

1 AN ACT
2 RELATING TO SEX OFFENDERS; CREATING A NEW CRIME OF AGGRAVATED
3 CRIMINAL SEXUAL PENETRATION; INCREASING PENALTIES FOR SEX
4 OFFENSES AGAINST MINORS; RESPONDING TO JESSICA'S LAW;
5 IMPOSING LIFETIME PAROLE SUPERVISION FOR CERTAIN SEX
6 OFFENDERS; CLARIFYING STANDARD OF PROOF; CLARIFYING
7 DEFINITIONS; INCREASING PERIOD OF PAROLE FOR CRIMINAL SEXUAL
8 CONTACT OF A MINOR IN THE FOURTH DEGREE.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 Section 1. Section 30-9-11 NMSA 1978 (being Laws 1975,
12 Chapter 109, Section 2, as amended) is amended to read:

13 "30-9-11. CRIMINAL SEXUAL PENETRATION.--

14 A. Criminal sexual penetration is the unlawful
15 and intentional causing of a person to engage in sexual
16 intercourse, cunnilingus, fellatio or anal intercourse or the
17 causing of penetration, to any extent and with any object, of
18 the genital or anal openings of another, whether or not there
19 is any emission.

20 B. Criminal sexual penetration does not include
21 medically indicated procedures.

22 C. Aggravated criminal sexual penetration consists
23 of all criminal sexual penetration perpetrated on a child
24 under nine years of age with an intent to kill or with a
25 depraved mind regardless of human life. Whoever commits

1 aggravated criminal sexual penetration is guilty of a first
2 degree felony for aggravated criminal sexual penetration.

3 D. Criminal sexual penetration in the first degree
4 consists of all criminal sexual penetration perpetrated:

5 (1) on a child under thirteen years of age;

6 or

7 (2) by the use of force or coercion that
8 results in great bodily harm or great mental anguish to the
9 victim.

10 Whoever commits criminal sexual penetration in the first
11 degree is guilty of a first degree felony.

12 E. Criminal sexual penetration in the second
13 degree consists of all criminal sexual penetration
14 perpetrated:

15 (1) by the use of force or coercion on a
16 child thirteen to eighteen years of age;

17 (2) on an inmate confined in a correctional
18 facility or jail when the perpetrator is in a position of
19 authority over the inmate;

20 (3) by the use of force or coercion that
21 results in personal injury to the victim;

22 (4) by the use of force or coercion when the
23 perpetrator is aided or abetted by one or more persons;

24 (5) in the commission of any other felony;

25 or

1 (6) when the perpetrator is armed with a
2 deadly weapon.

3 Whoever commits criminal sexual penetration in the
4 second degree is guilty of a second degree felony. Whoever
5 commits criminal sexual penetration in the second degree when
6 the victim is a child who is thirteen to eighteen years of
7 age is guilty of a second degree felony for a sexual offense
8 against a child and, notwithstanding the provisions of
9 Section 31-18-15 NMSA 1978, shall be sentenced to a minimum
10 term of imprisonment of three years, which shall not be
11 suspended or deferred. The imposition of a minimum,
12 mandatory term of imprisonment pursuant to the provisions of
13 this subsection shall not be interpreted to preclude the
14 imposition of sentencing enhancements pursuant to the
15 provisions of the Criminal Sentencing Act.

16 F. Criminal sexual penetration in the third degree
17 consists of all criminal sexual penetration perpetrated
18 through the use of force or coercion not otherwise specified
19 in this section.

20 Whoever commits criminal sexual penetration in the third
21 degree is guilty of a third degree felony.

22 G. Criminal sexual penetration in the fourth
23 degree consists of all criminal sexual penetration:

24 (1) not defined in Subsections D through F
25 of this section perpetrated on a child thirteen to sixteen

1 years of age when the perpetrator is at least eighteen years
2 of age and is at least four years older than the child and
3 not the spouse of that child; or

4 (2) perpetrated on a child thirteen to
5 eighteen years of age when the perpetrator, who is a licensed
6 school employee, an unlicensed school employee, a school
7 contract employee, a school health service provider or a
8 school volunteer, and who is at least eighteen years of age
9 and is at least four years older than the child and not the
10 spouse of that child, learns while performing services in or
11 for a school that the child is a student in a school.

