

HOUSE BILL 282

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO SEX OFFENDER REGISTRATION; AMENDING AND ENACTING
SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT
TO COMPLY WITH FEDERAL LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-11A-2 NMSA 1978 (being Laws 1995,
Chapter 106, Section 2, as amended) is amended to read:

"29-11A-2. FINDINGS--PURPOSE.--

A. The legislature finds that:

(1) sex offenders pose a significant risk of
recidivism; and

(2) the efforts of law enforcement agencies to
protect their communities from sex offenders are impaired by
the lack of information available concerning convicted sex

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1 offenders who live within the agencies' jurisdictions.

2 B. The purpose of the Sex Offender Registration and
3 Notification Act is to comply with the provisions of the
4 federal Adam Walsh Child Protection and Safety Act of 2006 and
5 to assist law enforcement agencies' efforts to protect their
6 communities by:

7 (1) requiring a sex ~~[offenders]~~ offender who
8 ~~[are residents]~~ is a resident of New Mexico to register with
9 the county sheriff of the county in which the sex offender
10 resides;

11 (2) requiring a sex ~~[offenders]~~ offender who
12 ~~[are residents]~~ is a resident in ~~[other states]~~ another state,
13 but who ~~[are]~~ is employed in New Mexico or who ~~[attend]~~ attends
14 school in New Mexico, to register with the county sheriff of
15 the county in which the sex offender works or attends school;

16 (3) requiring the establishment of a central
17 registry for sex offenders; and

18 (4) providing public access to information
19 regarding certain registered sex offenders."

20 SECTION 2. Section 29-11A-3 NMSA 1978 (being Laws 1995,
21 Chapter 106, Section 3, as amended) is amended to read:

22 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
23 Registration and Notification Act:

24 A. "business day" means a day that is not a
25 Saturday, a Sunday or a state holiday;

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1 B. "conviction" means a conviction in any court of
2 competent jurisdiction and includes a deferred sentence, but
3 does not include a conditional discharge;

4 C. "department" means the department of public
5 safety;

6 ~~[D. "institution of higher education" means a:~~
7 ~~(1) private or public post-secondary~~
8 ~~educational institution;~~

9 ~~(2) trade school; or~~

10 ~~(3) professional school;~~

11 ~~E.]~~ D. "habitually lives" means any place where a
12 sex offender lives for at least thirty days in any three-
13 hundred-sixty-five-day period;

14 E. "institution of higher education" means a:
15 (1) private or public post-secondary
16 educational institution;

17 (2) trade school; or

18 (3) professional school;

19 F. "juvenile sex offender" means a person fourteen
20 years of age or older who has been adjudicated delinquent for
21 committing a sexually violent offense;

22 ~~[F.]~~ G. "out-of-state registrant" means any person
23 who establishes a residence, is employed or attends school in
24 New Mexico while the person is required to register as a sex
25 offender in another state or territory;

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1 [~~G.~~] H. "registration requirement" means any
2 requirement set forth in Section 29-11A-4 NMSA 1978 that
3 requires a sex offender to register; provide information,
4 including a DNA sample; renew, revise or change registration
5 information; or provide written notice or disclosure regarding
6 the sex offender's status as a sex offender;

7 [~~H.~~] I. "sex offender" means a person who:

8 (1) is a resident of New Mexico who, on or
9 after July 1, 1995, is convicted of a sex offense pursuant to
10 state, federal, tribal or military law and includes a juvenile
11 sex offender who received an adult sentence pursuant to Section
12 32A-2-20 NMSA 1978;

13 (2) changes residence to New Mexico, when that
14 person has been convicted of a sex offense pursuant to state,
15 federal, tribal or military law;

16 (3) does not have an established residence in
17 New Mexico, but lives in a shelter, halfway house or
18 transitional living facility or stays in multiple locations in
19 New Mexico and who has been convicted of a sex offense pursuant
20 to state, federal, tribal or military law; or

21 (4) is a resident of another state and who has
22 been convicted of a sex offense pursuant to state, federal,
23 tribal or military law, but who is:

24 (a) employed full time or part time in
25 New Mexico for a period of time exceeding fourteen days or for

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1 an aggregate period of time exceeding thirty days during any
2 calendar year, including any employment or vocation, whether
3 financially compensated, volunteered or for the purpose of
4 government or educational benefit; or

5 (b) enrolled on a full-time or part-time
6 basis in a private or public school or an institution of higher
7 education in New Mexico;

8 [~~F.~~] J. "sex offense" means any of the following
9 offenses or their equivalents in any other jurisdiction
10 committed on or after the date the offense became registerable
11 in New Mexico:

12 (1) aggravated criminal sexual penetration or
13 criminal sexual penetration in the first, second, third or
14 fourth degree, as provided in Section 30-9-11 NMSA 1978;

15 (2) criminal sexual contact in the fourth
16 degree, as provided in Section 30-9-12 NMSA 1978;

17 (3) criminal sexual contact of a minor in the
18 second, third or fourth degree, as provided in Section 30-9-13
19 NMSA 1978;

20 (4) sexual exploitation of children, as
21 provided in Section 30-6A-3 NMSA 1978;

22 (5) sexual exploitation of children by
23 prostitution, as provided in Section 30-6A-4 NMSA 1978;

24 (6) kidnapping, as provided in Section 30-4-1
25 NMSA 1978, when committed with the intent to inflict a sexual

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1 offense;

