status, and the existence of any outstanding arrest warrants for the person;

(p) A current photograph of the person;

(q) A set of fingerprints and palm prints of the person;

(r) A DNA sample of the person; and

~~(f)~~ (s) All email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the person uses or plans to use, all domain names registered by the registrant, and all blogs and Internet sites maintained by the person or to which the person has uploaded any content or posted any messages or information.

(2) When the person provides any information under ~~subdivision (f)~~ ~~of subsection (1)~~ subdivision (1)(k) or (s) of this section, the registrant shall sign a consent form, provided by the law enforcement agency receiving this information, authorizing the:

(a) Search of all the computers or electronic communication devices possessed by the person; and

(b) Installation of hardware or software to monitor the person's Internet usage on all the computers or electronic communication devices possessed by the person.

(3) ~~For the duration of the registration period required by the act, Except as provided in section 29-4005, the 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 as provided in subsections (4), (5), and (6) of this section for the duration of the registration period. The person shall appear in person for such verification at the office of the sheriff of the county in which he or she resides, has a temporary domicile, or is habitually living for purposes of accepting verifications and shall have his or her photograph and fingerprints taken upon request of verification personnel.~~

~~(a) The sex offender registration and community notification division of 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 address last reported to the division is still correct; and~~

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

~~(4) If the person fails to complete and mail the verification form to the sex offender registration and community notification division of the Nebraska State Patrol within ten days after receipt of the form, or the form cannot be delivered due to the registrant not being at the address last reported, the person shall be in violation of this section unless the person proves that the address last reported to the division is still correct.~~

(4) A person required to register under the act for fifteen years shall report every twelve months in the month of his or her birth, in person, to the office of the sheriff of the county in which he or she resides for purposes of accepting verifications, regardless of the original registration month. The sheriff shall submit such verification information to the sex offender registration and community notification division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

(5) A person required to register under the act for twenty-five years shall report, in person, every six months to the office of the sheriff of the county in which he or she resides for purposes of accepting verification. The person shall report, in person, in the month of his or her birth and in the sixth month following the month of his or her birth, regardless of the original registration month. The sheriff shall submit such verification information to the sex offender registration and community notification division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

(6) A person required to register under the act for life shall report, in person, every three months to the office of the sheriff of the county in which he or she resides for purposes of accepting verification. The person shall report, in person, in the month of his or her birth and every three months following the month of his or her birth, regardless of the original registration month. The sheriff shall submit such verification information to the sex offender registration and community notification division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

(7) The verification form shall be signed by the person required to register under the act and state whether the address last reported to the division is still correct.

(8) Upon receipt of registration and confirmation of the registry requirement, the sex offender registration and community notification division of the Nebraska State Patrol shall notify the person by certified mail of his or her registry duration and verification schedule.

(9) If the person required to register under the act fails to report in person as required in subsection (4), (5), or (6) of this section, the person shall be in violation of this section.

~~(5) (10) If the person required to register under the act falsifies the registration or verification information or form or fails to provide or timely update law enforcement of any of the information required to be provided by the Sex Offender Registration Act, the person shall be in violation of this section.~~

~~(6) (11) The requirement to verify the address of a sexually violent predator quarterly as provided in section 29-4005 and the requirement to verify the address of any other registrant annually as required in this section verification requirements of a person required to register under the act shall not apply during periods of such registrant's person's incarceration or inpatient civil commitment. Address verification Verification shall be resumed as soon as such incarcerated person is placed on any type of supervised release, parole, or probation or outpatient civil commitment or is released from incarceration or civil commitment. Prior to any type of release from incarceration, such or inpatient civil commitment, the person shall report the a change of address, in writing, to the sheriff of the county in which he or she is incarcerated and the sheriff of the county in which he or she resides, has a temporary domicile, or has a habitual living location. or is temporarily domiciled. The sheriff shall forward submit the change of address to the sex offender registration and community notification division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.~~

