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HOUSE BILL 587

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

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO DRUG TRAFFICKING; ENACTING THE DRUG TRAFFICKER
REGISTRATION AND NOTIFICATION ACT; REQUIRING PERSONS CONVICTED
OF DRUG TRAFFICKING TO REGISTER WITH LAW ENFORCEMENT; PROVIDING
CRIMINAL PENALTIES FOR NONCOMPLIANCE; PROVIDING THE DEPARTMENT
OF PUBLIC SAFETY, LAW ENFORCEMENT AND OTHERS WITH DUTIES AND
POWERS RELATED TO DRUG TRAFFICKER REGISTRATION AND
NOTIFICATION; PROVIDING COMMUNITY ACCESS TO CERTAIN DRUG
TRAFFICKER REGISTRATION INFORMATION; CREATING THE DRUG
TRAFFICKER DNA IDENTIFICATION SYSTEM; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 9 of this act may be cited as the "Drug Trafficker
Registration and Notification Act".

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1 SECTION 2. [NEW MATERIAL] FINDINGS--PURPOSE.--

2 A. The legislature finds that:

3 (1) drug traffickers pose a significant risk
4 of recidivism; and

5 (2) the efforts of law enforcement agencies to
6 protect their communities from drug traffickers are impaired by
7 the lack of information available concerning convicted drug
8 traffickers who live within the agencies' jurisdictions.

9 B. The purpose of the Drug Trafficker Registration
10 and Notification Act is to assist law enforcement agencies'
11 efforts to protect their communities by:

12 (1) requiring drug traffickers who are
13 residents of New Mexico to register with the county sheriff of
14 the county in which they reside;

15 (2) requiring drug traffickers who are
16 residents in other states, but who are employed in New Mexico
17 or who attend school in New Mexico, to register with the county
18 sheriff of the county in which they work or attend school;

19 (3) requiring the establishment of a central
20 registry for certain convicted drug traffickers; and

21 (4) providing public access to information
22 regarding registered drug traffickers.

23 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Drug Trafficker Registration and Notification Act:

25 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. "department" means the department of public
4 safety;

5 C. "drug trafficker" means a person who has been
6 convicted of a first degree drug trafficking offense as
7 provided in the Drug Trafficker Registration and Notification
8 Act pursuant to state, federal, tribal or military law and who:

9 (1) is a resident of New Mexico;

10 (2) changes residence to New Mexico;

11 (3) does not have an established residence in
12 New Mexico but lives in a shelter, halfway house or
13 transitional living facility or stays in multiple locations in
14 New Mexico; or

15 (4) is a resident of another state but who is:

16 (a) employed full time or part time in
17 New Mexico for a period of time exceeding fourteen days or for
18 an aggregate period of time exceeding thirty days during any
19 calendar year, including any employment or vocation, whether
20 financially compensated, volunteered or for the purpose of
21 government or educational benefit; or

22 (b) enrolled on a full-time or part-
23 time basis in a private or public school or an institution of
24 higher education in New Mexico;

25 D. "drug trafficking" means:

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1 (1) a conviction in the first degree for the
2 offense of drug trafficking pursuant to Paragraph (1), (2) or
3 (3) of Subsection A of Section 30-31-20 NMSA 1978 or the
4 equivalent in any other jurisdiction or Paragraph (2) of
5 Subsection B of Section 30-31-20 NMSA 1978 or the equivalent in
6 any other jurisdiction;

7 (2) a conviction in the first degree for the
8 offense of distribution to a minor pursuant to Paragraph (1) of
9 Subsection A of Section 30-31-21 NMSA 1978 or the equivalent in
10 any other jurisdiction; or

11 (3) a conviction in the first degree for the
12 offense of distribution of a controlled or counterfeit
13 substance as provided in Paragraph (1) of Subsection A of
14 Section 30-31-22 NMSA 1978 or Paragraph (1) or (2) of
15 Subsection D of Section 30-31-22 NMSA 1978;

16 E. "institution of higher education" means a:

17 (1) private or public post-secondary
18 educational institution;

19 (2) trade school; or

20 (3) professional school; and

21 F. "registration requirement" means any requirement
22 set forth in the Drug Trafficker Registration and Notification
23 Act that requires a drug trafficker to register, provide
24 information, including a DNA sample, renew, revise or change
25 registration information or provide written notice or

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1 disclosure regarding the drug trafficker's status as a drug
2 trafficker.

