

LEGISLATIVE BILL 564

Approved by the Governor April 16, 2002

Introduced by Baker, 44

AN ACT relating to criminal procedure; to amend sections 29-2261, 29-4002, 29-4003, 29-4004, 29-4005, 29-4006, 29-4007, 29-4009, 29-4010, and 29-4013, Revised Statutes Supplement, 2000; to change provisions relating to disclosure of presentence reports and psychiatric examinations and the Sex Offender Registration Act; to change and provide duties for the Nebraska State Patrol, sheriffs, courts, probation and parole officers, and the Department of Correctional Services; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 29-2261, Revised Statutes Supplement, 2000, is amended to read:

29-2261. (1) Unless it is impractical to do so, when an offender has been convicted of a felony, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant or the court directs to be included. All local and state police agencies and ~~adult and correctional institutions~~ Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

(a) Any written statements submitted to the county attorney by a victim; and

(b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

(6) Any presentence report or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge, probation officers to whom an offender's file is duly transferred, the probation administrator or his or her designee, or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report or examination for assessing risk and for community notification of registered sex offenders. For purposes of this subsection, mental health professional means (a) a practicing physician licensed to practice medicine in this state under the provisions of section 71-102, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 71-1,206.14, or (c) a practicing mental health professional licensed or certified in this state as provided in section 71-1,333. The court may permit inspection of the report or examination of parts thereof by the offender or his or her attorney, or other person having a

proper interest therein, whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(7) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation or psychiatric examination shall be transmitted forthwith to the Department of Correctional Services or, when the defendant is committed to the custody of a specific institution, to such institution.

(8) Notwithstanding subsection (6) of this section, the Nebraska Commission on Law Enforcement and Criminal Justice under the direction and supervision of the Chief Justice of the Supreme Court shall have access to presentence investigations and reports for the sole purpose of carrying out the study required under subdivision (7) of section 81-1425. The commission shall treat such information as confidential, and nothing identifying any individual shall be released by the commission.

Sec. 2. Section 29-4002, Revised Statutes Supplement, 2000, is amended to read:

29-4002. The Legislature finds that sex offenders present a high risk to commit repeat offenses. The Legislature further finds that efforts of law enforcement agencies to protect their communities, conduct investigations, and quickly apprehend sex offenders are impaired by the lack of available information about individuals who have pleaded guilty to or have been found guilty of sex offenses and who live, work, or attend school in their jurisdiction. The Legislature further finds that state policy should assist efforts of local law enforcement agencies to protect their communities by requiring sex offenders to register with local law enforcement agencies as provided by the Sex Offender Registration Act.

Sec. 3. Section 29-4003, Revised Statutes Supplement, 2000, is amended to read:

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

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

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

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

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

(iv) Sexual assault of a child pursuant to section 28-320.01;

(v) Sexual assault of a vulnerable adult pursuant to subdivision (1) (c) of section 28-386;

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

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

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

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

(x) Attempt, solicitation, or conspiracy to commit an offense listed in subdivisions (1) (a) (i) through (1) (a) (viii) of this section;

(b) Enters the state and has pleaded guilty to or has been found guilty of any offense in another state, territory, commonwealth, or other jurisdiction of the United States that is substantially equivalent to the offenses listed in a registrable offense under subdivision (1) (a) of this section by any state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, or by court martial or other military tribunal; or

(c) 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 an registrable offense listed in under subdivisions subdivision (1) (a) and or (b) of this section prior to January 1, 1997.

~~(2) The registration requirements of the act shall not apply to any person while he or she is incarcerated in a jail, a penal facility, or any other public or private institution.~~

~~(3) (2) In the case of a person convicted of a violation of section 28-311, violations of sections 28-313, 28-314, or 28-315, the sentencing court shall determine at the time of sentencing, in light of all the facts, whether the convicted person shall be subject to the Sex Offender Registration Act, 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) 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. 4. Section 29-4004, Revised Statutes Supplement, 2000, is amended to read:

29-4004. (1) Any person ~~who becomes~~ subject to the Sex Offender Registration Act shall register with the sheriff of the county in which the person resides or is temporarily domiciled within five working days of becoming subject to the act.

(2) ~~If there is an address change for a person required to register, the person shall inform the sheriff with whom that person last registered of the new address, in writing, within five working days of the change. The sheriff shall forward this information to the sheriff in the new jurisdiction where the person is relocating and would be required to register within five working days of the receipt of the new address.~~ Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, if he or she has a new address within such county within five working days after the address change. The sheriff shall forward 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.

