

underscored material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 468

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES THAT ARE SEX OFFENSES; INCREASING REGISTRATION REQUIREMENTS FOR SEX OFFENDERS; INCREASING PENALTIES FOR SEX OFFENDERS WHO WILLFULLY PROVIDE FALSE INFORMATION WHEN COMPLYING WITH REGISTRATION REQUIREMENTS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; REPEALING LAWS 1999, CHAPTER 19, SECTION 11 REGARDING APPLICATION OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.

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

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

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

A. "sex offender" means a person eighteen years of age or older who:

.131778.2

underscoring material = new
~~[bracketed material] = delete~~

1 (1) ~~[who]~~ is a resident of New Mexico who is
2 convicted of a sex offense in New Mexico;

3 (2) ~~[who]~~ changes his residence to New
4 Mexico, when that person has been convicted of a sex offense
5 in another state pursuant to state, federal or military law;

6 (3) ~~[who]~~ is a resident of New Mexico who is
7 convicted of a sex offense pursuant to federal or military
8 law; or

9 (4) ~~[who]~~ is a resident of another state and
10 who has been convicted of a sex offense pursuant to state,
11 federal or military law, but who is ~~[employed in New Mexico~~
12 ~~or attends school in New Mexico; and]~~:

13 (a) employed full time or part time in
14 New Mexico for a period of time exceeding fourteen days or
15 for an aggregate period of time exceeding thirty days during
16 any calendar year; or

17 (b) enrolled on a full-time or part-
18 time basis in a private or public school in New Mexico,
19 including a secondary school, a trade school, a professional
20 institution or an institution of higher education; and

21 B. "sex offense" means:

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

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

(3) criminal sexual contact of a minor in

underscoring material = new
[bracketed material] = delete

1 the third or fourth degree, as provided in Section 30-9-13
2 NMSA 1978;

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

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

8 (6) kidnapping, as provided in Section 30-4-
9 1 NMSA 1978, with intent to inflict a sex offense set forth
10 in Paragraphs (1) through (5) of this subsection on the
11 victim and when the victim is less than eighteen years of age
12 and the offender is not a parent of the victim;

13 (7) false imprisonment, as provided in
14 Section 30-4-3 NMSA 1978, with intent to inflict a sex
15 offense set forth in Paragraphs (1) through (5) of this
16 subsection on the victim and when the victim is less than
17 eighteen years of age and the offender is not a parent of the
18 victim;

19 [~~6~~] (8) solicitation to commit criminal
20 sexual contact of a minor in the third or fourth degree, as
21 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

22 [~~7~~] (9) attempt to commit any of the sex
23 offenses set forth in Paragraphs (1) through [~~5~~] (7) of
24 this subsection, as provided in Section 30-28-1 NMSA 1978."

25 Section 2. Section 29-11A-4 NMSA 1978 (being Laws 1995,
Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION

.131778.2

underscoring material = new
~~[bracketed material] = delete~~

1 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

2 A. A sex offender residing in this state shall
3 register with the county sheriff for the county in which the
4 sex offender resides.

5 B. A sex offender who is a current resident of New
6 Mexico shall register with the county sheriff no later than
7 ten days after being released from the custody of the
8 corrections department or being placed on probation or
9 parole. A sex offender who changes his residence to New
10 Mexico shall register with the county sheriff no later than
11 ten days after establishing residence in this state. When a
12 sex offender registers with the county sheriff, he shall
13 provide the following information:

- 14 (1) his legal name and any other names or
- 15 aliases that he is using or has used;
- 16 (2) his date of birth;
- 17 (3) his social security number;
- 18 (4) his current address;
- 19 (5) his place of employment;
- 20 (6) the sex offense for which he was
- 21 convicted; and
- 22 (7) the date and place of his sex offense
- 23 conviction.

24 C. A sex offender who is a resident of another
25 state but who is employed in New Mexico or attending school
in New Mexico shall register with the county sheriff for the
county in which the sex offender is working or attending

.131778.2

underscoring material = new
~~[bracketed material] = delete~~

1 school.

2 D. A sex offender who is a resident of another
3 state but who is employed in New Mexico or attending school
4 in New Mexico shall register with the county sheriff no later
5 than ten days after beginning work or school. When the sex
6 offender registers with the county sheriff, he shall provide
7 the following information:

8 (1) his legal name and any other names or
9 aliases that he is using or has used;

10 (2) his date of birth;

11 (3) his social security number;

12 (4) his current address in his state of
13 residence and, if applicable, the address of his place of
14 lodging in New Mexico while he is working or attending
15 school;

16 (5) his place of employment or the name of
17 the school he is attending;

18 (6) the sex offense for which he was
19 convicted; and

20 (7) the date and place of his sex offense
21 conviction.

22 E. When a sex offender registers with a county
23 sheriff, the sheriff shall obtain:

24 (1) a photograph of the sex offender and a
25 complete set of the sex offender's fingerprints; and

(2) a description of any tattoos, scars or
other distinguishing features on the sex offender's body that

underscored material = new
~~[bracketed material] = delete~~

1 would assist in identifying the sex offender.