3 SECTION 4. [NEW MATERIAL] REGISTRATION OF DRUG
4 TRAFFICKERS--INFORMATION REQUIRED--CRIMINAL PENALTIES FOR
5 NONCOMPLIANCE.--

6 A. A drug trafficker residing in this state shall
7 register with the county sheriff for the county in which the
8 drug trafficker resides no later than ten days after being
9 released from the custody of the corrections department, a
10 municipal or county jail or a federal, military or tribal
11 correctional facility or detention center or being placed on
12 probation or parole.

13 B. A drug trafficker who changes residence to New
14 Mexico shall register with the county sheriff no later than ten
15 days after arrival in this state.

16 C. A drug trafficker who is a resident of another
17 state but who is employed in New Mexico or attending public or
18 private school or an institution of higher education in New
19 Mexico shall register with the county sheriff for the county in
20 which the drug trafficker is working or attending school or an
21 institution of higher education.

22 D. A drug trafficker who is a resident of another
23 state but who is employed in New Mexico or attending public or
24 private school or an institution of higher education in New
25 Mexico shall register with the county sheriff no later than ten

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1 days after beginning work or school.

2 E. Upon registering, a drug trafficker shall
3 provide the county sheriff information regarding the drug
4 trafficking offense for which the drug trafficker was
5 convicted, including the date and place of the conviction and,
6 if the drug trafficker is attending school in this state, the
7 name of the school or institution of higher education.

8 F. In addition to the registration information
9 required in Subsection E of this section, the drug trafficker
10 shall also provide to the county sheriff the drug trafficker's:

- 11 (1) legal name and any other names or aliases
12 that the drug trafficker is using or has used;
- 13 (2) date of birth;
- 14 (3) social security number;
- 15 (4) place of employment; and
- 16 (5) current address and, if applicable, the
17 address of the drug trafficker's place of lodging in New Mexico
18 while working or attending school or an institution of higher
19 education.

20 G. Upon a drug trafficker's registration with the
21 county sheriff, the sheriff shall obtain:

- 22 (1) a photograph of the drug trafficker and a
23 complete set of the drug trafficker's fingerprints;
- 24 (2) a description of any tattoos, scars or
25 other distinguishing features on the drug trafficker's body

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1 that would assist in identification; and

2 (3) a sample of the drug trafficker's DNA for
3 inclusion in the drug trafficker DNA identification system
4 pursuant to the provisions of the DNA Identification Act.

5 H. When a registered drug trafficker changes
6 residence within the same county, the drug trafficker shall
7 send written notice of the change of address to the county
8 sheriff no later than ten days after establishing the new
9 residence.

10 I. When a registered drug trafficker changes
11 residence to a new county in New Mexico, the drug trafficker
12 shall register with the county sheriff of the new county no
13 later than ten days after establishing the new residence. The
14 drug trafficker shall also send written notice of the change of
15 address to the county sheriff with whom the drug trafficker
16 last registered no later than ten days after establishing the
17 new residence.

18 J. When a drug trafficker who is registered or
19 required to register does not have an established residence but
20 lives in a shelter, halfway house or transitional living
21 facility or stays in multiple locations in New Mexico, the drug
22 trafficker shall register with the county sheriff for each
23 county in which the drug trafficker is living or temporarily
24 located. The drug trafficker shall register no later than ten
25 days after a change in living arrangements or temporary

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1 location.

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

19 L. When a drug trafficker who is registered or
20 required to register is employed or is enrolled as a student at
21 a public or private school in New Mexico, the drug trafficker
22 shall disclose the drug trafficker's status as a drug
23 trafficker in writing to the county sheriff for the county in
24 which the school is located and to the principal, registrar or
25 administration official of the school no later than ten days

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1 after enrolling at the school. The drug trafficker shall also
2 send written notice of any change regarding enrollment status
3 at a school to the county sheriff and the principal no later
4 than ten days after the change in enrollment status.

5 M. When a drug trafficker who is registered or
6 required to register is employed, begins a vocation or
7 volunteers services, regardless of whether the drug trafficker
8 receives payment or other compensation, the drug trafficker
9 shall disclose the drug trafficker's status as a drug
10 trafficker in writing to the employer, supervisor or person
11 similarly situated. The written disclosure shall be made
12 immediately upon the drug trafficker beginning employment, a
13 vocation or volunteer service.