(3) ~~Each sheriff shall forward all written information, photographs, and fingerprints obtained pursuant to the act to the Nebraska State Patrol within five working days. The Nebraska State Patrol shall maintain a central registry of sex offenders required to register under the act. Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, if he or she has a new address in a different county in this state within five working days after the address change. The sheriff shall forward the new address 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 division shall notify the sheriff of the county to which the person is relocating of the new address. The person shall report to the county sheriff of his or her new county of residence and register with such county sheriff.~~

(4) Any person required to register under the act shall inform the sheriff of the county in which he or she resides, in writing, if he or she moves to a new out-of-state address. The sheriff shall forward the new out-of-state address 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.

(5) Any person required to register under the act who is residing 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 with the sheriff of the county in which he or she is employed, carries on a vocation, or attends school in this state within five working days after becoming employed, carrying on a vocation, or attending school. The sheriff shall forward this information to the sex offender registration and community notification division of the Nebraska State Patrol within five working days after receipt of such information. 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;

(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) 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 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. 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 days, whether or not in his or her own county of residence or temporary domicile, shall notify the sheriff of the county in which such person would reside or would be temporarily domiciled if he or she was not incarcerated, within five 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 within five working days after receipt of the information.

(9) Each sheriff 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. 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.

Sec. 5. Section 29-4005, Revised Statutes Supplement, 2000, is amended to read:

29-4005. (1) Except as provided in ~~subsection (2)~~ subsections (2) and (3) 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 period of ten years after the date of discharge from probation, parole, or supervised release or release from incarceration, whichever date is most recent. 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 time period when any person who is required to register under the act knowingly or willfully fails to comply with such registration requirement.

(2) A person sentenced for a registrable offense under section 29-4003 shall be required to register under the act for the rest of his or her life if such registrable offense is an aggravated offense or the person has a prior conviction for a registrable offense. The sentencing court shall make that fact part of the sentencing order.

~~(2)(a)~~ (3) (a) When sentencing a person for ~~an~~ a registrable offense listed in ~~subdivision (1)(a)~~ ~~of~~ under section 29-4003, a court may also determine if the person is a sexually violent offender predator. When making its determination the court shall consider ~~evidence from experts in the field of the behavior and treatment of sexual offenders~~ 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) If the sentencing court determines that a person is a sexually violent offender, the person shall be required to register under the Sex Offender Registration Act until the sentencing court determines that the person no longer suffers from a mental abnormality or personality disorder that makes the person likely to engage in a sexually violent offense. Such determination shall not be made until ten years after the date of discharge from probation, parole, or release from incarceration, whichever date is most recent.

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

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

(i) (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

(ii) (c) Sexually violent offender predator means a person who has

been convicted of one or more registrable offenses listed in subdivision (1)(a) of 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. 6. Section 29-4006, Revised Statutes Supplement, 2000, is amended to read:

29-4006. (1) Registration information required by the Sex Offender Registration Act shall be in a form approved by the sex offender registration and community notification division of the Nebraska State Patrol and shall include the following information:

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

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

(c) A listing of each registrable offense listed in 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; and

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

(2) For the duration of the registration period required by the act, registration information shall be verified annually within thirty days after the anniversary date of the person's initial registration date. To properly verify, the following shall occur:

(a) The 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 person still resides at the address last reported to the patrol division is still correct; and

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

(3) If the person fails to complete and mail the verification form to the patrol 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 he or she has not changed his or her residence address the address last reported to the division is still correct.

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

(5) 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 shall not apply during periods of such registrant's incarceration. Address verification shall be resumed as soon as such incarcerated person is placed on any type of supervised release, parole, or probation or is released from incarceration. Prior to any type of release from incarceration, such person shall report the change of address 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 or is temporarily domiciled. The sheriff shall forward the change of address to the sex offender registration and community notification division of the Nebraska State Patrol.

Sec. 7. Section 29-4007, Revised Statutes Supplement, 2000, is amended to read:

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

(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 guilty or has been found guilty of ~~an~~ a registrable offense listed in subdivision (1)(a) of under section 29-4003. The written notification shall:

(i) Inform the defendant that if he or she moves to another address within the same county, he or she must report all address changes to the county sheriff in the county where he or she has been residing within five working days after his or her move;

(ii) Inform the defendant that if he or she moves to another county in the State of Nebraska, he or she must notify the county sheriff in the county where he or she had been last residing and the county sheriff in the county where he or she is living of his or her current address. The notice must be given within five working days after his or her move;

(iii) Inform the defendant that if he or she moves to another state, he or she must report the change of address to the county sheriff of the county where he or she has been residing and must comply with the registration requirements of the state to which he or she is moving. The notice must be given within five working days after his or her move;

(iv) Inform the defendant that he or she shall (A) 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 and (B) notify the sheriff of any change in such employment or attendance status of such person at such postsecondary educational institution; and

(v) 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 or is temporarily domiciled in this state, he or she must comply with the registration requirements of both states;

(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. The written notification shall be signed by the defendant and retained by the court.

