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HOUSE BILL 332

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Daniel Foley

AN ACT

**RELATING TO LAW ENFORCEMENT; REVISING THE DEFINITIONS FOR SEX
OFFENDER AND SEX OFFENSE; LENGTHENING REGISTRATION PERIODS FOR
SEX OFFENDERS; REQUIRING A SEX OFFENDER TO PROVIDE ADDITIONAL
REGISTRATION INFORMATION; AMENDING SECTIONS 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:**

**(1) is a resident of New Mexico who is
convicted of a sex offense in New Mexico;**

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

4 (3) is a resident of New Mexico who is
5 convicted of a sex offense pursuant to federal or military
6 law; or

7 (4) is a resident of another state and who
8 has been convicted of a sex offense pursuant to state, federal
9 or military law, but who is:

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

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

18 B. "sex offense" means:

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

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

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

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1 1978;

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

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

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

10 (7) false imprisonment, as provided in
11 Section 30-4-3 NMSA 1978, when the victim is less than
12 eighteen years of age and the offender is not a parent of the
13 victim;

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

16 (9) enticement of a child, as provided in
17 Section 30-9-1 NMSA 1978;

18 [~~(8)~~] (10) solicitation to commit criminal
19 sexual contact of a minor in the third or fourth degree, as
20 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

21 [~~(9)~~] (11) attempt to commit any of the sex
22 offenses set forth in Paragraphs (1) through [~~(7)~~] (8) of this
23 subsection, as provided in Section 30-28-1 NMSA 1978. "

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

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1 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
2 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

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

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

- 15 (1) his legal name and any other names or
- 16 aliases that he is using or has used;
- 17 (2) his date of birth;
- 18 (3) his social security number;
- 19 (4) proof of his current address;
- 20 (5) his place of employment;
- 21 (6) motor vehicle registration information
- 22 for all motor vehicles that the sex offender owns;
- 23 [~~(6)~~] (7) the sex offense for which he was
- 24 convicted; and
- 25 [~~(7)~~] (8) the date and place of his sex

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1 offense conviction.

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

7 D. A sex offender who is a resident of another
8 state but who is employed in New Mexico or attending school in
9 New Mexico shall register with the county sheriff no later
10 than ten days after beginning work or school. When the sex
11 offender registers with the county sheriff, he shall provide
12 the following registration information:

- 13 (1) his legal name and any other names or
14 aliases that he is using or has used;
- 15 (2) his date of birth;
- 16 (3) his social security number;
- 17 (4) proof of his current address in his state
18 of residence and, if applicable, proof of the address of his
19 place of lodging in New Mexico while he is working or
20 attending school;
- 21 (5) his place of employment or the name of
22 the school he is attending;
- 23 (6) motor vehicle registration information
24 for all motor vehicles that the sex offender owns;
- 25 [~~(6)~~] (7) the sex offense for which he was

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1 convicted; and

2 [(7)] (8) the date and place of his sex
3 offense conviction.

4 E. When a sex offender registers with a county
5 sheriff, the sheriff shall obtain:

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

8 (2) a description of any tattoos, scars or
9 other distinguishing features on the sex offender's body that
10 would assist in identifying the sex offender.

11 F. When a sex offender who is registered changes
12 his residence within the same county, the sex offender shall
13 send written notice of his change of address, including proof
14 of his new address, to the county sheriff no later than ten
15 days after establishing his new residence.

16 G. When a sex offender who is registered changes
17 his residence to a new county in New Mexico, the sex offender
18 shall register with the county sheriff of the new county no
19 later than ten days after establishing his new residence. The
20 sex offender shall also send written notice of the change in
21 residence to the county sheriff with whom he last registered
22 no later than ten days after establishing his new residence.

23 H. Following his initial registration pursuant to
24 the provisions of this section:

25 (1) a sex offender required to register

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1 pursuant to the provisions of Subsection D of Section
2 29-11A-5 NMSA 1978 shall [~~annually~~] renew his registration
3 with the county sheriff [~~prior to December 31 of each~~
4 ~~subsequent calendar year for a period of twenty years~~] not
5 less than once in each ninety-day period following the sex
6 offender's initial registration, for the entirety of his
7 natural life; and

8 (2) a sex offender required to register
9 pursuant to the provisions of Subsection E of Section
10 29-11A-5 NMSA 1978 shall annually renew his registration with
11 the county sheriff prior to December 31 of each subsequent
12 calendar year for a period of [~~ten~~] twenty years.

