

The Perfect Bad Law

Nebraska's Sex-Offender Registry

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Nebraskans Unafraid provides information, support and connection for

Registered Citizens, their families and friends.

The 95% in our logo signifies ***the vast majority of former offenders who never re-offend.***

PO Box 6705, Omaha 68106

(402) 403-9250

nunafrd@gmail.com

nebraskansunafraid.com



CONTENTS

Introduction	2
The Least Likely to Reoffend	4
How the Law Should Change	5
Nebraskans Unafraid	8
More Information	9

Dedicated to the thousands of Nebraskans currently exposed to ignominy by the Nebraska State Patrol Sex Offender Registry and public website which spreads calumny by promoting distrust and irrational fear.

“The registries and related policies . . . are absolutely and fundamentally flawed. They do nothing to support prevention, are not a deterrent and do nothing for people who have survived sexual violence.”

-- Professor Alissa Ackerman, recognized as a national expert on the treatment of sex offenders.



Introduction

LB 285 enacted into Nebraska law in 2009 contributes to unemployment, social isolation, and homelessness while facilitating instances of violence and damaging registered people and their families.

LB 285 was the result of a toxic mix of political ambition and public hysteria influencing even Congress. The bill was intended to comply with the federal Adam Walsh Act, a law enacted based on emotions in the wake of isolated but high-profile and horrific crimes. It was sold as a public-safety measure that would cost the state nothing but would prevent the loss of federal funding for state law enforcement. In reality, neither the Adam Walsh Act nor LB 285 protect anybody or anything.

Those who voted in favor of LB 285 in 2009 likely did not understand its implications. U. S. District Court Judge Richard Kopf recognized LB 285 as awful legislation and struck key provisions as unconstitutional. The public registry remained after Judge Kopf's ruling, not because he approved (he didn't) but because of judicial restraint. Judge Kopf opened his October 2012 ruling stating:

“Earlier I paraphrased Justice Oliver Wendell Holmes and observed that if the people of Nebraska wanted to go to hell, it was my job to help them get there. By that, I meant that it is not my prerogative to second-guess Nebraska’s policy judgments so long as those judgments are within constitutional parameters. Accordingly, I upheld many portions of Nebraska’s new sex offender registration laws even though it was my firm personal view that those laws were both wrong-headed and counterproductive.”

LB 285 is the perfect bad law -- even a federal judge recognized that.

Public sex-offender registries protect no one while harming many. Registry laws are based on the fiction that registrants have high reoffense rates. In reality, registrants have the lowest rate of recidivism of any class of felons. However, the profits from horror movies, yellow journalism and the law enforcement funding all incentivize inaccurate stereotypes.



The Nebraska Legislature in 2012 commissioned a study of sex-offender reoffense. The study, conducted by the University of Nebraska-Omaha Department of Criminal Justice, found that fewer than 1 percent reoffended and that reoffense rates were lower under the pre-LB 285 system. But lawmakers paid no attention to the findings -- they were too frightened to make necessary changes to LB 285.

A secure home, a stable job and family support all contribute to a decrease in the likelihood of reoffense, according to a University of Nebraska-Omaha research study.

Nebraska's LB 285 made the state more dangerous because it causes homelessness, joblessness and encourages violence against registered people and their families. A person listed on the public registry has a hard time finding employment, and many registered people with professional educations and backgrounds are severely underemployed because of their presence on the public-shaming Nebraska State Patrol website. A person listed on the public registry is likely to be denied housing. People who live at the addresses on the Nebraska State Patrol public-shaming website are the objects of scorn and targets of violence and vandalism. This includes children and spouses and partners and friends of registered people.

In a study released in July 2016, researchers from the California and Canadian justice departments looked at more than 1,600 California sex offenders on probation or parole. Overall, the group's sex-crime recidivism rates were low – less than 5 percent during the five-year follow-up period. But those who were homeless were over four times more likely to commit a repeat sex crime than those who weren't. "Collectively, transient status seems to be associated with higher sexual recidivism rates," the researchers concluded. That's likely because those who lack stable homes, jobs, and social connections are more prone to reoffend.