~~(7) (12) Any person required to register under the Sex Offender Registration Act act shall, in person, inform the sheriff of any legal change in name, in writing, within five three working days after such change, and provide a copy of the legal documentation supporting the change in name. The sheriff shall forward submit the information to the sex offender registration and community notification division of the Nebraska State Patrol, in writing, within five working days immediately after receipt of the information and in a manner prescribed by the Nebraska State Patrol for such purpose.~~

~~(8) (13) Any person required to register under the Sex Offender Registration Act shall inform the sheriff with whom he or she is required to register of any changes in or additions to such person's list of email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the registrant uses or plans to use, all domain names registered by the person, and all blogs and Internet web sites maintained by the person or to which the person has uploaded any content or posted any messages or information, in writing, by the next working day. The sheriff receiving this updated information shall forward submit the information to the sex offender registration and community notification division of the Nebraska State Patrol, in writing, by the next working day after receipt of the information.~~

(14) At any time that a person required to register under the act violates the registry requirements and cannot be located, the registry information shall reflect that the person has absconded, a warrant shall be sought for the person's arrest, and the United States Marshals Service shall be notified.

Sec. 8. Section 29-4007, Reissue Revised Statutes of Nebraska, as amended by section 27, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is amended to read:

29-4007 (1) When sentencing a person convicted of a registrable offense under section 29-4003, the court shall:

(a) Provide written notification of the duty to register under the Sex Offender Registration Act at the time of sentencing to any defendant who has pleaded pled guilty or has been found guilty of a registrable offense under section 29-4003. The written notification shall:

(i) Inform the defendant of whether or not he or she is subject to the act, the duration of time he or she will be subject to the act, and that he or she shall report to a location designated by the Nebraska State Patrol for purposes of accepting such registration within three working days after the date of the written notification to register;

~~(i) (ii) Inform the defendant that if he or she moves to another address within the same county, he or she must report to the county sheriff of the county in which he or she is residing or ceases to have a residence or temporary domicile, he or she must report all address changes, including not~~

having a residence or temporary domicile, to the county sheriff in the county where he or she has been residing within ~~five~~ three working days after ~~before~~ his or her move;

(iii) Inform the defendant that if he or she no longer has a residence, temporary domicile, or habitual living location, he or she shall report such change in person to the sheriff of the county in which he or she is located within three working days after such change in residence, temporary domicile, or habitual living location;

~~(ii)~~ (iv) Inform the defendant that if he or she moves to another county in the State of Nebraska, he or she must notify, in person, the county sheriff ~~in~~ of the county where in which he or she had been last residing, had a temporary domicile, or had a habitual living location and the county sheriff ~~in~~ of the county where in which he or she is residing, has a temporary domicile, or is habitually living of his or her current address. The notice must be given within ~~five~~ three working days after ~~before~~ his or her move;

~~(iii)~~ (v) Inform the defendant that if he or she moves to another state, he or she must report, in person, the change of address to the county sheriff of the county where in which he or she has been residing, has had a temporary domicile, or has had a habitual living location and must comply with the registration requirements of the state to which he or she is moving. The notice must be given within ~~five~~ three working days after ~~before~~ his or her move;

~~(iv)~~ (vi) Inform the defendant that he or she shall (A) inform the sheriff of the county in which he or she resides, has a temporary domicile, or is habitually living, in writing, person, of each ~~postsecondary~~ educational institution at which he or she is employed, carries on a vocation, or attends school, within ~~five~~ three working days after such employment or attendance, and (B) notify the sheriff of any change in such employment or attendance status of such person at such ~~postsecondary~~ educational institution, within three working days;

(vii) Inform the defendant that he or she shall (A) inform the sheriff of the county in which the employment site is located, in person, of the name and address of any place where he or she is or will be an employee, within three working days after such employment, and (B) inform the sheriff of the county in which the employment site is located, in person, of any change in his or her employment;

~~(v)~~ (viii) Inform the defendant that if he or she goes to another state to work or goes to another state as a student and still resides, has a temporary domicile, or has a habitual living location ~~or is temporarily domiciled~~ in this state, he or she must comply with the registration requirements of both states;

~~(vi)~~ (ix) Inform the defendant that fingerprints, palm prints, a DNA sample if not previously collected, and a photograph will be obtained by any registering entity in order to comply with the registration requirements;