14 N. Following initial registration required pursuant
15 to the Drug Trafficker Registration and Notification Act, a
16 drug trafficker shall annually renew registration with the
17 county sheriff prior to December 31 of each subsequent calendar
18 year for a period of five years.

19 O. Notwithstanding the provisions of Subsection N
20 of this section, if a drug trafficker is convicted a subsequent
21 time for a drug trafficking offense, the drug trafficker shall,
22 for the entirety of the drug trafficker's natural life, renew
23 the registration with the county sheriff not less than once in
24 each ninety-day period following the date of the subsequent
25 conviction. For the purposes of this subsection, "subsequent

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1 conviction" means:

2 (1) a conviction in the first degree for the
3 offense of drug trafficking pursuant to Paragraph (1), (2) or
4 (3) of Subsection A of Section 30-31-20 NMSA 1978 or the
5 equivalent in any other jurisdiction or Paragraph (2) of
6 Subsection B of Section 30-31-20 NMSA 1978 or the equivalent in
7 any other jurisdiction;

8 (2) a conviction in the first degree for the
9 offense of distribution to a minor pursuant to Paragraph (1) of
10 Subsection A of Section 30-31-21 NMSA 1978 or the equivalent in
11 any other jurisdiction; or

12 (3) a conviction in the first degree for the
13 offense of distribution of a controlled or counterfeit
14 substance as provided in Paragraph (1) of Subsection A of
15 Section 30-31-22 NMSA 1978 or Paragraph (1) or (2) of
16 Subsection D of Section 31-30-22 NMSA 1978.

17 P. A drug trafficker who willfully or knowingly
18 fails to comply with the registration requirements set forth in
19 this section is guilty of a fourth degree felony and shall be
20 sentenced pursuant to the provisions of Section 31-18-15 NMSA
21 1978. A drug trafficker who willfully or knowingly fails to
22 comply with the registration requirements set forth in this
23 section after a first or subsequent conviction for a violation
24 pursuant to this section is guilty of a third degree felony and
25 shall be sentenced pursuant to the provisions of Section

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

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

25 SECTION 5. [NEW MATERIAL] DRUG TRAFFICKERS MOVING OUT OF

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1 STATE.--

2 A. If a drug trafficker intends to move from New
3 Mexico to another state, no later than thirty days prior to
4 moving, the drug trafficker shall:

5 (1) notify the sheriff of the county in which
6 the drug trafficker resides of the intention to move to the
7 other state; and

8 (2) provide the sheriff with a written notice
9 that identifies the state to which the drug trafficker is
10 moving.

11 B. Within five days of receiving a drug
12 trafficker's written notice of intent to move to another state,
13 the sheriff shall transmit that information to the department.
14 Within five days of receiving that information, the department
15 shall contact the state agency, if any, responsible for
16 registering drug traffickers in the state to which the drug
17 trafficker is moving and provide that agency with the drug
18 trafficker's registration information. The department shall
19 also obtain information regarding the registration
20 requirements, if any, for drug traffickers in the state to
21 which the drug trafficker is moving and shall provide that
22 information in written form to the drug trafficker.

23 C. A drug trafficker who willfully fails to comply
24 with the requirements set forth in this section is guilty of a
25 fourth degree felony and shall be sentenced pursuant to the

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1 provisions of Section 31-18-15 NMSA 1978.

2 SECTION 6. [NEW MATERIAL] LOCAL REGISTRY--CENTRAL
3 REGISTRY--ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--
4 PARTICIPATION IN FEDERAL REGISTRY--REGISTRY RULES.--

5 A. A county sheriff shall maintain a local registry
6 of drug traffickers in the sheriff's jurisdiction required to
7 register pursuant to the provisions of the Drug Trafficker
8 Registration and Notification Act.

9 B. The county sheriff shall forward:

10 (1) registration information obtained from
11 drug traffickers to the department of public safety. The
12 initial registration information and any registration
13 information subsequently obtained shall be forwarded by the
14 sheriff no later than ten working days after the information is
15 obtained. If the department receives information regarding a
16 drug trafficker 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 drug trafficker resides;
19 and

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

24 C. The county sheriff shall forward the drug
25 trafficker's registration information to the district attorney

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1 for the judicial district in which the drug trafficker resides
2 and, if the drug trafficker is a resident of a municipality, to
3 the chief law enforcement officer for the municipality in which
4 the drug trafficker resides.