2 (7) false imprisonment, as provided in Section
3 30-4-3 NMSA 1978, when committed with the intent to inflict a
4 sexual offense;

5 (8) aggravated indecent exposure, as provided
6 in Section 30-9-14.3 NMSA 1978;

7 (9) enticement of child, as provided in
8 Section 30-9-1 NMSA 1978;

9 (10) incest, as provided in Section 30-10-3
10 NMSA 1978, when the victim is younger than eighteen years of
11 age;

12 (11) child solicitation by electronic
13 communication device, as provided in Section 30-37-3.2 NMSA
14 1978, for convictions occurring on or after July 1, 2013;

15 (12) solicitation to commit criminal sexual
16 contact of a minor in the second, third or fourth degree, as
17 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; [~~or~~]

18 (13) patronizing prostitutes, as provided in
19 Subsection B of Section 30-9-3 NMSA 1978, when there is a
20 separate finding of fact that the sex offender knew or should
21 have known that the person believed to be a prostitute was
22 younger than sixteen years of age;

23 (14) promoting prostitution, as provided in
24 Section 30-9-4 NMSA 1978, when there is a separate finding of
25 fact that the sex offender knew or should have known that the

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1 victim was younger than sixteen years of age;

2 (15) accepting earnings of a prostitute, as
3 provided in Section 30-9-4.1 NMSA 1978, when there is a
4 separate finding of fact that the sex offender knew or should
5 have known that the person engaged in prostitution was younger
6 than sixteen years of age;

7 (16) human trafficking, as provided in Section
8 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
9 younger than sixteen years of age;

10 (17) criminal sexual communication with a
11 child, as provided in Section 30-37-3.3 NMSA 1978;

12 [~~(13)~~] (18) attempt to commit any of the sex
13 offenses set forth in Paragraphs (1) through [~~(11)~~] (17) of
14 this subsection, as provided in Section 30-28-1 NMSA 1978;
15 [~~and~~] or

16 (19) conspiracy to commit any of the sex
17 offenses set forth on Paragraphs (1) through (17) of this
18 subsection, as provided in Section 30-28-2 NMSA 1978;

19 K. "sexually violent offense" means aggravated
20 criminal sexual penetration, criminal sexual penetration in the
21 first degree, criminal sexual penetration in the second degree
22 or criminal sexual penetration in the third degree;

23 [~~J.~~] L. "social networking site" means an internet
24 [~~web site~~] website that facilitates online social interaction
25 by offering a mechanism for communication with other users,

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1 where such users are likely to include a substantial number of
2 minors under the age of sixteen, and allowing users, through
3 the creation of web pages, profiles or other means, to provide
4 information about themselves that is available to the public or
5 to other users;

6 M. "tier 1 sex offense" means:

7 (1) enticement of child, as provided in
8 Section 30-9-1 NMSA 1978;

9 (2) sexual exploitation of children, as
10 provided in Subsection A of Section 30-6A-3 NMSA 1978;

11 (3) criminal sexual contact in the fourth
12 degree, as provided in Section 30-9-12 NMSA 1978;

13 (4) aggravated indecent exposure, as provided
14 in Section 30-9-14.3 NMSA 1978; or

15 (5) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (4) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978;

18 N. "tier 2 sex offense" means:

19 (1) sexual exploitation of children, as
20 provided in Section 30-6A-3 NMSA 1978;

21 (2) sexual exploitation of children by
22 prostitution, as provided in Section 30-6A-4 NMSA 1978;

23 (3) false imprisonment, as provided in Section
24 30-4-3 NMSA 1978, committed with the intent to inflict a sex
25 offense;

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1 (4) patronizing prostitutes, as provided in
2 Subsection B of Section 30-9-3 NMSA 1978, when there is a
3 separate finding of fact that the sex offender knew or should
4 have known that the person believed to be a prostitute was
5 younger than sixteen years of age;

6 (5) promoting prostitution, as provided in
7 Section 30-9-4 NMSA 1978, when there is a separate finding of
8 fact that the sex offender knew or should have known that the
9 victim was younger than sixteen years of age;

10 (6) accepting earnings of a prostitute, as
11 provided in Section 30-9-4.1 NMSA 1978, when there is a
12 separate finding of fact that the sex offender knew or should
13 have known that the person engaged in prostitution was younger
14 than sixteen years of age;

15 (7) criminal sexual penetration in the fourth
16 degree, as provided in Section 30-9-11 NMSA 1978, when the
17 victim is sixteen years of age or older;

18 (8) criminal sexual contact of a minor, as
19 provided in Section 30-9-13 NMSA 1978, when the victim is
20 thirteen to eighteen years of age;

21 (9) incest, as provided in Section 30-10-3
22 NMSA 1978, when the victim is over sixteen but younger than
23 eighteen years of age;

24 (10) criminal sexual communication with a
25 child, as provided in Section 30-37-3.3 NMSA 1978;

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1 (11) human trafficking, as provided in Section
2 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
3 younger than sixteen years of age;

4 (12) child solicitation by electronic
5 communication device, as provided in Subsection C of Section
6 30-37-3.2 NMSA 1978;

7 (13) solicitation to commit criminal sexual
8 contact of a minor, as provided in Sections 30-9-13 and 30-28-3
9 NMSA 1978; or

10 (14) attempt to commit any of the sex offenses
11 set forth in Paragraph (1) through (13) of this subsection, as
12 provided in Section 30-28-1 NMSA 1978; and

