

NEBRASKA ADMINISTRATIVE CODE

TITLE 272, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 19

NEBRASKA STATE PATROL

~~Sexual Offender Registration~~
Sex Offender Registration

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NEBRASKA ADMINISTRATIVE CODE

TITLE 272 NAC 19

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Title 272 - NEBRASKA STATE PATROL

Chapter 19 --~~Sexual Offender Registration~~

Sex Offender Registration

001 SCOPE AND PURPOSE

001.01 These regulations are to implement the Sex Offender Registration Act pursuant to Neb. Rev. Stat. §29-4013 as amended by LB 204 passed in 1998, LB 564 passed in 2002, LB 943 passed in 2004, LB 713 passed in 2005 ~~and~~, LB1199 passed in 2006-. ~~The Nebraska act was passed in compliance with the federal mandate in the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994, as amended. The general objective of this act is to protect people from child molesters and violent sex offenders through registration requirements and community notification.~~ and LB 285 passed in 2009. The Nebraska Sex Offender Registration Act was passed to protect the public, in particular children, from violent sex offenders via a more comprehensive system for registration of convicted sex offenders by implementing standards as outlined in the Adam Walsh Child Protection and Safety Act of 2006. The general objective of this act is to protect people from convicted sex offenders through registration requirements and community notification.

002 DEFINITIONS

~~002.01 “Aggravated offense” means any registrable offense which involves the penetration of a victim under the age of twelve years or a victim twelve years of age or older through the use of force or the threat of serious violence.~~

002.01 “Aggravated offense” means any registrable offense under Neb. Rev. Stat. § 29-4003 which involves the penetration of, direct genital touching of, oral to anal contact with, or oral to genital contact with (a) a victim age thirteen years or older without the consent of the victim, or (b) a victim under the age of thirteen years, or (c) a victim who the sex offender knew or should have known was mentally or physically incapable of resisting or appraising the nature of his or her conduct.

002.02 “Attends school” means enrollment in any educational institution in the state on a full-time or a part-time basis regardless of the number of hours or credits involved. This includes vocational as well as academic institutions and both credit and non-credit courses.

002.03 “Blog” shall mean a web site contained on the Internet that is created, maintained and updated in a log, journal, diary, or newsletter format by an individual, group of individuals, or corporate entity for the purpose of conveying information or opinions to Internet users who visit their site.

002.04 “Chat Room” shall mean a web site or server space on the Internet or communication network primarily designated for the virtually instantaneous exchange of text or voice transmissions or computer file attachments amongst two or more computers or electronic communication device users.

002.05 “Chat room identifiers” shall mean the user name, password, symbol, image or series of symbols, letters, numbers or text characters used by a chat room participant to identify himself/herself in a chat room or to identify the source of any content transmitted from a computer or electronic communications device to the web site or server space upon which the chat room is dedicated.

002.06 “DNA Sample” shall have the same meaning as defined in Neb. Rev. Stat. § 29-4103.

002.07 “Domain name” shall mean a series of text based symbols , letters, numbers, or text characters used to provide recognizable names to numerically addressed Internet resources that are registered by the Internet Corporation for assigned names and numbers.

002.08 “E-Mail” shall mean the exchange of electronic text messages and computer file attachments between computers or other electronic communication devices over a communications network, such as a local area computer network or the Internet.

002.09 “E-mail address” shall mean the string of letters, numbers, and symbols used to specify the source or destination of an e-mail message that is transmitted over a communication network.

~~002.03~~ “Employed or carries on a vocation” means any full-time or part-time
002.10 employment, with or without compensation, which lasts for a duration of more

than fourteen (14) days or for an aggregate period exceeding thirty (30) days in a calendar year. This includes working “at” a postsecondary educational campus in any capacity either for the educational institution or for any other entity which requires a presence on campus.

~~002.04~~ “Governmental agency” shall mean a unit or subdivision of government 002.11 established by statute which has employees paid by the state or local subdivision or government. It does not include quasi-governmental organizations or private enterprises having a contractual relationship with a governmental unit.

002.12 “ Habitual living location” shall mean any place that an offender may stay for a period of more than three (3) days even though the sex offender maintains a separate permanent address or temporary domicile .

~~002.05~~ “Incarcerated” shall mean the physical holding or supervisory control over a 002.13 person by a jail, penal or correctional facility or by a public or private institution at the direction of a jail, penal or correctional facility or a court. A person shall be considered incarcerated during short periods of supervised release such as work-release.

002.14 “Instant messaging” shall mean a direct, dedicated, and private communication service, accessed with a computer or electronic communication device, that enables a user of the service to send and receive virtually instantaneous text transmissions or computer file attachments to other selected users of the service through the Internet or a computer communications network.

002.15 “Instant messaging identifiers” shall mean the username, password, symbol, image, or series of symbols, letters, numbers, images or text characters used by an instant messaging user to identify their presence to other instant message users or the source of any content sent from their computer or electronic communication device to another instant messaging user.

~~002.06~~ “Law enforcement agency” shall mean a recognized police department, Sheriff’s 002.16 office, probation or parole officer, or the Nebraska State Patrol having an assigned originating agency identifier (ORI) issued by the Federal Bureau of Investigation.

~~002.07~~ “Listed offense” shall mean the offenses listed in section 003.01 of these 002.17 regulations which are the same as those listed in Neb. Rev. Stat. §29-4003.

~~002.08~~ "Mental abnormality" shall mean a congenital or acquired condition of a person ~~002.18~~ 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.

~~002.09~~ "Mental health professional" shall mean a practicing physician, practicing ~~002.19~~ psychologists, or a practicing mental health professional who is licensed to practice such profession in this state.

~~002.10~~ "Minor" shall mean a person below the age of eighteen (18).
~~002.19~~

~~002.11~~ "Nebraska State Patrol" shall mean the Sex Offender Registration and Community ~~002.20~~ Notification Division of the Nebraska State Patrol, P.O. Box 94907, Lincoln, Nebraska 68509.

~~002.12~~ "Other jurisdiction of the United States" shall mean any federal court, tribal court, ~~002.21~~ or any military court of the United States.

~~002.13~~ "Person" shall mean an individual subject to the registration requirements and ~~002.22~~ does not include corporations or other entities as the term is sometimes used in the legal sense.

~~002.14~~ "Personnel" as used herein shall mean personnel assigned to the Sex Offender ~~002.23~~ Registration and Community Notification Division of the Nebraska State Patrol and those other employees within the Nebraska State Patrol who are necessary for handling registrations, classifications, notifications, or appeal hearings.

~~002.15~~ "Personality disorder" shall mean an enduring pattern of inner experience and ~~002.25~~ behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early childhood, is stable over time, and leads to distress or impairment.

~~002.16~~ "Postsecondary educational institution" shall mean any institution with a formal ~~002.24~~ instructional program whose curriculum is designed primarily for students who have completed the requirements of a high school diploma or its equivalent. This includes programs whose purpose is academic, vocational, and continuing professional education, and includes a vocational and adult basic education

programs.

~~002.17~~ “Prior conviction” shall mean a conviction for one of the listed offenses (or an 002.25 offense substantially equivalent) which precedes another conviction for a listed offense (or an offense substantially equivalent). The earlier or “prior” conviction can be from any time before the later offense and can be from any state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, or by a court-martial or other military tribunal, notwithstanding a set-aside or similar procedure to nullify the conviction other than a pardon.

~~002.18~~ “Risk assessment instrument” or “instrument” shall mean the Risk Assessment Instrument formally developed for the assessment of the risk potential that sex offenders will commit another sexually related offense.

~~002.19~~ “Scoring guidelines” shall mean the guidelines developed for use by personnel within the Nebraska State Patrol in completing the Risk Assessment Instrument to determine the risk that the offender will commit another sex offense.

002.26 “Sex Offender” shall mean an individual who has been convicted of a crime listed in Neb. Rev. Stat. § 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act.

002.27 “Sexual predator” shall mean an individual who is required to register under the Sex Offender Registration act, who has committed an AGGRAVATED offense, as defined in section 2.01 of this section, and who has victimized a person eighteen years of age or younger.

~~002.20~~ “Sexually violent predator” shall mean a person determined by a court to be a 002.28 sexually violent predator at the time of sentencing for one of the listed offenses. The judge will determine whether this is a person "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." A person determined to be a sexually violent predator or a sexually violent offender in a federal jurisdiction or in another state will be classified as a sexually violent predator in Nebraska.

002.29 “Social networking web site” shall mean a web page or collection of web sites

contained on the Internet (a) that enables users or subscribers to create, display, and maintain a profile or Internet domain containing biographical data, personal information, photos or other types of media, (b) that can be searched, viewed, or accessed by other users or visitors to the web site with or without the creator's permission, consent, invitation, or authorization, and (c) that may permit some form of communication, such as direct comment on their profile page, instant messaging, or e-mail, between the creator of the profile and users who have viewed or accessed the creator's profile.

002.30 "State DNA database" shall mean the database established pursuant to Neb. Rev. Stat. § 29-4104.

~~002.21~~ "Substantially equivalent offense" shall mean a criminal offense from another 002.31 state, territory, commonwealth or federal jurisdiction which has largely the same basic elements as one of the Nebraska listed offenses.

~~002.22~~ "Supervised release" shall mean any release from confinement which is 002.32 conducted under supervision and exceeds ~~five~~ three (3) days in duration. It shall include probation, parole, a work release program, furlough and any other type of release except for an unconditional discharge.

~~002.23~~ "Temporary domicile" shall mean a place at which the person actually lives even though on a temporary basis and even though he or she may plan to return to their permanent domicile or to another temporary domicile. For purposes of this regulation, a temporary domicile is any place in which the person lives or stays for a period of five (5) working days or more.

002.33 "Temporary domicile" shall mean any place at which the person actually lives or stays for a period of three (3) working days or more even though on a temporary basis and even though he or she may plan to return to their permanent domicile or to another temporary domicile.

~~002.24~~ "The Act" shall mean the Sex Offender Registration Act found in ~~the statutes of~~ 002.34 Nebraska in Neb. Rev. Stat. §§29-4001 through 29-4013.

~~002.25~~ "Victim" shall mean the subject of a sexual assault or other offense listed in 002.35 section 003.01 of these regulations whether the offense is the one requiring registration, is a prior or subsequent offense, or is an offense which was charged but dismissed through plea negotiations. Victim shall also include the parents or guardians of minors or vulnerable adults.

~~002.26~~ "Working days" shall mean Monday through Friday but shall not include any day ~~002.36~~ which is a state holiday. State Holidays are: New Years Day, Martin Luther King, Jr. Day, President's Day, Arbor Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.

003 APPLICABILITY

~~003.01~~ The registration requirement applies only to those persons who have plead guilty or been found guilty of one of the following offenses (referred to elsewhere as "listed offenses"):

003.01 The registration requirement applies to any person who on or after January 1, 1997 has ever plead guilty to, plead nolo contendere to, or been found guilty of any of the following offenses (referred to elsewhere as "listed offenses") or has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to any of the listed offenses 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 Neb Rev Stat §29-2264 or any other substantially equivalent procedure to nullify a conviction other than by pardon :

003.01A Kidnapping pursuant to Neb. Rev. Stat. §28-313 when the victim is a minor, except when the person is the parent of the minor and was not convicted of any of the below listed offenses;

003.01B False imprisonment pursuant to Neb. Rev. Stat. §28-314 or Neb. Rev. Stat. §28-315 when the victim is a minor;

003.01C Sexual assault in the first, second or third degree pursuant to Neb. Rev. Stat. §28-319 or Neb. Rev. Stat. §28-320;

~~003.01D Sexual assault of a child in the second or third degree pursuant to Neb. Rev. Stat. §28-320.01;~~

~~003.01E Sexual assault of a child in the first degree pursuant to Neb. Rev. Stat. §28-319.01;~~

- 003.01D Sexual assault of a child in the first degree, second degree or third degree pursuant to Neb. Rev. Stat. §28-319.01 or Neb. Rev. Stat §28-320.01;
- ~~003.01F~~ ~~Sexual assault of a vulnerable adult pursuant to subdivision (1)(c) of Neb. Rev. Stat. §28-386;~~
- 003.01E Sexual abuse of a vulnerable adult pursuant to subdivision (1)(c) of Neb. Rev. Stat. §28-386;
- ~~003.01G~~ Incest of a minor pursuant to Neb. Rev. Stat. §28-703;
- 003.01F
- ~~003.01H~~ ~~Pandering of a minor pursuant to Neb. Rev. Stat. §28-802;~~
- 003.01G Pandering pursuant to Neb. Rev. Stat. §28-802 when the victim is a minor.
- ~~003.01I~~ ~~Visual depiction of sexually explicit conduct of a child pursuant to Neb. Rev. Stat. §28-1463.03 or Neb. Rev. Stat. §28-1463.05 (child pornography);~~
- 003.01H Visual depiction of sexually explicit conduct of a child pursuant to Neb. Rev. Stat. §28-1463.03 or Neb. Rev. Stat. §28-1463.05;
- ~~003.01J~~ Knowingly possessing any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers pursuant to Neb. Rev. Stat. §28-813.01;
- 003.01J
- ~~003.01K~~ Criminal child enticement pursuant to Neb. Rev. Stat. §28-311;
- 003.01J
- ~~003.01L~~ ~~Child enticement by means of computer pursuant to Neb. Rev. Stat. § 28-320.02;~~
- 003.01K Child enticement by means of an electronic communication device pursuant to Neb. Rev. Stat. § 28-320.02;
- ~~003.01M~~ Debauching a Minor pursuant to Neb. Rev. Stat. §28-805; ~~or~~
- 003.01L
- ~~003.01N~~ ~~Attempt, solicitation, or conspiracy to commit any of the listed~~

offenses-

003.01M Attempt, solicitation, aiding or abetting, being an accessory or conspiracy to commit an offense listed in subdivisions 003.01(A) through 003.01(L) of this section.

003.01.1 IN ADDITION TO THE REGISTRABLE OFFENSES LISTED IN 3.01 (A)-(M) OF THIS SECTION, THE SEX OFFENDER REGISTRATION ACT APPLIES TO ANY PERSON WHO ON OR AFTER JANUARY 1, 2010 PLEADS GUILTY TO, PLEADS NOLO CONTENDERE TO, OR HAS BEEN FOUND GUILTY OF ANY OF THE FOLLOWING CRIMES (003.01(N) THROUGH 003.01(Z)) OR HAS EVER PLED GUILTY TO, PLED NOLO CONTENDERE TO, OR BEEN FOUND GUILTY OF ANY OFFENSE THAT IS SUBSTANTIALLY EQUIVALENT TO THE LISTED OFFENSES .