5 D. The department shall maintain a central registry
6 of drug traffickers required to register pursuant to the
7 provisions of the Drug Trafficker Registration and Notification
8 Act and shall adopt rules necessary to carry out the provisions
9 of that act. The department shall participate in the national
10 drug trafficker registry, if any, administered by the federal
11 government. The department shall send conviction information
12 and fingerprints for all drug traffickers registered in New
13 Mexico to any national drug trafficker registry administered by
14 the federal government and to the federal bureau of
15 investigation.

16 E. For the entirety of a drug trafficker's natural
17 life, the department shall retain registration information
18 related to the drug trafficker's conviction of drug trafficking
19 offenses listed below:

20 (1) a conviction in the first degree for the
21 offense of drug trafficking pursuant to Paragraph (1), (2) or
22 (3) of Subsection A of Section 30-31-20 NMSA 1978 or the
23 equivalent in any other jurisdiction or Paragraph (2) of
24 Subsection B of Section 30-31-20 NMSA 1978 or the equivalent in
25 any other jurisdiction;

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1 (2) a conviction in the first degree for the
2 offense of distribution to a minor pursuant to Paragraph (1) of
3 Subsection A of Section 30-31-21 NMSA 1978 or the equivalent in
4 any other jurisdiction; or

5 (3) a conviction in the first degree for the
6 offense of distribution of a controlled or counterfeit
7 substance as provided in Paragraph (1) of Subsection A of
8 Section 30-31-22 NMSA 1978 or Paragraph (1) or (2) of
9 Subsection D of Section 30-31-22 NMSA 1978.

10 F. Rules necessary for the collection of DNA
11 samples and the administration and operation of the drug
12 trafficker DNA identification system shall be adopted by the
13 DNA identification system oversight committee pursuant to the
14 provisions of the DNA Identification Act.

15 SECTION 7. [NEW MATERIAL] PUBLIC ACCESS TO DRUG
16 TRAFFICKER REGISTRATION INFORMATION--COMMUNITY NOTIFICATION.--

17 A. A person who wants to obtain drug trafficker
18 registration information provided for in the Drug Trafficker
19 Registration and Notification Act may request that information
20 from the:

21 (1) sheriff for the county in which the drug
22 traffickers reside;

23 (2) chief law enforcement officer for the
24 municipality in which the drug traffickers reside;

25 (3) district attorney for the judicial

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1 district in which the drug traffickers reside; or

2 (4) secretary of public safety.

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

11 C. Within seven days of receiving registration
12 information from a drug trafficker, the county sheriff shall
13 contact every licensed daycare center, elementary school,
14 middle school and high school within a one-mile radius of the
15 drug trafficker's residence and provide them with the
16 registration information, with the exception of the drug
17 trafficker's social security number and DNA information.

18 D. The department shall establish and manage an
19 internet web site that provides the public with drug trafficker
20 registration information as provided in Subsection A of this
21 section, except that the registration information provided to
22 the public pursuant to this subsection shall not include a drug
23 trafficker's social security number, DNA information or place
24 of employment, unless the drug trafficker's employment requires
25 the drug trafficker to have direct contact with children

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1 younger than eighteen years of age.

2 SECTION 8. [NEW MATERIAL] NOTICE OF DRUG TRAFFICKER'S
3 DUTY TO REGISTER.--

4 A. A court shall provide a drug trafficker
5 convicted in that court of an offense requiring registration
6 pursuant to the Drug Trafficker Registration and Notification
7 Act with written notice of the duty to register. The written
8 notice shall be included in judgment and sentence forms
9 provided to the drug trafficker. The written notice shall
10 inform the drug trafficker of the duty pursuant to the Drug
11 Trafficker Registration and Notification Act to:

12 (1) register with the county sheriff for the
13 county in which the drug trafficker will reside or, if the drug
14 trafficker will not have an established residence, with the
15 county sheriff for each county in which the drug trafficker
16 will live or be temporarily located;

17 (2) report subsequent changes of address;