13 0. "tier 3 sex offense" means:

14 (1) kidnapping, as provided in Section 30-4-1
15 NMSA 1978, when committed with intent to inflict a sex offense
16 and when the victim is younger than eighteen years of age;

17 (2) aggravated criminal sexual penetration or
18 criminal sexual penetration in the first, second or third
19 degree, as provided in Section 30-9-11 NMSA 1978;

20 (3) criminal sexual penetration in the fourth
21 degree as provided in Section 30-9-11 NMSA 1978, when the
22 victim is younger than sixteen years of age;

23 (4) criminal sexual contact of a minor, as
24 provided in Section 30-9-13 NMSA 1978, when the victim is
25 younger than thirteen years of age;

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1 (5) incest, as provided in Section 30-10-3
2 NMSA 1978, when the victim is younger than sixteen years of
3 age; or

4 (6) attempt to commit any of the sex offenses
5 set forth in Paragraphs (1) through (5) of this subsection, as
6 provided in Section 30-28-1 NMSA 1978."

7 **SECTION 3.** Section 29-11A-4 NMSA 1978 (being Laws 1995,
8 Chapter 106, Section 4, as amended) is amended to read:

9 "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION
10 REQUIRED--VERIFICATION--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

11 A. A sex offender residing in this state shall
12 register with the county sheriff for the county in which the
13 sex offender resides.

14 B. A juvenile sex offender shall register with the
15 children, youth and families department within three business
16 days of release into the community after an adjudication for a
17 sexually violent offense.

18 ~~[B.]~~ C. A sex offender who is a resident of New
19 Mexico shall initially register in person with the county
20 sheriff no later than ~~[five]~~ three business days after being
21 released from the custody of the corrections department, a
22 municipal or county jail or a federal, military or tribal
23 correctional facility or detention center or being placed on
24 probation or parole. A sex offender who changes residence to
25 New Mexico shall register with the county sheriff no later than

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1 [five] three business days after arrival in this state. When a
2 sex offender initially registers with the county sheriff, the
3 sex offender shall provide the following registration
4 information:

- 5 (1) the sex offender's legal name and any
6 other names or aliases that the sex offender is using or has
7 used;
- 8 (2) the sex offender's date of birth;
- 9 (3) the sex offender's social security number;
- 10 (4) the sex offender's current physical and
11 mailing address and the address of every place where the sex
12 offender habitually lives;
- 13 (5) the sex offender's place of employment;
- 14 (6) the sex offense for which the sex offender
15 was convicted;
- 16 (7) the date and place of the sex offense
17 conviction;
- 18 (8) the sex offender's names, email addresses
19 and monikers and other self-identifiers used on social
20 networking sites, to be used only for law enforcement purposes;
- 21 (9) the sex offender's landline and cellular
22 telephone numbers and any other telephone numbers primarily
23 used by the sex offender;
- 24 (10) the sex offender's professional licenses;
- 25 (11) the license plate or other identifier and

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1 the description of any vehicle owned or primarily operated by
2 the sex offender, including aircraft and watercraft;

3 (12) the name and address of any school or
4 institution of higher education that the sex offender is
5 attending; and

6 (13) copies of the sex offender's passport and
7 immigration documents.

8 ~~[C.]~~ D. A sex offender who is a resident of another
9 state but who is employed in New Mexico or attending public or
10 private school or an institution of higher education in New
11 Mexico shall register in person with the county sheriff for the
12 county in which the sex offender is working or attending school
13 or an institution of higher education within three business
14 days of beginning work or attending school in New Mexico.

15 ~~[D.]~~ E. A sex offender who is a resident of another
16 state but who is employed in New Mexico or attending public or
17 private school or an institution of higher education in New
18 Mexico shall register in person with the county sheriff no
19 later than ~~[five]~~ three business days after beginning work or
20 school. When the sex offender registers with the county
21 sheriff, the sex offender shall provide the following
22 registration information:

23 (1) the sex offender's legal name and any
24 other names or aliases that the sex offender is using or has
25 used;

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- 1 (2) the sex offender's date of birth;
- 2 (3) the sex offender's social security number;
- 3 (4) the sex offender's current physical and
- 4 mailing address in the sex offender's state of residence and,
- 5 if applicable, the address of the sex offender's place of
- 6 lodging in New Mexico while working or attending school or an
- 7 institution of higher education;
- 8 (5) the sex offender's place of employment or
- 9 the name of the school the sex offender is attending;
- 10 (6) the sex offense for which the sex offender
- 11 was convicted; and
- 12 (7) the date and place of the sex offense
- 13 conviction.

14 ~~[E-]~~ F. When a sex offender registers in person

15 with a county sheriff, the sheriff shall obtain:

- 16 (1) a photograph of the sex offender and a
- 17 complete set of the sex offender's fingerprints and a palm
- 18 print;
- 19 (2) a physical description, including a
- 20 description of any tattoos, scars or other distinguishing
- 21 features on the sex offender's body that would assist in
- 22 identifying the sex offender; and
- 23 (3) a DNA sample for inclusion in the sex
- 24 offender DNA identification system pursuant to the provisions
- 25 of the DNA Identification Act.