It is our hope that lawmakers and public policymakers will listen to the voices of the spouses and children and friends and associates of those who are exposed to hatred through the Nebraska State Patrol public-shaming website. Families and children are harmed by this website every day.

This briefing document has been prepared in the hope that we will find a way to change or (better) eliminate a law that deprives former offenders of homes, jobs and family/social support -- the elements of successful, law-abiding reintegration into communities.



The Least Likely to Reoffend

Former Registered Citizens are among the least likely to reoffend. ***This is a fact and it needs to be emphasized because so many people pay no attention to it.*** The question has been researched again and again, and every study finds exceptionally low reoffense rates among registered people.

This includes a study commissioned by the Nebraska Legislature for a previous interim study on this topic. The study found that low reoffense rates were lower under the state's pre-LB 285 system.

Quoting from the study:

“In comparing the old risk-based system of classification to the new offense-based system of classification, the former risk-based system resulted in less overall recidivism. Specifically, the pre-LB 285 classification system resulted in a 2-year recidivism rate of 1.7% and a 1-year recidivism rate of 0.6%. In comparison, the post-LB 285 classification system resulted in a 2-year recidivism rate of 2.6% and a 1-year recidivism rate of 1.7%.”

[Nebraska Sex Offender Registry Study \(2013\)](#)

Another UNO study, *Desistance from Sex Offending*, supports the fact that Nebraska would benefit if it worked to help stabilize the lives of former offenders.

Quoting from the study:

“In sum, using several methods of triangulation, we have found that sex offenders in this study, representing predatory pedophiles to possessing child pornography, have not reoffended since their initial crime of conviction. Most attribute this to the informal social relationships they have created or maintained since conviction. Surprisingly, many have added members of the research team as more formal sources of social support, and attribute our interest in their lives as an added factor in their desistance. Most importantly, we have found that registrants' lives change over time, thus affecting their need for social support to continue desistance.”

[Desistance from Sex Offending and the Consequences of Sex Offender Laws](#)



How the Law Should Change

- **Registered Citizens whose offenses occurred before January 1, 2010 (the effective date of LB 285), and who have not reoffended should not be subject to the provisions of LB 285; the principles of justice underlying the Nebraska and U. S. Constitutions prohibit ex post facto laws and multiple punishments for the same crime.**

Why? Individuals posing no danger to society whose offenses are years in the past are re-punished by LB 285. Research by the University of Nebraska-Omaha shows that LB 285 reduced public safety, contributed to unemployment and homelessness while harming innocent family members. A federal judge recognized Nebraska legislators intended to add punishment with LB 285. Its restrictions should not have been applied to individuals adjudicated prior to the law's effective date.

- **Provide a path for people to be removed from the registry.**

*Why? People change over time -- no one should be condemned to a lifetime of punishment, **and the registry is punishment**, with no due process and no appeal.*

- **Eliminate the public notification State Patrol website and that of commercial entities that expose innocent families to public scorn, threats, and vigilante action.**

*Why? Research proves that such websites do not protect the public and in fact make communities more dangerous by falsely stigmatizing registrants. According to a study by Kelly Bonnar-Kidd, Ph.D., and published in the *American Journal of Public Health*:*

“Sexual violence is a significant public health problem in the United States. In an effort to decrease the incidence of sexual assault, legislators have passed regulatory laws aimed at reducing recidivism among convicted sexual offenders. As a result, sex offenders living in the United States are bound by multiple policies, including registration, community notification, monitoring via a global positioning system, civil commitment, and residency, loitering, and Internet restrictions.

“These policies have led to multiple collateral consequences, creating an ominous environment that inhibits successful reintegration and may contribute to an increasing risk for recidivism.



In fact, evidence on the effectiveness of these laws suggests that they may not prevent recidivism or sexual violence and result in more harm than good.”

Nebraska does not evaluate whether the offender is dangerous when determining registration duration. Nebraska instead uses the Adam Walsh Act three-tier classifications and the type of offense to determine the duration of registry requirements. Many who have been professionally evaluated and found to be low risk nonetheless are on the Nebraska registry for life. Conversely, others found to be high-risk are in the lowest tier and will be released from the registry.