18 (3) notify the county sheriff of the county
19 the drug trafficker resides in if the drug trafficker intends
20 to move to another state and that the drug trafficker is
21 required to register in the other state;

22 (4) disclose the drug trafficker's status as a
23 drug trafficker in writing when the drug trafficker begins
24 employment, begins a vocation or enrolls as a student at an
25 institution of higher education in New Mexico to the county

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1 sheriff for the county in which the institution of higher
2 education is located and to the law enforcement entity and
3 registrar for the institution of higher education;

4 (5) provide written notice of any change
5 regarding the drug trafficker'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 (6) disclose the drug trafficker's status as a
9 drug trafficker in writing when the drug trafficker enrolls as
10 a student at a private or public school in New Mexico to the
11 county sheriff for the county in which the school is located
12 and to the principal of the school;

13 (7) provide written notice of any change
14 regarding the drug trafficker's enrollment status at a public
15 or private school in New Mexico to the county sheriff and the
16 principal of the school;

17 (8) disclose in writing the drug trafficker's
18 status as a drug trafficker to the drug trafficker's employer,
19 supervisor or other person similarly situated when the drug
20 trafficker begins employment, begins a vocation or volunteers
21 services, regardless of whether the drug trafficker receives
22 payment or other compensation; and

23 (9) read and sign a form that indicates that
24 the drug trafficker has received the written notice and that a
25 responsible court official, designated by the chief judge for

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1 that judicial district, has explained the written notice to the
2 drug trafficker.

3 B. At the time of release of a drug trafficker in
4 its custody convicted of a first degree drug trafficking
5 offense as provided in the Drug Trafficker Registration and
6 Notification Act, the corrections department, a municipal or
7 county jail or a detention center shall provide a written
8 notice to the drug trafficker of the duty to register. The
9 written notice shall inform the drug trafficker of the duty to:

10 (1) register with the county sheriff for the
11 county in which the drug trafficker will reside or, if the drug
12 trafficker will not have an established residence, with the
13 county sheriff for each county in which the drug trafficker
14 will live or be temporarily located pursuant to the provisions
15 of the Drug Trafficker Registration and Notification Act;

16 (2) report subsequent changes of address
17 pursuant to the provisions of the Drug Trafficker Registration
18 and Notification Act;

19 (3) notify the county sheriff of the county
20 the drug trafficker resides in if the drug trafficker intends
21 to move to another state and that the drug trafficker is
22 required to register in the other state pursuant to the
23 provisions of the Drug Trafficker Registration and Notification
24 Act;

25 (4) disclose the drug trafficker's status as a

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1 drug trafficker in writing when the drug trafficker begins
2 employment, begins a vocation or enrolls as a student at an
3 institution of higher education in New Mexico to the county
4 sheriff for the county in which the institution of higher
5 education is located and to the law enforcement entity and
6 registrar for the institution of higher education pursuant to
7 the provisions of the Drug Trafficker Registration and
8 Notification Act;

9 (5) provide written notice of any change
10 regarding the drug trafficker's employment, vocation or
11 enrollment status at an institution of higher education to the
12 county sheriff, the law enforcement entity and the registrar
13 pursuant to the provisions of the Drug Trafficker Registration
14 and Notification Act;

15 (6) disclose the drug trafficker's status as a
16 drug trafficker in writing when the drug trafficker enrolls as
17 a student at a private or public school in New Mexico to the
18 county sheriff for the county in which the school is located
19 and to the principal of the school pursuant to the provisions
20 of the Drug Trafficker Registration and Notification Act;

21 (7) provide written notice of any change
22 regarding the drug trafficker's enrollment status at a public
23 or private school in New Mexico to the county sheriff and the
24 principal of the school pursuant to the provisions of the Drug
25 Trafficker Registration and Notification Act;

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1 (8) disclose the drug trafficker's status as a
2 drug trafficker in writing to the drug trafficker's employer,
3 supervisor or other person similarly situated when the drug
4 trafficker begins employment, begins a vocation or volunteers
5 services, regardless of whether the drug trafficker receives
6 payment or other compensation, pursuant to the provisions of
7 the Drug Trafficker Registration and Notification Act; and

8 (9) read and sign a form that indicates that
9 the drug trafficker has received the written notice and that a
10 responsible corrections department official, designated by the
11 secretary of corrections, or a responsible municipal or county
12 jail official or detention center official has explained the
13 written notice to the drug trafficker.

