

HOUSE BILL 446

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Yvette Herrell

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; PROVIDING FOR THREE TIERS OF SEX OFFENSES AND REGISTRATION PERIODS; INCREASING REGISTRATION PERIODS; REQUIRING REGISTRATION AND NOTIFICATION FOR ADDITIONAL SEX OFFENSES; INCLUDING ADDITIONAL OFFENDERS ON THE SEX OFFENDER INTERNET WEB SITE; REQUIRING REGISTRATION WITHIN THREE DAYS; REQUIRING ADDITIONAL INFORMATION UPON REGISTRATION; EXPANDING THE DEFINITION OF "SEX OFFENDER"; PROVIDING FOR INFORMATION AVAILABLE ON THE SEX OFFENDER INTERNET WEB SITE; APPLYING THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT TO ALL OFFENDERS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2007.

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 by Laws 2007, Chapter 68,

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1 Section 1 and by Laws 2007, Chapter 69, Section 5) is amended
2 to read:

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

5 A. "conviction" means a conviction in any court of
6 competent jurisdiction and includes a deferred sentence, but
7 does not include a conditional discharge;

8 B. "habitually lives" means any place where the sex
9 offender lives for at least thirty days in any three-hundred-
10 sixty-five-day period;

11 [~~B-~~] C. "institution of higher education" means a:

12 (1) private or public post-secondary
13 educational institution;

14 (2) trade school; or

15 (3) professional school;

16 [~~G-~~] D. "registration requirement" means any
17 requirement set forth in Section 29-11A-4 NMSA 1978 that
18 requires a sex offender to register, provide information,
19 including a DNA sample, renew, revise or change registration
20 information or provide written notice or disclosure regarding
21 the sex offender's status as a sex offender;

22 [~~D-~~] E. "sex offender" means a person who is
23 convicted of a sex offense pursuant to state, federal, tribal
24 or military law, or who is required to register as a sex
25 offender in any jurisdiction or to register pursuant to the law

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1 of a foreign nation about which the United States department of
2 state, in its country reports on human rights practices, has
3 concluded that the nation has an independent judiciary that
4 generally or vigorously enforced the right to a fair trial in
5 that nation during the year in which the conviction occurred,
6 and who:

7 (1) is a resident of New Mexico [~~who is~~
8 ~~convicted of a sex offense pursuant to state, federal, tribal~~
9 ~~or military law~~];

10 (2) changes residence to New Mexico [~~when that~~
11 ~~person has been convicted of a sex offense pursuant to state,~~
12 ~~federal, tribal or military law~~];

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

18 (4) is a resident of another state [~~and who~~
19 ~~has been convicted of a sex offense pursuant to state, federal,~~
20 ~~tribal or military law~~], but who is:

21 (a) employed full time or part time in
22 New Mexico for a period of time exceeding fourteen days or for
23 an aggregate period of time exceeding thirty days during any
24 calendar year, including any employment or vocation, whether
25 financially compensated, volunteered or for the purpose of

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1 government or educational benefit; or

2 (b) enrolled on a full-time or part-
3 time basis in a private or public school or an institution of
4 higher education in New Mexico; ~~and~~

5 ~~E.]~~ F. "sex offense" means any of the following
6 offenses or their equivalents in any other jurisdiction:

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

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

12 (3) criminal sexual contact of a minor in the
13 second, third or fourth degree, as provided in Section
14 30-9-13 NMSA 1978;

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

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

19 (6) kidnapping, as provided in Section 30-4-1
20 NMSA 1978, with intent to inflict a sexual offense, when the
21 victim is less than eighteen years of age ~~[and the offender is~~
22 ~~not a parent of the victim]~~;

23 (7) false imprisonment, as provided in Section
24 30-4-3 NMSA 1978, with intent to inflict a sexual offense, when
25 the victim is less than eighteen years of age ~~[and the offender~~

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1 ~~is not a parent of the victim];~~

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

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

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

8 (11) patronizing prostitutes, as provided in
9 Subsection B of Section 30-9-3 NMSA 1978, when the person
10 believed to be a prostitute is less than eighteen years of age;

11 (12) promoting prostitution, as provided in
12 Section 30-9-4 NMSA 1978, when the victim is less than eighteen
13 years of age;