13 I. Notwithstanding the provisions of Paragraph (2)
14 of Subsection H of this section, a sex offender who is
15 convicted a second or subsequent time for a sex offense set
16 forth in Subsection E of Section 29-11A-5 NMSA 1978 shall be
17 required to renew his registration with the county sheriff not
18 less than once in each ninety-day period following the date of
19 his initial registration, for the entirety of his natural
20 life.

21 [~~I.~~] J. A sex offender who willfully fails to
22 comply with the registration requirements set forth in this
23 section is guilty of a fourth degree felony and shall be
24 sentenced pursuant to the provisions of Section 31-18-15 NMSA
25 1978.

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1 [~~J-~~] K. A sex offender who willfully provides
2 false information when complying with the registration
3 requirements set forth in this section is guilty of a fourth
4 degree felony and shall be sentenced pursuant to the
5 provisions of Section 31-18-15 NMSA 1978. "

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

8 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
9 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION
10 IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

11 A. A county sheriff shall maintain a local
12 registry of sex offenders in his jurisdiction required to
13 register pursuant to the provisions of the Sex Offender
14 Registration and Notification Act.

15 B. The county sheriff shall forward registration
16 information obtained from sex offenders to the department of
17 public safety. The initial registration information and any
18 new registration information subsequently obtained from a sex
19 offender shall be forwarded by the county sheriff no later
20 than ten working days after the information is obtained from a
21 sex offender. If the department of public safety receives
22 information regarding a sex offender from a governmental
23 entity other than a county sheriff, the department shall send
24 that information to the county sheriff for the county in which
25 the sex offender resides.

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

11 D. The department of public safety shall retain
12 registration information regarding sex offenders convicted for
13 the following sex offenses for ~~[a period of twenty years~~
14 ~~following the sex offender's conviction, release from prison~~
15 ~~or release from probation or parole, whichever occurs later]~~
16 the entirety of the sex offender's natural life:

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

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

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

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1 (4) kidnapping, as provided in Section
2 30-4-1 NMSA 1978, when the victim is less than eighteen years
3 of age and the offender is not a parent of the victim; ~~[or]~~

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

6 ~~[(5)]~~ (6) attempt to commit any of the sex
7 offenses set forth in Paragraphs (1) through ~~[(4)]~~ (5) of this
8 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 for
11 the following offenses for a period of ~~[ten]~~ twenty 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 the~~
19 ~~fourth degree, as provided in Section 30-9-13 NMSA 1978;~~

20 ~~(4)]~~ (2) sexual exploitation of children by
21 prostitution, as provided in Section 30-6A-4 NMSA 1978;

22 ~~[(5)]~~ (3) false imprisonment, as provided in
23 Section 30-4-3 NMSA 1978, when the victim is less than
24 eighteen years of age and the offender is not a parent of the
25 victim;

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

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

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

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

11 F. Notwithstanding the provisions of Subsection E
12 of this section, when a sex offender is convicted a second or
13 subsequent time for a sex offense set forth in that
14 subsection, the department of public safety shall retain
15 registration information regarding the sex offender for the
16 entirety of the sex offender's natural life.

17 [~~F.~~] G. The department of public safety shall
18 adopt rules necessary to carry out the provisions of the Sex
19 Offender Registration and Notification Act. "

20 Section 4. Section 29-11A-5.1 NMSA 1978 (being Laws
21 1999, Chapter 19, Section 8, as amended) is amended to read:

22 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
23 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
24 NOTIFICATION--INTERNET WEB SITE. --

25 A. If a sex offender is convicted of one of the

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1 following sex offenses, the county sheriff shall forward
2 registration information obtained from the sex offender to the
3 district attorney for the judicial district in which the sex
4 offender resides and, if the sex offender is a resident of a
5 municipality, the chief law enforcement officer for the
6 municipality in which the sex offender resides:

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

10 (2) criminal sexual contact of a minor in the
11 third or fourth degree, as provided in Section 30-9-13 NMSA
12 1978;

13 (3) sexual exploitation of children, as
14 provided in Subsection [~~A, B or C~~] B, C or D of Section
15 30-6A-3 NMSA 1978;

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

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

21 B. A person who wants to obtain registration
22 information regarding sex offenders described in Subsection A
23 of this section may request that information from the:

24 (1) county sheriff for the county in which
25 the sex offenders reside;

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

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

5 (4) secretary of public safety.

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

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

22 E. The department of public safety may establish
23 and manage an internet web site that provides the public with
24 registration information regarding sex offenders described in
25 Subsection A of this section. The registration information

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1 provided to the public pursuant to this subsection shall not
2 include a sex offender's social security number or a sex
3 offender's place of employment, unless the sex offender's
4 employment requires him to have direct contact with children."

5 Section 5. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2002.

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