(x) Inform the defendant of registry and verification locations;

(xi) Inform the defendant of the reduction request requirements, if eligible, under section 29-4005;

~~(vii)~~ (xii) Inform the defendant that he or she must provide a list to all sheriffs with whom he or she must register of all email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information;

~~(viii)~~ (xiii) Inform the defendant that he or she is required to inform the sheriff with whom he or she is required to register of any changes in or additions to his or her list of email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information, in writing, by the next working day after such change or addition; and

~~(ix)~~ (xiv) Inform the defendant that throughout the applicable registration period, if applicable, he or she is prohibited from accessing or using any Internet social networking web site or any instant messaging or chat room service that has the likelihood of allowing the defendant to have contact with any child who is under the age of eighteen years ~~should the Nebraska State Patrol classify such defendant as a level II or level III sex offender~~ or if the defendant has been convicted and is currently being sentenced for:

(A) Kidnapping of a minor pursuant to section 28-313;

(B) False imprisonment of a minor pursuant to section 28-314 or

28-315;

(C) Sexual assault in the first degree pursuant to subdivision (1)(c) of section 28-319 or sexual assault of a child in the first degree pursuant to section 28-319.01;

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

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

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

(G) Knowingly possessing any visual depiction of sexually explicit conduct pursuant to section 28-813.01;

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

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

(J) Enticement by electronic communication device pursuant to section 28-833; or

(K) Any attempt or conspiracy to commit an offense listed in subdivisions ~~(1)(a)(ix)(A)~~ through ~~(1)(a)(ix)(J)~~ (1)(a)(xiv)(A) through (1)(a)(xiv)(J) of this section;

(b) Require the defendant to read and sign a form stating that the duty of the defendant to register under the Sex Offender Registration Act has been explained;

(c) Retain a copy of the written notification signed by the defendant; and

~~(d) If the defendant is adjudicated a sexually violent predator, include the supporting reports and other information supporting this finding.~~

(d) Provide a copy of the signed, written notification, the judgment and sentence, the information or amended information, and the journal entry of the court shall be provided to the county attorney, the defendant, the sex offender registration and community notification division of the Nebraska State Patrol, and the county sheriff of the county in which the defendant resides, has a temporary domicile, or has a habitual living location. or is temporarily domiciled.

(2) When a person is convicted of a registrable offense under section 29-4003 and is not subject to immediate incarceration upon sentencing, prior to being released by the court, the sentencing court shall ensure that the defendant is registered by the sheriff of the county in which the defendant is convicted no later than the time of sentencing. The sheriff shall obtain full registration information and documents as required by section 29-4006, and forward the information and documents to the sex offender registration and community notification division of the Nebraska State Patrol within five working days, a Nebraska State Patrol office or other location designated by the patrol for purposes of accepting registrations.

(3)(a) The Department of Correctional Services or a city or county correctional or jail facility shall provide written notification of the duty to register pursuant to the Sex Offender Registration Act to any person committed to its custody for a registrable offense under section 29-4003 prior to the person's release from incarceration. The written notification shall:

(i) Inform the person of whether or not he or she is subject to the act, the duration of time he or she will be subject to the act, and that he or she shall report to a location designated by the Nebraska State Patrol for purposes of accepting such registration within three working days after the date of the written notification to register;

~~(ii)~~ (ii) Inform the person that if he or she moves to another address within the same county, he or she must report all address changes, in person, to the county sheriff in of the county where in which he or she has been residing within five three working days after before his or her move;

(iii) Inform the defendant that if he or she no longer has a residence, temporary domicile, or habitual living location, he or she shall report such change in person to the sheriff of the county in which he or she is located within three working days after such change in residence, temporary domicile, or habitual living location;

~~(ii)~~ (iv) Inform the person that if he or she moves to another county in the State of Nebraska, he or she must notify, in person, the county sheriff in of the county where in which he or she had been last residing, had a temporary domicile, or had a habitual living location and the county sheriff in of the county where in which he or she is residing, has a temporary domicile, or is habitually living of his or her current address. The notice must be given within five three working days after before his or her move;

