

## ENGROSSED LEGISLATIVE BILL 52

Introduced by Ibach, 44; Bosn, 25; Holdcroft, 36; DeKay, 40.

A BILL FOR AN ACT relating to victims; to amend section 81-1850, Reissue Revised Statutes of Nebraska; to change offenses included within certain victim notification requirements; to change provisions relating to disclosure of certain information; and to repeal the original section.

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

**Section 1.** Section 81-1850, Reissue Revised Statutes of Nebraska, is amended to read:

81-1850 (1) For purposes of this section:

(a) Covered offense means:

(i) Murder in the first degree, section 28-303;

(ii) Murder in the second degree, section 28-304;

(iii) Manslaughter, section 28-305;

(iv) Motor vehicle homicide, section 28-306;

(v) Assault in the first degree, section 28-308;

(vi) Assault in the second degree, section 28-309;

(vii) Assault by strangulation or suffocation, section 28-310.01;

(viii) Terroristic threats, section 28-311.01;

(ix) Stalking, section 28-311.03;

(x) Kidnapping, section 28-313;

(xi) False imprisonment in the first degree, section 28-314;

(xii) Sexual abuse by a school employee, section 28-316.01;

(xiii) Sexual assault in the first degree, section 28-319;

(xiv) Sexual assault of a child in the first degree, section 28-319.01;

(xv) Sexual assault in the second degree, section 28-320;

(xvi) Sexual assault of a child in the second or third degree, section 28-320.01;

(xvii) Child enticement by means of an electronic communication device, section 28-320.02;

(xviii) Sexual abuse of a protected individual, section 28-322.04;

(xix) Domestic assault in the first or second degree, section 28-323;

(xx) Sex trafficking, sex trafficking of a minor, labor trafficking, or labor trafficking of a minor, section 28-831; or

(xxi) An attempt, solicitation, or conspiracy to commit an offense listed in subdivision (1)(a) of this section; and

(b) Victim has the same meaning as in section 29-119.

(2)(a) Except as provided in subdivision (2)(b) of this section, when a person is convicted of a felony, the county attorney shall forward the name and address of any victim of such convicted person to the Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, and the Board of Pardons, as applicable.

(b) A victim may waive the right to notification under this section by notifying the county attorney, in which case the county attorney is not required to comply with subdivision (2)(a) of this section.

(c) The Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, and the Board of Pardons shall include the victim's name in the file of the convicted person, but the name shall not be part of the public record of any parole or pardons hearings of the convicted person.

(d) Any victim, including a victim who has waived his or her right to notification, may request the notification prescribed in this section, as applicable, by sending a written request to the Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, or the Board of Pardons any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons or, if the convicted person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no

longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

(a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;

(b) Of any parole hearings or proceedings;

(c) Of any decision of the Board of Parole;

(d) When a convicted person who is on parole is returned to custody because of parole violations; and

(e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such convicted person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(4) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

(a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;

(b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;

(c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;

(d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;

(e) Of the (i) department's calculation of the earliest parole eligibility

date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;

(f) Of any reduction in the prisoner's minimum sentence; and

(g) Of the victim's right to submit a statement as provided in section 81-1848.

(5) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:

(a) When a person described in subsection (6) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services; and

(b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection:

(i) Escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;

(ii) Is discharged or has a change in disposition from inpatient board-ordered treatment;

(iii) Is granted a furlough or release for twenty-four hours or longer; and

(iv) Is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.

(6) Subsection (5) of this section applies to a person convicted of a covered offense which is also alleged to be the recent act or threat underlying the commitment of such person as mentally ill and dangerous or as a dangerous sex offender as defined in section 83-174.01.

(7) A victim whose name appears in the file of a person convicted of a covered offense shall be notified, via certified mail, by the Board of Pardons:

(a) Of any pardon or commutation proceedings at least thirty calendar days prior to the proceedings; and

(b) If a pardon or commutation has been granted, within ten days after such granting.

(8) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(9) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, the Board of Parole, and the Board of Pardons pursuant to subsection (2) of this section shall be exempt from disclosure under Nebraska public records laws and federal freedom of information laws, as such federal laws existed on January 1, 2004.

**Sec. 2.** Original section 81-1850, Reissue Revised Statutes of Nebraska, is repealed.

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 52 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**