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1 ~~[F.]~~ G. When a sex offender who is registered
2 changes any information required under this section, the sex
3 offender shall immediately send written notice of the change on
4 a form approved by the department to the county sheriff. [~~no~~
5 ~~later than five business days after the change occurs.~~

6 ~~G.]~~ H. When a sex offender who is registered
7 changes residence to a new county in New Mexico, the sex
8 offender shall register in person with the county sheriff of
9 the new county no later than [~~five~~] three business days after
10 establishing the new residence. The sex offender shall also
11 send written notice of the change in residence to the county
12 sheriff with whom the sex offender last registered no later
13 than [~~five~~] three business days after establishing the new
14 residence.

15 ~~[H.]~~ I. When a sex offender who is registered or
16 required to register is homeless or does not have an
17 established residence, but lives in a shelter, halfway house or
18 transitional living facility or stays in multiple locations in
19 New Mexico, the sex offender shall register each address or
20 temporary location with the county sheriff for each county in
21 which the sex offender is living or temporarily located. The
22 sex offender shall register in person no later than [~~five~~]
23 three business days after a change in living arrangements or
24 temporary location.

25 ~~[I.]~~ J. When a sex offender who is registered or

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1 required to register is employed, begins a vocation or is
2 enrolled as a student at an institution of higher education in
3 New Mexico, the sex offender shall disclose the sex offender's
4 status as a sex offender in writing to the county sheriff for
5 the county in which the institution of higher education is
6 located, the law enforcement entity responsible for the
7 institution of higher education and the registrar for the
8 institution of higher education no later than ~~[five]~~ three
9 business days after beginning employment, beginning a vocation
10 or enrolling at the institution of higher education. The sex
11 offender shall also send written notice of any change regarding
12 employment, vocation or enrollment status at an institution of
13 higher education to the county sheriff, the law enforcement
14 entity and the registrar no later than ~~[five]~~ three business
15 days after the change in employment, vocation or enrollment
16 status.

17 ~~[J.]~~ K. When a sex offender who is registered or
18 required to register is employed or is enrolled as a student at
19 a public or private school in New Mexico, the sex offender
20 shall disclose the sex offender's status as a sex offender in
21 writing to the county sheriff for the county in which the
22 school is located and to the principal of the school no later
23 than ~~[five]~~ three business days after beginning employment or
24 enrolling at the school. The sex offender shall also send
25 written notice of any change regarding employment or enrollment

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1 status at a school to the county sheriff and the principal no
2 later than [~~five~~] three business days after the change in
3 employment or enrollment status.

4 [~~K.~~] L. When a sex offender who is registered or
5 required to register is employed, begins a vocation or
6 volunteers services, regardless of whether the sex offender
7 receives payment or other compensation, the sex offender shall
8 disclose the sex offender's status as a sex offender in writing
9 to the sex offender's employer, supervisor or person similarly
10 situated. The written disclosure shall be made immediately
11 upon beginning employment, vocation or volunteer service.

12 [~~L.~~] M. Following initial registration pursuant to
13 the provisions of this section:

14 (1) a sex offender [~~required to register~~
15 ~~pursuant to the provisions of Subsection D of Section 29-11A-5~~
16 ~~NMSA 1978~~] convicted of a tier 3 sex offense shall verify
17 registration information with the county sheriff as provided in
18 Subsection [~~N~~] Q of this section not less than once in each
19 ninety-day period following the date of the sex offender's
20 initial registration for the remainder of the sex offender's
21 natural life;

22 (2) a sex offender [~~required to register~~
23 ~~pursuant to the provisions of Subsection E of Section 29-11A-5~~
24 ~~NMSA 1978~~] convicted of a tier 2 sex offense shall verify
25 registration information with the [~~county sheriff~~] department

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1 as provided in Subsection ~~[N]~~ Q of this section once every six
2 months for a period of ~~[ten]~~ twenty-five years ~~[and]~~ from the
3 date of initial registration;

4 (3) a sex offender convicted of a tier 1 sex
5 offense shall annually verify registration information with the
6 department as provided in Subsection O of this section prior to
7 December 31 of each subsequent calendar year for a period of
8 fifteen years from the date of initial registration;

9 (4) a sex offender required to register for
10 the remainder of the sex offender's natural life as the result
11 of an out-of-state conviction shall verify registration
12 information with the department as provided in Subsection O of
13 this section not less than once in each ninety-day period for
14 the remainder of the sex offender's natural life;

15 ~~[(3)]~~ (5) an out-of-state registrant shall
16 verify registration information with the ~~[county sheriff]~~
17 department as provided in Subsection O of the section for
18 ~~[whichever is the longer of: (a)]~~ the duration of time
19 remaining in the registrant's convicting jurisdiction and at
20 the same frequency as required in that state or territory, but
21 no less than once every six months ~~[or~~

22 ~~(b) the duration of time remaining that~~
23 ~~would be required for the equivalent offense in New Mexico];~~
24 and

25 (6) a juvenile sex offender's obligation to

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1 register shall extend until the offender attains twenty-one
2 years of age or until the juvenile offender is released from
3 supervision by the children, youth and families department.

4 ~~[M.]~~ N. Notwithstanding the provisions of
5 ~~[Paragraph (2) of Subsection L]~~ Paragraphs (2) and (3) of
6 Subsection M of this section, if a sex offender is convicted a
7 second or subsequent time for a sex offense, ~~[set forth in~~
8 ~~Subsection E of Section 29-11A-5 NMSA 1978]~~ the sex offender
9 shall verify registration information with the ~~[county sheriff]~~
10 department as provided in Subsection ~~[N]~~ O of this section not
11 less than once in each ninety-day period following the date of
12 the sex offender's initial registration for the remainder of
13 the sex offender's natural life.