14 (13) accepting earnings of a prostitute, as
15 provided in Section 30-9-4.1 NMSA 1978, from a person engaged
16 in prostitution who is less than eighteen years of age;

17 (14) voyeurism, as provided in Section 30-9-20
18 NMSA 1978;

19 (15) human trafficking, as provided in Section
20 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
21 under sixteen years of age;

22 (16) criminal sexual communication with a
23 child, as provided in Section 30-37-3.3 NMSA 1978;

24 [~~(11)~~] (17) child solicitation by electronic
25 communication device, as provided in Section 30-37-3.2 NMSA

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1 1978;

2 [~~(12)~~] (18) solicitation to commit criminal
3 sexual contact of a minor in the second, third or fourth
4 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;
5 [~~or~~

6 ~~(13)~~] (19) attempt to commit any of the sex
7 offenses set forth in Paragraphs (1) through [~~(10)~~] (16) of
8 this subsection, as provided in Section 30-28-1 NMSA 1978; or
9 (20) conspiracy to commit any of the sex
10 offenses set forth in Paragraphs (1) through (18) of this
11 subsection, as provided in Section 30-28-2 NMSA 1978;

12 G. "social networking site" means an internet web
13 site that facilitates online social interaction by offering a
14 mechanism for communication with other users, where such users
15 are likely to include a substantial number of minors under the
16 age of sixteen, and allowing users, through the creation of web
17 pages, profiles or other means, to provide information about
18 themselves that is available to the public or to other users;

19 H. "tier I sex offense" means any of the following
20 sex offenses or their equivalents in any other jurisdiction:

21 (1) false imprisonment, as provided in Section
22 30-4-3 NMSA 1978, with intent to inflict a sexual offense, when
23 the victim is less than eighteen years of age;

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

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1 (3) voyeurism, as provided in Section 30-9-20
2 NMSA 1978;

3 (4) attempt to commit any of the sex offenses
4 set forth in Paragraphs (1) through (3) of this subsection, as
5 provided in Section 30-28-1 NMSA 1978; or

6 (5) conspiracy to commit any of the sex
7 offenses set forth in Paragraphs (1) through (4) of this
8 subsection, as provided in Section 30-28-2 NMSA 1978;

9 I. "tier II sex offense" means any of the following
10 sex offenses or their equivalents in any other jurisdiction:

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

13 (2) patronizing prostitutes, as provided in
14 Subsection B of Section 30-9-3 NMSA 1978, when the person
15 believed to be a prostitute is under eighteen years of age;

16 (3) promoting prostitution, as provided in
17 Section 30-9-4 NMSA 1978, when the victim is under eighteen
18 years of age;

19 (4) accepting earnings of a prostitute, as
20 provided in Section 30-9-4.1 NMSA 1978, when the person engaged
21 in prostitution is under eighteen years of age;

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

24 (6) criminal sexual penetration in the fourth
25 degree, as provided in Section 30-9-11 NMSA 1978, when the

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1 victim is sixteen years of age or older;

2 (7) incest, as provided in Section 30-10-3
3 NMSA 1978, when the victim is sixteen years of age or older but
4 under eighteen years of age;

5 (8) criminal sexual communication with a
6 child, as provided in Section 30-37-3.3 NMSA 1978;

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

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

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

16 (12) attempt to commit any of the sex offenses
17 set forth in Paragraphs (1) through (9) of this subsection, as
18 provided in Section 30-28-1 NMSA 1978; or

19 (13) conspiracy to commit any of the sex
20 offenses set forth in Paragraphs (1) through (10) of this
21 subsection, as provided in Section 30-28-2 NMSA 1978; and

22 J. "tier III sex offense" means any of the
23 following sex offenses or their equivalents in any other
24 jurisdiction:

25 (1) kidnapping, as provided in Section 30-4-1

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1 NMSA 1978, with intent to inflict a sexual offense, when the
2 victim is less than eighteen years of age;

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

5 (3) aggravated criminal sexual penetration or
6 criminal sexual penetration in the first, second or third
7 degree, as provided in Section 30-9-11 NMSA 1978;

8 (4) criminal sexual penetration in the fourth
9 degree, as provided in Section 30-9-11 NMSA 1978, when the
10 victim is under sixteen years of age;