12 Whoever commits criminal sexual penetration in the
13 fourth degree is guilty of a fourth degree felony."

14 Section 2. Section 31-18-15 NMSA 1978 (being Laws 1977,
15 Chapter 216, Section 4, as amended) is amended to read:

16 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
17 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
18 DEDUCTIONS.--

19 A. If a person is convicted of a noncapital
20 felony, the basic sentence of imprisonment is as follows:

21 (1) for a first degree felony resulting in
22 the death of a child, life imprisonment;

23 (2) for a first degree felony for aggravated
24 criminal sexual penetration, life imprisonment;

25 (3) for a first degree felony, eighteen

1 years imprisonment;

2 (4) for a second degree felony resulting in
3 the death of a human being, fifteen years imprisonment;

4 (5) for a second degree felony for a sexual
5 offense against a child, fifteen years imprisonment;

6 (6) for a second degree felony, nine years
7 imprisonment;

8 (7) for a third degree felony resulting in
9 the death of a human being, six years imprisonment;

10 (8) for a third degree felony for a sexual
11 offense against a child, six years imprisonment;

12 (9) for a third degree felony, three years
13 imprisonment; or

14 (10) for a fourth degree felony, eighteen
15 months imprisonment.

16 B. The appropriate basic sentence of imprisonment
17 shall be imposed upon a person convicted and sentenced
18 pursuant to Subsection A of this section, unless the court
19 alters the sentence pursuant to the provisions of the
20 Criminal Sentencing Act.

21 C. The court shall include in the judgment and
22 sentence of each person convicted and sentenced to
23 imprisonment in a corrections facility designated by the
24 corrections department authority for a period of parole to be
25 served in accordance with the provisions of Section 31-21-10

1 NMSA 1978 after the completion of any actual time of
2 imprisonment and authority to require, as a condition of
3 parole, the payment of the costs of parole services and
4 reimbursement to a law enforcement agency or local crime
5 stopper program in accordance with the provisions of that
6 section. The period of parole shall be deemed to be part of
7 the sentence of the convicted person in addition to the basic
8 sentence imposed pursuant to Subsection A of this section
9 together with alterations, if any, pursuant to the provisions
10 of the Criminal Sentencing Act.

11 D. When a court imposes a sentence of imprisonment
12 pursuant to the provisions of Section 31-18-15.1, 31-18-16,
13 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the
14 basic sentence of imprisonment provided pursuant to the
15 provisions of Subsection A of this section, the period of
16 parole shall be served in accordance with the provisions of
17 Section 31-21-10 NMSA 1978 for the degree of felony for the
18 basic sentence for which the inmate was convicted. For the
19 purpose of designating a period of parole, a court shall not
20 consider that the basic sentence of imprisonment was
21 suspended or deferred and that the inmate served a period of
22 imprisonment pursuant to the provisions of the Criminal
23 Sentencing Act.

24 E. The court may, in addition to the imposition of
25 a basic sentence of imprisonment, impose a fine not to

1 exceed:

2 (1) for a first degree felony resulting in
3 the death of a child, seventeen thousand five hundred dollars
4 (\$17,500);

5 (2) for a first degree felony for aggravated
6 criminal sexual penetration, seventeen thousand five hundred
7 dollars (\$17,500);

8 (3) for a first degree felony, fifteen
9 thousand dollars (\$15,000);

10 (4) for a second degree felony resulting in
11 the death of a human being, twelve thousand five hundred
12 dollars (\$12,500);

13 (5) for a second degree felony for a sexual
14 offense against a child, twelve thousand five hundred dollars
15 (\$12,500);

16 (6) for a second degree felony, ten thousand
17 dollars (\$10,000);

18 (7) for a third degree felony resulting in
19 the death of a human being, five thousand dollars (\$5,000);

20 (8) for a third degree felony for a sexual
21 offense against a child, five thousand dollars (\$5,000); or

22 (9) for a third or fourth degree felony,
23 five thousand dollars (\$5,000).