003.01.2 SECTIONS 003.01(N) THROUGH 003.01(S) REQUIRE THAT A COURT SHALL HAVE FOUND THAT EVIDENCE OF SEXUAL PENETRATION OR SEXUAL CONTACT OCCURED, AS THOSE TERMS ARE DEFINED IN Neb. Rev. Stat. §28-318, BASED UPON INFORMATION PRESENT IN THE RECORD, WHICH SHALL INCLUDE CONSIDERATION OF THE FACTUAL BASIS FOR A PLEA-BASED CONVICTION AND INFORMATION CONTAINED IN THE PRESENTENCE REPORT;

003.01N Murder in the first degree or second degree pursuant to Neb. Rev. Stat. § 28-303 or Neb. Rev. Stat. § 28-304;

003.01O Manslaughter pursuant to Neb. Rev. Stat. 28-305;

003.01P Assault in the first degree, Assault in the second degree or Assault in the third degree pursuant to Neb. Rev. Stat. § 28-308, or Neb. Rev. Stat. § 28-309, or Neb. Rev. Stat. § 28-310;

003.01Q Stalking pursuant to Neb. Rev. Stat. § 28-311.03;

003.01R Kidnapping pursuant to Neb. Rev. Stat. § 28-313;

003.01S False imprisonment pursuant to Neb. Rev. Stat. § 28-314 or Neb. Rev. § Stat 28-315;

003.01T Unlawful intrusion on a minor pursuant to Neb. Rev. Stat. § 28-311.08

- 003.01U Sexual abuse of an inmate or parolee in the first degree or second degree pursuant to Neb. Rev. Stat. § 28-322.02 or Neb. Rev. Stat. § 28-322.03;
- 003.01V Sexual abuse of a protected individual pursuant to Neb. Rev. Stat. § 28-322.04;
- 003.01W Incest pursuant to Neb. Rev. Stat. § 28-703;
- 003.01X Child abuse pursuant to Neb. Rev. Stat. § 28-707 (1) (d) or (1)(e);
- 003.01Y Enticement by electronic communication device pursuant to Neb. Rev. Stat. § 28-833;
- 003.01Z Attempt, solicitation, aiding or abetting, being an accessory or conspiracy to commit an offense listed in subdivisions 003.01(N) through 003.01(Y) of this section.

003.02 The registration requirement applies to any person who lives in the State of Nebraska or who is employed, carries on a vocation, or attends school in the State of Nebraska and who:

- ~~003.02A Pleads guilty or is found guilty of one of the listed offenses on or after January 1, 1997;~~
- 003.02A Pleads guilty to or nolo contendere or is found guilty of one of the listed offenses in Section 3.01 on or after January 1, 1997 for section 003.01(A) through 003.01(M). Pleads guilty to or nolo contendere or is found guilty of one of the listed offenses in Section 3.01 on or after January 1, 2010 for section 003.01(N) through 003.01(Z);
- ~~003.02B Was incarcerated in a jail or other penal facility on January 1, 1997 as a result of pleading guilty or being found guilty of one of the listed offenses prior to January 1, 1997;~~
- 003.02B Was incarcerated in a jail or other penal facility on or after January 1, 1997 as a result of pleading guilty, nolo contendere or being found guilty of one of the listed offenses in section 003.01(A)

through 003.01(M);

~~003.02C~~ Was incarcerated in a public or private institution on January 1, 1997 as a result of pleading guilty or being found guilty of one of the listed offenses prior to January 1, 1997;

003.02C Was incarcerated in a public or private institution on or after January 1, 1997 as a result of pleading guilty to, nolo contendere or being found guilty of one of the listed offenses in section 003.01(A) through 003.01(M) prior to January 1, 1997;

~~003.02D~~ Was on probation or parole on January 1, 1997 as a result of pleading guilty or being found guilty of one of the listed offenses prior to January 1, 1997;

003.02D Was on probation or parole on or after January 1, 1997 as a result of pleading guilty to, nolo contendere or being found guilty of one of the listed offenses in section 003.01(A) through 003.01(M) prior to January 1, 1997;

~~003.02E~~ Enters the state of Nebraska having pleaded guilty or been found guilty of any offense in another state, territory, commonwealth or other jurisdiction of the United States, by the United States Government, or by court-martial or other military tribunal, that is substantially equivalent to the listed offenses, notwithstanding a set-aside or procedure comparable in effect to that described in Neb. Rev. Stat. §29-2264 or any other procedure to nullify a conviction other than by pardon;

003.02E Enters the state of Nebraska having plead guilty, nolo contendere or been found guilty of any offense in any village, town, city, state, territory, commonwealth or other jurisdiction of the United States, by the United States Government, or by court-martial or other military tribunal, or by a foreign jurisdiction that is substantially equivalent to the listed offenses in section 003.01(A) through 003.01(Z), notwithstanding a set-aside or procedure substantially similar in effect to that described in Neb. Rev. Stat. §29-2264 or any other procedure to nullify a conviction other than by pardon;

003.02F Completed the registration duration of ten (10) years prior to 1/01/2010 but after 1/01/2010 meets the requirements of a longer registration duration, such registrant will need to re-register for the

extended registration time. The time period from when the registrant was declared inactive until the re-registration of a longer duration will be counted as compliant registration time;

003.02F Enters the state and is required to register as a sex offender ~~under the laws of another state, territory, commonwealth or other jurisdiction of the United States; or~~
G for any reason and at any age, under the laws of another state, territory, commonwealth or other jurisdiction of the United States or Foreign Country; or

003.02G Enters the state of Nebraska having been registered at any time as a "sexually violent offender" or "sexually violent predator" ~~in another state, territory, commonwealth or other jurisdiction of the United States.~~
H or the substantial equivalent in another state, territory, commonwealth or other jurisdiction of the United States or Foreign Country.

~~003.03 Persons convicted of violations of the kidnapping statute, Neb. Rev. Stat. §28-313 R.R.S.1943, the false imprisonment of a minor statutes, Neb. Rev. Stat. §§28-314 and 28-315 or the debauching of a minor statute, Neb. Rev. Stat. §28-805 will be required to register unless the sentencing judge determines, at the time of sentencing, that the facts of the case are such that the person is not subject to the Sex Offender Registration Act. This determination will be necessary when the victim of the crime is not a minor because the pleadings and criminal history will not necessarily show the age of the victim.~~

~~003.04 A person shall be considered incarcerated on January 1, 1997 even though he or~~
003.03 ~~she may not be physically present in the incarcerating facility due to a temporary furlough, community furlough, house arrest or administrative leave.~~

~~003.05 A juvenile is not required to register unless he or she is tried as an adult and either plead guilty or is found guilty. An adjudication of delinquency is not the same as a conviction in adult court even though the conduct on which the adjudication is based would have required registration if the person was tried as an adult.~~

003.04 A juvenile who was adjudicated of a sex crime, is not required to register unless

he or she enters this state and is required to register as a sex offender by the sentencing state, territory, commonwealth or other jurisdiction of the United States or Foreign Country or, is tried as an adult in this state and either plead guilty, plead nolo contendere or is found guilty of a registerable offense in this state. An adjudication of delinquency is not the same as a conviction in adult court even though the conduct on which the adjudication is based would have required registration if the person was tried as an adult in Nebraska.

003.06 The registration requirement does not apply to a person who:

003.05

- 003.06A Is convicted of any offense other than those listed above or the
003.05A substantial equivalent (if ~~the conviction is in a jurisdiction other than Nebraska~~);
- 003.06B Is convicted in Nebraska before January 1, 1997 but is not in any
003.05B penal facility or jail, public or private institution, or on probation or parole for such offense on January 1, 1997 for the crimes listed in 003.01 (A) through (M); or is convicted in Nebraska before January 1, 2010 for the crimes listed in 003.01 (N) through (Z).
- 003.06C Is a juvenile adjudicated "delinquent" or "in need of special
003.05C supervision" by the juvenile courts in the state of Nebraska;
- 003.06D Is found Not Guilty by Reason of Insanity, is acquitted, or is
003.05D placed in pre-trial diversion (without a guilty plea or finding of guilt) for any of the listed offenses.
- 003.06E Has received a full pardon for the offense(s) which would
003.05E otherwise require registration. A person receiving a set-aside for a conviction requiring registration is still required to register.

003.07 A person who is appealing a conviction requiring registration is required to
003.06 register and comply with other provisions of the law during the appeals process.

003.08 ~~A person who is required to register must continue to comply with the Act for a period of ten (10) years after the date of discharge from probation, supervised release, parole or release from incarceration, whichever date is the most recent~~

~~unless he or she is required by the court to register for life. The ten (10) year time period for compliance shall not include any time during which the registrant is incarcerated in a jail, penal or correctional facility, or any other public or private institution nor any time during which the person is knowingly or willfully failing to comply with the registration requirement.~~

003.07 Any person to whom the Sex Offender Registration Act applies shall be required to register during any period of incarceration, supervised release, probation or parole and then continue to register for the full registration period as stated below following discharge from incarceration, supervised release, probation or parole, whichever date is most recent. The registration period is:

003.07A **15 YEARS**, for a person who was convicted of a registrable offense under Neb. Rev. Stat § 29-4003 not punishable by imprisonment for more than one (1) year. One (1) year of imprisonment does not refer to the actual sentence received but instead the sentence that may be imposed by statute.

003.07B **25 YEARS**, for a person who was convicted of a registrable offense under Neb. Rev. Stat § 29-4003, punishable by imprisonment for more than one (1) year. More than one (1) year of imprisonment does not refer to the actual sentence but instead the sentence that may be imposed by statute.

003.07C **LIFE**, for a person who was convicted of a registrable offense under Neb. Rev. Stat § 29-4003, punishable by imprisonment for more than one (1) year. (More than one (1) year of imprisonment does not refer to the actual sentence but instead the sentence that may be imposed by statute.) and was convicted of an aggravated offense or has had a prior sex offense conviction or has been determined to be a lifetime registrant in another state, territory, commonwealth, or other jurisdiction of the United States Government, by court-martial, or other military tribunal, or by a foreign jurisdiction.

003.08 A sex offender who is required to register for fifteen (15) years may request a reduction in the registration period from fifteen (15) years to ten (10) years upon completion of ten (10) years of compliance with the registration requirements after the date of discharge from probation, parole, supervised release, or

incarceration, whichever date occurred most recent.

003.09 Procedures for requests of reduction of registration duration and requests for hearings are outlined in Section 005 and 006.

~~003.09 A person shall be required to register for the remainder of his or her life if:~~

003.10 A person entering the state of Nebraska having already been registered under a lifetime registration in another state, territory, commonwealth, or other jurisdiction of the United States or meeting the criteria for lifetime registration in this state by having two (2) or more convictions for a registerable offense or the substantial equivalent of a registerable offense or, having been convicted of an aggravated offense or the substantial equivalent of an aggravated offense, shall be required to register for the remainder of his or her life.

~~003.09A — The offense creating the obligation to register is for an aggravated offense;~~

~~003.09B — The person has a prior conviction for a registrable offense; or~~

~~003.09C — The court determines that the person is a sexually violent predator.~~

~~003.10 A person entering the state of Nebraska having already been registered for a period of time greater than ten (10) years in another state, territory, commonwealth, or other jurisdiction of the United States will be required to register for the length of time required by the sentencing jurisdiction.~~

003.11 A person required to register only because he or she is employed, carrying on a vocation, or attending school in the state of Nebraska will be required to register with the Sheriff of the county in which he or she works or attends school and will likely be required to register in the out-of-state location in which he or she resides depending on the laws of the state of residence. This requirement for nonresident workers and nonresident students applies to all types of employment and all schools and should not be confused with the similar but distinct requirements applying to postsecondary educational institutions which are set forth in section 011 of these regulations. The requirements for reporting changes of information found in section 010 of these regulations apply to all changes of information and not just changes of information for postsecondary educational institutions.

~~— 003.11 A person entering the state of Nebraska having already been registered under a lifetime registration in another state, territory, commonwealth, or other~~

~~jurisdiction of the United States or meeting the criteria for lifetime registration in this state by having convictions for the same or substantially equivalent offenses, shall be required to register for the remainder of his or her life.~~

003.12 Any time period where a person is required to register under the Act and knowingly or willfully fails to comply with such registration requirement, SHALL NOT have the period of noncompliance counted as completed registration time and such period of noncompliance will be tolled resulting in recalculation of the registration period. The recalculation will be completed by the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol.

~~003.12 A person required to register only because he or she is employed, carrying on a vocation, or attending school in the state of Nebraska will be required to register in the location in which he or she works or attends school and will likely be required to register in the out-of-state location in which he or she resides depending on the laws of the state of residence. This requirement for nonresident workers and nonresident students applies to all types of employment and all schools and should not be confused with the similar but distinct requirements applying to postsecondary educational institutions which are set forth in section 009 of these regulations. The requirements for reporting changes of address or name found in section 008 of these regulations apply to all changes of this type of information and not just postsecondary educational institutions.~~

004 REQUEST FOR DETERMINATION OF APPLICABILITY

~~004.01 Any person may request a determination of applicability of the Nebraska registration program. Such a request must be addressed to the Nebraska State Patrol, Sex Offender Registration Program, P.O. Box 94907, Lincoln, Nebraska 68509. The request must include:~~

004.01 A person required to register may request an administrative determination of applicability of the Nebraska State Patrol Sex Offender Registration to their conviction. A written request must be addressed to the Nebraska State Patrol, Sex Offender Registration, P.O. Box 94907, Lincoln, Nebraska 68509. The request for determination of applicability must include:

004.01A Name, date of birth, address and phone number of the requester;

004.01B Description of the criminal act(s) which are the subject of the ~~inquiry request~~. This must be specific as to the elements of the crime of for which the individual was convicted and the date of conviction as well as the state in which convicted;

004.01C Court action on the offense(s) to include: name of the court; location of the court; date of the action; and nature of disposition of the case. ; ~~and the name of some prosecutorial or court official who will be able to verify this information.~~

004.02 An administrative determination will be made and the requesting individual advised of this decision in writing within thirty (30) days of the request. An individual not satisfied with the administrative determination of applicability of the program to their situation can file an appeal to the Superintendent of Public Safety and request a formal determination under the Administrative Procedures Act. Appeals from Administrative Procedures Act determinations can be filed in the District Court. ~~Persons receiving an adverse administrative determination can also utilize the expungement procedure set forth in a later section of these regulations.~~

004.03 Requesting a determination of the applicability of the Act does not extend the time limits for registering and does not relieve the individual of the duty to register. If an individual has registered and a determination is made that registration is not required, the information will be removed from the registry and the individual so notified.

005 **REQUEST FOR REDUCTION OF THE FIFTEEN YEAR REGISTRATION PERIOD.**

005.01 Only persons required to register for fifteen (15) years may request a reduction in the registration period from fifteen (15) years to ten (10) years. This request can only be made after completion of ten (10) years of the registration period following discharge from probation, parole, supervised release, or incarceration, whichever date is most recent. A written request shall be on a form prescribed by the Nebraska State Patrol and must be addressed to the Nebraska State Patrol, Sex

Offender Registration Program, P.O. Box 94907, Lincoln, Nebraska 68509. The request must include name, date of birth, address and phone number of the requestor and proof that during the ten (10) years of registration, he or she:

005.01A Was not convicted of any offense for which imprisonment for more than one year could have been imposed;

005.01B Was not convicted of any sex offense;

005.01C Successfully completed any period of probation, parole, supervised release or incarceration;

005.01D Successfully completed an appropriate sex offender treatment program.

005.02 An appropriate sex offender treatment program is a program which provides sex offender specific treatment and must include pre-treatment assessment of static and dynamic risk factors, empirically validated or informed treatment interventions that target an individual's dynamic risk factors and a plan for on-going services and support beyond the active phase of treatment. Programs that may be approved as "appropriate" include but are not limited to, the Nebraska Department of Corrections sex offender treatment programs and the Nebraska Health and Human Services sex offender treatment programs as well as other programs that meet the criteria stated above.

005.03 An administrative determination will be made and the requesting individual advised of this decision in writing within thirty (30) days of the request. An individual not satisfied with the administrative determination denying reduction of the registration time period may file a hearing request to the Superintendent of Public Safety and request a formal determination of the issue under the Administrative Procedures Act. Appeals from the Administrative Procedures Act hearings may be filed in the District Court.