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

13 (6) criminal sexual contact of a minor, as
14 provided in Section 30-9-13 NMSA 1978;

15 (7) incest, as provided in Section 30-10-3
16 NMSA 1978, when the victim is under sixteen years of age;

17 (8) attempt to commit any of the sex offenses
18 set forth in Paragraphs (1) through (7) of this subsection, as
19 provided in Section 30-28-1 NMSA 1978; or

20 (9) conspiracy to commit any of the sex
21 offenses set forth in Paragraphs (1) through (7) of this
22 subsection, as provided in Section 30-28-2 NMSA 1978."

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

25 "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION

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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 resident of New Mexico
6 shall register with the county sheriff no later than [~~ten~~]
7 three days after being released from the custody of the
8 corrections department, a municipal or county jail or a
9 federal, military or tribal correctional facility or detention
10 center or being placed on probation or parole. A sex offender
11 who changes [~~his~~] residence to New Mexico shall register with
12 the county sheriff no later than [~~ten~~] three days after [~~his~~]
13 arrival in this state. When a sex offender registers with the
14 county sheriff, [~~he~~] the sex offender shall provide the
15 following registration information:

16 (1) [~~his~~] the sex offender's legal name and
17 any other names or aliases that [~~he~~] the sex offender is using
18 or has used;

19 (2) [~~his~~] the sex offender's date of birth;

20 (3) [~~his~~] the sex offender's social security
21 number;

22 (4) [~~his~~] the sex offender's current address
23 and the address of every place where the sex offender
24 habitually lives;

25 (5) [~~his~~] the name and address of the sex

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1 offender's place of employment;

2 (6) ~~[the sex]~~ every offense for which [he was]
3 the sex offender has been convicted; [and]

4 (7) the date and place of ~~[his sex offense]~~
5 every arrest or conviction;

6 (8) the sex offender's names, email addresses,
7 monikers or other self-identifiers used in internet
8 communications or postings or on social networking sites, to be
9 used only for law enforcement purposes;

10 (9) the sex offender's telephone numbers;

11 (10) the sex offender's professional licenses;

12 (11) the license plate or other identifier and
13 the description of any vehicle owned or primarily operated by
14 the sex offender, including aircraft and watercraft;

15 (12) the name and address of any school or
16 institution of higher education that the sex offender is
17 attending; and

18 (13) copies of the sex offender's passport and
19 immigration documents.

20 C. A sex offender who is a resident of another
21 state but who is employed in New Mexico or attending public or
22 private school or an institution of higher education in New
23 Mexico shall register with the county sheriff for the county in
24 which the sex offender is working or attending school or an
25 institution of higher education. ~~[D. A sex offender who is a~~

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1 ~~resident of another state but who is employed in New Mexico or~~
2 ~~attending public or private school or an institution of higher~~
3 ~~education in New Mexico]~~ The sex offender shall register [with
4 ~~the county sheriff]~~ no later than [~~ten~~] three days after
5 beginning work or school. When the sex offender registers with
6 the county sheriff, [~~he~~] the sex offender shall provide the
7 following registration information:

8 (1) [~~his~~] the sex offender's legal name and
9 any other names or aliases that [~~he~~] the sex offender is using
10 or has used;

11 (2) [~~his~~] the sex offender's date of birth;

12 (3) [~~his~~] the sex offender's social security
13 number;

14 (4) [~~his~~] the sex offender's current address
15 and the address of every place where the sex offender
16 habitually lives in [~~his~~] the sex offender's state of residence
17 and, if applicable, the address of [~~his~~] the sex offender's
18 place of lodging in New Mexico while [~~he is~~] working or
19 attending school or an institution of higher education;

20 [~~(5) his place of employment or the name of~~
21 ~~the school he is attending;~~

22 [~~(6) the sex offense for which he was~~
23 ~~convicted; and~~

24 [~~(7) the date and place of his sex offense~~
25 ~~conviction]~~

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1 (5) every offense for which the sex offender
2 has been convicted;

3 (6) the date and place of every arrest or
4 conviction;

5 (7) the sex offender's names, email addresses,
6 monikers or other self-identifiers used in internet
7 communications or postings or on social networking sites, to be
8 used only for law enforcement purposes;

9 (8) the sex offender's telephone numbers;

10 (9) the sex offender's professional licenses;

11 (10) the license plate or other identifier and
12 description of any vehicle owned or primarily operated by the
13 sex offender, including aircraft and watercraft;

14 (11) the name and address of the sex
15 offender's place of employment and any school or institution of
16 higher education that the sex offender is attending; and

17 (12) copies of the sex offender's passport and
18 immigration documents.