~~(iii)~~ (v) Inform the person that if he or she moves to another state, he or she must report, in person, the change of address to the county sheriff of the county where in which he or she has been residing, has had a

temporary domicile, or has been habitually living and must comply with the registration requirements of the state to which he or she is moving. The ~~notice~~ report must be given within ~~five~~ three working days ~~after~~ before his or her move;

~~(iv)~~ (vi) Inform the person that he or she shall (A) inform the sheriff of the county in which he or she resides, has a temporary domicile, or is habitually living, in writing, person, of each ~~postsecondary~~ educational institution at which he or she is employed, carries on a vocation, or attends school, within ~~five~~ three working days after such employment or attendance, and (B) notify the sheriff of any change in such employment or attendance status of such person at such ~~postsecondary~~ educational institution, within three working days after such change;

(vii) Inform the person that he or she shall (A) inform the sheriff of the county in which the employment site is located, in person, of the name and address of any place where he or she is or will be an employee, within three working days after such employment, and (B) inform the sheriff of the county in which the employment site is located, in person, of any change in his or her employment;

~~(v)~~ (viii) Inform the person that if he or she goes to another state to work or goes to another state as a student and still resides, has a temporary domicile, or has a habitual living location ~~or is temporarily domiciled~~ in this state, he or she must comply with the registration requirements of both states;

~~(vi)~~ (ix) Inform the defendant that fingerprints, palm prints, a DNA sample if not previously collected, and a photograph will be obtained by any registering entity in order to comply with the registration requirements;

(x) Inform the defendant of registry and verification locations;

(xi) Inform the defendant of the reduction request requirements, if eligible, under section 29-4005;

~~(vii)~~ (xii) Inform the defendant that he or she must provide a list to all sheriffs with whom he or she must register of all email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information;

~~(viii)~~ (xiii) Inform the defendant that he or she is required to inform the sheriff with whom he or she is required to register of any changes in or additions to his or her list of email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the defendant uses or plans to use, all domain names registered by the defendant, and all blogs and Internet web sites maintained by the defendant or to which the defendant has uploaded any content or posted any messages or information, in writing, by the next working day after such change or addition; and

~~(ix)~~ (xiv) Inform the defendant that throughout the applicable registration period, if applicable, he or she is prohibited from accessing or using any Internet social networking web site or any instant messaging or chat room service that has the likelihood of allowing the defendant to have contact with any child who is under the age of eighteen years ~~should the Nebraska State Patrol classify such defendant as a level II or level III sex offender~~ ~~or~~ if the defendant has been convicted and is currently being sentenced for:

(A) Kidnapping of a minor pursuant to section 28-313;

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

(C) Sexual assault in the first degree pursuant to subdivision (1)(c) of section 28-319 or sexual assault of a child in the first degree pursuant to section 28-319.01;

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

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

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

(G) Knowingly possessing any visual depiction of sexually explicit conduct pursuant to section 28-813.01;

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

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

(J) Enticement by electronic communication device pursuant to section 28-833; or

(K) Any attempt or conspiracy to commit an offense listed in subdivisions ~~(3)(a)(ix)(A)~~ through ~~(3)(a)(ix)(J)~~ (3)(a)(xiv)(A) through

(3) (a) (xiv) (J) of this section.

(b) The Department of Correctional Services or a city or county correctional or jail facility shall:

(i) Require the person to read and sign the notification form stating that the duty to register under the Sex Offender Registration Act has been explained;

(ii) Retain a signed copy of the written notification to register; and

(iii) Provide a copy of the signed, written notification to register to the person, and to the sex offender registration and community notification division of the Nebraska State Patrol, and the sheriff of the county in which the person will be residing upon release from the institution. If the person is going to reside outside of the State of Nebraska, then notification to the sheriff is not required.

(4) If a person is convicted of a registrable offense under section 29-4003 and is immediately incarcerated, he or she shall be registered as required under the act prior to discharge, parole, or work release.

~~(4)~~ (5) 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.

~~(5)~~ (6) All written notification as provided in this section shall be on a form prepared approved by the Attorney General.