A copy of the signed, written notification and the journal entry of the court shall be provided to the county attorney, and 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 or is temporarily domiciled.

(2) When a person is convicted of a registrable offense under section 29-4003, prior to being released by the court, the sheriff of the county in which the defendant resides or is temporarily domiciled 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 notification division of the Nebraska State Patrol within five working days.

(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 ~~an~~ a registrable offense listed in subdivision ~~(1)-(a)~~ ~~of~~ under section 29-4003 prior to the person's release from incarceration. The written notification shall:

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

(ii) Inform the person that if he or she moves to another county in the State of Nebraska, he or she must notify the county sheriff in the county where he or she had been last residing and the county sheriff in the county where he or she is living of his or her current address. The notice must be given within five working days after his or her move;

(iii) Inform the person that if he or she moves to another state, he or she must report the change of address to the county sheriff of the county where he or she has been residing and must comply with the registration requirements of the state to which he or she is moving. The notice must be given within five working days after his or her move;

(iv) Inform the person that he or she shall (A) 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 and (B) notify the sheriff of any change in such employment or attendance status of such person at such postsecondary educational institution; and

(v) 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 or is temporarily domiciled in this state, he or she must comply with the registration requirements of both states. The written notification shall be signed by the

person and retained by the department. A copy of the notification shall be provided to the person

(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 notification to register to the person, the sex offender registration and 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.

~~(3)~~ (4) The Department of Motor Vehicles shall cause written notification of the duty to register to be provided on the applications for a motor vehicle operator's license and for a commercial driver's license.

~~(4)~~ (5) All written notification as provided in this section shall be on a form prepared by the Attorney General.

Sec. 8. Section 29-4009, Revised Statutes Supplement, 2000, is amended to read:

29-4009. Information obtained under the Sex Offender Registration Act shall be confidential, except that:

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

(2) Information may be disclosed to governmental agencies conducting confidential background checks for employment purposes; and

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

(4) The Nebraska State Patrol, and any law enforcement agency, and any probation or parole officer may authorized by the patrol shall release relevant information that is necessary to protect the public concerning a specific person required to register, except that the identity of a victim of an offense that requires registration shall not be released. Release of such information shall conform with the rules and regulations adopted and promulgated by the Nebraska State Patrol pursuant to section 29-4013.

Sec. 9. Section 29-4010, Revised Statutes Supplement, 2000, is amended to read:

29-4010. (1) Any person having a duty to register under the Sex Offender Registration Act may file a petition with the district court for an order to expunge the information except for a person required under the act to register for his or her lifetime.

(2) The petition shall be filed in the district court of the county in which the petitioner was convicted of an a registrable offense listed in under section 29-4003. If the petitioner was convicted in another state, the petition shall be filed in the district court of the county in which the petitioner resides. A nonresident may file in the district court of the county in which he or she is employed or carries on a vocation, attends school, or had a prior duty to register pursuant to the act. The county attorney shall be named as the respondent and shall be served with a copy of the petition.

(3) The court may grant the petition and issue an order to expunge the information if the petitioner shows by clear and convincing evidence that the (a) petitioner's duty to register has expired, (b) petitioner does not have a criminal charge pending and is not under criminal investigation for an a registrable offense listed in under section 29-4003, and (c) petitioner is not a substantial risk to commit another registrable offense listed in under section 29-4003.

Sec. 10. Section 29-4013, Revised Statutes Supplement, 2000, 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 to the community pursuant to subdivision ~~(3)~~ (4) of section 29-4009.

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

(i) Conditions of release that minimize the risk of recidivism,

including probation, parole, counseling, therapy, or treatment;

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

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

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

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

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

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

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

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

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

(H) Behavior of the sex offender while confined.

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

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

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

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

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

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

(f) 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 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. The division shall not be charged for access to documents under this subdivision. Access to such documents will ensure that a fair risk assessment 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 provisions of section 71-102, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 71-1,206.14, or (iii) a practicing mental health professional licensed or certified in this state as provided in section 71-1,333.

(3) Nothing in subsection (2) of this section shall be construed to prevent law enforcement officers from providing community notification concerning any person who poses a danger under circumstances that are not provided for in the act.

Sec. 11. Original sections 29-2261, 29-4002, 29-4003, 29-4004, 29-4005, 29-4006, 29-4007, 29-4009, 29-4010, and 29-4013, Revised Statutes Supplement, 2000, are repealed.