

LEGISLATIVE BILL 204

Approved by the Governor April 6, 1998

Introduced by Abboud, 12; Jones, 43; Dw. Pedersen, 39; Robak, 22; Witek, 31;
Jensen, 20; Bruning, 3

AN ACT relating to sex offenders; to amend sections 29-4007, 29-4009, and 29-4013, Revised Statutes Supplement, 1996; to provide for community notification of certain records; to authorize disclosure of certain information; to provide duties for the Department of Motor Vehicles and the Nebraska State Patrol; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska.

Section 1. Section 29-4007, Revised Statutes Supplement, 1996, is amended to read:

29-4007. (1) The court shall provide written notification of the duty to register at the time of sentencing to any defendant who has pleaded guilty or has been found guilty of an offense listed in subdivision (1)(a) of section 29-4003. The written notification shall be signed by the defendant and retained by the court. A copy of the notification shall be provided to the county attorney and the defendant.

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

(3) The Department of Motor Vehicles shall cause written notification of the duty to register to be provided on the applications for a motor vehicle operator's license and for a commercial driver's license. The sheriff of each county shall cause written notification of the duty to register to be provided to any person who enters this state from another jurisdiction and makes application for a motor vehicle operator's license. The written notification shall be signed by the person and retained by the sheriff's office. A copy of the notification shall be provided to the person.

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

Sec. 2. Section 29-4009, Revised Statutes Supplement, 1996, is amended to read:

29-4009. ~~Access to information information~~ obtained under the Sex Offender Registration Act shall be restricted and provided only to law enforcement agencies or their authorized representatives pursuant to rules and regulations adopted by the Nebraska State Patrol in consultation with the Attorney General confidential, except that:

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

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

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

Sec. 3. Section 29-4013, Revised Statutes Supplement, 1996, is amended to read:

29-4013. (1) ~~The Attorney General and the Nebraska State Patrol shall adopt and promulgate rules and regulations to carry out the registration provisions of the Sex Offender Registration Act.~~

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

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

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

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

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

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

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

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

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

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

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

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

(H) Behavior of the sex offender while confined.

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

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

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

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

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

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

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

Sec. 4. Original sections 29-4007, 29-4009, and 29-4013, Revised Statutes Supplement, 1996, are repealed.