24 F. When the court imposes a sentence of
25 imprisonment for a felony offense, the court shall indicate

1 whether or not the offense is a serious violent offense, as
2 defined in Section 33-2-34 NMSA 1978. The court shall inform
3 an offender that the offender's sentence of imprisonment is
4 subject to the provisions of Sections 33-2-34, 33-2-36,
5 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform
6 an offender that the offender's sentence is subject to those
7 provisions or if the court provides the offender with
8 erroneous information regarding those provisions, the failure
9 to inform or the error shall not provide a basis for a writ
10 of habeas corpus.

11 G. No later than October 31 of each year, the
12 New Mexico sentencing commission shall provide a written
13 report to the secretary of corrections, all New Mexico
14 criminal court judges, the administrative office of the
15 district attorneys and the chief public defender. The report
16 shall specify the average reduction in the sentence of
17 imprisonment for serious violent offenses and nonviolent
18 offenses, as defined in Section 33-2-34 NMSA 1978, due to
19 meritorious deductions earned by prisoners during the
20 previous fiscal year pursuant to the provisions of Sections
21 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The
22 corrections department shall allow the commission access to
23 documents used by the department to determine earned
24 meritorious deductions for prisoners."

25 Section 3. Section 31-21-10 NMSA 1978 (being Laws 1980,

1 Chapter 28, Section 1, as amended) is amended to read:

2 "31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

3 A. An inmate of an institution who was sentenced
4 to life imprisonment becomes eligible for a parole hearing
5 after the inmate has served thirty years of the sentence.
6 Before ordering the parole of an inmate sentenced to life
7 imprisonment, the board shall:

8 (1) interview the inmate at the institution
9 where the inmate is committed;

10 (2) consider all pertinent information
11 concerning the inmate, including:

12 (a) the circumstances of the offense;

13 (b) mitigating and aggravating
14 circumstances;

15 (c) whether a deadly weapon was used in
16 the commission of the offense;

17 (d) whether the inmate is a habitual
18 offender;

19 (e) the reports filed under Section
20 31-21-9 NMSA 1978; and

21 (f) the reports of such physical and
22 mental examinations as have been made while in an
23 institution;

24 (3) make a finding that a parole is in the
25 best interest of society and the inmate; and

1 (4) make a finding that the inmate is able
2 and willing to fulfill the obligations of a law-abiding
3 citizen.

4 If parole is denied, the inmate sentenced to life
5 imprisonment shall again become entitled to a parole hearing
6 at two-year intervals. The board may, on its own motion,
7 reopen any case in which a hearing has already been granted
8 and parole denied.

9 B. Unless the board finds that it is in the best
10 interest of society and the parolee to reduce the period of
11 parole, a person who was convicted of a capital felony shall
12 be required to undergo a minimum period of parole of five
13 years. During the period of parole, the person shall be
14 under the guidance and supervision of the board.

15 C. Except for certain sex offenders as provided in
16 Section 31-21-10.1 NMSA 1978, an inmate who was convicted of
17 a first, second or third degree felony and who has served the
18 sentence of imprisonment imposed by the court in an
19 institution designated by the corrections department shall be
20 required to undergo a two-year period of parole. An inmate
21 who was convicted of a fourth degree felony and who has
22 served the sentence of imprisonment imposed by the court in
23 an institution designated by the corrections department shall
24 be required to undergo a one-year period of parole. During
25 the period of parole, the person shall be under the guidance

1 and supervision of the board.

2 D. Every person while on parole shall remain in
3 the legal custody of the institution from which the person
4 was released, but shall be subject to the orders of the
5 board. The board shall furnish to each inmate as a
6 prerequisite to release under its supervision a written
7 statement of the conditions of parole that shall be accepted
8 and agreed to by the inmate as evidenced by the inmate's
9 signature affixed to a duplicate copy to be retained in the
10 files of the board. The board shall also require as a
11 prerequisite to release the submission and approval of a
12 parole plan. If an inmate refuses to affix the inmate's
13 signature to the written statement of the conditions of
14 parole or does not have an approved parole plan, the inmate
15 shall not be released and shall remain in the custody of the
16 institution in which the inmate has served the inmate's
17 sentence, excepting parole, until such time as the period of
18 parole the inmate was required to serve, less meritorious
19 deductions, if any, expires, at which time the inmate shall
20 be released from that institution without parole, or until
21 such time that the inmate evidences acceptance and agreement
22 to the conditions of parole as required or receives approval
23 for the inmate's parole plan or both. Time served from the
24 date that an inmate refuses to accept and agree to the
25 conditions of parole or fails to receive approval for the

1 inmate's parole plan shall reduce the period, if any, to be
2 served under parole at a later date. If the district court
3 has ordered that the inmate make restitution to a victim as
4 provided in Section 31-17-1 NMSA 1978, the board shall
5 include restitution as a condition of parole. The board
6 shall also personally apprise the inmate of the conditions of
7 parole and the inmate's duties relating thereto.

