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		SEX OFFENDER REGISTRATION	

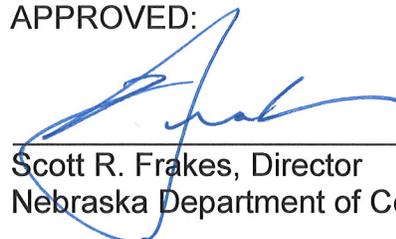
This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

- EFFECTIVE: January 1, 1997
- REVISED: December 27, 2006
- REVIEWED: August 30, 2007
- REVISED: November 30, 2008
- REVIEWED: November 30, 2009
- REVISED: May 26, 2010
- REVIEWED: November 30, 2010
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- REVISED: December 28, 2012
- REVISED: December 27, 2013
- REVISED: December 31, 2014
- REVIEWED: November 30, 2015
- REVIEWED: November 30, 2016

SUMMARY of REVISION/REVIEW

Section IV. Revised

APPROVED:



Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide a policy statement outlining the guidelines for notifying inmates of their obligation to register as a sex offender upon release from confinement and to complete the Sex Offender Registration as required by Nebraska Statutes.

GENERAL

General Statutory Authority: Nebraska Revised Statutes §29-4001 to §29-4013. This legislation became operative on January 1, 1997. This regulation also contains revisions to the legislation that were effective July 22, 2002, July 13, 2006 and January 1, 2010. It applies to all inmates convicted of the sex offenses listed below. All inmates released on or after January 1, 1997 shall be subject to this regulation.

This Administrative Regulation (AR) shall apply to the Adult Parole Administration and each institution within the jurisdiction of the Nebraska Department of Correctional Services (NDCS). The Adult Parole Administration and each institution shall develop procedures to comply with this regulation.

POLICY

It is the policy of NDCS to implement the statutory requirement that sex offenders register with law enforcement officials upon release from confinement. The registration requirement shall apply to inmates convicted of the following sex offenses, including attempt, solicitation or conspiracy to commit the sex offenses. For the offenses listed below that involve minors the definition of a minor is a person below the age of 18.

A person appealing a conviction of a registerable offense under this section shall be required to comply with the act during the appeals process.

- Kidnapping of a minor pursuant to Nebraska Revised Statute §28-313, except when the person is the parent of a minor and was not convicted of any other offense listed below. (Inmate may not require registration if the sentencing court makes such determination a part of the sentencing order).
- False imprisonment of a minor pursuant to Nebraska Revised Statute §28-314 or §28-315. (Inmate may not require registration if the sentencing court makes such determination a part of the sentencing order.)
- Sexual Assault, 1st, 2nd, or 3rd degree pursuant to Nebraska Revised Statute §28-319 or §28-320.
- Sexual Assault of a child in the 1st, 2nd or 3rd degree pursuant to Nebraska Revised Statute §28-319.01 or §28-320.01.
- Sexual Abuse of a vulnerable adult pursuant to subdivision (1) (c) of Nebraska Revised Statute §28-386.
- Incest of a minor pursuant to Nebraska Revised Statute §28-703.
- Pandering of a minor pursuant to Nebraska Revised Statute §28-802.

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- Visual depiction of sexually explicit conduct of a child pursuant to Nebraska Revised Statute §28-1463.03 or §28-1463.05.
- Knowingly possessing any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers pursuant to Nebraska Revised Statute §28-813.01.
- Criminal child enticement pursuant to Nebraska Revised Statute §28-311.
- Child enticement by means of an electronic communication device pursuant to Nebraska Revised Statute §28-320.02.
- Debauching a minor pursuant to Nebraska Revised Statute §83-805. (Inmate may not require registration if the sentencing court makes such determination a part of the sentencing order).
- Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit a listed offense.
- Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registerable offense 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 §29-2664 or any other procedure to nullify a conviction other than by pardon.

In addition to the registerable offenses listed above, the Sex Offender Registration Act applies to any person who on or after January 1, 2010 has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following offenses if a court found that evidence of sexual penetration or sexual contact, as those terms are defined in §28-303, 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

- Murder in the first degree pursuant to **§28-303**;
- Murder in the second degree pursuant to **§28-304**;
- Manslaughter pursuant to **§28-305**;
- Assault in the first degree pursuant to **§28-308**;
- Assault in the second degree pursuant to **§28-309**;
- Assault in the third degree pursuant to **§28-310**;
- Stalking pursuant to section **§28-311.03**;
- Unlawful intrusion on a minor pursuant to **§28-311.08**;
- Kidnapping pursuant to **§28-313**;
- False imprisonment pursuant to **§28-314** or **§28-315**;

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- Sexual abuse of an inmate or parolee in the first degree pursuant to **§28-322.02**;
- Sexual abuse of an inmate or parolee in the second degree pursuant to **§28-322.03**;
- Sexual abuse of a protected individual pursuant to **§28-322.04**;
- Incest pursuant to **§28-703**
- Child abuse pursuant to subdivision (1)(d) or (e) of **§28-3707**
- Enticement by electronic communication device pursuant to **§28-833**; or
- Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed above.