14 C. A court, the corrections department, a municipal
15 or county jail or a detention center shall also provide written
16 notification regarding a drug trafficker's release to the
17 sheriff of the county in which the drug trafficker is released
18 and to the department of public safety.

19 D. The department, if notified by officials from
20 another state that a drug trafficker will be establishing
21 residence in New Mexico, shall provide written notice to the
22 drug trafficker within twenty days of the notification of the
23 duty to register pursuant to the provisions of the Drug
24 Trafficker Registration and Notification Act.

25 SECTION 9. [NEW MATERIAL] IMMUNITY.--Nothing in the Drug

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1 Trafficker Registration and Notification Act creates a cause of
2 action on behalf of a person against a public employer, public
3 employee or public agency responsible for enforcement of the
4 provisions of that act so long as the public employer, public
5 employee or public agency complies with the provisions of that
6 act.

7 SECTION 10. Section 29-16-2 NMSA 1978 (being Laws 1997,
8 Chapter 105, Section 2, as amended) is amended to read:

9 "29-16-2. PURPOSE OF ACT.--The purpose of the DNA
10 Identification Act is to:

11 A. establish a DNA identification system for
12 covered offenders and persons required to provide a DNA sample
13 pursuant to the provisions of Section [~~1 of this 2006 act~~]
14 29-3-10 NMSA 1978;

15 B. facilitate the use of DNA records by local,
16 state and federal law enforcement agencies in the:

17 (1) identification, detection or exclusion of
18 persons in connection with criminal investigations; [~~and~~]

19 (2) registration of sex offenders required to
20 register pursuant to the provisions of the Sex Offender
21 Registration and Notification Act; and

22 (3) registration of drug traffickers required
23 to register pursuant to the provisions of the Drug Trafficker
24 Registration and Notification Act;

25 C. establish a missing persons DNA identification

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1 system consisting of the following DNA indexes:

- 2 (1) unidentified persons;
3 (2) unidentified human remains; and
4 (3) relatives of, or known reference samples
5 from, missing persons; and

6 D. facilitate the use of DNA records by local,
7 state and federal law enforcement agencies and the state
8 medical investigator in the identification and location of
9 missing and unidentified persons or human remains."

10 SECTION 11. Section 29-16-3 NMSA 1978 (being Laws 1997,
11 Chapter 105, Section 3, as amended) is amended to read:

12 "29-16-3. DEFINITIONS.--As used in the DNA Identification
13 Act:

14 A. "administrative center" means the part of a
15 national DNA index system qualified New Mexico crime laboratory
16 that administers and operates the DNA identification system;

17 B. "CODIS" means the federal bureau of
18 investigation's national DNA index system for storage and
19 exchange of DNA records submitted by forensic DNA laboratories;

20 C. "covered offender" means any person convicted of
21 a felony offense as an adult pursuant to state, federal or
22 military law or convicted as an adult pursuant to youthful
23 offender or serious youthful offender proceedings under the
24 Children's Code [~~or~~], a sex offender required to register
25 pursuant to the provisions of the Sex Offender Registration and

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1 Notification Act or a drug trafficker required to register
2 pursuant to the Drug Trafficker Registration and Notification
3 Act;

4 D. "department" means the department of public
5 safety;

6 E. "DNA" means deoxyribonucleic acid as the basis
7 of human heredity;

8 F. "DNA identification system" means the DNA
9 identification system established pursuant to the DNA
10 Identification Act;

11 G. "DNA oversight committee" means the DNA
12 identification system oversight committee;

13 H. "DNA records" means the results of DNA testing
14 and related information;

15 I. "DNA testing" means a forensic DNA analysis that
16 includes restriction fragment length polymorphism, polymerase
17 chain reaction or other valid methods of DNA typing performed
18 to obtain identification characteristics of samples;

19 J. "drug trafficker DNA identification system"
20 means the drug trafficker DNA identification system established
21 pursuant to the DNA Identification Act;

22 [~~J~~] K. "fund" means the DNA identification system
23 fund;

24 [~~K~~] L. "missing persons DNA identification system"
25 means the missing persons DNA identification system established

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1 by the DNA Identification Act;

2 [~~H-~~] M. "sample" means a sample of biological
3 material sufficient for DNA testing; and

4 [~~M-~~] N. "sex offender DNA identification system"
5 means the sex offender DNA identification system established by
6 the DNA Identification Act."