8 E. When a person on parole has performed the
9 obligations of the person's release for the period of parole
10 provided in this section, the board shall make a final order
11 of discharge and issue the person a certificate of discharge.

12 F. Pursuant to the provisions of Section 31-18-15
13 NMSA 1978, the board shall require the inmate as a condition
14 of parole:

15 (1) to pay the actual costs of parole
16 services to the adult probation and parole division of the
17 corrections department for deposit to the corrections
18 department intensive supervision fund not exceeding one
19 thousand eight hundred dollars (\$1,800) annually to be paid
20 in monthly installments of not less than twenty-five dollars
21 (\$25.00) and not more than one hundred fifty dollars (\$150),
22 as set by the appropriate district supervisor of the adult
23 probation and parole division, based upon the financial
24 circumstances of the defendant. The defendant's payment of
25 the supervised parole costs shall not be waived unless the

1 board holds an evidentiary hearing and finds that the
2 defendant is unable to pay the costs. If the board waives
3 the defendant's payment of the supervised parole costs and
4 the defendant's financial circumstances subsequently change
5 so that the defendant is able to pay the costs, the
6 appropriate district supervisor of the adult probation and
7 parole division shall advise the board and the board shall
8 hold an evidentiary hearing to determine whether the waiver
9 should be rescinded; and

10 (2) to reimburse a law enforcement agency or
11 local crime stopper program for the amount of any reward paid
12 by the agency or program for information leading to the
13 inmate's arrest, prosecution or conviction.

14 G. The provisions of this section shall apply to
15 all inmates except geriatric, permanently incapacitated and
16 terminally ill inmates eligible for the medical and geriatric
17 parole program as provided by the Parole Board Act."

18 Section 4. Section 31-21-10.1 NMSA 1978 (being Laws
19 2003 (1st S.S.), Chapter 1, Section 9) is amended to read:

20 "31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND
21 CONDITIONS OF PAROLE.--

22 A. If the district court sentences a sex offender
23 to a term of incarceration in a facility designated by the
24 corrections department, the district court shall include a
25 provision in the judgment and sentence that specifically

1 requires the sex offender to serve an indeterminate period of
2 supervised parole for a period of:

3 (1) not less than five years and not in
4 excess of twenty years for the offense of kidnapping when
5 committed with intent to inflict a sexual offense upon the
6 victim, criminal sexual penetration in the third degree,
7 criminal sexual contact of a minor in the fourth degree or
8 sexual exploitation of children in the second degree; or

9 (2) not less than five years and up to the
10 natural life of the sex offender for the offense of aggravated
11 criminal sexual penetration, criminal sexual penetration in
12 the first or second degree, criminal sexual contact of a minor
13 in the second or third degree or sexual exploitation of
14 children by prostitution in the first or second degree.

15 A sex offender's period of supervised parole may be for
16 a period of less than the maximum if, at a review hearing
17 provided for in Subsection C of this section, the state is
18 unable to prove that the sex offender should remain on parole.

19 B. Prior to placing a sex offender on parole, the
20 board shall conduct a hearing to determine the terms and
21 conditions of supervised parole for the sex offender. The
22 board may consider any relevant factors, including:

23 (1) the nature and circumstances of the
24 offense for which the sex offender was incarcerated;

25 (2) the nature and circumstances of a prior

1 sex offense committed by the sex offender;

2 (3) rehabilitation efforts engaged in by the
3 sex offender, including participation in treatment programs
4 while incarcerated or elsewhere;

5 (4) the danger to the community posed by the
6 sex offender; and

7 (5) a risk and needs assessment regarding
8 the sex offender, developed by the sex offender management
9 board of the New Mexico sentencing commission or another
10 appropriate entity, to be used by appropriate parole board
11 personnel.