015
006

REQUEST FOR HEARING ON CLASSIFICATION
REQUEST FOR HEARING ON APPLICABILITY OR REQUEST FOR
HEARING ON REDUCTION OF THE FIFTEEN YEAR REGISTRATION
REQUIREMENT.

~~015.01~~ Each registrant shall be notified of his or her classification as a Level 1, 2 or 3 offender by certified mail or personal contact. A registrant wishing to contest the classification level assigned by the Nebraska State Patrol must file a written request for a hearing within fifteen (15) days of the date that the classification notification is mailed to the registrant. Requests for a hearing may be sent by mail or personally delivered. A request shall be considered timely filed if placed in the United States mail, properly addressed to the Nebraska State Patrol, Sex Offender Registration Program, P.O. Box 94907, Lincoln, Nebraska 68509, within ten (10) working days of the mailing of the classification notification to the registrant.

~~015.02~~ If a hearing is requested, it shall be held pursuant to the Nebraska Administrative 006.01 Procedures Act and the Nebraska State Patrol Rules and Regulations pertaining to administrative hearings (Title 272 - Chapter 1). The offender must specify through pleadings or at a prehearing conference what aspect of the assessment process of the registration requirements are is being challenged.

~~015.02A~~
006.01A Due to the sensitive nature of the evidence which may be presented, the hearings shall be closed.

~~015.02B~~
006.01B Evidence presented by either party in the form of written exhibits shall have the name(s) of the victim(s) redacted/blacked out to ensure confidentiality of the victim(s). Exhibits shall display the first and last initials of the victim(s) in any location where the name has been redacted. During testimony, the victim(s) shall be referred to by first and last initials only.

~~015.02C~~ The scope of the hearing shall include a review of the accuracy of the information used in making the classification assessment and may include a review of the psychological basis of the classification instrument as well as any mitigating or aggravating evidence presented. The hearing officer may also make a qualitative assessment of any information presented concerning treatment, therapy or counseling received by the Petitioner as well as the response to any such treatment, therapy or counseling.

006.01C The scope of the hearing for applicability shall include a review of the information used in making the determination. The scope of the hearing for reduction of the fifteen (15) year registration period shall include a review of the registrant's criminal history, periods of supervised release, probation, parole and information concerning appropriate sex offender treatment.

006.01D Persons required to register for fifteen (15) years who request a hearing for reduction of the registration duration can only make such request once a year following the completion of ten (10) years of the registration period.

~~015.02D~~ The State has the burden of going forward with evidence

006.01E

~~015.02E~~ A decision shall be made by the Superintendent within fifteen (15) working days of the hearing.

006.01F

~~015.02F~~ Appeals from the Superintendent's decision shall be filed in the District Court of Lancaster County, in accordance with the procedures set forth in the Nebraska Administrative Procedures Act.

006.01G

~~015.03~~ The Superintendent of the Nebraska State Patrol may delegate to a hearing officer
006.02 the functions of conducting prehearing conferences and hearings, and submitting a recommended decision. The Hearing Officer shall have the duty to conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of the proceeding, and to maintain order. Hearing Officers shall have the following powers:

~~015.03A~~ To administer oaths and affirmations;

006.02

~~015.03B~~ To issue subpoenas as authorized;

006.02

~~015.03C~~ To compel discovery and to impose appropriate sanctions pursuant to the Nebraska Supreme Court Rules for failure to make discovery;

006.02

- 015.03D
006.02 To rule upon offers of proof and receive relevant, competent and probative evidence;
- 015.03E
006.02 To regulate the course of the proceedings in the conduct of the parties and their representatives;
- 015.03F
006.02 To hold prehearing conferences for simplification of the issues, settlement of the proceedings, or any other proper purposes;
- 015.03G
006.02 To consider and rule orally or in writing, upon all procedural and other motions appropriate in adjudicative proceedings;
- 015.03H
006.02 To fix the time for holding the record open for additional evidence or for submission of briefs;
- 015.03I
006.02 To exclude people from the hearing;
- 015.03J
006.02 To issue recommended decisions, rulings, and orders, as appropriate;
- 015.03K
006.02 To receive exhibits and testimony so as to ensure a complete and accurate record in all hearings, including those where the agency is not represented by counsel.;
- 015.03L
006.02 To consider any relevant and probative evidence offered. ~~in addition to the risk assessment instrument, which has a bearing on the risk of reoffending and to make a recommendation to increase or decrease the risk level if warranted by this additional information.;~~
- 015.03M
006.02 To take any other action consistent with the purpose of the law.
- 015.04
006.03 The hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the hearing officer's own motion or at the timely request of any party for good cause shown. A party must file a written motion for continuance within five (5) working days of the scheduled hearing or pre-hearing conference, which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties.

~~015.04A~~ Good cause for an extension of time or continuance may 006.03 include, but is not limited to, the following:

- ~~015.04A1~~ Illness of the party, legal counsel or witness;
006.03
- ~~015.04A2~~ A change in legal representation; or
006.03
- ~~015.04A3~~ Pending written stipulations by either party in preparation for resolution without hearing.
006.03

~~015.05~~ In the event the Petitioner fails to appear for a pre-hearing conference or hearing, 006.04 a default disposition shall be entered into the record in conformance with the Administrative Procedure Act. A default disposition will result in the Nebraska State Patrol's Administrative determination of the issue becoming the basis for the final order.

~~015.06~~ Community notification based upon classification levels shall be made after any _____ of the following events:

~~015.06A~~ _____ Fifteen (15) working days have passed since the classification notification was mailed to the offender and no request for a hearing has been received;

~~015.06B~~ _____ A requested hearing was held and no petition for review has been filed in district court within thirty (30) days after the decision has been served on the registrant by placing it in the United States mail;

~~015.06C~~ _____ A requested hearing was held and a petition for review was filed in the district court, but no application for stay of the agency decision was granted by such court;

~~015.06D~~ _____ A requested hearing and any subsequent appeals are final when an application for stay of the agency decision was granted by the district court; or

~~015.06E~~ _____ The registrant's whereabouts are unknown in that he or she has failed to respond to notifications or other documents sent to the last known address or failed to appear for a hearing or pre-hearing conference without notice.

005 NOTIFICATION OF REGISTRATION REQUIREMENTS

007

005.01 ~~Sentencing courts shall provide written notification of the duty to register at the time of sentencing to persons having pleaded guilty or been found guilty of one of the listed offenses. The form to be used has been prepared by the Attorney General. It shall include information about the reporting requirements imposed by statute should the defendant move within the same county, to another county, to another state, or cease to have a residence or temporary domicile. It shall also include notification about the reporting requirements should the defendant work at or attend a postsecondary educational institution or go to another state to work or attend school. The notice shall inform the defendant that fingerprints and photograph will be obtained by any registering entity. The notification shall be signed by the person and a copy of both the signed notification and the journal entry of the court shall be provided to the County Attorney, the Nebraska State Patrol, the Sheriff in the county listed as the offender's future domicile, and the defendant. The court shall retain a copy of the signed notification form and also the supporting information, if any, pertaining to a determination that the offender is a sexually violent predator.~~

007.01 Sentencing courts shall provide written NOTIFICATION OF REGISTRATION RESPONSIBILITIES at the time of sentencing to persons having plead guilty or been found guilty of one of the listed offenses. The form to be used has been approved by the Attorney General. It shall include information about the reporting requirements imposed by statute should the defendant move within the same county, to another county, to another state, or cease to have a residence or temporary domicile or habitual living location. It shall also include notification about the reporting requirements should the defendant work at or attend a postsecondary educational institution or go to another state to work or attend school. The notice shall inform the defendant that fingerprints, palm prints, a DNA sample if not previously collected, and photograph will be obtained by any registering entity. It shall inform the defendant of registry and verification locations as well as requirements necessary to apply for a reduction of registration time, if eligible. The notification will also inform the defendant of the requirement to provide changes or additions to all e-mail addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers including all blogs and Internet web sites maintained by defendant and in addition any Internet restrictions if applicable. The

notification shall be signed by the person and a copy of both the signed notification, the judgment and sentence, the information or amended information and the journal entry of the court shall be provided to the County Attorney, the Nebraska State Patrol, the Sheriff in the county listed as the offender's future domicile, and the defendant. The court shall retain a copy of the signed notification form and also the supporting information, if any, pertaining to a determination that the offender is a sexually violent predator.

005.02 The Department of Correctional Services or a city or county correctional or jail facility shall provide written ~~notification of the duty to register~~ NOTIFICATION OF REGISTRATION RESPONSIBILITIES to any person committed to its custody for a listed offense. The notification form shall contain the same information as that used by the courts as specified in section ~~005.01~~ of these regulations above. The form to be used has been ~~prepared~~ approved by the Attorney General. The notification shall be read and signed by the person prior to his or her release. A signed copy of the notification shall be retained by the facility and another provided to the Nebraska State Patrol and to the person provided the notification. A copy shall also be provided to the Sheriff in the county listed as the offender's future domicile unless it is outside of the state of Nebraska.

005.03 The Department of Motor Vehicles shall place a notice on all motor vehicle operator license applications starting January 1, 1997 which will inform applicants of the duty to register. Such notice shall be in a form approved by the Attorney General.

005.04 The Nebraska State Patrol Sex Offender Registry division will provide and mail a notification of the duty to register form to persons who must register in Nebraska based on a requirement to register in another state, territory, commonwealth, or other jurisdiction of the United States or who must register in Nebraska due to conviction for a substantially equivalent offense. This form must be signed, dated and returned to the Nebraska State Patrol. The ultimate responsibility for registration lies with the Sex Offender to register within three (3) days of their arrival in the State.

005.05 Refusal to sign the notification form by a person required to register under the Act is a violation of the Act. Refusal to sign the notification form by a person not required to register under the Act is a violation of these regulations. Violations of

the Act and of these regulations may subject the person to criminal prosecution as specified in Sections ~~017.03~~ 014.03 and ~~017.04~~ 014.04 of these regulations. If a person receiving a notification form refuses to sign the form, that fact shall be noted on the form by the individual providing the notification. Copies shall be made available as specified above.

007.06 Personnel for the Sex Offender Registration and Community Notification of the Nebraska State Patrol shall have access to all documents that are generated by any governmental agency that may have a bearing on the determination of the appropriate registration period for the defendant. This may include but, is not limited to, law enforcement reports, presentence reports, criminal histories, birth certificate or death certificates. The division will not be charged for access to such documents.

006 REGISTRATION PROCEDURE

008

008.01 Any person subject to the Sex Offender Registration Act, after receiving the Notification of Registration Responsibilities from the court, corrections, or the Sex Offender Registry, shall register within three (3) working days after becoming subject to the Act at a location designated by the Nebraska State Patrol for purposes of accepting such registration.

008.02 Upon receipt of the registration and after confirmation of the registry requirement, the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol shall notify the person by certified mail of his or her registration duration and verification schedule.

008.03 Any person required to register under the Act who is residing, has a temporary domicile, or is habitually living in another state, and is employed, carries on a vocation, or attends school in this state, shall report and register, in person, with the Sheriff of the county in which he or she is employed, carries on a vocation, or attends school in this state and complete a form as prescribed by the Nebraska State Patrol for such purpose, within three (3) working days after becoming employed, carrying on a vocation or attending school. In certain circumstances

persons may be required to register in more than one (1) county and more than one (1) state at the same time.

008.04 Each registering entity shall forward all written information, photographs, palm prints and fingerprints obtained pursuant to the Act to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose. 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. Any collected DNA samples shall be forwarded to the State DNA Database.

008.05 A person placed on supervised release, probation or parole is required to register prior to release by the court or confinement facility and must remain registered during the period of supervised release, probation or parole and for a period of time as provided by statute, after discharge from supervised release, probation or parole unless he or she is required to register for life as set forth in section 003.07C of these regulations.

~~006.01 A person to whom the registration requirements apply shall register with the county Sheriff in the county in which he or she resides or is temporarily domiciled. A person who lives or is temporarily domiciled outside of Nebraska and is required to register in Nebraska because of attending school or working in Nebraska shall register with the county Sheriff in the county in which he or she is employed or attends school. In certain circumstances persons may be required to register in more than one county and more than one state at the same time.~~

~~006.02 Registration must be completed within five (5) working days of becoming subject to the act. A person becomes subject to the act by pleading guilty to or being found guilty of one of the listed offenses, by being released from incarceration for one of the listed offenses in a penal facility or a private or public institution, or by entering the state having been convicted in another state of one of the listed offenses or a substantially equivalent offense. Persons being sentenced for a registrable offense in this state and persons being released from confinement must be registered before their release by the court or confinement facility.~~

~~006.03 Prior to being physically released by the court when a person is convicted of a registrable offense, the Sheriff of the county in which the defendant resides or is temporarily domiciled shall obtain full registration information and documentation and forward the information and documentation to the Nebraska~~

~~State Patrol within five (5) working days. If the court is not in the county where the defendant resides or is temporarily domiciled, the Sheriff of the county in which the court is located shall assist by obtaining this information and forwarding it to the Sheriff in the county where the defendant resides or is temporarily domiciled and to the Nebraska State Patrol within five (5) working days. The “release” by the court here occurs through probation or payment of fines rather than a subsequent formal release from the terms of probation.~~

~~006.04 Any person incarcerated in a jail, penal or correctional facility, or other public or private institution for an offense requiring registration 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 discharge, parole, furlough, work release/community custody status or release utilizing the procedures set forth in these regulations. Institutions lacking the capability for fingerprinting and photographing the person may request assistance from the Sheriff. The jail, facility or institution registering the individual shall submit the registration materials to the Nebraska State Patrol within five (5) working days of obtaining the information required for the registration.~~

~~006.05 A person placed on supervised release, probation or parole is required to register prior to release by the court or confinement facility and must remain registered during the period of supervised release, probation or parole and for a period of ten (10) years after discharge from supervised release, probation or parole unless he or she is required to register for life as set forth in section 003.09 of these regulations.~~

~~006.06~~ Registration shall be on a form approved by the Nebraska State Patrol.

~~008.06~~ The form shall include the following information:

~~006.06A~~ Full legal name and all aliases the person has ever used or by
~~008.06A~~ which he or she has been known;

~~006.06B~~ Complete description of the person; including:
~~008.06B~~ The person’s date of birth and any alias dates of birth;

~~008.06C~~ The person’s social security number;

~~008.06D~~ The address of each residence at which the person resides, has a temporary domicile, has a habitual living location, or will reside;

~~008.06E~~ The name and address of any place where the person is an

- employee or will be an employee, including work locations with multiple worksites;
- 008.06F The name and address of any place where the person is a student or will be a student;
- 008.06G The license plate number and a description of any vehicle owned or operated by the person and its regular storage location;
- 008.06H The person's motor vehicle operator's license number, including the person's valid motor vehicle operator's license or state identification card submitted for photocopying;
- 008.06I The person's original travel and immigration documents submitted for photocopying;
- 008.06J The person's original professional licenses or certificates submitted for photocopying;
- 008.06K The person's remote communication device identifiers and addresses, including but not limited to, all global unique identifiers, serial numbers, Internet protocol addresses, telephone numbers, and account numbers specific to the device;
- 008.06L The person's telephone numbers;
- 008.06M A physical description of the person;
- 008.06N A digital link to the text of the provision of law defining the criminal offense or offenses for which the person is registered under the Act;
- 008.06O Access to the criminal history of the person, including the date of all arrests and convictions, the status of parole, probation, or supervised release, registration status, and the existence of any outstanding arrest warrants for the person;
- 008.06P A current photograph of the person;

008.06Q A set of fingerprints and palm prints of the person;

008.06R A DNA sample of the person; and

008.06S All email addresses, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the person uses or plans to use, all domain names registered by the registrant, and all blogs and Internet sites maintained by the person or to which the person has uploaded any content of posted any messages or information.