14 ~~[N.]~~ O. At least fifteen days prior to the time a
15 sex offender is required to verify registration information,
16 the department shall send a verification form to the sex
17 offender, by first class mail, containing the sex offender's
18 current registration information and a notice of the date that
19 the sex offender's next verification is due. The sex offender
20 shall appear in person at a location designated by the
21 department to verify the information contained on the form, to
22 change the information as necessary and to sign a statement
23 under oath that the information is true and correct. The
24 department may photograph the sex offender at that time if the
25 sex offender's appearance is significantly different from the

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1 photograph already contained in the sex offender's file. If a
2 sex offender does not receive a verification form before the
3 time that the sex offender is required to verify registration
4 pursuant to Subsection ~~[L]~~ M of this section, the sex offender
5 shall appear at a location designated by the department to
6 verify registration information as required by this section. A
7 sex offender shall be relieved of the in-person verification
8 requirements of this subsection if the sex offender is confined
9 to a hospice facility or skilled nursing home.

10 ~~[O. The department shall establish a secure system~~
11 ~~that will permit a sex offender to notify the department~~
12 ~~electronically of any change in registration information.]~~ P.
13 A sex offender shall appear in person to notify the county
14 sheriff in the county where the sex offender resides no later
15 than three days after a sex offender's change of name, change
16 of residence, change of employment or change in student status.

17 ~~[P.]~~ Q. A sex offender who willfully or knowingly
18 fails to comply with the registration or verification
19 requirements set forth in this section is guilty of a fourth
20 degree felony and shall be sentenced pursuant to the provisions
21 of Section 31-18-15 NMSA 1978. A sex offender who willfully or
22 knowingly fails to comply with the registration or verification
23 requirements set forth in this section after a first or
24 subsequent conviction for a violation pursuant to this section
25 is guilty of a third degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978. The
2 willful failure to comply with any registration or verification
3 requirement set forth in this section shall be deemed part of a
4 continuing transaction or occurrence. A conviction pursuant to
5 this subsection shall not be considered a felony for purposes
6 of the imposition of sentencing enhancements pursuant to the
7 provisions of Section 31-18-17 NMSA 1978.

8 ~~[Q-]~~ R. A sex offender who willfully or knowingly
9 provides false information when complying with the registration
10 or verification requirements set forth in this section is
11 guilty of a fourth degree felony and shall be sentenced
12 pursuant to the provisions of Section 31-18-15 NMSA 1978. A
13 sex offender who willfully or knowingly provides false
14 information when complying with the registration or
15 verification requirements set forth in this section after a
16 first or subsequent conviction for a violation pursuant to this
17 section is guilty of a third degree felony and shall be
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA
19 1978. The willful providing by a sex offender of false
20 information with respect to the registration or verification
21 requirements set forth in this section shall be deemed part of
22 a continuing transaction or occurrence. A conviction pursuant
23 to this subsection shall not be considered a felony for
24 purposes of the imposition of sentencing enhancements pursuant
25 to the provisions of Section 31-18-17 NMSA 1978."

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1 SECTION 4. Section 29-11A-4.1 NMSA 1978 (being Laws 2000,
2 Chapter 8, Section 6, as amended) is amended to read:

3 "29-11A-4.1. PROCEDURES WHEN A SEX OFFENDER MOVES FROM
4 NEW MEXICO TO ANOTHER STATE.--

5 A. If a sex offender intends to move from New
6 Mexico to another state, no later than thirty days prior to
7 moving to the other state, ~~[he]~~ the sex offender shall:

8 (1) notify the county sheriff of the county
9 ~~[he]~~ the sex offender resides in that ~~[he]~~ the sex offender is
10 moving to the other state; and

11 (2) provide the county sheriff with a written
12 notice that identifies the state to which the sex offender is
13 moving.

14 B. Within five days of receiving a sex offender's
15 written notice of intent to move to another state, the county
16 sheriff shall transmit that information to the department of
17 public safety. Within five days of receiving that information
18 from a county sheriff, the department shall contact the state
19 agency responsible for registering sex offenders in the state
20 to which the sex offender is moving. The department shall
21 provide that state agency with registration information
22 regarding the sex offender. The department shall also obtain
23 information regarding registration requirements for sex
24 offenders in the state to which the sex offender is moving.
25 The department shall provide the sex offender with written

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1 notification of the registration requirements in the state to
2 which the sex offender is moving.

3 C. A sex offender who willfully fails to comply
4 with the requirements set forth in this section is guilty of a
5 fourth degree felony and shall be sentenced pursuant to the
6 provisions of Section 31-18-15 NMSA 1978."

7 SECTION 5. Section 29-11A-5 NMSA 1978 (being Laws 1995,
8 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,
9 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended
10 to read:

11 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
12 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
13 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

14 A. A county sheriff shall maintain a local registry
15 of sex offenders in the sheriff's jurisdiction required to
16 register pursuant to the provisions of the Sex Offender
17 Registration and Notification Act.

18 B. The county sheriff shall forward:

19 (1) registration information obtained from sex
20 offenders to the department of public safety. The initial
21 registration information and any new registration information
22 subsequently obtained from a sex offender shall be forwarded by
23 the county sheriff no later than ten working days after the
24 information is obtained from a sex offender. If the department
25 of public safety receives information regarding a sex offender

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1 from a governmental entity other than a county sheriff, the
2 department shall send that information to the sheriff for the
3 county in which the sex offender resides; and

4 (2) samples of DNA obtained from sex offenders
5 to the administrative center for the sex offender DNA
6 identification system pursuant to the provisions of the DNA
7 Identification Act.