2 F. When a sex offender who is registered changes
3 his residence within the same county, the sex offender shall
4 send written notice of his change of address to the county
5 sheriff no later than ten days after establishing his new
6 residence.

7 G. When a sex offender who is registered changes
8 his residence to a new county in New Mexico, the sex offender
9 shall register with the county sheriff of the new county no
10 later than ten days after establishing his new residence.
11 The sex offender shall also send written notice of the change
12 in residence to the county sheriff with whom he last
13 registered no later than ten days after establishing his new
14 residence.

15 H. Following his initial registration pursuant to
16 the provisions of this section:

17 (1) a sex offender required to register
18 pursuant to the provisions of Subsection D of Section 29-11A-
19 5 NMSA 1978 shall annually renew his registration with the
20 county sheriff prior to December 31 of each subsequent
21 calendar year for a period of twenty years; and

22 (2) a sex offender required to register
23 pursuant to the provisions of Subsection E of Section 29-11A-
24 5 NMSA 1978 shall annually renew his registration with the
25 county sheriff prior to December 31 of each subsequent
calendar year for a period of ten years.

I. A sex offender who willfully fails to comply

underscoring material = new
~~[bracketed material] = delete~~

1 with the registration requirements set forth in this section
2 is guilty of a misdemeanor and shall be punished by
3 imprisonment for a definite term less than one year or a fine
4 of not more than one thousand dollars (\$1,000) or both.

5 J. A sex offender who willfully provides false
6 information when complying with the registration requirements
7 set forth in this section is guilty of a ~~[misdemeanor and~~
8 ~~shall be punished by imprisonment for a definite term less~~
9 ~~than one year or a fine of not more than one thousand dollars~~
10 ~~(\$1,000) or both] fourth degree felony and shall be sentenced~~
11 pursuant to the provisions of Section 31-18-15 NMSA 1978."

12 Section 3. Section 29-11A-5 NMSA 1978 (being Laws 1995,
13 Chapter 106, Section 5, as amended) is amended to read:

14 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
15 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION
16 IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

17 A. A county sheriff shall maintain a local
18 registry of sex offenders in his jurisdiction required to
19 register pursuant to the provisions of the Sex Offender
20 Registration and Notification Act.

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

underscoring material = new
~~[bracketed material] = delete~~

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

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

15 D. The department of public safety shall retain
16 registration information regarding sex offenders convicted
17 for the following sex offenses for a period of twenty years
18 following the sex offender's conviction, release from prison
19 or release from probation or parole, whichever occurs later:

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

22 (2) criminal sexual contact of a minor in
23 the third degree, as provided in Section 30-9-13 NMSA 1978;

24 (3) sexual exploitation of children, as
25 provided in Subsection A, B or C of Section 30-6A-3 NMSA
1978; ~~[or]~~

(4) kidnapping, as provided in Section 30-4-

underscoring material = new
~~[bracketed material] = delete~~

1 1 NMSA 1978, with intent to inflict a sex offense set forth
2 in Paragraphs (1) through (5) of Subsection B of Section 29-
3 11A-3 NMSA 1978 on the victim and when the victim is less
4 than eighteen years of age and the offender is not a parent
5 of the victim; or

6 [~~4~~] (5) attempt to commit any of the sex
7 offenses set forth in Paragraphs (1) through [~~3~~] (4) of
8 this subsection, as provided in Section 30-28-1 NMSA 1978.

9 E. The department of public safety shall retain
10 registration information regarding sex offenders convicted
11 for the following offenses for a period of ten years
12 following the sex offender's conviction, release from prison
13 or release from probation or parole, whichever occurs later:

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

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

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

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

22 (5) false imprisonment, as provided in
23 Section 30-4-3 NMSA 1978, with intent to inflict a sex
24 offense set forth in Paragraphs (1) through (5) of
25 Subsections B of Section 29-11A-3 NMSA 1978 on the victim and
when the victim is less than eighteen years of age and the
offender is not a parent of the victim;

underscored material = new
~~[bracketed material] = delete~~

1 [~~(5)~~] (6) solicitation to commit criminal
2 sexual contact of a minor in the third or fourth degree, as
3 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

4 [~~(6)~~] (7) attempt to commit any of the sex
5 offenses set forth in Paragraphs (1) through [~~(4)~~] (5) of
6 this subsection, as provided in Section 30-28-1 NMSA 1978.

7 F. The department of public safety shall adopt
8 rules necessary to carry out the provisions of the Sex
9 Offender Registration and Notification Act."