19 ~~[E-]~~ D. When a sex offender registers with a county
20 sheriff, the sheriff shall obtain:

21 (1) a photograph of the sex offender, ~~[and]~~ a
22 complete set of the sex offender's fingerprints and a palm
23 print on an annual basis;

24 (2) a physical description, including a
25 description of any tattoos, scars or other distinguishing

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1 features on the sex offender's body that would assist in
2 identifying the sex offender; and

3 (3) a DNA sample [~~of his DNA~~] for inclusion in
4 the sex offender DNA identification system pursuant to the
5 provisions of the DNA Identification Act.

6 [~~F.~~] E. When a sex offender who is registered
7 changes [~~his~~] residence within the same county, the sex
8 offender shall send written notice of [~~his~~] the change of
9 address to the county sheriff no later than [~~ten~~] three days
10 after establishing [~~his~~] the new residence.

11 [~~G.~~] F. When a sex offender who is registered
12 changes [~~his~~] residence to a new county in New Mexico, the sex
13 offender shall register with the county sheriff of the new
14 county no later than [~~ten~~] three days after establishing [~~his~~]
15 the new residence. The sex offender shall also send written
16 notice of the change in residence to the county sheriff with
17 whom [~~he~~] the sex offender last registered no later than [~~ten~~]
18 three days after establishing [~~his~~] the new residence.

19 [~~H.~~] G. When a sex offender who is registered or
20 required to register does not have an established residence,
21 but lives in a shelter, halfway house or transitional living
22 facility or stays in multiple locations in New Mexico, the sex
23 offender shall register with the county sheriff for each county
24 in which the sex offender is living or temporarily located.
25 The sex offender shall register no later than [~~ten~~] three days

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1 after a change in [~~his~~] living arrangements or temporary
2 location.

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

20 [~~J.~~] I. When a sex offender who is registered or
21 required to register is employed or is enrolled as a student at
22 a public or private school in New Mexico, the sex offender
23 shall disclose [~~his~~] the sex offender's status as a sex
24 offender in writing to the county sheriff for the county in
25 which the school is located and to the principal of the school

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1 no later than [~~ten~~] three days after beginning employment or
2 enrolling at the school. The sex offender shall also send
3 written notice of any change regarding [~~his~~] employment or
4 enrollment status at a school to the county sheriff and the
5 principal no later than [~~ten~~] three days after the change in
6 [~~his~~] employment or enrollment status.

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

16 [~~L.~~] K. Following [~~his~~] initial registration
17 pursuant to the provisions of this section:

18 (1) a sex offender [~~required to register~~
19 ~~pursuant to the provisions of Subsection D of Section 29-11A-5~~
20 ~~NMSA 1978~~] convicted of a tier III sex offense shall renew
21 [~~his~~] registration with the county sheriff not less than once
22 in each ninety-day period following the date of the sex
23 offender's initial registration for the [~~entirety~~] remainder of
24 [~~his~~] the sex offender's natural life; [~~and~~]

25 (2) a sex offender [~~required to register~~

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1 ~~pursuant to the provisions of Subsection E of Section 29-11A-5~~
2 ~~NMSA 1978~~ convicted of a tier II sex offense shall ~~[annually]~~
3 renew ~~[his]~~ registration with the county sheriff ~~[prior to~~
4 ~~December 31 of each subsequent calendar year]~~ every six months
5 for a period of ~~[ten]~~ twenty-five years; and

6 (3) a sex offender convicted of a tier I sex
7 offense shall annually renew registration with the county
8 sheriff prior to December 31 of each subsequent calendar year
9 for a period of fifteen years.

