 Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY		
	SEX OFFENDER REGISTRATION		
	REVISION DATE October 31, 2020	NUMBER 116.03	PAGE 1 of 6
STATEMENT OF AVAILABILITY *This Policy is to be made available in law libraries or other inmate resource centers.			

EFFECTIVE: January 1, 1997
 REVIEWED: November 30, 2010
 REVIEWED: November 30, 2011
 REVISED: December 28, 2012
 REVISED: December 27, 2013
 REVISED: December 31, 2014
 REVIEWED: November 30, 2015
 REVIEWED: November 30, 2016
 REVIEWED: November 30, 2017
 REVISED: November 30, 2018
 REVISED: December 31, 2019
 REVIEWED: October 31, 2020


SUMMARY of REVISION/REVIEW

GENERAL - Rewritten. Minor grammar changes throughout.
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APPROVED:



 Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

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

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, January 1, 2010, September 1, 2019, and January 2020. 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 policy.

This Policy shall apply to each institution within the jurisdiction of NDCS. Each institution shall develop procedures to comply with this policy.


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. (Attachment A)

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

I. STATUTORY REQUIREMENTS

- A. 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).
- B. 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.)
- C. Sexual Assault, 1st, 2nd, or 3rd degree pursuant to Nebraska Revised Statute §28-319 or §28-320.
- D. Sexual Assault of a child in the 1st, 2nd or 3rd degree pursuant to Nebraska Revised Statute §28-319.01 or §28-320.01.
- E. Sexual Abuse of a vulnerable adult pursuant to subdivision (1) (c) of Nebraska Revised Statute §28-386.
- F. Incest of a minor pursuant to Nebraska Revised Statute §28-703.
- G. Pandering of a minor pursuant to Nebraska Revised Statute §28-802.


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- H. Visual depiction of sexually explicit conduct of a child pursuant to Nebraska Revised Statute §28-1463.03 or subdivision (2) (b) or (c) of §28-1463.05.
- I. 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 subsection (1) or (4) of §28-813.01.
- J. Criminal child enticement pursuant to Nebraska Revised Statute §28-311.
- K. Child enticement by means of an electronic communication device pursuant to Nebraska Revised Statute §28-320.02.
- L. 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.)
- M. Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit a listed offense.
- N. 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.
- O. 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.

II. SEX OFFENDER REGISTRATION ACT

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.

- A. Murder in the first degree pursuant to §28-303
- B. Murder in the second degree pursuant to §28-304
- C. Manslaughter pursuant to §28-305
- D. Assault in the first degree pursuant to §28-308
- E. Assault in the second degree pursuant to §28-309
- F. Assault in the third degree pursuant to §28-310
- G. Stalking pursuant to section §28-311.03


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- H. Unlawful intrusion on a minor pursuant to §28-311.08, and subsection (6) of §28-311.08
- I. Kidnapping pursuant to §28-313
- J. False imprisonment pursuant to §28-314 or §28-315
- K. Sexual abuse of an inmate or parolee in the first degree pursuant to §28-322.02
- L. Sexual abuse of an inmate or parolee in the second degree pursuant to §28-322.03
- M. Sexual abuse of a protected individual pursuant to §28-322.04
- N. Incest pursuant to §28-703
- O. Child abuse pursuant to subdivision (1)(d) or (e) of §28-707
- P. Enticement by electronic communication device pursuant to §28-833
- Q. Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed above

PROCEDURE

This Policy sets forth the procedures to be followed to ensure compliance.

- 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.


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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.

- B. Registration is mandatory for minimum B and community custody. Inmates 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. Records staff will assist the inmate in completing the Sex Offender Registration form. Records 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-admitted as county safe-keepers 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.

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- F. Upon release, personal descriptors such as height, weight and photo should be updated as necessary.

REFERENCE

I. STATUTORY REFERENCES

- A. Nebraska Revised Statutes §29-4001 to §29-4013

II. NDCS POLICIES – None Noted

III. ATTACHMENTS

- 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

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) – None noted