The infrequent, but widely publicized, instances of a registered person committing another sex crime does not prove the necessity of the Registry. The Registry did not sufficiently alert the victim to prevent the harm nor did it deter the registrant.

- **Eliminate the requirement that a Registered Citizen register at more than one county sheriff’s office.**

Why? Sophisticated information technology gives all of law enforcement instantaneous access to data, and there is no need to enter it twice.

- **The length of time that an individual is required to register should start at the date of conviction.**

Why? This is typical practice. Extending an individual’s time on the registry has no demonstrated public-safety benefit, but it does cost taxpayers more in law enforcement and corrections resources. If a practice does not enhance public safety, it should be ended.



- **Extend the time period for reporting changes of residence to seven days (instead of the current three) following the change. Extend to seven days the number of days a registered citizen is permitted to travel without notifying law enforcement. Permit such notifications to be made by telephone or email, instead of exclusively in person. Return to the practice of a single annual information verification for all registrants, conducted by mail or online.**

Why? Three days is unreasonable, especially for individuals who must travel to other states on short notice (such as the unexpected death of a family member). The current system is needlessly burdensome and wasteful.

- **Stop the expansion of crimes that make perpetrators subject to sexual-offense sanctions and consider trimming the list.**

Why? Our ever-more-draconian sexual offending laws have led to an ever-expanding list of offenses that are registerable offenses. Under current Nebraska law, offenses that are not sexual in nature now require an offender to register.



Nebraskans Unafraid

Nebraskans Unafraid (NU) is a grass-roots organization that works to make our communities safer. We believe the right to safety extends to Registered Citizens and their loved ones. We work to change the draconian laws that contribute to homelessness, joblessness and violence. We educate the public about the low rate of re-offense among those convicted of sex offenses.

Nebraskans Unafraid initiatives include [FEARLESS](#), monthly gatherings for Registered Citizens and their loved ones, where they can connect with others who are in similar circumstances and learn about how to survive and thrive despite the public-shaming registry. Through our [Compassion Initiative](#) outreach, we provide support and referrals to help Registered Citizens find jobs, housing, spiritual support and social contacts.

Nebraskans Unafraid does not condone criminal activity of any kind. We favor good competent law enforcement and we believe anyone who commits a crime should be held accountable. And when a former offender has fulfilled the terms of her or his sentence, successful reintegration into the community should be facilitated. Unfortunately, Nebraska denies such reintegration to Registered Citizens. Nebraska seeks to isolate and unendingly punish Registered Citizens and their families. The mission of Nebraskans Unafraid is to provide support, information and solidarity with Registered Citizens, their family members and friends.

Parents, children, spouses, friends, co-workers and others are adversely affected when someone close to them ends up on the registry. These people are collateral victims of poorly designed laws. Evidence shows that registry laws do not protect anyone, and they cause enormous harm to Registered Citizens and their families. Nebraskans Unafraid exists to ameliorate that harm.



More Information

Study by the University of Nebraska at Omaha's Ryan Spohn, PhD:

http://news.legislature.ne.gov/dist20/files/2013/08/NE_sex_offender_recidivism.pdf

A follow-up study by Dr. Lisa Sample of UNO examining factors contributing to a low recidivism rate and the damage of the registry:

[UNO Researchers Document Harm Done by Nebraska Sex-Offender Law - Florida Action Committee](#)

Research exposing fallacies about recidivism:.

<https://www.womenagainstregistry.org/resources/pdf/Ellman-SSRN-id2616429.pdf>

Pertinent Quotes

“No...ex post facto law,...shall be passed.” -- Art. I, Sec.16, Nebraska Constitution;

“No state shall...pass any...ex post Law,...” -- Art. I, Sec. 10, U. S. Constitution.

“No person shall be...twice put in jeopardy for the same offense.” -- Art. I, Sec. 13, Nebraska Constitution.

“[N]or shall any person be subject for the same offense to be twice put in jeopardy...” -- Amendment V, U. S. Constitution.

“[N]or cruel and unusual punishments inflicted” -- Art. I, Sec. 9, Nebraska Constitution and Amend VIII, U. S. Constitution