Sec. 9. Section 29-4009, Reissue Revised Statutes of Nebraska, is amended to read:

29-4009 (1) Information obtained under the Sex Offender Registration Act shall not be confidential, except that+ the following information shall only be disclosed to law enforcement agencies, including federal or state probation or parole agencies, if appropriate:

(a) A sex offender's social security number;

(b) Any references to arrests of a sex offender that did not result in conviction;

(c) A sex offender's travel or immigration document information;

(d) A sex offender's remote communication device identifiers and addresses;

(e) A sex offender's email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers;

(f) A sex offender's telephone numbers;

(g) A sex offender's motor vehicle operator's license information or state identification card number; and

(h) The name of any employer of a sex offender.

~~(1) Information shall be disclosed to law enforcement agencies for law enforcement purposes;~~

~~(2) Information on persons subject to section 83-174.03 shall be disclosed to the Office of Parole Administration;~~

~~(3) Information concerning a defendant who is registered and reports to be employed with, carrying on a vocation at, or attending a postsecondary educational institution, shall be disclosed to the law enforcement agency having responsibility for the campus where the institution is located. This notification shall go to the affected campus police, if any, and other law enforcement agency having jurisdiction in the area in which the institution is located;~~

~~(4) Information may be disclosed to governmental agencies conducting confidential background checks for employment, volunteer, licensure, or certification purposes;~~

~~(5) Information may be disclosed to health care providers who serve children or vulnerable adults for the purpose of conducting confidential background checks for employment;~~

~~(6) Information concerning the address or whereabouts of the person required to register may be disclosed to the victim or victims of such person; and~~

~~(7) (2) The Nebraska State Patrol, any law enforcement agency, and any probation or parole officer may release relevant information that is necessary to protect the public concerning a specific person required to register, except that the identity of a any victim of an a sex offense that requires registration shall not be released.~~

(3) The release of information authorized by this section shall conform with the rules and regulations adopted and promulgated by the Nebraska State Patrol pursuant to section 29-4013.

Sec. 10. Section 29-4011, Reissue Revised Statutes of Nebraska, is amended to read:

29-4011 (1) 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.

(2) Any person required to register under the Sex Offender Registration Act act who violates the act and who has previously been convicted of a violation of the act is guilty of a Class III felony and shall be sentenced to a mandatory minimum term of at least one year in prison unless the act violation which caused the person to be placed on the registry was a misdemeanor, in which case the violation of the Sex Offender Registration Act act shall be a Class IV felony.

(3) Any law enforcement agency with jurisdiction in the area in which a person required to register under the act resides, has a temporary domicile, maintains a habitual living location, is employed, carries on a vocation, or attends school shall investigate and enforce violations of the act.

Sec. 11. Section 29-4013, Reissue Revised Statutes of Nebraska, is amended to read:

29-4013 (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 pursuant to 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.

(e) (b) The procedures for release of information established by the Nebraska State Patrol shall provide for three levels of law enforcement and public 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: using electronic systems.

(i) If the risk of recidivism is low, other law enforcement agencies shall be notified;

(ii) If the risk of recidivism is moderate, in addition to the notice required by subdivision (i) of this subdivision, schools, day care centers, health care facilities providing services to children or vulnerable adults, 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, which are limited to direct contact, news releases, a method utilizing a telephone system, or the Internet. The Nebraska State Patrol shall provide notice of sex offenders with a high risk of recidivism to at least one legal newspaper published in and of general circulation in the county where the offender is registered or, if none is published in the county, in a legal newspaper of general circulation in such county.

(3) Information concerning the address or whereabouts of a sex offender may be disclosed to his or her victim or victims.