008.07 When the person required to register provides any information under subdivision (008.06) (K) or (S) of this section, the registrant shall sign a consent form, (Exhibit B) provided by the law enforcement agency receiving this information, authorizing the:

- a) Search of all the computers or electronic communication devices possessed by the person; and
- b) Installation of hardware or software to monitor the person's Internet usage on all the computers or electronic communication devices possessed by the person.

~~006.06B1 Date of birth;~~

~~006.06B2 Social security number(s);~~

~~006.06B3 Current color photograph;~~

~~006.06B4 Fingerprints — two new sets of prints must be rolled on FBI fingerprint cards.~~

~~006.06C A list of each of the registrable offenses to which the person has pleaded guilty or was found guilty;~~

~~006.06C1 The jurisdiction (place) where each offense was committed;~~

~~006.06C2 The court in which the person pleaded guilty or was found guilty for each listed offense;~~

~~006.06C3 The name under which the person pleaded guilty or was found guilty — ie. any alias used;~~

~~006.06C4~~ 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;

~~006.06D~~ Listing of any treatment received for a mental abnormality or personality disorder.

~~006.06E~~ Prior registrations. If the person has been registered as a Sex Offender in another state, the dates and jurisdiction as well as nature of the registration (such as Violent Sexual Predator or prior lifetime registration) must be shown.
008.08

~~006.06F~~ Current physical residence. This must be a physical location where the registrant actually resides even though he or she may receive mail at a post office box. Listing “homeless” or a post office box as an address is not sufficient. If a registrant is constantly moving his or her physical residence, he or she is required to re-register and must provide an address which is a physical location where he or she can be located.

~~006.06G~~ Place(s) of employment.

~~006.06H~~ Association with schools. Offenders must list any schools with which there is any affiliation either as a student or employee. This requirement includes all schools and is separate and distinct from the requirement to report employment, carrying on a vocation, or attending as a student a postsecondary educational institution; however, it is sufficient for the initial notification of contacts with postsecondary educational institutions as required below in section 009 of these regulations.

~~006.06I~~ A copy of the parole or probation orders issued to the registering offender, if any, are to be included with the form.

008.09 A copy of the parole or probation orders issued to the registering offender, if any, are to be included with the form.

~~006.07~~ Persons required to register must furnish all pertinent information and documents ~~008.10~~ to the Sheriff. In order to assure legibility and completeness, each Sheriff shall then complete the registration form by asking the individual for the pertinent information and filling in the information rather than asking the offender to fill out the form. The All forms must then be signed and dated by the offender who is registering or providing a change in information as well as signed and dated by the agent completing the registration. Offenders should be asked for a photo identification card or some positive form of identification to help insure that the individual is providing accurate information.

~~006.08~~ Each Sheriff or registering agency shall forward the following information pertaining to sexual offender registrations to the Nebraska State Patrol within five (5) working days:

008.11 Each registering agent shall forward the following information pertaining to sex offender registrations to the Nebraska State Patrol Sex Offender and Community Notification Division on the day it is received and in a manner prescribed by the Nebraska State Patrol:

~~006.08A~~ All written information including the registration form, a copy of the notification form given to the registrant if one was completed, a copy of any parole or probation orders issued to the offender, and any other information which would help in identifying any risks this particular individual may pose to the safety of the public;

008.11A All written information including the registration form, a copy of the Notification of Registration Responsibilities form signed by the registrant, The Consent to Search Form signed by the registrant and witnessed by the registering agent, a copy of any parole or probation orders issued to the offender.

~~006.08B~~ Photographs. A new photograph of the person is to be taken for submission with the registration or re-registration. Old file photos will not suffice but may be included with a current color photograph;

008.11B Photographs. A new photograph of the person is to be taken for submission with the original registration or verification. Old file photos will not suffice but may be included with a current color photograph. Photos may be submitted electronically.

~~006.08C~~ Fingerprints. Two new sets of fingerprints must be obtained from the individual registering (on an FBI fingerprint card also known as a 10 print card).

008.11C Prints. Two (2) new sets of fingerprints must be obtained from the individual registering on an FBI fingerprint card, also known as a 10 Print Card. Palm prints must be obtained as well.

008.11D A DNA sample must be taken if it has not previously been taken for the registry.

~~006.09~~ The Nebraska State Patrol shall maintain a central registry of sex offenders required to register pursuant to statute. The State Patrol shall immediately transmit conviction data and fingerprints to the Federal Bureau of Investigation.

008.12 The Nebraska State Patrol shall maintain a central registry of sex offenders required to register pursuant to statute. The State Patrol shall enter Sex Offender Registry data into the National Sex Offender Registry File in NCIC within three (3) days.

~~007~~ REGISTRATION FEES

009

0079.01 Persons registering under this Act may not be charged a fee for registering or for the fingerprints and photographs required for registering.

0079.02 Each governmental entity having responsibilities under the Act or these regulations shall be responsible for the costs incurred in performing their required duties.

~~008~~ CHANGE OF INFORMATION ADDRESS, LEGAL NAME, SCHOOL EMPLOYMENT OR SCHOOL ATTENDANCE

010

010.01 Any person required to register under the Act shall inform the Sheriff of the county in which he or she resides, in person, and complete a form as prescribed by the Nebraska State Patrol for such purpose if he or she has a new address, temporary domicile, or habitual living location within the same county, within three (3) working days before the change. The Sheriff shall submit such

information to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

010.02 Any person required to register under the Act shall inform the Sheriff of the county in which he or she resides, in person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, if he or she has a new address, temporary domicile, or habitual living location in a different county in this state, within three (3) working days before the address change. The Sheriff shall submit such information to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose. If the change in address, temporary domicile, or habitual living location is to a location within the State of Nebraska, the division shall notify the Sheriff of each affected county of the new address, temporary domicile, or habitual living location, within three (3) working days. The person shall report to the county Sheriff of his or her new county of residence and register with such county Sheriff within three (3) working days after the address change.

010.03 Any person required to register under the Act shall inform the Sheriff of the county in which he or she resides, in person, and complete a form as prescribed by the Nebraska State Patrol for such purpose, if he or she moves to a new out-of-state address, within three (3) working days before the address change. The Sheriff shall submit such information to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose. If the change in address, temporary domicile, or habitual living location is to a location outside of the State of Nebraska, the division shall notify the Sheriff of each affected county in Nebraska and the other states, countries, or territory's central repository for sex offender registration of the new out-of-state address, temporary domicile, or habitual living location, within three (3) working days.

010.04 Any person required to register under the Act shall notify the Sheriff of the county where he or she is employed, carries on a vocation or attends school, in person, of any changes in employment, vocation, or school of attendance, and complete a form as prescribed by the Nebraska State Patrol for such purpose, within three (3) working days after the change. The Sheriff shall submit such information to the Sex Offender Registration and Community Notification Division of the Nebraska

State Patrol on the day it is received and in a manner as prescribed by the Nebraska State Patrol for such purpose.

010.05 Any person required to register or who is registered under the Act, but is incarcerated for more than three (3) working days, shall inform the Sheriff of the county in which he or she is incarcerated, in writing, within three (3) 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 immediately on the day on which it was received and in a manner prescribed by the Nebraska State Patrol for such purpose.

010.06 Any person required to register, or who is registered under the Act, who no longer has a residence, temporary domicile, or habitual living location shall report such change in person to the Sheriff of the county in which he or she is located and complete a form as prescribed by the Nebraska State Patrol for such purpose, within three (3) working days after such change in residence, temporary domicile, or habitual living location. Such person shall update his or her registration, in person, to the Sheriff of the county in which he or she is located, on a form approved by the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol at least once every thirty (30) calendar days during the time he or she remains without residence, temporary domicile, or habitual living location.

010.07 Any Person required to register under the Act shall, in person, inform the Sheriff of any legal change in name, within three (3) working days after such change and provide a copy of the legal documentation supporting the change in name and complete a form as prescribed by the Nebraska State Patrol for such purpose. The Sheriff shall submit the information to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol, in writing, immediately after receipt of the information and in a manner prescribed by the Nebraska State Patrol for such purpose.

010.08 Any person required to register under the Sex Offender Registration Act shall inform the Sheriff with whom he or she is required to register of any changes in or

additions to such person's list of email address, instant messaging identifiers, chat room identifiers, global unique identifiers, and other Internet communication identifiers that the registrant uses or plans to use, all domain names registered by the person or to which the person has uploaded any content or posted any messages or information, in writing and complete a form as prescribed by the Nebraska State Patrol for such purpose, by the next working day. The Sheriff receiving this updated information shall submit the information to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol, in writing, by the next working day after receipt of the information.

~~008.01~~ A person registered under the Sex Offender Registration Act who changes his or her address, or legal name must inform, in writing, the county in which he or she is currently registered of the change within five (5) working days after the address change. This requirement applies to all changes of address whether it is within the same county, to a different county within the state, or to a different state. A registrant who resides or is temporarily domiciled outside of Nebraska and is registered in Nebraska because of working or attending school in this state must inform, in writing, the Sheriff of the county in which he or she is employed or attends school of any change in the status of his or her employment or school attendance within five (5) working days after the change. The change of address, school employment status and school attendance status form shall be approved by the Nebraska State Patrol and a copy shall be provided by the Sheriff to the State Patrol within five (5) working days. If the person is relocating to another county or state, the Nebraska State Patrol shall notify the Sheriff of the new county (or the central repository of the new state) of the address change.

~~008.02~~ In addition to providing the Sheriff with whom the person last registered a written 010.09 change of address, a person registered under this Act who relocates to another county must report to and register with the Sheriff in the new county to which the move is made within five (5) working days after the address change. This new registration must be made in person. A complete new registration is not required if the Sheriff already has information on the registrant but the registrant must review the information already on file and update any information that is not current. A new photograph should be taken if the photograph on file is over two (2) years one (1) year old or if the person's appearance has changed. It is not necessary to roll a new set of fingerprints unless there have been changes due to an injury.

~~008.03~~ The change of address information form and re-registration requirements apply ~~not~~ 010.10 only to permanent changes of address, but also to a change of temporary domicile, change of habitual living location, or transient status. The change of information and must include notice to all places registered if the person is registered in more than one location because of working or attending school in a location different from one in which he or she resides.

~~008.04~~ Any person required to register or who is registered under the act who no longer has a residence or temporary domicile shall notify the county Sheriff in which he or she is located, in writing, within five (5) working days after such change in residence or domicile. Such a person shall update his or her registration, in writing, on a form approved by the sex offender registration and community notification division of the Nebraska State Patrol at least once every thirty (30) calendar days during the time he or she remains without residence or temporary domicile.

~~008.05~~ If a registered person moves out of the State of Nebraska, the laws of the new state in which he or she resides will almost certainly require that he or she report to the designated state agency in the new state of residence. A list of designated state agencies is prepared by the FBI and shall be available through the Nebraska State Patrol.

~~008.06~~ If a person who is registered or is required to register is incarcerated anywhere for more than five (5) days, he or she must inform the Sheriff of the county where he or she would otherwise reside or be temporarily domiciled of the incarceration within five (5) working days. The notice shall include the date and place of incarceration, reason for the incarceration, and the expected release date if that information is available. Prior to release from incarceration, the person shall inform both the Sheriff of the county where incarcerated and the Sheriff of the county where he or she would be residing or temporarily domiciled, of a change of address as set forth in section 010.01E of these regulations below. The Sheriff shall forward this information to the Nebraska State Patrol within five (5) working days of receipt.

~~008.07~~ Any person required to register shall inform the Sheriff of any legal name change, in writing, within five (5) working days after such change, and provide a copy of the legal documentation supporting the change in name. The Sheriff shall forward copies of such documentation to the Nebraska State Patrol within five (5) working days after receipt of the information.

010.11 Any person required to register who enters an inpatient treatment facility shall sign a release of information form with the facility so as to allow law enforcement to verify their residency at the treatment facility.

010.12 At any time that a person required to register under the Act violates the registry requirements and cannot be located, the registry information shall reflect that the person has absconded, a warrant shall be sought for the person's arrest, and the United States Marshals Service shall be notified.

009 POSTSECONDARY EDUCATIONAL INSTITUTION CONTACTS

011

009.01 A person who is required to register must notify the Sheriff of the county in which he or she resides in writing of each postsecondary educational institution at which he or she works, carries on a vocation, or attends school within ~~five (5)~~ three (3) working days of beginning the employment or attendance. A person residing outside of Nebraska who is required to register and works, carries on a vocation, or attends a postsecondary educational institution must notify the Sheriff of the county in which the educational institution is located and register within ~~five (5)~~ three (3) working days of beginning the employment or attendance. This requirement is to comply with the provisions of the Campus Sex Crimes Prevention Act and applies to all sex offenders attending postsecondary educational institutions as well as all persons working at a campus. The focus is on the offender's presence at the campus for more than fourteen (14) consecutive days or for an aggregate period exceeding thirty (30) days in a calendar year rather than on any relationship with the institution. A sex offender who is gainfully employed by a private catering company but works on campus or even an unpaid volunteer for a charitable organization doing research at a campus library would be included in this definition. This provision also requires a person who is incarcerated to register if he or she is attending classes on the campus of a postsecondary educational institution.

009.02 The registrant shall notify the Sheriff or Sheriffs in writing of any change in this employment or attendance status within ~~five (5)~~ three (3) working days of the change.

009.03 Notice to the Sheriff of this contact with postsecondary educational institutions should be made on a form approved by the Nebraska State Patrol. This

requirement is independent of and in addition to registration requirements. Having previously registered does not satisfy this requirement. The initial information can, however, be provided at the time of registration.

~~009.04~~ 011. A Sheriff receiving a postsecondary educational institution contact notice or change of information form shall forward the information to the Nebraska State Patrol ~~within five (5) working days of receipt.~~ on the day it is received and in a manner proscribed by the Nebraska State Patrol.

~~009.05~~ 011. Within ~~five (5)~~ three (3) working days of receipt of any information or a change of status pertaining to a postsecondary educational institution, the Nebraska State Patrol shall inform the law enforcement agency having responsibility for the campus where the institution is located. This notification shall go to the affected campus police, if any, or to the local law enforcement agency having jurisdiction where the institution is located.

010 VERIFICATION PROCEDURE

012

~~010.01~~ 012.01 ~~Annually, within thirty (30) days after the anniversary date of the person's initial registration date, the Nebraska State Patrol shall verify the registration information of each person registered in the central registry.~~

012.01 The person required to register shall appear in person for such verification at the office of the Sheriff of the county in which he or she resides, has a temporary domicile, or is habitually living for purposes of accepting verifications and shall have his or her photograph and fingerprints taken upon request of verification personnel. The verification schedule is as follows;

15 YEAR REGISTRANTS; A person required to register under the Act for fifteen (15) years shall report every twelve (12) months in the month of his or her birth, in person, to the office of the Sheriff of the county in which he or she resides for purposes of accepting verifications, regardless of the original registration month. The Sheriff shall submit such verification information to the Sex Offender Registration and Community Notification Division of the Nebraska

fails to provide timely updates to law enforcement of any of the information required to be provided by the Sex Offender Registration Act, the person shall be in violation of this section of the Act.

~~010.01C~~ 012.01C ~~If the form can not be delivered to the registrant because he or she is not at the address last reported or if the registrant fails to complete and mail the form, the registrant is in violation of the statute unless he or she can prove that the address reported in the current registration is still correct. Community notifications will continue to be made even though the registrant can not be contacted.~~ At any time that a person required to register under the Act violates the registry requirements and cannot be located, the registry information shall reflect that the person has absconded, a warrant shall be sought for the person's arrest, and the United States Marshal's Service shall be notified.

