

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES THAT ARE SEX OFFENSES; INCREASING PENALTIES FOR SEX OFFENDERS WHO FAIL TO COMPLY WITH REGISTRATION REQUIREMENTS; INCREASING REGISTRATION REQUIREMENTS FOR SEX OFFENDERS; AUTHORIZING ACTIVE COMMUNITY NOTIFICATION OF LICENSED DAYCARE CENTERS AND SCHOOLS; PROVIDING THE DEPARTMENT OF PUBLIC SAFETY WITH AUTHORITY TO ESTABLISH AN INTERNET WEB SITE REGARDING CERTAIN SEX OFFENDERS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; REPEALING LAWS 1999, CHAPTER 19, SECTION 11 REGARDING APPLICABILITY 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;

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

(3) is a resident of New Mexico who is convicted of a sex offense, pursuant to federal or military

law; or

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

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

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

B. "sex offense" means:

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

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

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

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

(6) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen

years of age and the offender is not a parent of the victim;

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

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

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

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 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

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

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

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

(2) his date of birth;

(3) his social security number;

(4) his current address;

(5) his place of employment;

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

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

C. A sex offender who is a resident of another 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 school.

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

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

(2) his date of birth;

(3) his social security number;

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

school;

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

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

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

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

(1) a photograph of the sex offender and a 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 would assist in identifying the sex offender.

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

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

H. Following his initial registration pursuant

to the provisions of this section:

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

(2) a sex offender required to register pursuant to the provisions of Subsection E of Section 29-11A-5 NMSA 1978 shall annually renew his registration with the 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 with the registration requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

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

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

A. A county sheriff shall maintain a local registry of sex offenders in his jurisdiction required to

register pursuant to the provisions of the Sex Offender Registration and Notification Act.

B. The county sheriff shall forward registration information obtained from sex offenders to the department of public safety. The initial registration information and any new registration information subsequently obtained from a sex 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 information regarding a sex offender from a governmental entity other than a county sheriff, the department shall send that information to the county sheriff for the county in which the sex offender resides.

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

D. The department of public safety shall retain registration information regarding sex offenders convicted for the following sex offenses for a period of twenty years following the sex offender's conviction, release from prison

or release from probation or parole, whichever occurs later:

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

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

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

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

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

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

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

(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 the fourth degree, as provided in Section 30-9-13 NMSA 1978;

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

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

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

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

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

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

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

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

(1) criminal sexual penetration in the

first or second degree, as provided in Section 30-9-11 NMSA 1978;

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

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

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

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

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

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

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

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

(4) secretary of public safety.

C. Upon receiving a request for registration information regarding sex offenders described in Subsection A of this section, the county sheriff, chief municipal law enforcement officer, district attorney or secretary of public safety shall provide that registration information,

with the exception of a sex offender's social security number, within a reasonable period of time, and no later than seven days after receiving the request.

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

E. The department of public safety may establish and manage an internet web site that provides the public with registration information regarding sex offenders described in Subsection A of this section. The registration information provided to the public pursuant to this subsection shall not include a sex offender's social security number or a sex offender's place of employment, unless the sex offender's employment requires him to have direct contact with children."

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

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

A. A court shall provide a sex offender convicted in that court with written notice of his duty to register pursuant to the provisions of the Sex Offender

Registration and Notification Act. The written notice shall be included in judgment and sentence forms provided to the sex offender. The written notice shall inform the sex offender that he is required:

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

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

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

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

B. The corrections department, at the time of release of a sex offender in the department's custody, shall provide a written notice to the sex offender of his duty to register, pursuant to the provisions of the Sex Offender Registration and Notification Act. The written notice shall inform the sex offender that he is required:

(1) to register with the county sheriff for

the county in which the sex offender will reside, pursuant to the provisions of the Sex Offender Registration and Notification Act;

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

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

(4) to read and sign a form that indicates that the sex offender has received the written notice and that a responsible corrections department official, designated by the secretary of corrections, has explained the written notice to the sex offender.

C. A court or the corrections department shall also provide written notification regarding a sex offender's release to the sheriff of the county in which the sex offender is released and to the department of public safety.

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

Section 6. A new section of the Sex Offender

Registration and Notification Act is enacted to read:

"PROCEDURES WHEN A SEX OFFENDER MOVES FROM NEW MEXICO TO ANOTHER STATE.--

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

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

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

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

C. A sex offender who willfully fails to comply with the requirements set forth in this section is guilty of