7 **SECTION 12.** Section 29-16-4 NMSA 1978 (being Laws 1997,
8 Chapter 105, Section 4, as amended) is amended to read:

9 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--
10 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

11 A. The administrative center shall be an
12 appropriate unit of the department or such other qualified New
13 Mexico law enforcement agency as the secretary of public safety
14 may designate in accordance with this section that meets the
15 requirements for participation in the national DNA index
16 system.

17 B. The administrative center shall:

18 (1) establish and administer the DNA
19 identification system. The DNA identification system shall
20 provide for collection, storage, DNA testing, maintenance and
21 comparison of samples and DNA records for forensic and
22 humanitarian purposes. Those purposes shall include generation
23 of investigative leads, statistical analysis of DNA profiles
24 and identification of missing persons and unidentified human
25 remains. Procedures used for DNA testing shall be compatible

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1 with the procedures the federal bureau of investigation has
2 specified, including comparable test procedures, laboratory
3 equipment, supplies and computer software. Procedures used
4 shall meet or exceed the provisions of the federal DNA
5 Identification Act of 1994 regarding minimum standards for
6 state participation in CODIS, including minimum standards for
7 the acceptance, security and dissemination of DNA records;

8 (2) coordinate sample collection activities;

9 (3) perform or contract for DNA testing;

10 (4) serve as a repository for samples and DNA
11 records;

12 (5) act as liaison with the federal bureau of
13 investigation for purposes of CODIS;

14 (6) adopt rules and procedures governing:

15 (a) sample collection;

16 (b) DNA testing;

17 (c) the DNA identification system and
18 DNA records;

19 (d) the acceptance, security and
20 dissemination of DNA records; and

21 (e) communication between local, state
22 and federal law enforcement agencies, the corrections
23 department and local jails and detention facilities in order to
24 minimize duplicate sample collections from the same individual;

25 (7) provide training to jail and detention

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1 facility personnel who are required to collect samples pursuant
2 to Section 29-3-10 NMSA 1978;

3 (8) be reimbursed for, pursuant to the DNA
4 Identification Act, the costs of sample collection and DNA
5 testing of samples taken for the purposes of the identification
6 of missing persons and unidentified human remains;

7 (9) establish and administer the missing
8 persons DNA identification system as a part of the DNA
9 identification system; ~~and~~

10 (10) establish and administer the sex offender
11 DNA identification system as part of the DNA identification
12 system; and

13 (11) establish and administer the drug
14 trafficker DNA identification system as part of the DNA
15 identification system.

16 C. The secretary of public safety may designate,
17 pursuant to a joint powers agreement, the crime laboratory of
18 the police department for the largest municipality in a class A
19 county having a population of more than two hundred fifty
20 thousand at the most recent federal decennial census to act as
21 the administrative center.

22 D. The secretary of public safety may designate,
23 pursuant to a joint powers agreement, any other law enforcement
24 agency to act as administrative center upon recommendation of
25 five voting members of the DNA oversight committee."

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1 SECTION 13. Section 29-16-5 NMSA 1978 (being Laws 1997,
2 Chapter 105, Section 5, as amended) is amended to read:

3 "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND
4 DUTIES.--

5 A. The "DNA identification system oversight
6 committee" is created. The DNA oversight committee shall be
7 composed of nine voting members as follows:

8 (1) a scientific representative from the
9 department crime laboratory appointed by the secretary of
10 public safety;

11 (2) a scientific representative from the crime
12 laboratory of the police department for the largest
13 municipality in a class A county having a population of more
14 than two hundred fifty thousand at the most recent federal
15 decennial census;

16 (3) the secretary of corrections or the
17 secretary's designated representative;

18 (4) the state medical investigator or the
19 investigator's designated representative;

20 (5) the attorney general or the attorney
21 general's designated representative;

22 (6) the president of the New Mexico district
23 [~~attorneys~~] attorney's association or the president's
24 designated representative;

25 (7) the chief public defender or the chief

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1 public defender's designated representative;

2 (8) the president of the New Mexico criminal
3 defense lawyers association or the president's designated
4 representative; and

5 (9) the head of the administrative center or
6 the head's designated representative.