~~010.01D~~ 012.01D ~~If the person registered has been determined by the sentencing court to be a sexually violent predator, the registration information shall be verified quarterly after initial registration.~~ Verification requirements of a person required to register under the Act shall not apply during periods of such person's incarceration or inpatient civil commitment. Verification shall be resumed as soon as such person is placed on any type of supervised release, parole, probation, or outpatient civil commitment or is released from incarceration or civil commitment. Prior to any type of release from incarceration or inpatient civil commitment, the person shall report a change of address, in writing, 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, has a temporary domicile, or has a habitual living location. The Sheriff shall submit the change of address to the Sex Offender Registration and Community Notification Division of the Nebraska State Patrol on the day it is received and in a manner prescribed by the Nebraska State Patrol for such purpose.

~~010.01E~~ 012. The requirement to verify addresses shall not apply during periods in which the registrant is incarcerated but shall resume as soon as

the incarcerated person is placed on any type of supervised release, parole, or probation or is released from incarceration. Prior to release from incarceration the registrant shall report a change of address to both the Sheriff in the county where he or she is incarcerated and the Sheriff in the county in which he or she resides or is temporarily domiciled. Each Sheriff shall forward the change of address to the Nebraska State Patrol.

~~010.02~~ Any changes in registration information obtained by the Nebraska State Patrol 012. through the verification procedure shall be provided to the Sheriff in the affected county or counties.

~~010.03~~ Local law enforcement agencies are requested, but not required, to periodically verify that the registrant is still living at the listed address. Local law enforcement agencies are also requested to update the photograph of a registered offender when officers have future contacts with the offender if his or her appearance has changed from the photograph taken for the registration.

~~011~~ RETENTION OF INFORMATION IN THE CENTRAL REGISTRY

~~011.01~~ Registration information shall be retained in the central registry unless there is a court order to expunge registry information. The registry information shall be retained even though the person registered no longer has a duty to keep the information current.

~~011.02~~ Any person registered in the central registry may petition the district court of the county in which he or she was convicted, or the county of residence for a person convicted in another state, for an order expunging the registration information. A nonresident may file in the district court of the county in which he or she is employed, carries on a vocation, attends school, or had a prior duty to register. The county attorney shall be named as the respondent and shall be served a copy of the petition. If the court finds that the petitioner's duty to register has expired, that there are no criminal charges pending against a petitioner, that petitioner is not under investigation for one of the listed offenses, and that petitioner is not a substantial risk to commit another of the listed offenses, the court may issue an order to expunge the registration information. A copy of such order shall be provided to the Sheriff of any county where the petitioner has resided during the registration period and to the Nebraska State Patrol. An expungement order may not be obtained for a registrant who is required to register for his or her lifetime.

~~011.03 Expungement of the registration information affects only information held by Sheriffs and the central registry for sex offenders at the Nebraska State Patrol. Criminal history information maintained by law enforcement agencies concerning the underlying offenses is not affected by this expungement order except that any notation on criminal history records pertaining to sexual offender registration shall be removed.~~

012 RESTRICTED ACCESS TO REGISTRY INFORMATION

013

~~012.01~~ Information shall be disclosed to law enforcement agencies for law enforcement purposes. **3** Registration information disclosed for law enforcement purposes shall be treated as confidential by law enforcement agencies and shall not be considered public record information.

~~012.02~~ Information on persons subject to Neb. Rev. Stat. §83-174.03 shall be disclosed to **3** the Office of Parole Administration.

~~012.03~~ Information concerning a defendant who is registered and reports to be employed with, carrying on a vocation at, or attending a postsecondary educational institution shall be disclosed to the law enforcement agency having responsibility for the campus where the institution is located. This notification shall go to the affected campus police, if any, and other law enforcement agency having jurisdiction in the area in which the institution is located.

~~012.04~~ Information may be disclosed to governmental agencies conducting confidential background checks for employment purposes, volunteer, licensure, or certification purposes.

~~012.05~~ Information may be disclosed to health care providers who serve children or vulnerable adults for the purpose of conducting confidential background checks for employment.

~~012.06~~ Information concerning the address or whereabouts of the person required to **013.03** register may be disclosed to the victim or victims of such person and parents or guardians of such victims upon the victim's request for this information to the extent that such information is contained in the sex offender registry files. The status of a person as a victim shall be documented by law enforcement before the release of such information.

~~012.07~~ The Nebraska State Patrol, any law enforcement agency, and any probation or 013.04 parole officer may release relevant information that is necessary to protect the public concerning a specific person required to register, except that the identity of a victim shall not be released.

014

RELEASE OF INFORMATION TO THE COMMUNITY

~~014.01~~ Information concerning sex offenders shall be released to the community based upon the assessment of risk that the offender will commit further sex offenses. Under no circumstances shall the name of, or any other identifying information about, the victim of a sex offense be disclosed in any release of sex offender registration data.

013.05 Information concerning sex offenders shall be released to law enforcement and the community using electronic systems.

~~014.02~~ Level 1— For sex offenders classified as Level 1 offenders, notification shall be provided to law enforcement. Notifications to law enforcement agencies shall be made by the State Patrol by sending a facsimile, phone or electronic message. The sex offender registry information provided for Level 1 notifications is not to be released to the public.

~~014.03~~ Level 2— For sex offenders classified as Level 2 offenders, notification shall be provided to law enforcement agencies as well as schools, day care centers, health care facilities providing services to children or vulnerable adults, and religious and youth organizations. Notifications shall be made to those groups in the county in which the offender resides. These notifications will be made by facsimile, phone, or electronic message by the Nebraska State Patrol or local law enforcement officers. These agencies may submit a request for access to this information by submitting a form which will be available on the Nebraska State Patrol website. The agencies will be responsible for notifying the Patrol of any change in their contact information. The information provided for Level 2 notifications is to be used only for the protection of the receiving entity and is not to be further disseminated to the public.

013.06 Information obtained under the Sex Offender Registration Act that IS confidential and shall only be released upon written request to law enforcement agencies, including federal or state probation or parole agencies, if appropriate, are a sex

offenders social security number, references to arrests of a sex offender not resulting in a conviction, travel or immigration document information, remote communication device identifiers and addresses, e-mail addresses, instant messaging identifiers, and other Internet communication identifiers, telephone numbers, motor vehicle operator's license information or state identification card number, the name of any employer.

014.04 ~~Level 3— For sex offenders classified as Level 3 offenders, notification shall be provided to all Level 1 and Level 2 recipients as well as members of the public. The Nebraska State Patrol shall provide Level 3 notifications through means designed to reach members of the public including but not limited to direct contact, news releases, community meetings, a method utilizing a telephone system, or the Internet. The Nebraska State Patrol shall provide notice of sex offenders with a high risk of recidivism to at least one legal newspaper published in and of general circulation in the county where the offender is registered or, if none is published in the county, in a legal newspaper of general circulation in such county. The information provided for Level 3 notifications may be further disseminated by those receiving the information.~~

013.07 Certain groups and agencies approved by the Nebraska Sex Offender Registry, shall have access to additional public notification information (not provided on the web site) about registered sex offenders, upon written request to the Sex Offender Registry. Such information excludes confidential information as provided in section 013.06. Any agency that is responsible for conducting employment related background checks under section 3 of the National Child Protection Act of 1993, 42 U.S.C. 5119a, any social service entity responsible for protecting minors in the child welfare system, any volunteer organization in which contact with minors or other vulnerable individuals might occur, any public housing agency in each area in which a registered sex offender resides or is an employee or a student, any governmental agency conducting confidential background checks for employment, volunteer, licensure, or certification purposes and any health care provider who serves children or vulnerable adults for the purpose of conducting confidential background checks for employment.

014.05 ~~The information to be released in making these notifications shall include name, address, physical description and the offense or offenses which required the individual to register as a sex offender. It may also include photograph, place of employment or schooling, and vehicle license number. The information shall NOT include the name of the victim(s) of the sex offense or any identifying information about the victim(s).~~

~~014.06~~ When technically feasible, information such as the photograph of the offender will be accessible on an electronic database. Access to this data will be restricted based upon the risk level assigned to the offender.

~~014.07~~ Notwithstanding the notification process outlined above, law enforcement agencies and probation or parole officers may provide public notification about an offender by whatever means are available and necessary if the offender is deemed to pose an imminent threat to public safety so long as the identity of the victim is not released. The release of information should be limited to public record information and must not include the risk assessment of the offender or other non-public information. The Nebraska State Patrol requests that the Sex Offender Registry personnel be notified when a local law enforcement agency has released such information.

~~013~~ CLASSIFICATION OF REGISTRANTS BY RISK LEVEL

~~013.01~~ The State Patrol shall assess the risk of recidivism for each person registered as a sex offender. Offenders shall be placed into a classification as a Level 1, Level 2, or Level 3 offender.

~~013.01A~~ Level 1 indicates that the risk of recidivism is low and there is no need for notification to protect the public.

~~013.01B~~ Level 2 indicates that the risk of recidivism is moderate and that there should be notification of particular vulnerable constituencies in the interest of public safety.

~~013.01C~~ Level 3 indicates that the risk of recidivism is high and requires notification of a much wider group of citizens in the interest of public safety.

~~013.02~~ The factors used to assess the risk of recidivism shall be incorporated in a risk assessment instrument. The factors required by statute shall be used as well as other factors which assess the risk of recidivism. All offenders in the registry shall be assessed using the risk assessment instrument based upon relevant records and data available concerning the offender. In order to assure a fair risk

assessment, personnel and mental health professionals of the Nebraska State Patrol shall have access, without charge, to all documents that are generated by any governmental agency that have a bearing on the risk assessment. This includes, but is not limited to, law enforcement reports, criminal histories, and presentence investigation reports.

~~013.03~~ Factors which minimize the risk of recidivism shall include:

~~013.03A~~ — Conditions of release such as supervised probation or parole;

~~013.03B~~ — Counseling, therapy or treatment;

~~013.03C~~ — Physical conditions such as advanced age or debilitating illness;

~~013.04~~ Factors which may increase the risk of recidivism shall include:

~~013.04A~~ — Criminal history of the offender;

~~013.04B~~ — Repetitive or compulsive behavior including the number of sex related charges and convictions and offenses committed while confined or on supervised release;

~~013.04C~~ — Age of the victim(s);

~~013.04D~~ — Age at which the offender was first charged with a sex offense;

~~013.04E~~ — Relationship of the offender to the victim(s);

~~013.04F~~ — Convictions for sex offenses in jurisdictions other than Nebraska;

~~013.04G~~ — Control of the victim through the threat or use of weapons, force or violence or the infliction of serious injury;

~~013.04H~~ — Indications of a risk of recidivism in psychological or psychiatric profiles;

~~013.04I~~ — The offender's response to treatment;

~~013.04J~~ — Behavior of the offender while confined.

~~013.05~~ — Certain factors are, in and of themselves, indicative of a high risk of recidivism and will always result in a Level 3 classification. These factors are:

~~013.05A~~ — Torture or mutilation of the victim or the infliction of death;

~~013.05B~~ — Abduction and forcible transportation of the victim to another location;

~~013.05C~~ — Threats to re-offend sexually or violently;

~~013.05D~~ — Recent clinical assessment of dangerousness.

~~013.06~~ Since it may not be possible to obtain all records on all offenders, particularly those involving offenses in other states, the risk assessment instrument shall be designed so as not to penalize the offender if records are not available.

~~013.07~~ The Risk Assessment Instrument is appended to these regulations as Attachment A and the scoring guidelines are appended as Attachment B.

~~015~~ — REQUEST FOR HEARING ON CLASSIFICATION

~~015.01~~ Each registrant shall be notified of his or her classification as a Level 1, 2 or 3 offender by certified mail or personal contact. A registrant wishing to contest the classification level assigned by the Nebraska State Patrol must file a written request for a hearing within fifteen (15) days of the date that the classification notification is mailed to the registrant. Requests for a hearing may be sent by mail or personally delivered. A request shall be considered timely filed if placed in the United States mail, properly addressed to the Nebraska State Patrol, Sex Offender Registration Program, P.O. Box 94907, Lincoln, Nebraska 68509, within ten (10) working days of the mailing of the classification notification to the registrant.

~~015.02~~ If a hearing is requested, it shall be held pursuant to the Nebraska Administrative Procedures Act and the Nebraska State Patrol Rules and Regulations pertaining to administrative hearings (Title 272 — Chapter 1). The offender must specify through pleadings or at a prehearing conference what aspect of the assessment process is being challenged.

~~015.02A~~ — Due to the sensitive nature of the evidence which must be presented, the hearings shall be closed.

~~015.02B~~ — Evidence presented by either party in the form of written exhibits shall have the name(s) of the victim(s) redacted/blacked out to ensure confidentiality of the victim(s). Exhibits shall display the first and last initials of the victim(s) in any location where the

name has been redacted. During testimony, the victim(s) shall be referred to by first and last initials only.

~~015.02C~~ — The scope of the hearing shall include a review of the accuracy of the information used in making the classification assessment and may include a review of the psychological basis of the classification instrument as well as any mitigating or aggravating evidence presented. The hearing officer may also make a qualitative assessment of any information presented concerning treatment, therapy or counseling received by the Petitioner as well as the response to any such treatment, therapy or counseling.

~~015.02D~~ — The State has the burden of going forward with evidence to show how the instrument was scored and with any aggravating evidence which has a bearing on the risk of reoffending.

~~015.02E~~ — A decision shall be made by the Superintendent within fifteen (15) working days of the hearing.

~~015.02F~~ — Appeals from the Superintendent's decision shall be filed in the District Court in accordance with the procedures set forth in the Nebraska Administrative Procedures Act.

~~015.03~~ The Superintendent of the Nebraska State Patrol may delegate to a hearing officer
—— The functions of conducting prehearing conferences and hearings, and submitting
—— A recommended decision. The Hearing Officer shall have the duty to conduct full,
—— Fair and impartial hearings, to take appropriate action to avoid unnecessary delay
—— in the disposition of the proceeding, and to maintain order. Hearing Officers shall
—— have the following powers:

~~015.03A~~ — To administer oaths and affirmations;

~~015.03B~~ — To issue subpoenas as authorized;

~~015.03C~~ — To compel discovery and to impose appropriate sanctions pursuant to the Nebraska Supreme Court Rules for failure to make discovery;

~~015.03D~~ — To rule upon offers of proof and receive relevant, competent and probative evidence;

~~015.03E~~ — To regulate the course of the proceedings in the conduct of the parties and their representatives;

~~015.03F~~ — To hold prehearing conferences for simplification of the issues, settlement of the proceedings, or any other proper purposes;

~~015.03G~~ — To consider and rule orally or in writing, upon all procedural and other motions appropriate in adjudicative proceedings;

~~015.03H~~ — To fix the time for holding the record open for additional evidence or for submission of briefs;

~~015.03I~~ — To exclude people from the hearing;

~~015.03J~~ To issue recommended decisions, rulings, and orders, as appropriate;

~~015.03K~~ To receive exhibits and testimony so as to ensure a complete and accurate record in all hearings, including those where the agency is not represented by counsel.

~~015.03L~~ To consider any relevant and probative evidence offered, in addition to the risk assessment instrument, which has a bearing on the risk of reoffending and to make a recommendation to increase or decrease the risk level if warranted by this additional information.

~~015.03M~~ To take any other action consistent with the purpose of the law.

