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HOUSE BILL 451

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

INTRODUCED BY
Yvette Herrell

AN ACT

RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2007 FOR SECTIONS 29-11A-3 AND 29-11A-5 NMSA 1978 (BEING LAWS 1995, CHAPTER 106, SECTION 3, AS AMENDED BY LAWS 2007, CHAPTER 68, SECTION 1 AND BY LAWS 2007, CHAPTER 69, SECTION 5 AND LAWS 1995, CHAPTER 106, SECTION 5, AS AMENDED BY LAWS 2007, CHAPTER 68, SECTION 2 AND BY LAWS 2007, CHAPTER 69, SECTION 6).

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

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

A. "conviction" means a conviction in any court of

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1 competent jurisdiction and includes a deferred sentence, but
2 does not include a conditional discharge;

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

4 (1) private or public post-secondary
5 educational institution;

6 (2) trade school; or

7 (3) professional school;

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

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

15 (1) is a resident of New Mexico who is
16 convicted of a sex offense pursuant to state, federal, tribal
17 or military law;

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

21 (3) does not have an established residence in
22 New Mexico, but lives in a shelter, halfway house or
23 transitional living facility or stays in multiple locations in
24 New Mexico and who has been convicted of a sex offense pursuant
25 to state, federal, tribal or military law; or

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

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

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

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

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

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

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

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

25 (5) sexual exploitation of children by

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1 prostitution, as provided in Section 30-6A-4 NMSA 1978;

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

5 (7) false imprisonment, as provided in Section
6 30-4-3 NMSA 1978, when the victim is less than eighteen years
7 of age and the offender is not a parent of the victim;

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

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

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

14 (11) child solicitation by electronic
15 communication device, as provided in Section 30-37-3.2 NMSA
16 1978;

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

20 (13) attempt to commit any of the sex offenses
21 set forth in Paragraphs (1) through (11) of this subsection, as
22 provided in Section 30-28-1 NMSA 1978."

23 **SECTION 2.** Section 29-11A-5 NMSA 1978 (being Laws 1995,
24 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,
25 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended

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1 to read:

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

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

9 B. The county sheriff shall forward:

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

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

24 C. The department of public safety shall maintain a
25 central registry of sex offenders required to register pursuant

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

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

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

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

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

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

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

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

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

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

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

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

16 (4) aggravated indecent exposure, as provided
17 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;

25 (8) child solicitation by electronic

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1 communication device, as provided in Section 30-37-3.2 NMSA
2 1978; or

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

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

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