10 ~~[M.]~~ L. Notwithstanding the provisions of Paragraph
11 ~~(2) or (3)~~ of Subsection ~~[L]~~ K of this section, if a sex
12 offender is convicted a second or subsequent time for a sex
13 offense, ~~[set forth in Subsection E of Section 29-11A-5 NMSA~~
14 ~~1978, he]~~ the sex offender shall renew ~~[his]~~ registration with
15 the county sheriff not less than once in each ninety-day period
16 following the date of the sex offender's initial registration
17 for the ~~[entirety]~~ remainder of ~~[his]~~ the sex offender's
18 natural life.

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

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

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

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1 provisions of Section 31-18-17 NMSA 1978."

2 SECTION 3. Section 29-11A-5 NMSA 1978 (being Laws 1995,
3 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,
4 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended
5 to read:

6 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
7 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
8 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

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

13 B. The county sheriff shall forward:

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

24 (2) samples of DNA obtained from sex offenders
25 to the administrative center for the sex offender DNA

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1 identification system pursuant to the provisions of the DNA
2 Identification Act.

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

13 D. The department of public safety shall retain
14 registration information regarding a sex offender convicted
15 [~~for any of the following sex offenses~~] of a tier III sex
16 offense for the [~~entirety~~] remainder of the sex offender's
17 natural life.

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

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

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

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

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

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

9 E. The department of public safety shall retain
10 registration information regarding a sex offender convicted
11 [~~for the following offenses~~] of a tier II sex offense for a
12 period of [~~ten~~] twenty-five years following the sex offender's
13 conviction, release from prison or release from probation or
14 parole, whichever occurs later.

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

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

19 ~~(3) false imprisonment, as provided in Section~~
20 ~~30-4-3 NMSA 1978, when the victim is less than eighteen years~~
21 ~~of age and the offender is not a parent of the victim;~~

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

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

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

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

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

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

12 F. The department of public safety shall retain
13 registration information regarding a sex offender convicted of
14 a tier I sex offense for a period of fifteen years following
15 the sex offender's conviction, release from prison or release
16 from probation or parole, whichever occurs later.

17 [F.] G. Notwithstanding the provisions of
18 Subsection E or F of this section, if a sex offender is
19 convicted a second or subsequent time for a sex offense [~~set~~
20 ~~forth in that subsection~~], the department of public safety
21 shall retain information regarding the sex offender for the
22 [~~entirety~~] remainder of the sex offender's natural life.

23 [G.] H. The department of public safety shall adopt
24 rules necessary to carry out the provisions of the Sex Offender
25 Registration and Notification Act. Rules necessary for the

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1 collection of DNA samples and the administration and operation
2 of the sex offender DNA identification system shall be adopted
3 by the DNA identification system oversight committee pursuant
4 to the provisions of the DNA Identification Act."

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

7 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
8 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
9 NOTIFICATION--INTERNET WEB SITE.--

10 A. If a sex offender is convicted of [~~one of the~~
11 ~~following sex offenses~~] a tier II or a tier III sex offense,
12 the county sheriff shall forward registration information
13 obtained from the sex offender to the district attorney for the
14 judicial district in which the sex offender resides and, if the
15 sex offender is a resident of a municipality, the chief law
16 enforcement officer for the municipality in which the sex
17 offender resides.

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

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

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

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

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

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

9 (1) sheriff for the county in which the sex
10 offenders reside;

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

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

15 (4) secretary of public safety.

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

24 D. Within seven days of receiving registration
25 information from a sex offender described in Subsection A of

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1 this section, the county sheriff shall contact every licensed
2 daycare center, elementary school, middle school and high
3 school within a one-mile radius of the sex offender's residence
4 and provide them with the sex offender's registration
5 information, with the exception of the sex offender's social
6 security number and DNA information.

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

25 (1) the sex offender's legal name and any

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1 other names or aliases that the sex offender is using or has
2 used;

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

5 (3) the address of the sex offender's place of
6 employment, if the sex offender's employment requires the sex
7 offender to have direct contact with children;

8 (4) every sex offense for which the sex
9 offender has been convicted;

10 (5) the sex offender's professional licenses;

11 (6) the license plate or other identifier and
12 description of any vehicle owned or primarily operated by the
13 sex offender, including aircraft and watercraft;

14 (7) a photograph of the sex offender;

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

19 (9) the sex offender's date of birth."