7 B. The DNA oversight committee shall adopt rules
8 and procedures regarding the administration and operation of
9 the DNA identification system.

10 C. The administrative center shall review and make
11 recommendations to the DNA oversight committee regarding rules
12 and procedures for the administration and operation of the DNA
13 identification system.

14 D. The DNA oversight committee shall oversee the
15 establishment and administration of the missing persons DNA
16 identification system as part of the DNA identification system.

17 E. The DNA oversight committee shall adopt rules
18 and procedures regarding the administration and operation of
19 the missing persons DNA identification system as part of the
20 DNA identification system.

21 F. The DNA oversight committee shall oversee the
22 establishment and administration of the sex offender DNA
23 identification system as part of the DNA identification system.

24 G. The DNA oversight committee shall adopt rules
25 and procedures regarding the administration and operation of

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1 the sex offender DNA identification system as part of the DNA
2 identification system.

3 H. The DNA oversight committee shall oversee the
4 establishment and administration of the drug trafficker DNA
5 identification system as part of the DNA identification system.

6 I. The DNA oversight committee shall adopt rules
7 and procedures regarding the administration and operation of
8 the drug trafficker DNA identification system as part of the
9 DNA identification system."

10 SECTION 14. Section 29-16-6 NMSA 1978 (being Laws 1997,
11 Chapter 105, Section 6, as amended) is amended to read:

12 "29-16-6. COLLECTION OF SAMPLES.--

13 A. A covered offender shall provide one or more
14 samples to the administrative center, as follows:

15 (1) a covered offender convicted on or after
16 July 1, 1997 shall provide a sample immediately upon request to
17 the corrections department as long as the request is made
18 before release from any correctional facility or, if the
19 covered offender is not sentenced to incarceration, before the
20 end of any period of probation or other supervised release;

21 (2) a covered offender incarcerated on or
22 after July 1, 1997 shall provide a sample immediately upon
23 request to the corrections department as long as the request is
24 made before release from any correctional facility;

25 (3) a covered offender on probation or other

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1 supervised release on or after July 1, 1997 shall provide a
2 sample immediately upon request to the corrections department
3 as long as the request is made before the end of any period of
4 probation or other supervised release; ~~and~~

5 (4) a covered offender required to register or
6 renew ~~his~~ the covered offender's registration pursuant to the
7 provisions of the Sex Offender Registration and Notification
8 Act shall provide a sample immediately upon request to the
9 county sheriff located in any county in which the sex offender
10 is required to register, unless the sex offender provided a
11 sample while in the custody of the corrections department or to
12 the county sheriff of another county in New Mexico in which the
13 sex offender is registered; and

14 (5) a covered offender required to register or
15 renew the covered offender's registration pursuant to the
16 provisions of the Drug Trafficker Registration and Notification
17 Act shall provide a sample immediately upon request to the
18 county sheriff located in any county in which the covered
19 offender is required to register, unless the covered
20 offender provided a sample while in the custody of the
21 corrections department or to the county sheriff of another
22 county in New Mexico in which the covered offender is
23 registered.

24 B. A person eighteen years of age or over who is
25 arrested on or after January 1, 2007 for the commission of a

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1 felony as provided in Section [~~1 of this 2006 act~~] 29-3-10 NMSA
2 1978 shall provide a sample immediately upon request to jail or
3 detention facility personnel, unless:

4 (1) the person has previously provided a
5 sample sufficient for DNA testing pursuant to the provisions of
6 this section;

7 (2) the sample is in the possession of the
8 administrative center; and

9 (3) the sample has not been expunged.

10 C. Samples from unidentified persons or relatives
11 of a missing person shall be provided to the administrative
12 center, as follows:

13 (1) upon the completion of a permission to
14 search form authorizing the collection of a DNA sample;

15 (2) upon the receipt of a properly executed
16 search warrant; or

17 (3) upon the issuance of a court order.

18 D. Samples from unidentified human remains shall be
19 provided by the state medical investigator.

20 E. Samples of known reference materials from
21 missing persons shall be provided by the investigating law
22 enforcement agency."

23 **SECTION 15. SEVERABILITY.**--If any part or application of
24 the Drug Trafficker Registration and Notification Act is held
25 invalid, the remainder of that act and its application to other

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1 situations or persons shall not be affected.

2 SECTION 16. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2013.

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