This AR sets forth the procedures to be followed to insure compliance.

PROCEDURE

- I. Screening and registration of sex offenders upon admission.
 - A. The institutional records office will screen all new commitments for the sex offender registry. This will minimally include a review of commitment orders and a check of the sex offender registry. Inmates will not be discharged until the registration process is complete. Youthful offenders who are transferred to the Nebraska Correctional Youth Facility (NCYF) will have the registration processed and DNA collected at NCYF.
 - B. The institutional records office will assist the inmate in completing all required forms to be submitted as a part of the registry. The records office will electronically submit copies of those forms to the registry on the same day as they are completed. The original registration will be held in the inmate's institutional file.
 - C. A DNA sample will be collected, unless a verified sample was previously collected at NDCS.
 - D. Finger and palm prints will be processed using the AFIS profile for sex offenders. The live scan number will be included in the comments section of the registry. Facilities that do not have an AFIS machine, will continue to process finger and palm prints manually. Ink rolled prints will be mailed to the Sex Offender Registry on the same day as the registration is sent electronically.
- II. Registration of sex offenders promoted to Minimum B, Community A and Community B.
 - A. Upon transfer to a Community Corrections Center, the receiving facility records office will assist an inmate subject to the Sex Offender Registration Act in updating the registration. The updated registration will be forwarded to the Sex Offender Registry electronically the same day as it is completed. Any finger or palm prints required as part of the registration process will be mailed to the Sex Offender Registry the same day the registration is completed. The original registration documents will be kept in the inmate's institutional file.

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- B. Registration is mandatory for minimum B and community custody. Any inmate refusing to comply with any part of the registration process will be returned to the sending facility and the Criminal Investigative Division of the State Patrol will be contacted.
 - C. Inmates assigned to custody levels 3B or 4A will use the Correctional Center as their current address. Their employer will be listed as the Nebraska Department of Correctional Services, employed as a detail worker.
 - D. Inmates assigned to custody level 4B will use the Correctional Center address as their current address and the current employer and/or educational institution will be listed. The inmate's Unit Case Manager will be responsible for notifying the institutional records office, whenever there is a change of the inmate's work location or status. The institutional records office will assist the offender in updating their registration whenever an offender has a status change. If an inmate is removed from a community corrections facility, the sending facility records office shall notify the Sex Offender Registry of the status change.
 - E. Upon transfer to a community center, personal descriptors such as height, weight, and photo should be updated as necessary.
- III. Registration Upon Discharge or Parole
- A. Staff will assist the inmate in completing the Sex Offender Registration form. Staff will then review the form with the offender for completeness. The inmate and the witnessing employee are required to sign the registration form. A copy of the completed form will be given to the inmate. The forms will be sent electronically to the Sex Offender Registry the same day the registration is completed. The original registration documents will be kept in the inmate's institutional file.
 - B. In the event that the inmate refuses to sign the form, or comply with any part of the registration process, including the submission of a DNA sample, the employee witnessing the action will note the refusal. The Nebraska State Patrol Criminal Investigation Division will be notified immediately. The State Patrol will determine whether or not the inmate will be taken into custody upon release for failure to register. If the State Patrol advises the inmate will be arrested and booked for failure to register, NDCS staff shall not release the inmate until arrival of the State Patrol officer.
 - C. If the inmate is not going to reside in Nebraska upon release, the registration must still be completed.
 - D. If the inmate is to be released to Immigration, a mental health facility or another law enforcement agency whether local, state or federal the registration must be completed prior to release.
 - E. Inmates discharged and immediately re-booked as County safekeepers will need to be registered. Records staff at the discharging institution will complete the registration upon discharge, before the inmate is booked as a safe keeper.
 - F. Upon release, personal descriptors such as height, weight and photo should be updated as necessary.

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IV. Registration of Interstate Parolees

The Office of Parole Administration will oversee the registration process for all interstate parole sex offender transfers. Transfers to Nebraska will be directed to register, including DNA collection within three days of their arrival. Parole clients will be referred to a registration site to complete the registration process, which may include the collection of DNA and provide verification to their parole officer. The State Patrol/County Sheriff's Office enters into the Sex Offender Registry that the DNA specimen has been collected. Parole Officers will confirm that the parole client has complied with this requirement by checking the Sex Offender Registry. Transfers from Nebraska to other jurisdictions will complete the registration process three days prior to leaving the State and the parole officer will confirm that this has been completed before giving the parole client the travel permit.

REFERENCE

I. STATE STATUTES: Nebraska Revised Statutes §29-4001 to 29-4013.

II. ATTACHMENTS

- A. Attachment A – Notification of Registration Responsibilities Under Nebraska Sex Offender Registration Act (form provided by the Nebraska State Patrol) No. 26-163-21 10/09 Rev. Sec 29-4007
- B. Attachment B – State of Nebraska, Sex Offender Registration (form provided by the Nebraska State Patrol) NSP792 (Sept.2009)

III. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS – None noted.