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

22 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
23 REGISTER.--

24 A. A court shall provide a sex offender convicted
25 in that court with written notice of [~~his~~] the sex offender's

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1 duty to register pursuant to the provisions of the Sex Offender
2 Registration and Notification Act. The written notice shall be
3 included in judgment and sentence forms provided to the sex
4 offender. The written notice shall inform the sex offender
5 that [~~he~~] the sex offender is required to:

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

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

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

20 (4) disclose [~~his~~] the sex offender's status
21 as a sex offender in writing when [~~he~~] the sex offender begins
22 employment, begins a vocation or enrolls as a student at an
23 institution of higher education in New Mexico to the county
24 sheriff for the county in which the institution of higher
25 education is located and to the law enforcement entity and

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1 registrar for the institution of higher education pursuant to
2 the provisions of the Sex Offender Registration and
3 Notification Act;

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

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

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

22 (8) disclose [~~his~~] the sex offender's status
23 as a sex offender in writing to [~~his~~] the sex offender's
24 employer, supervisor or other person similarly situated when
25 [~~he~~] the sex offender begins employment, begins a vocation or

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1 volunteers [~~his~~] the sex offender's services, regardless of
2 whether the sex offender receives payment or other
3 compensation, pursuant to the provisions of the Sex Offender
4 Registration and Notification Act; and

5 (9) read and sign a form that indicates that
6 the sex offender has received the written notice and that a
7 responsible court official, designated by the chief judge for
8 that judicial district, has explained the written notice to the
9 sex offender.

10 B. The corrections department, a municipal or
11 county jail or a detention center, at the time of release of a
12 sex offender in its custody, shall provide a written notice to
13 the sex offender of [~~his~~] the sex offender's duty to register,
14 pursuant to the provisions of the Sex Offender Registration and
15 Notification Act. The written notice shall inform the sex
16 offender that [~~he~~] the sex offender is required to:

17 (1) register with the county sheriff for the
18 county in which the sex offender will reside or, if the sex
19 offender will not have an established residence, with the
20 county sheriff for each county in which the sex offender will
21 live or be temporarily located pursuant to the provisions of
22 the Sex Offender Registration and Notification Act;

23 (2) report subsequent changes of address
24 pursuant to the provisions of the Sex Offender Registration and
25 Notification Act;

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

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

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

21 (6) disclose [~~his~~] the sex offender's status
22 as a sex offender in writing, when [~~he~~] the sex offender
23 enrolls as a student at a private or public school in New
24 Mexico, to the county sheriff for the county in which the
25 school is located and to the principal of the school pursuant

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1 to the provisions of the Sex Offender Registration and
2 Notification Act;

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

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

16 (9) read and sign a form that indicates that
17 the sex offender has received the written notice and that a
18 responsible corrections department official, designated by the
19 secretary of corrections, or a responsible municipal or county
20 jail official or detention center official has explained the
21 written notice to the sex offender.

22 C. A court, the corrections department, a municipal
23 or county jail or a detention center shall also provide written
24 notification regarding a sex offender's release to the sheriff
25 of the county in which the sex offender is released and to the

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1 department of public safety.

2 D. The department of public safety, at the time it
3 is notified by officials from another state that a sex offender
4 will be establishing residence in New Mexico, shall provide
5 written notice to the sex offender of [~~his~~] the sex offender's
6 duty to register pursuant to the provisions of the Sex Offender
7 Registration and Notification Act.

8 E. The department of public safety shall implement
9 policies to ensure that sex offenders under its supervision are
10 notified of changed registration and reporting requirements
11 under the Sex Offender Registration and Notification Act. When
12 the act is amended, the department shall notify offenders under
13 its supervision of any new requirements on the following
14 schedule:

15 (1) for tier I sex offenders, within one year
16 of the effective date of the new requirements;

17 (2) for tier II sex offenders, within one
18 hundred eighty days of the effective date of the new
19 requirements; and

20 (3) for tier III sex offenders, within ninety
21 days of the effective date of the new requirements."

22 SECTION 6. APPLICABILITY.--All sex offenders, regardless
23 of the date of their conviction for a sex offense, are subject
24 to the requirements of the Sex Offender Registration and
25 Notification Act.

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SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.