~~015.04~~ The hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the hearing officer's own motion or at the timely request of any party for good cause shown. A party must file a written motion for continuance within five working days of the scheduled hearing or pre-hearing conference, which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties.

~~015.04A~~ Good cause for an extension of time or continuance may include, but is not limited to, the following:

~~015.04A1~~ Illness of the party, legal counsel or witness;

~~015.04A2~~ A change in legal representation; or

~~015.04A3~~ Pending written stipulations by either party in preparation for resolution without hearing.

~~015.05~~ In the event the Petitioner fails to appear for a pre-hearing conference or hearing,

~~a~~

~~default disposition shall be entered into the record in conformance with the Administrative Procedure Act. A default disposition will result in the Nebraska State~~

~~Patrol making notification of the risk assessment level pursuant to Neb. Rev. Stat. §§29-4009 and 29-4013.~~

~~015.06~~ Community notification based upon classification levels shall be made after any of the following events:

~~015.06A~~ Fifteen (15) working days have passed since the classification notification was mailed to the offender and no request for a hearing has been received;

~~015.06B~~ — A requested hearing was held and no petition for review has been filed in district court within thirty (30) days after the decision has been served on the registrant by placing it in the United States mail;

~~015.06C~~ — A requested hearing was held and a petition for review was filed in the district court, but no application for stay of the agency decision was granted by such court;

~~015.06D~~ — A requested hearing and any subsequent appeals are final when an application for stay of the agency decision was granted by the district court; or

~~015.06E~~ — The registrant's whereabouts are unknown in that he or she has failed to respond to notifications or other documents sent to the last known address or failed to appear for a hearing or pre-hearing conference without notice.

016 — RECLASSIFICATION

~~016.01~~ The classification of an offender may be reevaluated and changed to a higher or lower classification if new information is received that would appear to have a bearing on the risk of recidivism. In the event of a reclassification, a new classification notice shall be provided to the offender and the offender shall have the same rights to challenge the classification as he or she had under Section 015.01 of these regulations on the original classification.

~~016.02~~ An offender may petition the State Patrol for a reevaluation of his or her classification based on new information or changed circumstances which would influence the risk of recidivism. If a petition for reevaluation is received, the State Patrol shall reevaluate the assigned classification and give the offender notice of their actions. The offender shall then have the same rights to challenge the classification as he or she had under Section 015.01 of these rules on the original classification. An offender shall not petition for a reevaluation more often than once every twelve (12) months.

017 — ENFORCEMENT OF VIOLATIONS OF THE ACT

4

~~017.01~~ Violations of the Act include: failure to register as required; failure to make 4 proper notification of changes to any information provided to the Sex Offender Registry of an address; failure to sign the notification form provided by the Nebraska Sex Offender Registry, the court, the County Treasurer, the Department

of Correctional Services, or the Department of Motor Vehicles; failure to sign the Consent to Search form, failure to appear for verification ~~to complete and return the verification form~~ within the prescribed time limits; and providing false information on the registration or verification forms. Only persons required to register under the Act can be prosecuted for violation of the Act.

017.02 Any period during which a person knowingly or willfully fails to comply with 4 registration requirements as set out in Neb. Rev. Stat. §29-4005 shall extend the registration end date. The Nebraska State Patrol Sex Offender Registry division shall calculate this time, day for day from the first day the person is verified to be out of compliance until he/she becomes compliant with registry requirements. This amount of time shall be added to the date on which registration requirements are satisfied if the registration is for a period less than lifetime.

~~017.03 Any person required to register under the Sex Offender Registration Act who 4 violates the Act is guilty of a Class IV felony unless the act which caused the person to be required to register was a misdemeanor, in which case a violation of the Act is a misdemeanor of the same class as the original sexual offense. Any person required to register under the Sex Offender Registration Act who violates the act and who has previously been convicted of a violation of the act is guilty of a Class III felony and, upon conviction, shall be sentenced to a mandatory minimum term of at least one year in prison unless the act which caused the person to be placed on the registry was a misdemeanor, in which case the violation of the Sex Offender Registration Act shall be a Class IV felony.~~

014.03 Any person required to register under the Sex Offender Registration Act who violates the Act is guilty of a Class IV felony. Any person required to register under the Sex Offender Registration Act who violates the Act and who has previously been convicted of a violation of the Act is guilty of a Class III felony and, upon conviction, shall be sentenced to a mandatory minimum term of at least one (1) year in prison unless the violation which caused the person to be placed on the registry was a misdemeanor, in which case the violation of the Sex Offender Registration Act shall be a Class IV felony.

017.04 A violation of these regulations is an infraction as set forth in Neb. Rev. Stat. §29 4 431. The penalty set out in Neb. Rev. Stat. §29-436 is a fine of \$100 for the first offense and up to a fine of \$500 for subsequent offenses. ~~Both~~ Persons who are required to register under the Act and persons who are not required to register under the Act can be prosecuted for violation of the regulations.

~~017.05 Any law enforcement agency, court, or state agency finding evidence of violations of the Act or these regulations may take any authorized law enforcement action and shall forward the information for prosecution to the County Attorney for the county in which the violation occurred.~~

014.05 Any law enforcement agency with jurisdiction in the area in which a person resides, has a temporary domicile, maintains a habitual living location, is employed, carries on a vocation, or attends school shall investigate and enforce violations of the Sex Offender Registration Act.

Attachment A

CONSENT TO SEARCH UNDER NEBRASKA SEX OFFENDER REGISTRATION ACT

I, _____, acknowledge that pursuant to Neb. Rev. Stat. §§ 29-4006 and the remainder of the Nebraska Sex Offender Registration Act Neb. Rev. Stat. § 29-4003 - § 29-4013, I have a legal obligation to provide the Nebraska State Patrol any and all remote communication device identifiers and addresses, including all global unique identifiers, serial numbers, Internet protocol addresses, telephone numbers, and account numbers specific to the device. I further acknowledge that I must provide all e-mail addresses, instant messaging identifiers, chat room identifiers I use or plan to use, all domain names registered to me and all blogs on Internet sites to which I have uploaded any content or posted any messages or information.

I hereby consent and agree to allow a law enforcement agency to search all computers or electronic communication devices possessed by me; and, to allow the installation of hardware or software to monitor the Internet usage on all the computers or electronic communication devices in my possession.

Signed _____ Date _____

Witness _____ Date _____

Nebraska Sex Offender Risk Assessment Instrument

Subject _____ D.O.B. ____/____/____
Last, First, Middle
Investigator _____ Date Completed _____

1. **Number of Convicted Counts for Sex/Sex Related Offenses (Including current offense)**

One _____ (0) _____
Two _____ (40) _____
Three or More _____ (60) _____

Comments: _____

2. **Number of Convicted Counts for Other Offenses, besides traffic infractions
(Excluding sex/sex related offenses)**

None _____ (0) _____
One or Two _____ (20) _____
Three or More _____ (30) _____

Comments: _____

3. **Other Sex/Sex Related Attorney Filed Charges Not Resulting in Conviction**

None _____ (0) _____
One or Two _____ (10) _____
Three to Seven _____ (20) _____
Eight or More _____ (30) _____

Comments: _____

4. **Age at Arrest for First Sex/Sex Related Conviction/Juvenile Adjudication**

25 or Under _____ (30) _____
26 or Over _____ (20) _____

Comments: _____

5. **Relationship of Offender to Victim(s) (More than one category may apply)**

Family/Step Family/Foster Children _____ (5) _____
Acquaintance _____ (5) _____
Stranger (Never met or met once) _____ (5) _____

Comments: _____

Nebraska Sex Offender Risk Assessment Instrument

Subject _____
Last, First, Middle

6. **Sex Offense Convictions in More Than One State or Federal Jurisdiction**
(Federal Jurisdiction in the State of Nebraska is considered from another jurisdiction.)
- No _____ (0) _____
 Yes _____ (20) _____

Comments: _____

7. **Victim(s) Gender**
- Female _____ (15) _____
 Male _____ (20) _____
 Both Male and Female _____ (30) _____

Comments: _____

8. **Age of Sex Crime Victim(s) (Check All That Apply)**
- Eleven and Under _____ (15) _____
 Twelve to Seventeen _____ (15) _____
 Eighteen and Over _____ (5) _____

Comments: _____

9. **Nature of Sexual Assault Behavior (Check All That Apply)**
- Possession or Manufacturing Sexually Explicit Material of a Child without
 Verbal or Physical Interaction _____ (0) _____
 Fondling/Manipulate/Seduce/Coerce/Authority _____ (5) _____
 Threats of Violence _____ (10) _____
 Vulnerable Victim Due to Physical or Mental Abnormality _____ (15) _____
 Offender Provided or Encouraged the Use of
 Drugs/Chemicals/Alcohol to Control Victim _____ (20) _____
 Physical Force or Violence/Restrained Victim/Threatened with Weapon or
 Dangerous Object _____ (25) _____
 Serious Bodily Injury _____ (30) _____

Comments: _____

10. **Supervision (Check All That Apply)**
- Supervision at Time of Assessment _____ (0) _____
 No Supervision at Time of Assessment _____ (10) _____
 History of Violation of Supervision _____ (20) _____

Comments: _____

Nebraska Sex Offender Risk Assessment Instrument

Subject _____
Last, First, Middle

11. **Disciplinary History While Incarcerated (Check All That Apply)**

- No Disciplinary Reports/None Found _____ (0) _____
- Threatened Victim (Documented Reports) _____ (10) _____
- Disciplined for Violent Acts/Sexual Exploitations _____ (10) _____

Comments: _____

12. **Treatment (Consider Incarceration, Court Ordered or Post Release)**

- No Information Found/Available or Not Court Ordered _____ (0) _____
- Consistent Doctoral Level Professional Determination(s) that
NO Treatment is Required _____ (0) _____
- Successfully Participated/In Post Release/Court Ordered Treatment _____ (0) _____
- Terminated from Treatment/Withdrew against Professional
Recommendation/Reached Maximum Benefit but Professionally
Determined a High Risk/Unsatisfactory Treatment Participation _____ (10) _____
- Not Involved in Court Ordered/Professionally Recommended Treatment _____ (20) _____

Comments: _____

13. **Mental/Cognitive Functioning (Check All That Apply)**

- No Information Available/No Diagnosis Given _____ (0) _____
- Developmental Disability Diagnosis _____ (5) _____
- Psychotic Disorder Diagnosis _____ (5) _____
- Personality Disorder Diagnosis or Traits _____ (5) _____

Comments: _____

14. **Time Between the Most Recent Arrest for a Felony and/or a Class I/II Misdemeanor Conviction and Prior Release from Court Ordered Confinement or Supervision**

(If Under Supervision When Arrest for New Conviction Occurs Score 24 Months or Less)

- Not Applicable _____ (0) _____
- More than 24 Months _____ (5) _____

Comments: _____

Page 3 Total _____

PAGE ONE TOTAL _____

PAGE TWO TOTAL _____

PAGE THREE TOTAL _____

TOTAL POINTS _____

Nebraska Sex Offender Risk Assessment Instrument

Subject _____
Last, First, Middle

Override to High Risk (Check All That Apply No Points)

1. _____ Victim tortured or acts resulted in death _____
2. _____ Victim abducted and forcibly transported to another location _____
3. _____ Perpetrator articulates to officials/treatment professionals an unwillingness to control future sexually assaultive behavior or plans to re-offend violently or sexually _____
4. _____ Recent clinical assessment of dangerousness by a sex offender treatment or doctoral level professional asserting perpetrator presents significant risk to re-offend. _____

Downward Departure to Low Risk (Check All That Apply No Points)

1. _____ Debilitating Illness _____
2. _____ Advanced age _____

Risk Assessment

TOTAL POINTS _____

LEVEL 1 _____

LEVEL 2 _____

LEVEL 3 _____

Low Risk

Moderate Risk

High Risk

80 and Below

85-125

130 or Above

Departure

A departure from the presumptive risk category is warranted

If yes, circle the appropriate category

LEVEL 1 _____

LEVEL 2 _____

LEVEL 3 _____

Low Risk

Moderate Risk

High Risk

If yes, explain the basis for departure: _____

ITEM #1

Number of Convicted Counts for Sex/Sex Related Offenses (Including current offense)

One _____ (0)

Two _____ (40)

Three or More _____ (60)

SCORING CRITERIA

Total number of convicted counts for all sex/sex related offenses, including the current offense. A sex offense charge that has an unknown disposition is not considered a conviction.

COMMENTARY

This item is designed to measure an offender's prior history of sexual offending resulting in legal sanctions. This item is a frequent predictor of sexual re-offense among the studies reviewed.

EXAMPLES

1. The subject has 3 convictions for First Degree Sexual Assault.

Score as Three or more

2. The subject is originally charged with 4 counts of Sexual Assault of a Child. During a plea agreement, the offender is convicted of only two counts of Sexual Assault.

Score as Two

ITEM #2

Number of Convicted Counts for Other Offenses, besides traffic infractions (Excluding sex/sex related offenses)

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SEX OFFENDER RISK ASSESSMENT INSTRUMENT

None _____	(0)
One or Two _____	(20)
Three or More _____	(30)

related offenses). Misdemeanor convicted counts should include drug/alcohol arrests, property crimes and felony or misdemeanor traffic violations that create a more serious public safety hazard (i.e., Driving While Intoxicated, Driving Under Suspension). They should not include traffic infractions (e.g., speeding). Only convicted counts should be used. Include Nebraska and out of state criminal history. A charge that has an unknown disposition is not considered a conviction.

COMMENTARY

This item is designed to measure the strength of an offender's proclivity toward sexual offending and the lack of deterrence of previous contacts with law enforcement and the judicial system. A sexual assault conviction(s) combined with criminal history shows an increase in the likelihood of sexual recidivism.

EXAMPLES

1. The subject has convictions for Shoplifting, Burglary, and Disturbing the Peace.
Score as Three or more
2. The subject has convictions for D.U.S., Assault, and Sexual Assault.
Score as One or Two (Don't score the sexual assault)
3. The subject has convictions for speeding, no operator's license, DWI and forgery.
Score as One or Two (Don't score the speeding or no operator's license)

SCORING CRITERIA

Total number of misdemeanor or felony convicted counts (excluding all sex/sex

ITEM #3

Other Sex/Sex Related Attorney Filed Charges Not Resulting in

NEBRASKA

SEX OFFENDER RISK ASSESSMENT INSTRUMENT

Conviction

None _____ (0)

One or Two _____
_____ (10)

Three to Seven _____
_____ (20)

Eight or More _____
_____ (30)

Total number of misdemeanor or felony sex/sex related attorney filed charges that the subject had but was not convicted. ~~No convictions should be used. Include criminal history from Nebraska and other jurisdictions. This would include any sex/sex related charges associated with the current conviction that were plea bargained. Include sex offense charges that have an unknown disposition, juvenile criminal adjudications (if available) and dismissed charges that were part of a plea bargain, but not wholly dismissed, declined, not guilty or nolle prosecute.~~

COMMENTARY

~~This item is designed to assess the extent of prior sex offense allegations. Often plea agreements reduce several charges to one count when there were several victims or several assaults of the same victim. Use total number of filed charges available in legal documentation (i.e., Court records, police reports, and criminal history files Nebraska and out of state criminal history).~~

EXAMPLES

1. ~~Three counts of Sexual Assault of a Child were filed but pled to one count of Sexual Assault of a Child.
Score as One or Two (The offender was convicted of one, leaving two charges)~~
2. ~~The subject has 8 charges on his criminal history from police records, but court records indicate only three charges were filed.
Score as Three to Seven (Only attorney filed charges are utilized)~~
3. ~~The subject is charged with Sexual Assault but pleads guilty to Disturbing the Peace.
Score as One or Two~~

SCORING CRITERIA

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT

ITEM #4

**Age at Arrest for First Sex/Sex
Related Conviction/Juvenile
Adjudication**

25 or Under _____(30)

26 or Over _____(20)

SCORING CRITERIA

~~Use exact age on date offender was arrested for the first sex/sex related conviction/juvenile adjudication. This includes information on juvenile criminal adjudications for sex offenses (when available). This does not include sex offenses where disposition is unknown.~~

COMMENTARY

~~This item is designed to measure the increased risk for sexual re-offense posed by offenders who begin assaulting at a young age. Studies have shown the younger the offender at first offense the greater the likelihood of re-offense. The age of 25 is a community standard cut off age utilized in sex offender risk assessment research.~~

NEBRASKA

SEX OFFENDER RISK ASSESSMENT INSTRUMENT

ITEM #5

Relationship of Offender to Victim(s) (More than one category may be scored)

Family/Step Family/Foster Children _____(5)

Acquaintance _____(5)

Stranger (Never met or met once) _____(5)

This includes victims for all sex offense charges, convictions, documented self-admissions and founded allegations investigated by an agency authorized to carry out such a duty (e.g., Child Protective Services (CPS)) in available documentation, including those sex offenses with an unknown disposition. If the nature of the relationship changes over the course of the assaultive behavior, score only the relationship when the behavior began. Otherwise, score each applicable victim category.