12 C. When a sex offender has served the initial five
13 years of supervised parole, and at two and
14 one-half year intervals thereafter, the board shall review the
15 duration of the sex offender's supervised parole. At each
16 review hearing, the attorney general shall bear the burden of
17 proving by clear and convincing evidence that the sex offender
18 should remain on parole.

19 D. The board may order a sex offender released on
20 parole to abide by reasonable terms and conditions of parole,
21 including:

22 (1) being subject to intensive supervision
23 by a parole officer of the corrections department;

24 (2) participating in an outpatient or
25 inpatient sex offender treatment program;

1 (3) a parole agreement by the sex offender
2 not to use alcohol or drugs;

3 (4) a parole agreement by the sex offender
4 not to have contact with certain persons or classes of
5 persons; and

6 (5) being subject to alcohol testing, drug
7 testing or polygraph examinations used to determine if the sex
8 offender is in compliance with the terms and conditions of the
9 sex offender's parole.

10 E. The board shall require electronic real-time
11 monitoring of every sex offender released on parole for the
12 entire time the sex offender is on parole. The electronic
13 monitoring shall use global positioning system monitoring
14 technology or any successor technology that would give
15 continuous information on the sex offender's whereabouts and
16 enable law enforcement and the corrections department to
17 determine the real-time position of a sex offender to a high
18 level of accuracy.

19 F. The board shall notify the chief public
20 defender of an upcoming parole hearing for a sex offender
21 pursuant to Subsection C of this section, and the chief public
22 defender shall make representation available to the sex
23 offender at the parole hearing.

24 G. If the board finds that a sex offender has
25 violated the terms and conditions of parole, the board may

1 revoke the sex offender's parole or may modify the terms and
2 conditions of parole.

3 H. The provisions of this section shall apply to
4 all sex offenders, except geriatric, permanently incapacitated
5 and terminally ill inmates eligible for the medical and
6 geriatric parole program as provided by the Parole Board Act.

7 I. As used in this section, "sex offender" means a
8 person who is convicted of, pleads guilty to or pleads nolo
9 contendere to any one of the following offenses:

10 (1) kidnapping, as provided in
11 Section 30-4-1 NMSA 1978, when committed with intent to
12 inflict a sexual offense upon the victim;

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

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

19 (4) sexual exploitation of children in the
20 second degree, as provided in Section 30-6A-3 NMSA 1978; or

21 (5) sexual exploitation of children by
22 prostitution in the first or second degree, as provided in
23 Section 30-6A-4 NMSA 1978."

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

1 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
2 Registration and Notification Act:

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

6 B. "institution of higher education" means a:

7 (1) private or public post-secondary
8 educational institution;

9 (2) trade school; or

10 (3) professional school;

11 C. "registration requirement" means any
12 requirement set forth in Section 29-11A-4 NMSA 1978 that
13 requires a sex offender to register, provide information,
14 including a DNA sample, renew, revise or change registration
15 information or provide written notice or disclosure regarding
16 the sex offender's status as a sex offender;

17 D. "sex offender" means a person who:

18 (1) is a resident of New Mexico who is
19 convicted of a sex offense pursuant to state, federal, tribal
20 or military law;

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

24 (3) does not have an established residence
25 in New Mexico, but lives in a shelter, halfway house or

1 transitional living facility or stays in multiple locations in
2 New Mexico and who has been convicted of a sex offense
3 pursuant to state, federal, tribal or military law; or

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

7 (a) employed full time or part time in
8 New Mexico for a period of time exceeding fourteen days or for
9 an aggregate period of time exceeding thirty days during any
10 calendar year, including any employment or vocation, whether
11 financially compensated, volunteered or for the purpose of
12 government or educational benefit; or

13 (b) enrolled on a full-time or
14 part-time basis in a private or public school or an
15 institution of higher education in New Mexico; and

16 E. "sex offense" means any of the following
17 offenses or their equivalents in any other jurisdiction:

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

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

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

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

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

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

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

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

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

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

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

21 (12) attempt to commit any of the sex
22 offenses set forth in Paragraphs (1) through (10) of this
23 subsection, as provided in Section 30-28-1 NMSA 1978."