8 C. The department of public safety shall maintain a
9 central registry of sex offenders required to register pursuant
10 to the provisions of the Sex Offender Registration and
11 Notification Act. The department shall participate in the
12 national sex offender registry administered by the United
13 States department of justice. The department shall send
14 conviction information and fingerprints for all sex offenders
15 registered in New Mexico to the national sex offender registry
16 administered by the United States department of justice and to
17 the federal bureau of investigation.

18 D. The department [~~of public safety~~] shall retain
19 registration information regarding a sex offender convicted
20 [~~for any of the following sex offenses for the entirety~~] of a
21 tier 3 sex offense for the remainder of the sex offender's
22 natural life.

23 [~~(1) aggravated criminal sexual penetration or~~
24 ~~criminal sexual penetration in the first, second or third~~
25 ~~degree, as provided in Section 30-9-11 NMSA 1978;~~

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1 ~~(2) criminal sexual contact of a minor in the~~
2 ~~second, third or fourth degree, as provided in Section~~
3 ~~30-9-13 NMSA 1978;~~

4 ~~(3) sexual exploitation of children, as~~
5 ~~provided in Section 30-6A-3 NMSA 1978;~~

6 ~~(4) kidnapping, as provided in Section~~
7 ~~30-4-1 NMSA 1978, when the victim is less than eighteen years~~
8 ~~of age and the offender is not a parent of the victim;~~

9 ~~(5) criminal sexual contact in the fourth~~
10 ~~degree, as provided in Section 30-9-12 NMSA 1978; or~~

11 ~~(6) attempt to commit any of the sex offenses~~
12 ~~set forth in Paragraphs (1) through (5) of this subsection, as~~
13 ~~provided in Section 30-28-1 NMSA 1978]~~

14 E. The department of public safety shall retain
15 registration information regarding a sex offender convicted
16 [for the following offenses] of a tier 2 sex offense for a
17 period of [~~ten~~] twenty-five years following the latest of the
18 sex offender's conviction, release from prison or release from
19 probation or parole. [~~whichever occurs later:~~

20 ~~(1) criminal sexual penetration in the fourth~~
21 ~~degree, as provided in Section 30-9-11 NMSA 1978;~~

22 ~~(2) sexual exploitation of children by~~
23 ~~prostitution, as provided in Section 30-6A-4 NMSA 1978;~~

24 ~~(3) false imprisonment, as provided in Section~~
25 ~~30-4-3 NMSA 1978, when the victim is less than eighteen years~~

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1 ~~of age and the offender is not a parent of the victim;~~

2 ~~(4) aggravated indecent exposure, as provided~~
3 ~~in Section 30-9-14.3 NMSA 1978;~~

4 ~~(5) enticement of child, as provided in~~
5 ~~Section 30-9-1 NMSA 1978;~~

6 ~~(6) incest, as provided in Section 30-10-3~~
7 ~~NMSA 1978, when the victim is less than eighteen years of age;~~

8 ~~(7) solicitation to commit criminal sexual~~
9 ~~contact of a minor in the second, third or fourth degree, as~~
10 ~~provided in Sections 30-9-13 and 30-28-3 NMSA 1978;~~

11 ~~(8) child solicitation by electronic~~
12 ~~communication device, as provided in Section 30-37-3.2 NMSA~~
13 ~~1978; or~~

14 ~~(9) attempt to commit any of the sex offenses~~
15 ~~set forth in Paragraphs (1) through (6) of this subsection, as~~
16 ~~provided in Section 30-28-1 NMSA 1978.]~~

17 F. The department shall retain registration
18 information regarding a sex offender convicted of a tier 1 sex
19 offense for a period of fifteen years following the latest of a
20 sex offender's conviction, release from prison or release from
21 probation or parole.

22 G. The children, youth, and families department
23 shall retain registration information regarding a juvenile sex
24 offender until the juvenile sex offender attains twenty-one
25 years of age, at which time the children, youth and families

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1 department shall notify the department of public safety that
2 the registration period of the juvenile sex offender has
3 expired. Within ten days of receiving the notice, the
4 department of public safety shall remove all information
5 regarding the juvenile sex offender from the department's
6 database of sex offenders and remove or cause to be removed all
7 information entered by any governmental entity in the state of
8 New Mexico from all law enforcement databases.

9 [F-] H. Notwithstanding the provisions of
10 Subsection E of this section, if a sex offender is convicted a
11 second or subsequent time for a sex offense set forth in that
12 subsection, the department of public safety shall retain
13 information regarding the sex offender for the entirety of the
14 sex offender's natural life.

15 [G-] I. The department of public safety shall adopt
16 rules necessary to carry out the provisions of the Sex Offender
17 Registration and Notification Act. Rules necessary for the
18 collection of DNA samples and the administration and operation
19 of the sex offender DNA identification system shall be adopted
20 by the DNA identification system oversight committee pursuant
21 to the provisions of the DNA Identification Act."