(4) The following shall have access to public notification information: Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of

1993, 42 U.S.C. 5119a; any social service entity responsible for protecting minors in the child welfare system; any volunteer organization in which contact with minors or other vulnerable individuals might occur; any public housing agency in each area in which a registered sex offender resides or is an employee or a student; any governmental agency conducting confidential background checks for employment, volunteer, licensure, or certification purposes; and any health care provider who serves children or vulnerable adults for the purpose of conducting confidential background checks for employment. 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 or a designee shall assign a notification level, based upon the risk of recidivism, to all persons required to register under the act.~~

~~(f) (5) Personnel and mental health professionals for the sex offender registration and community notification division of the Nebraska State Patrol shall have access to all documents that are generated by any governmental agency that may have bearing on sex offender risk assessment registration and community notification, pursuant to this section. This may include, but is not limited to, law enforcement reports, presentence reports, criminal histories, ~~or~~ birth certificates, or death certificates. The division shall not be charged for access to documents under this subdivision-subsection. Access to such documents will ensure that a fair risk assessment determination of what is an appropriate registration period is completed using the totality of all information available. For purposes of this subdivision, mental health professional means (i) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111, or (iii) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act.~~

~~(3) (6) 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 Sex Offender Registration Act.~~

Sec. 12. Section 29-4016, Reissue Revised Statutes of Nebraska, is amended to read:

29-4016 For purposes of the Sexual Predator Residency Restriction Act:

(1) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;

(2) Political subdivision means a village, a city, a county, a school district, a public power district, or any other unit of local government;

(3) School means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Chapter 79;

(4) Sex offender means an individual who has been convicted of a crime listed in section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

(5) Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has a ~~high risk of recidivism as determined by the Nebraska State Patrol under section 29-4013,~~ committed an aggravated offense as defined in section 3 of this act, and who has victimized a person eighteen years of age or younger.

Sec. 13. Section 83-174.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-174.03 (1) Any individual who, on or after July 14, 2006, (a) is convicted of or completes a term of incarceration for ~~an offense requiring registration~~ a registrable offense under section 29-4003 and has a previous conviction for a ~~registerable~~ registrable offense under such section, (b) is convicted of sexual assault of a child in the first degree pursuant to section 28-319.01, or (c) is convicted of or completes a term of incarceration for an aggravated offense as defined in section ~~29-4005,~~ 3 of this act, shall, upon completion of his or her term of incarceration or release from civil commitment, be supervised in the community by the Office of Parole Administration for the remainder of his or her life.

(2) Notice shall be provided to the Office of Parole Administration

by an agency or political subdivision which has custody of an individual required to be supervised in the community pursuant to subsection (1) of this section at least sixty days prior to the release of such individual from custody.

(3) Individuals required to be supervised in the community pursuant to subsection (1) of this section shall undergo a risk assessment and evaluation by the Office of Parole Administration to determine the conditions of community supervision to be imposed to best protect the public from the risk that the individual will reoffend.

(4) Conditions of community supervision imposed on an individual by the Office of Parole Administration may include the following:

(a) Drug and alcohol testing if the conviction resulting in the imposition of community supervision involved the use of drugs or alcohol;

(b) Restrictions on employment and leisure activities necessary to minimize interaction with potential victims;

(c) Requirements to report regularly to the individual's community supervision officer;

(d) Requirements to reside at a specified location and notify the individual's community supervision officer of any change in address or employment;

(e) A requirement to allow the Office of Parole Administration access to medical records from the individual's current and former providers of treatment;

(f) A requirement that the individual submit himself or herself to available medical, psychological, psychiatric, or other treatment, including, but not limited to, polygraph examinations; or

(g) Any other conditions designed to minimize the risk of recidivism, including, but not limited to, the use of electronic monitoring, which are not unduly restrictive.

Sec. 14. Sections 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 17 of this act become operative on January 1, 2010. The other sections of this act become operative on their effective date.

Sec. 15. Original sections 29-2264, 29-4004, 29-4005, 29-4009, 29-4011, 29-4013, 29-4016, and 83-174.03, Reissue Revised Statutes of Nebraska, sections 29-4006 and 29-4007, Reissue Revised Statutes of Nebraska, as amended by sections 26 and 27, respectively, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, and sections 14 and 24, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, are repealed.

Sec. 16. Original section 29-4003, Reissue Revised Statutes of Nebraska, as amended by section 25, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, is repealed.

Sec. 17. The following section is outright repealed: Section 29-4010, Reissue Revised Statutes of Nebraska.

Sec. 18. Since an emergency exists, this act takes effect when passed and approved according to law.