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

1 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
2 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION
3 IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

4 A. A county sheriff shall maintain a local
5 registry of sex offenders in the sheriff's jurisdiction
6 required to register pursuant to the provisions of the Sex
7 Offender Registration and Notification Act.

8 B. The county sheriff shall forward:

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

19 (2) samples of DNA obtained from sex
20 offenders to the administrative center for the sex offender
21 DNA identification system pursuant to the provisions of the
22 DNA Identification Act.

23 C. The department of public safety shall maintain
24 a central registry of sex offenders required to register
25 pursuant to the provisions of the Sex Offender Registration

1 and Notification Act. The department shall participate in the
2 national sex offender registry administered by the United
3 States department of justice. The department shall send
4 conviction information and fingerprints for all sex offenders
5 registered in New Mexico to the national sex offender registry
6 administered by the United States department of justice and to
7 the federal bureau of investigation.

8 D. The department of public safety shall retain
9 registration information regarding a sex offender convicted
10 for any of the following sex offenses for the entirety of the
11 sex offender's natural life:

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

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

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

20 (4) kidnapping, as provided in Section
21 30-4-1 NMSA 1978, when the victim is less than eighteen years
22 of age and the offender is not a parent of the victim;

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

25 (6) attempt to commit any of the sex

1 offenses set forth in Paragraphs (1) through (5) of this
2 subsection, as provided in Section 30-28-1 NMSA 1978.

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

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

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

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

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

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

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

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

25 (8) attempt to commit any of the sex

1 offenses set forth in Paragraphs (1) through (6) of this
2 subsection, as provided in Section 30-28-1 NMSA 1978.

3 F. Notwithstanding the provisions of Subsection E
4 of this section, if a sex offender is convicted a second or
5 subsequent time for a sex offense set forth in that
6 subsection, the department of public safety shall retain
7 information regarding the sex offender for the entirety of the
8 sex offender's natural life.

9 G. The department of public safety shall adopt
10 rules necessary to carry out the provisions of the Sex
11 Offender Registration and Notification Act. Rules necessary
12 for the collection of DNA samples and the administration and
13 operation of the sex offender DNA identification system shall
14 be adopted by the DNA identification system oversight
15 committee pursuant to the provisions of the DNA Identification
16 Act."

17 Section 7. Section 29-11A-5.1 NMSA 1978 (being Laws
18 1999, Chapter 19, Section 8, as amended) is amended to read:

19 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
20 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
21 NOTIFICATION--INTERNET WEB SITE.--

22 A. If a sex offender is convicted of one of the
23 following sex offenses, the county sheriff shall forward
24 registration information obtained from the sex offender to the
25 district attorney for the judicial district in which the sex

1 offender resides and, if the sex offender is a resident of a
2 municipality, the chief law enforcement officer for the
3 municipality in which the sex offender resides:

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

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

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

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

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

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

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

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

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

1 (4) secretary of public safety.

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

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

18 E. The department of public safety shall establish
19 and manage an internet web site that provides the public with
20 registration information regarding sex offenders described in
21 Subsection A of this section, except that the department of
22 public safety shall not provide registration information on
23 the internet web site regarding a sex offender who was less
24 than eighteen years of age when the sex offender committed the
25 sex offense for which the sex offender was convicted as a

1 youthful offender, as provided in Section 32A-2-3 NMSA 1978,
2 unless at the time of sentencing, the court made a finding
3 that the sex offender is not amenable to treatment and is a
4 danger to the community. The registration information
5 provided to the public pursuant to this subsection shall not
6 include a sex offender's social security number or DNA
7 information or a sex offender's place of employment, unless
8 the sex offender's employment requires the sex offender to
9 have direct contact with children."

10 Section 8. APPLICABILITY.--The provisions of Section 5
11 of this act are applicable to:

12 A. a person convicted of a sex offense on or after
13 July 1, 1995; and

14 B. a person convicted of a sex offense prior to
15 July 1, 1995 and who, on July 1, 1995, was still incarcerated,
16 on probation or on parole for commission of that sex offense.

17 Section 9. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2007. _____

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