22 SECTION 6. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
23 Chapter 19, Section 8, as amended) is amended to read:

24 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
25 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY

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1 NOTIFICATION--INTERNET [~~WEB SITE~~] WEBSITE.--

2 A. If a sex offender is convicted of [~~one of the~~
3 ~~following sex offenses~~] a tier 2 or tier 3 sex offense or
4 required to register as a lifetime sex offender as a result of
5 an out-of-state conviction, the county sheriff shall forward
6 registration information obtained from the sex offender to the
7 district attorney for the judicial district in which the sex
8 offender resides and, if the sex offender is a resident of a
9 municipality, the chief law enforcement officer for the
10 municipality in which the sex offender resides.

11 [~~(1) aggravated criminal sexual penetration or~~
12 ~~criminal sexual penetration in the first, second or third~~
13 ~~degree, as provided in Section 30-9-11 NMSA 1978;~~

14 [~~(2) criminal sexual contact of a minor in the~~
15 ~~second, third or fourth degree, as provided in Section~~
16 ~~30-9-13 NMSA 1978;~~

17 [~~(3) sexual exploitation of children, as~~
18 ~~provided in Section 30-6A-3 NMSA 1978;~~

19 [~~(4) sexual exploitation of children by~~
20 ~~prostitution, as provided in Section 30-6A-4 NMSA 1978; or~~

21 [~~(5) attempt to commit any of the sex offenses~~
22 ~~set forth in Paragraphs (1) through (4) of this subsection, as~~
23 ~~provided in Section 30-28-1 NMSA 1978.]~~

24 B. A person who wants to obtain registration
25 information regarding sex offenders described in Subsection A

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1 of this section may request that information from the:

2 (1) sheriff for the county in which the sex
3 offenders reside;

4 (2) chief law enforcement officer for the
5 municipality in which the sex offenders reside;

6 (3) district attorney for the judicial
7 district in which the sex offenders reside; or

8 (4) secretary of public safety.

9 C. Upon receiving a request for registration
10 information regarding sex offenders described in Subsection A
11 of this section, the county sheriff, chief municipal law
12 enforcement officer, district attorney or secretary of public
13 safety shall provide that registration information, with the
14 exception of a sex offender's social security number and DNA
15 information, within a reasonable period of time, and no later
16 than seven days after receiving the request.

17 D. Within seven days of receiving registration
18 information from a sex offender described in Subsection A of
19 this section, the county sheriff shall contact every licensed
20 daycare center, elementary school, middle school and high
21 school within a one-mile radius of the sex offender's residence
22 and provide them with the sex offender's registration
23 information, with the exception of the sex offender's social
24 security number and DNA information.

25 E. The department shall establish and manage an

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1 internet [~~web site~~] website that provides the public with
2 registration information regarding sex offenders described in
3 Subsection A of this section, except that the department shall
4 not provide registration information on the internet [~~web site~~]
5 website regarding a sex offender who was less than eighteen
6 years of age when the sex offender committed the sex offense
7 for which the sex offender was convicted as a youthful
8 offender, as provided in Section 32A-2-3 NMSA 1978, unless at
9 the time of sentencing, the court made a finding that the sex
10 offender is not amenable to treatment and is a danger to the
11 community. The registration information provided to the public
12 pursuant to this subsection shall not include a sex offender's
13 social security number or DNA information [~~or the identity of a~~
14 ~~sex offender's place of employment, unless the sex offender's~~
15 ~~employment requires the sex offender to have direct contact~~
16 ~~with children~~]. The internet [~~web site~~] website shall provide
17 only the following registration information:

18 (1) the sex offender's legal name and any
19 other names or aliases that the sex offender is using or has
20 used;

21 (2) the sex offender's current address and the
22 address of every place where the sex offender habitually lives;

23 (3) [~~if the sex offender's employment involves~~
24 ~~direct contact with children~~] the sex offender's place of
25 employment;

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1 (4) the sex offenses for which the sex
2 offender has been convicted;

3 (5) a photograph of the sex offender;

4 (6) the sex offender's date of birth;

5 (7) a physical description, including a
6 description of any tattoos, scars or other distinguishing
7 features on the sex offender's body that would assist in
8 identifying the sex offender; and

9 (8) a link that will pinpoint the location of
10 the sex offender's place of employment if the sex offender has
11 direct contact with children."

12 SECTION 7. Section 29-11A-7 NMSA 1978 (being Laws 1995,
13 Chapter 106, Section 7, as amended) is amended to read:

14 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO REGISTER.--

15 A. A court shall provide a sex offender convicted
16 in that court with written notice of [~~his~~] the sex offender's
17 duty to register pursuant to the provisions of the Sex Offender
18 Registration and Notification Act. The written notice shall be
19 included in judgment and sentence forms provided to the sex
20 offender. The written notice shall inform the sex offender
21 that [~~he~~] the sex offender is required to:

22 (1) register with the county sheriff for the
23 county in which the sex offender will reside or, if the sex
24 offender will not have an established residence, with the
25 county sheriff for each county in which the sex offender will

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1 live or be temporarily located pursuant to the provisions of
2 the Sex Offender Registration and Notification Act;

3 (2) report subsequent changes of address
4 pursuant to the provisions of the Sex Offender Registration and
5 Notification Act;

6 (3) notify the county sheriff of the county
7 ~~[he]~~ the sex offender resides in if the sex offender intends to
8 move to another state and that the sex offender is required to
9 register in the other state pursuant to the provisions of the
10 Sex Offender Registration and Notification Act;

