

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 930

Introduced by Cornett, 45.

Read first time January 14, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to dangerous sex offender evaluations; to
2 amend section 83-174.02, Revised Statutes Cumulative
3 Supplement, 2006; to require an opinion on appropriate
4 treatment as prescribed; and to repeal the original
5 section.

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

1 Section 1. Section 83-174.02, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 83-174.02 (1) The Department of Correctional Services
4 shall order an evaluation of the following individuals by a mental
5 health professional to determine whether or not the individual is a
6 dangerous sex offender:

7 (a) Individuals who have been convicted of (i) sexual
8 assault of a child in the first degree pursuant to section
9 28-319.01 or (ii) sexual assault in the first degree pursuant to
10 section 28-319;

11 (b) Individuals who have been convicted of two or more
12 offenses requiring registration as a sex offender under section
13 29-4003 if one of the convictions was for any of the following
14 offenses: (i) Kidnapping of a minor pursuant to section 28-313,
15 except when the person is the parent of the minor and was not
16 convicted of any other offense; (ii) sexual assault in the first
17 degree pursuant to section 28-319 or sexual assault in the second
18 degree pursuant to section 28-320; (iii) sexual assault of a child
19 pursuant to section 28-320.01; (iv) sexual assault of a child in
20 the first degree pursuant to section 28-319.01; (v) sexual assault
21 of a child in the second or third degree pursuant to section
22 28-320.01; (vi) sexual assault of a vulnerable adult pursuant to
23 subdivision (1)(c) of section 28-386; (vii) incest of a minor
24 pursuant to section 28-703; (viii) visual depiction of sexually
25 explicit conduct of a child pursuant to section 28-1463.03; or (ix)

1 any offense that is substantially equivalent to an offense listed
2 in this section by any state, territory, commonwealth, or other
3 jurisdiction of the United States, by the United States Government,
4 or by court-martial or other military tribunal, notwithstanding a
5 procedure comparable in effect to that described in section 29-2264
6 or any other procedure to nullify a conviction other than by
7 pardon;

8 (c) Individuals convicted of a sex offense against a
9 minor who have refused to participate in or failed to successfully
10 complete the sex offender treatment program offered by the
11 Department of Correctional Services or the Department of Health
12 and Human Services during the term of incarceration. The failure to
13 successfully complete a treatment program due to time constraints
14 or the unavailability of treatment programming shall not constitute
15 a refusal to participate in treatment; and

16 (d) Individuals convicted of failure to comply with the
17 registration requirements of the Sex Offender Registration Act who
18 have previously been convicted for failure to comply with the
19 registration requirements of the act or a similar registration
20 requirement in another state.

21 (2) The evaluation required by this section shall be
22 ordered at least one hundred eighty days before the scheduled
23 release of the individual. Upon completion of the evaluation, and
24 not later than one hundred fifty days prior to the scheduled
25 release of the individual, the department shall send written

1 notice to the Attorney General, the county attorney of the county
2 where the offender is incarcerated, and the prosecuting county
3 attorney. The notice shall contain an affidavit of the mental
4 health professional describing his or her findings with respect
5 to whether or not the individual is a dangerous sex offender. If
6 the individual is determined to be a dangerous sex offender, the
7 mental health professional shall include with the affidavit his or
8 her opinion on what components should be included in appropriate
9 treatment for the individual.

10 Sec. 2. Original section 83-174.02, Revised Statutes
11 Cumulative Supplement, 2006, is repealed.