10 Section 4. Section 29-11A-5.1 NMSA 1978 (being Laws
11 1999, Chapter 19, Section 8) is amended to read:

12 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
13 CERTAIN REGISTERED SEX OFFENDERS.--

14 A. If a sex offender is convicted of one of the
15 following sex offenses, the county sheriff shall forward
16 registration information obtained from the sex offender to
17 the district attorney for the judicial district in which the
18 sex offender resides and, if the sex offender is a resident
19 of a municipality, the chief law enforcement officer for the
20 municipality in which the sex offender resides:

21 (1) criminal sexual penetration in the first
22 or second degree, as provided in Section 30-9-11 NMSA 1978;

23 (2) criminal sexual contact of a minor in
24 the third or fourth degree, as provided in Section 30-9-13
25 NMSA 1978;

 (3) sexual exploitation of children, as
provided in Subsection A, B or C of Section 30-6A-3 NMSA

underscoring material = new
~~[bracketed material] = delete~~

1 1978;

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

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

7 B. A person who wants to obtain registration
8 information regarding [~~a sex offender~~] sex offenders
9 described in Subsection A of this section may request that
10 information from the:

11 (1) county sheriff for the county in which
12 the sex [~~offender resides~~] offenders reside;

13 (2) chief law enforcement officer for the
14 municipality in which the sex [~~offender resides~~] offenders
15 reside;

16 (3) district attorney for the judicial
17 district in which the sex [~~offender resides~~] offenders
18 reside; or

19 (4) secretary of public safety.

20 C. All requests for registration information
21 regarding a sex offender described in Subsection A of this
22 section are subject to the provisions of the Inspection of
23 Public Records Act."

24 Section 5. Section 29-11A-7 NMSA 1978 (being Laws 1995,
25 Chapter 106, Section 7, as amended) is amended to read:

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

underscoring material = new
~~[bracketed material] = delete~~

1 A. A court shall provide a sex offender convicted
2 in that court with written notice of his duty to register
3 pursuant to the provisions of the Sex Offender Registration
4 and Notification Act. The written notice shall be included
5 in judgment and sentence forms provided to the sex offender.
6 The written notice shall inform the sex offender that he is
7 required:

8 (1) to register with the county sheriff for
9 the county in which the sex offender will reside, pursuant to
10 the provisions of the Sex Offender Registration and
11 Notification Act;

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

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

20 (4) to read and sign a form that indicates
21 that the sex offender has received the written notice and
22 that a responsible court official has explained the written
23 notice to the sex offender.

24 B. The corrections department, at the time of
25 release of a sex offender in the department's custody, shall
provide a written ~~[notification]~~ notice to the sex offender
of his duty to register pursuant to the provisions of the Sex

underscoring material = new
~~[bracketed material] = delete~~

1 Offender Registration and Notification Act. The written
2 notice shall inform the sex offender that he is required:
3 (1) to register with the county sheriff for
4 the county in which the sex offender will reside, pursuant to
5 the provisions of the Sex Offender Registration and
6 Notification Act;
7 (2) to report subsequent changes of address
8 pursuant to the provisions of the Sex Offender Registration
9 and Notification Act;
10 (3) to notify the county sheriff of the
11 county he resides in if the sex offender intends to move to
12 another state and that the sex offender is required to
13 register in the other state, pursuant to the provisions of
14 the Sex Offender Registration and Notification Act; and
15 (4) to read and sign a form that indicates
16 that the sex offender has received the written notice and
17 that a responsible corrections department official has
18 explained the written notice to the sex offender.
19 C. A court or the corrections department shall
20 also provide written notification regarding a sex offender's
21 release to the sheriff of the county in which the sex
22 offender is released and to the department of public safety.
23 [E.] D. The department of public safety, at the
24 time it is notified by officials from another state that a
25 sex offender will be establishing residence in New Mexico,
shall provide written [notification] notice to the sex
offender of his duty to register pursuant to the provisions

underscored material = new
[bracketed material] = delete

1 of the Sex Offender Registration and Notification Act."

2 Section 6. A new section of the Sex Offender
3 Registration and Notification Act is enacted to read:

4 "[NEW MATERIAL] PROCEDURES WHEN A SEX OFFENDER MOVES
5 FROM NEW MEXICO TO ANOTHER STATE.--

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

9 (1) notify the county sheriff of the county
10 he resides in that he is moving to the other state; and

11 (2) provide the county sheriff with a
12 written notice that identifies the state to which the sex
13 offender is 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
18 information from a county sheriff, the department shall
19 contact the state agency responsible for registering sex
20 offenders in the state to which the sex offender is moving.
21 The department shall provide that state agency with
22 registration information regarding the sex offender. The
23 department shall also obtain information regarding
24 registration requirements for sex offenders in the state to
25 which the sex offender is moving. The department shall
provide the sex offender with written notification of the
registration requirements in the state to which the sex

.131778.2

underscored material = new
~~[bracketed material] = delete~~

1 offender is moving.

2 C. A sex offender who willfully fails to comply
3 with the requirements set forth in this section is guilty of
4 a
5 misdemeanor and shall be punished by imprisonment for a
6 definite term less than one year or a fine of not more than
7 one thousand dollars (\$1,000) or both."

8 Section 7. REPEAL.--Laws 1999, Chapter 19, Section 11
9 is repealed.

10 Section 8. SEVERABILITY.--If any part or application of
11 the Sex Offender Registration and Notification Act is held
12 invalid, the remainder or its application to other situations
13 or persons shall not be affected.

14 Section 9. APPLICABILITY.--The provisions of this 2000
15 version of the Sex Offender Registration and Notification Act
16 apply to persons convicted of a sex offense on or after July
17 1, 1995.

18 Section 10. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2000.