11 (4) disclose ~~[his]~~ the sex offender's status
12 as a sex offender in writing when ~~[he]~~ the sex offender begins
13 employment, begins a vocation or enrolls as a student at an
14 institution of higher education in New Mexico to the county
15 sheriff for the county in which the institution of higher
16 education is located and to the law enforcement entity and
17 registrar for the institution of higher education pursuant to
18 the provisions of the Sex Offender Registration and
19 Notification Act;

20 (5) provide written notice of any change
21 regarding ~~[his]~~ the sex offender's employment, vocation or
22 enrollment status at an institution of higher education to the
23 county sheriff, the law enforcement entity and the registrar
24 pursuant to the provisions of the Sex Offender Registration and
25 Notification Act;

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1 (6) disclose [~~his~~] the sex offender's status
2 as a sex offender in writing, when [~~he~~] the sex offender
3 enrolls as a student at a private or public school in New
4 Mexico, to the county sheriff for the county in which the
5 school is located and to the principal of the school pursuant
6 to the provisions of the Sex Offender Registration and
7 Notification Act;

8 (7) provide written notice of any change
9 regarding [~~his~~] the sex offender's enrollment status at a
10 public or private school in New Mexico to the county sheriff
11 and the principal of the school pursuant to the provisions of
12 the Sex Offender Registration and Notification Act;

13 (8) disclose [~~his~~] the sex offender's status
14 as a sex offender in writing to [~~his~~] the sex offender's
15 employer, supervisor or other person similarly situated when
16 [~~he~~] the sex offender begins employment, begins a vocation or
17 volunteers [~~his~~] the sex offender's services, regardless of
18 whether the sex offender receives payment or other
19 compensation, pursuant to the provisions of the Sex Offender
20 Registration and Notification Act; and

21 (9) read and sign a form that indicates that
22 the sex offender has received the written notice and that a
23 responsible court official, designated by the chief judge for
24 that judicial district, has explained the written notice to the
25 sex offender.

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1 B. The corrections department, a municipal or
2 county jail or a detention center, at the time of release of a
3 sex offender in its custody, shall provide a written notice to
4 the sex offender of [~~his~~] the sex offender's duty to register,
5 pursuant to the provisions of the Sex Offender Registration and
6 Notification Act. The written notice shall inform the sex
7 offender that [~~he~~] the sex offender is required to:

8 (1) register with the county sheriff for the
9 county in which the sex offender will reside or, if the sex
10 offender will not have an established residence, with the
11 county sheriff for each county in which the sex offender will
12 live or be temporarily located pursuant to the provisions of
13 the Sex Offender Registration and Notification Act;

14 (2) report subsequent changes of address
15 pursuant to the provisions of the Sex Offender Registration and
16 Notification Act;

17 (3) notify the county sheriff of the county
18 [~~he~~] the sex offender resides in if the sex offender intends to
19 move to another state and that the sex offender is required to
20 register in the other state pursuant to the provisions of the
21 Sex Offender Registration and Notification Act;

22 (4) disclose [~~his~~] the sex offender's status
23 as a sex offender in writing when [~~he~~] the sex offender begins
24 employment, begins a vocation or enrolls as a student at an
25 institution of higher education in New Mexico to the county

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1 sheriff for the county in which the institution of higher
2 education is located and to the law enforcement entity and
3 registrar for the institution of higher education pursuant to
4 the provisions of the Sex Offender Registration and
5 Notification Act;

6 (5) provide written notice of any change
7 regarding [~~his~~] the sex offender's employment, vocation or
8 enrollment status at an institution of higher education to the
9 county sheriff, the law enforcement entity and the registrar
10 pursuant to the provisions of the Sex Offender Registration and
11 Notification Act;

12 (6) disclose [~~his~~] the sex offender's status
13 as a sex offender in writing, when [~~he~~] the sex offender
14 enrolls as a student at a private or public school in New
15 Mexico, to the county sheriff for the county in which the
16 school is located and to the principal of the school pursuant
17 to the provisions of the Sex Offender Registration and
18 Notification Act;

19 (7) provide written notice of any change
20 regarding [~~his~~] the sex offender's enrollment status at a
21 public or private school in New Mexico to the county sheriff
22 and the principal of the school pursuant to the provisions of
23 the Sex Offender Registration and Notification Act;

24 (8) disclose [~~his~~] the sex offender's status
25 as a sex offender in writing to [~~his~~] the sex offender's

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1 employer, supervisor or other person similarly situated when
2 [he] the sex offender begins employment, begins a vocation or
3 volunteers [~~his~~] the sex offender's services, regardless of
4 whether the sex offender receives payment or other
5 compensation, pursuant to the provisions of the Sex Offender
6 Registration and Notification Act; and

7 (9) read and sign a form that indicates that
8 the sex offender has received the written notice and that a
9 responsible corrections department official, designated by the
10 secretary of corrections, or a responsible municipal or county
11 jail official or detention center official has explained the
12 written notice to the sex offender.

13 C. A court, the corrections department, a municipal
14 or county jail or a detention center shall also provide written
15 notification regarding a sex offender's release to the sheriff
16 of the county in which the sex offender is released and to the
17 department of public safety.

18 D. The department of public safety, at the time it
19 is notified by officials from another state that a sex offender
20 will be establishing residence in New Mexico, shall provide
21 written notice to the sex offender of [~~his~~] the sex offender's
22 duty to register pursuant to the provisions of the Sex Offender
23 Registration and Notification Act."

24 SECTION 8. APPLICABILITY.--The provisions of this act
25 apply to any person convicted of a sex offense on or after July

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