COMMENTARY

This item is designed to measure the increased risk for re-offense posed by offenders who assault more than one of the listed categories. Someone who would offend a family member and stranger or acquaintance is more likely to re-offend.

◆ Family/step family/foster children means those members that live within or outside the offender's residence. This also includes extended family members, i.e., nieces, nephews, cousins, cohabitating partner.

◆ Acquaintance refers to someone the victim knew prior to the assault.

◆ Stranger refers to someone unknown by the victim prior to the assault or assault occurs after first meeting/contact.

EXAMPLES

1. **Family** — A daughter visiting her mother for a weekend is assaulted by her stepfather that lives with her mother. He assaults a friend of the stepdaughter, three times. *Score as step family and acquaintance (Although the stepdaughter didn't live there full time and isn't a blood relative, she is still considered step family. The friend is an acquaintance as defined in this item.)*

2. **Acquaintance** — A known neighbor, family friend, teacher, girlfriend living elsewhere, or clergy are just a few examples of Acquaintances.

3. **Stranger** — The offender stalked the victim for weeks before the offense or saw her at an event earlier and followed her home. She was not acquainted with him at all.

Score as Stranger

SCORING CRITERIA

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT

ITEM #6

Sex Offense Convictions in More Than One State or Federal Jurisdiction (Federal Jurisdiction in the State of Nebraska is considered from another jurisdiction.)

No _____ (0)

Yes _____ (20)

SCORING CRITERIA

Score YES for offenders who were convicted of sex offenses in more than one state or federal jurisdiction. This must be a conviction. Do not include sex offenses that have an unknown disposition. (Federal Jurisdiction in the State of Nebraska is considered from another jurisdiction.)

COMMENTARY

This item is designed to measure the strength of an offender's risk of sexual offending by moving across state or federal jurisdictions. This was found to be a strong predictor in the instrument development research.

EXAMPLES

1. The subject is being released from jail in Nebraska for a sex offense conviction, and previously had a sex related conviction in Colorado.
Score as YES
2. The subject is released from parole in Nebraska for a sex offense conviction, and had two other charges for sex related crimes in Kansas.
Score as NO (The subject had charges in Kansas not convictions.)
3. The subject is being released from a Nebraska jail for a sex offense conviction, and had a previous sex related conviction from The U.S. Military in Nebraska, i.e., Offutt AFB.
Score as YES (Federal Jurisdiction in the State of Nebraska is considered from another jurisdiction.)
4. The offender is on interstate parole in Nebraska for a sex offense conviction that occurred in Kansas. He has an Iowa sex offense conviction, but the sentence was served with his Kansas sentence.
Score as YES (Two convictions, time served in two jurisdiction.)

ITEM #7

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SEX OFFENDER RISK ASSESSMENT INSTRUMENT

Victim(s) Gender
Female _____(15)
Male _____(20)
Both Male and Female _____(30)

~~Check only one.~~ Check the one category that describes the gender of the sexual assault victim(s) over the course of the offender's behavior. Use official records, including victim statements, to determine gender of victim(s). This includes victims for all sex offense charges, convictions, documented self admissions and founded allegations investigated by an agency authorized to carry out such a duty (e.g., CPS) in available documentation, including those sex offenses with an unknown disposition. Exclude exonerated charges (i.e., not guilty, nolle prosequere).

COMMENTARY

This item is designed to measure the breadth of the offender's pool of victims. Research has shown that offenders with male victims are at higher risk to re-offend. An offender who assaults both genders is likely to be at higher risk because of a broader or varied deviant sexual preference/behavior. Score item only for direct victims of sexual assault (i.e., don't score witnesses to the assault unless they were sexually assaulted as well).

EXAMPLE

The subject was charged with sexual assault of a male child and an adult female, but one charge was dismissed in a plea agreement.

Score Both Male and Female (Has a history of assaulting both genders)

SCORING CRITERIA

NEBRASKA SEX OFFENDER RISK ASSESSMENT INSTRUMENT

ITEM #8	
Age of Sex Crime Victim(s) (Check All That Apply)	
Eleven and Under _____	_____ (1 5)
Twelve _____ to _____ Seventeen _____ (15)	
Eighteen and Over _____	_____ (5)

SCORING CRITERIA

~~Check all that apply.~~ Check the age group(s) that represents the age of the victim(s) over the course of the offender's behavior. If the offender has multiple victims, score the item for each victim. However, do not score any age category more than once. In cases where the offense occurred over an extended period of time (i.e., several years), score each age category that was violated. Use official records, including victim statements, to determine number and age(s) of victim(s). This includes victims for all sex offense charges, convictions, documented self-admissions and founded allegations investigated by an agency authorized to carry out such a duty (e.g., CPS) in available documentation, including those sex offenses with an unknown disposition. Exclude exonerated charges (i.e., not guilty, nolle prosecute).

COMMENTARY

This item is designed to measure the breadth of the offender's pool of victims. An offender who crosses over different age groups also may be at higher risk because of a broader or varied deviant sexual preference/behavior (i.e., sexual attraction toward children AND adolescents). This item reflects the number of different age groups for all victims of sex/sex-related offenses. Score item only for direct victims of sexual assault.

EXAMPLES

1. ~~The subject offended against one victim from age 5 until 12.
Score as *Eleven and Under AND Twelve to Seventeen*~~

2. ~~The subject offended against his daughter at age 10, went to prison for that conviction and upon release offended her again at age 18.
Score as *Eleven and Under AND Eighteen and Over*~~

3. ~~The subject offended against his 10-year-old neighbor, his 14-year-old stepdaughter~~

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SEX OFFENDER RISK ASSESSMENT INSTRUMENT

_____ and his 38-year-old wife.

Score All three age categories

ITEM #9 _____

Nature of Sexual Assault Behavior (Check All That Apply)

Possession or Manufacturing of Sexually
Explicit Material of a Child without
Verbal or Physical Interaction _____(0)

Fondling/Manipulate/Seduce/Coerce/
Authority _____(5)

Threats of Violence _____(10)

Vulnerable Victim Due to Physical or
Mental Abnormality _____(15)

Offender Provided or Encouraged the Use
of Drugs/Chemicals/Alcohol to Control
Victim _____(20)

Physical Force or Violence/Restrained
Victim/Threatened with Weapon or
Dangerous Object _____(25)

Serious Bodily Injury _____(30)

~~SCORING CRITERIA~~

~~Check all that apply.~~ Score the nature of the sexual assault in the current offense and any previous sexual assaults noted in official documentation. Do not score any category more than once.

COMMENTARY

This item is designed to reflect the level of risk posed by an offender who uses varying degrees of force. The greater the amount of force or the more types of force utilized, the higher the score.

DEFINITION/EXAMPLES

1. Possession or Manufacturing of Sexually Explicit Material of a Child without Verbal or Physical Interaction This would involve any visual depiction of a sexually explicit nature involving a child as observer or actor, where there is no manipulation, positioning or verbal direction. Score any other behavior in the appropriate category.

2. Fondling/Manipulate/Seduce/Coerce/Authority Offers rewards, tells victim they will be in trouble, misleads victim, makes demands, or holds position of authority over victim. Such acts are common in cases of nonviolent incest or statutory rape.

3. Threats of Violence Threatening to harm the victim, someone or something else if the victim resists, yells or tells someone about the incident.

4. Vulnerable Victim Due to Physical or Mental Abnormality A victim that is mentally or physically unable to make a rational decision or defend themselves due to incapacitating disease, mental retardation, physical disabilities, etc.

5. Offender Provided or Encouraged the Use of Drugs/Chemicals/Alcohol to Control Victim The offender provided drugs/chemicals/alcohol to a minor victim prior to or during the offense. The offender took advantage of an adult or minor victim's impaired state. The offender "Slipped a Mickey" to the victim.

6. Physical Force or Violence/Restrained Victim/Threatened with Weapon or Dangerous Object Physical force or restraint (e.g., slapping, gagging, tying or holding down, shoving or pulling at the victim), physical direction or control of victim that caused no injury or injury not requiring medical treatment.

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SEX OFFENDER RISK ASSESSMENT INSTRUMENT

~~7. Serious Bodily Injury~~ Physical force or restraint that caused injury that

ITEM #10

Supervision (Check All That Apply)

Supervision at Time of Assessment

_____ (0)

No Supervision at Time of

Assessment _____ (10)

History of Violation of Supervision

_____ (20)

SCORING CRITERIA

~~required medical care or treatment (e.g., broken bones, internal injuries, lacerations)~~

There are two issues to be scored:

- 1) ~~At the time the assessment is completed is the offender under some type of official supervision? This would include Probation, Parole, civil commitment, other supervised release, or monitoring. Does not include pre-trial diversion or bond.~~
- 2) ~~Has the subject ever violated any official supervision? This includes unsatisfactory completion of probation. (Formal documentation of violation should be included).~~

COMMENTARY

This item does not give any points to subjects that are under supervision. They are seen as less likely to re-offend while being supervised.

This item is designed to assess an offender's risk for sexual offending behavior in spite of being under some form of supervision. Offenders who have committed offenses while under court or correctional supervision are more likely to re-offend whether it was a sex/sex related violation or not.

EXAMPLES

1. ~~A subject is placed on probation by the court for Sexual Assault.~~
~~*Score Supervision*~~
2. ~~An offender is released without supervision from the Penitentiary after a three year sentence for Sexual Assault. He was on Probation for Burglary when he was arrested, charged and convicted of the Sexual Assault.~~
~~*Score No Supervision AND History of Violation of Supervision*~~
3. ~~A subject is on parole after serving time for sexual assault and has a positive urinalysis test.~~
~~*Score Supervision AND History of Violation of Supervision*~~

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT

ITEM #11

~~Disciplinary History While Incarcerated (Check All That Apply)~~

~~No Disciplinary Reports/None Found _____
(0)~~

~~Threatened Victim (Documented Reports) _____ (10)~~

~~Disciplined for Violent Acts/Sexual Exploitations _____ (10)~~

ITEM #12



SCORING CRITERIA

~~Check all that apply. Taken from offender's officially documented disciplinary history of infractions. Score misconduct during incarceration for the instant sexual assault offense. The infraction must have resulted in some type of sanction. Charges that were dismissed should not be counted.~~

~~Victim threats must be from official documents (i.e., jail reports, police reports, institutional records).~~

COMMENTARY

~~This item is designed to measure the propensity of the offender to disregard rules, even when in a highly structured and supervised environment. It is also a measure of antisocial behavior due to that disregard for rules.~~

DEFINITIONS/EXAMPLES

~~Violent or Sexually Exploitative offenses for which the offender was found guilty that involved a weapon, physical altercation, sexual activity or could have created serious disruption of the facility (i.e., Possession/Manufacture of a Weapon, Flare of Tempers/Minor Physical Contact, Mutinous Acts, Inciting a Riot, Sexual Activity etc.)~~



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Treatment (Consider Incarceration, Court Ordered or Post Release)

No Information Found/Available or Not Court Ordered _____ (0)

Consistent Doctoral Level Professional Determination(s) that NO Treatment is Required _____ (0)

Successfully Participated/In Post Release/Court Ordered Treatment _____ (0)

Terminated from Treatment/Withdrew against Professional Recommendation/Reached Maximum Benefit but Professionally Determined a High Risk /Unsatisfactory Treatment Participation _____ (10)

Not Involved in Court Ordered/Professionally Recommended Treatment _____ (20)

ITEM #13

—SCORING CRITERIA

Check the one category that best describes the subject's most recent involvement in recommended or court ordered treatment/therapy while incarcerated or under court supervision for sexual assault, regardless of type of treatment (i.e., Domestic Violence, Anger Management, Sex Offender Treatment). Not involved in Court Ordered/Professionally Recommended Treatment will not be checked for defendants who were granted probation or sentenced to county jail if sentencing or probation requirements did not specify treatment.

COMMENTARY

This item is designed to measure an offender's willingness to address issues related to his or her sexually assaultive behavior as recommended. The willingness to be actively involved in treatment generally reflects stability, motivation to improve oneself, and cooperation with authority. Failure to actively participate in recommended treatment is likely to reflect denial of problems, responsibility or need for change. Termination, withdrawal or lack of progress in treatment may be indicative of impulsiveness, antisocial behavior, and general instability.

EXAMPLES

1. _____ The subject was on probation for sexual assault, with order for alcohol treatment, but does not comply.
Score Not Involved in Court Ordered/Professionally Recommended Treatment
2. _____ The offender attends sex offender treatment as a parole condition.
Score Successfully Participated/In Post Release/Court Ordered Treatment
3. _____ Doctoral Professionals recommend treatment in pre-sentence reports but the judge doesn't order any treatment as part of probation.
_____ *Score No Information Found/Available or Not Court Ordered*
4. _____ Offender sentenced to Nebraska Department of Correctional Services (NDCS) for 6 years without a specific court order for treatment. NDCS classification or treatment staff recommend inpatient sex offender treatment but offender refuses.
_____ *Score Not Involved in Court Ordered/Professionally Recommended Treatment*

**Mental/Cognitive Functioning
(Check All That Apply)**

NEBRASKA

SEX OFFENDER RISK ASSESSMENT INSTRUMENT

No Information Available/No Diagnosis Given _____(0)
Developmental Disability Diagnosis _____(5)
Psychotic Disorder Diagnosis _____ (5)
Personality Disorder Diagnosis or Traits _____(5)

Psychiatrist at any point in the subject's life.

COMMENTARY

~~Individuals with developmental disabilities or psychotic disorders may have difficulties making proper choices. Personality disorders and traits may greatly increase an individual's likelihood of re-offending. Do not include diagnoses considered for rule out.~~

~~An override to Level 3 should be noted when a professional documents prior to the offender's release that the offender poses a significant (i.e., high, higher, enhanced) risk of re-offense.~~

DEFINITION/EXAMPLES

- ~~1. **Developmental Disability Diagnoses:** Mental Retardation, Autism, Rett's Disorder, Childhood Disintegrative Disorder, Asperger's Disorder, Pervasive Developmental Disorder.~~
- ~~2. **Psychotic Disorder Diagnoses:** Schizophrenia, Paranoid, Delusional, Schizophreniform, Schizoaffective, Brief Psychotic Disorder, Psychotic Disorder; Not Otherwise Specified (NOS).~~
- ~~3. **Personality Disorder Diagnoses:** Paranoid Personality, Schizoid, Schizotypal, Antisocial, Narcissistic, Borderline, Histrionic, Avoidant, Dependent, Obsessive Compulsive Personality, Personality Disorder (NOS).~~

SCORING CRITERIA

~~Check all that apply. Diagnosis determined by a licensed Psychologist or~~

ITEM #14
Time Between the Most Recent

Arrest for a Felony and/or a Class I/II Misdemeanor Conviction and Prior Release from Court Ordered Confinement or Supervision (If Under Supervision When Arrest for New Conviction Occurs Score 24
--

NEBRASKA

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Months or Less)

Not Applicable _____ (0)

More than 24 Months _____ (5)

24 Months or Less _____ (20)

SCORING CRITERIA

Use information gathered from official documents (i.e., Criminal History Court and Correctional Documents). Determine the most recent felony and/or Class I or Class II Misdemeanor(s) committed by the

Override to High Risk
#1

~~offender after previous court ordered confinement, or while under official supervision (i.e., Probation, Parole, or Electronic Monitoring). The time frame is from the time the offender was arrested for the new conviction after his release from some type of supervision (when available, relevant records of juvenile confinement or supervision may be utilized). If the offender was arrested for a new offense and later convicted, it should be scored as 24 Months or Less. This should include only new charges for which the offender has been convicted not violations of supervision without new charges.~~

COMMENTARY

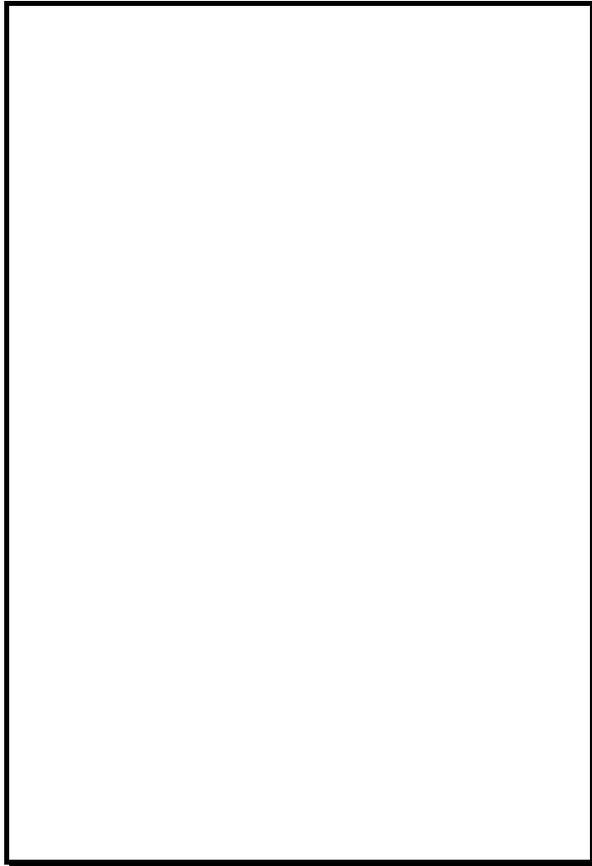
~~This item is designed to show an offender's lack of regard for the criminal justice system. Offenders that re-offend or commit crimes after court ordered confinement, parole, probation or court supervision are more likely to ignore the possibility or threat of arrest. These offenders show a higher risk to re-offend due to their apathy toward the criminal justice system.~~

EXAMPLES

- ~~1. The offender is convicted in June of 1995 for Assault, sentenced to one year probation, and released from probation in June 1996. He is arrested for Sexual Assault in January 1997 and convicted in July 1998.
Score 24 months or Less (Was arrested for the convicted sexual assault Less than 24 months after supervision)~~
- ~~2. The offender is convicted in June of 1995 for Sexual Assault, sentenced to two years in jail, and is released in June of 1997. He is arrested for possession of Cocaine in October of 1999 but not convicted of a class IV Felony until February 2000.
Score More than 24 months (Arrest was more than 24 months after jail release)~~

Victim tortured or acts resulted in death

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT



This item is designed to address the risk to the public based on the offender's extreme sexual violence, regardless of offense history. An individual who tortures or kills the victim, is likely to be utilizing extreme methods to avoid detection, focused on the torture or death as the arousing quality of the offense, and/or has total disregard for others. The severity of the behavior and threat to the public warrants High Risk (Level 3) notification.

EXAMPLES

1. This may involve keeping the victim restrained or confined for an extended period, mutilation of the victim (e.g. burning/cutting the victim's face/body in several places, removing body parts, etc.), or ongoing degradation of the victim (e.g., use of feces/urine, victim forced to wear animal collars or have sex with animals, etc.). This may result in either physical injury that requires surgical repair, long term hospitalization, or long term psychological intervention.

2. The death of the victim has to be directly related to the offense, i.e., victim stabbed to death, dismembered, or left to die. This does not include a victim that may commit suicide or die of natural causes after the offense, i.e., heart attack weeks after the offense. If the victim dies of such at the time of the offense, this should be included. If the victim has a heart attack or stroke at the time of the offense and dies several weeks later, this should be included.

SCORING CRITERIA

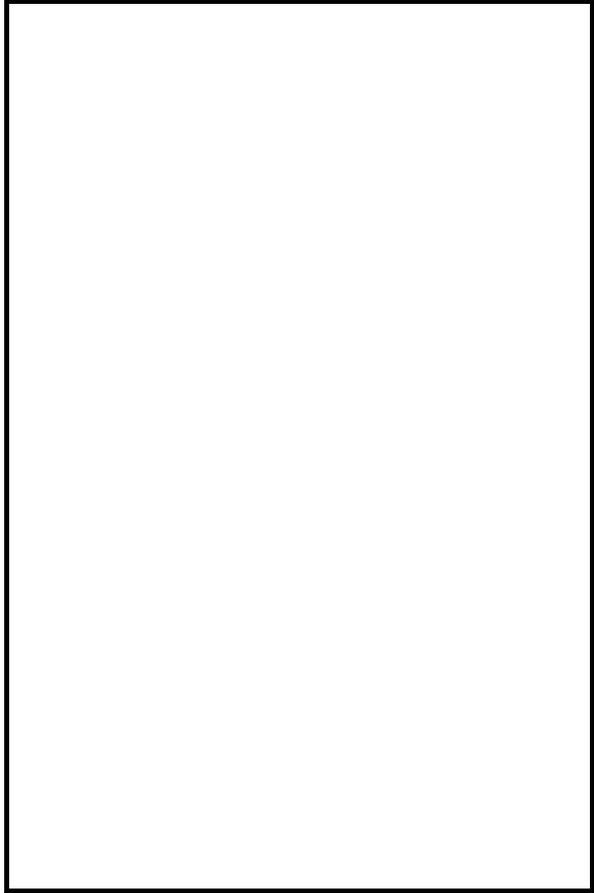
Offenders automatically receive a High Risk (Level 3) designation if the victim was tortured or the acts resulted in death.

COMMENTARY

**Override to High Risk
#2**

Victim abducted and forcibly transported to another location

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT



COMMENTARY

This item is designed to address the risk to the public based on the offender's abduction or forcible transportation of the victim. An individual, who abducts or forces the victim to go to another location, is more likely to torture or kill the victim, subject the victim to ongoing assault and/or be utilizing a well developed plan in an attempt to avoid detection/arrest. It is also suggestive of an offender who will do whatever necessary to meet the goal of sexually assaulting a victim.

EXAMPLES

1. An offender promises to show a child at the park a new puppy and the child gets in the vehicle with the offender, who then drives the victim to a different location.
2. The offender grabs a child in the public restroom and carries them away from the location to a more secluded area in the same park.
3. The offender threatens a victim with a weapon if he or she does not drive to another area, thus forcing the victim to leave the first location.
4. The offender grabs a victim from a parking lot, forces the victim in a vehicle and transports the victim to another location.

SCORING CRITERIA

Offenders automatically receive a High Risk (Level 3) designation if the victim was abducted and forcibly transported to another location.

Override to High Risk

#3

NEBRASKA
SEX OFFENDER RISK ASSESSMENT INSTRUMENT

~~Perpetrator articulates to officials/treatment professionals an unwillingness to control future sexually assaultive behavior or plans to re-offend violently or sexually~~ _____

~~Offenders automatically receive a High Risk (Level 3) designation if the perpetrator articulates to officials or treatment professionals an unwillingness to control future sexually assaultive behavior or plans to re-offend violently or sexually.~~

COMMENTARY

~~This item is designed to measure an offender's increased likelihood to re-offend when he or she continues to plan future assaults or admits that he or she has no plans to discontinue the offending behavior. Some offenders will acknowledge that they enjoy the offending behavior that they have attempted to stop, but "can't" or do not see their behavior as wrong, therefore have no plans to stop the behavior. There must be documentation to law enforcement, supervising officials, court officials, or a treatment professional. Do not score if the offender denies the desire to re-offend but expresses no desire to engage in treatment or sees no need for further change.~~

EXAMPLES

- ~~1. An offender tells his probation officer, "I know that I'll do it again," or "I just can't help myself. As soon as I'm off probation, I will try it again."~~

- ~~2. An offender tells the sex offender counselor, "I can get away with it again. There isn't anything wrong with it in some cultures so you don't have the right to try to change me. I'll do it again, if I get the chance."~~

SCORING CRITERIA

Override to High Risk

#4 _____

Recent clinical assessment of dangerousness by a sex offender treatment or doctoral level professional asserting perpetrator presents significant risk to re-offend

recent clinical assessment of dangerousness by a sex offender treatment or doctoral level professional asserting the perpetrator presents a significant risk to re-offend.

COMMENTARY

This item is designed to measure an offender's increased likelihood to re-offend based on professional judgement. A treatment or doctoral professional that has evaluated or worked with the client will have knowledge of the offender's willingness to address issues, level of denial, level of minimization, and other risk assessment factors that are likely to lead to re-offense. Use the most recent clinical assessment available.

EXAMPLES

1. A licensed psychologist completes an evaluation for the court that indicates the offender is at high risk to re-offend, especially if the offender does not participate in treatment. The offender does not participate in treatment. The offender should be placed on Level 3.
2. A licensed mental health practitioner who works with a child molester notes that the offender continues to masturbate to deviant fantasies involving female children, has started drinking again, has reunited with his wife, who has visitation with her three female children and has recently lost his job. Further, his risk to re-offend is high and given the current situation seems to be dangerous to re-offend.

SCORING CRITERIA

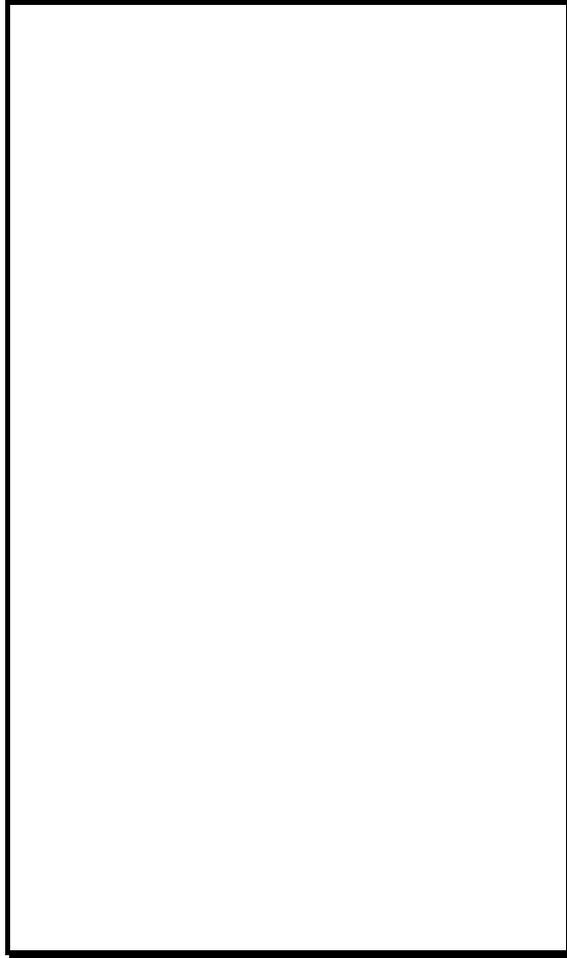
Offenders automatically receive a High Risk (Level 3) designation if there is a

Downward Departure to Low Risk

**#1
Debilitating Illness**

NEBRASKA

SEX OFFENDER RISK ASSESSMENT INSTRUMENT



~~through coercion or potential victim characteristics. There must be supporting medical documentation from a treating physician.~~

COMMENTARY

~~This item is designed to evaluate the likelihood an offender could offend based on his or her current condition. An individual who is in a persistent vegetative state could be at minimal risk to re-offend, based on immobility and potential lack of access to child victims. However, some other disabilities or illness would not necessarily lessen the risk level and in fact may be utilized to manipulate potential victims.~~

EXAMPLES

- ~~1. An offender who has a history of assaulting adult women is in a long-term care facility with multiple sclerosis, but utilizes a motorized wheelchair. This type of person would still have access to potential victims (i.e., nurses, other elderly patients some of whom may be vulnerable because of their own medical conditions). Therefore, no downward departure would be warranted.~~

- ~~2. A child molester who has been in a car accident, resulting in paralysis from the neck down, has constant care and no contact with children may be at minimal risk. However, prognoses should be determined from medical reports, i.e., temporary paralysis that could eventually result in some use of the hands and arms versus permanent quadriplegia.~~

SCORING CRITERIA

~~The presence of a debilitating illness is an automatic downward departure to Low Risk (Level 1). The illness must be severe enough to prohibit re-offense. One must consider not only the offender's mobility, but their access to potential victims~~

NEBRASKA
SEX OFFENDER RISK
ASSESSMENT INSTRUMENT

~~**Downward Departure to Low Risk**~~

~~**#2**~~ _____

~~**Advanced age**~~

~~**SCORING CRITERIA**~~

~~There is an automatic downward departure to Low Risk (Level 1) for an offender who meets this criterion. The age and condition of the offender must be sufficient enough to prohibit re-offense. Other factors need to be considered, like access to adult victims and physical/mental condition of the offender. There must be supporting medical documentation from a treating physician.~~

~~**COMMENTARY**~~

~~This item is designed to evaluate the possibility of decreased risk based on the offender's age. An offender with no history of child molestation may have less likelihood of re-offending at an~~

NEBRASKA
SEX OFFENDER RISK
ASSESSMENT INSTRUMENT

~~advanced age, but not always. There are other factors that need to be considered such as living arrangements, cognitive impairment, physical incapacitation, i.e., there are older individuals who run marathons, go to gyms, continue to sexually assault, become physically combative or dangerous.~~

EXAMPLE

~~An 80 year old offender is released from prison for a rape that occurred when he was 56 years old. He has a history of exposing himself to female prison staff, making sexual comments to them and has grabbed one staff member's breast while in the prison hospital for a minor medical problem just prior to release. He is released to a long term care facility, but walks without assistance and exercises regularly. This man is not likely to stop his inappropriate behavior, may expose himself to nurses/patients, fondle nurses/patients. It is important not to ignore the offender's prior record and minimize the potential for future behavior as being a "dirty old man." This could be a female offender as well. Although the occurrence of females offending against adults is lower, the possibility should not be ignored.~~