

HOUSE BILL 282

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Meredith A. Dixon and Marian Matthews

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; AMENDING AND ENACTING
SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT
TO COMPLY WITH FEDERAL LAW.

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

SECTION 1. Section 29-11A-2 NMSA 1978 (being Laws 1995,
Chapter 106, Section 2, as amended) is amended to read:

"29-11A-2. FINDINGS--PURPOSE.--

A. The legislature finds that:

- (1) sex offenders pose a significant risk of
recidivism; and
- (2) the efforts of law enforcement agencies to
protect their communities from sex offenders are impaired by
the lack of information available concerning convicted sex
offenders who live within the agencies' jurisdictions.

.227415.2GLG

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
[bracketed material] = delete

1 B. The purpose of the Sex Offender Registration and
2 Notification Act is to comply with the provisions of the
3 federal Adam Walsh Child Protection and Safety Act of 2006 and
4 to assist law enforcement agencies' efforts to protect their
5 communities by:

6 (1) requiring a sex ~~[offenders]~~ offender who
7 ~~[are residents]~~ is a resident of New Mexico to register with
8 the county sheriff of the county in which the sex offender
9 resides;

10 (2) requiring a sex ~~[offenders]~~ offender who
11 ~~[are residents]~~ is a resident in ~~[other states]~~ another state,
12 but who ~~[are]~~ is employed in New Mexico or who ~~[attend]~~ attends
13 school in New Mexico, to register with the county sheriff of
14 the county in which the sex offender works or attends school;

15 (3) requiring the establishment of a central
16 registry for sex offenders; and

17 (4) providing public access to information
18 regarding certain registered sex offenders."

19 SECTION 2. Section 29-11A-3 NMSA 1978 (being Laws 1995,
20 Chapter 106, Section 3, as amended) is amended to read:

21 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
22 Registration and Notification Act:

23 A. "business day" means a day that is not a
24 Saturday, a Sunday or a state holiday;

25 B. "conviction" means a conviction in any court of

underscored material = new
[bracketed material] = delete

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

3 C. "department" means the department of public
4 safety;

5 ~~[D. "institution of higher education" means a:~~

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

8 ~~(2) trade school; or~~

9 ~~(3) professional school;~~

10 ~~E.]~~ D. "habitually lives" means any place where a
11 sex offender lives for at least thirty days in any three-
12 hundred-sixty-five-day period;

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

14 (1) private or public post-secondary
15 educational institution;

16 (2) trade school; or

17 (3) professional school;

18 F. "juvenile sex offender" means a person fourteen
19 years of age or older who has been adjudicated delinquent for
20 committing a sexually violent offense;

21 ~~[F.]~~ G. "out-of-state registrant" means any person
22 who establishes a residence, is employed or attends school in
23 New Mexico while the person is required to register as a sex
24 offender in another state or territory;

25 ~~[G.]~~ H. "registration requirement" means any

underscoring material = new
~~[bracketed material] = delete~~

1 requirement set forth in Section 29-11A-4 NMSA 1978 that
2 requires a sex offender to register; provide information,
3 including a DNA sample; renew, revise or change registration
4 information; or provide written notice or disclosure regarding
5 the sex offender's status as a sex offender;

6 ~~[H.]~~ I. "sex offender" means a person who:

7 (1) is a resident of New Mexico who, on or
8 after July 1, 1995, is convicted of a sex offense pursuant to
9 state, federal, tribal or military law and includes a juvenile
10 sex offender who received an adult sentence pursuant to Section
11 32A-2-20 NMSA 1978;

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

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

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

23 (a) employed full time or part time in
24 New Mexico for a period of time exceeding fourteen days or for
25 an aggregate period of time exceeding thirty days during any

.227415.2GLG

1 calendar year, including any employment or vocation, whether
2 financially compensated, volunteered or for the purpose of
3 government or educational benefit; or

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

7 ~~[F.]~~ J. "sex offense" means any of the following
8 offenses or their equivalents in any other jurisdiction
9 committed on or after the date the offense became registerable
10 in New Mexico:

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

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

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

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

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

23 (6) kidnapping, as provided in Section 30-4-1
24 NMSA 1978, when committed with the intent to inflict a sexual
25 offense;

1 (7) false imprisonment, as provided in Section
2 30-4-3 NMSA 1978, when committed with the intent to inflict a
3 sexual offense;

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

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

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

11 (11) child solicitation by electronic
12 communication device, as provided in Section 30-37-3.2 NMSA
13 1978, for convictions occurring on or after July 1, 2013;

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

17 (13) patronizing prostitutes, as provided in
18 Subsection B of Section 30-9-3 NMSA 1978, when there is a
19 separate finding of fact that the sex offender knew or should
20 have known that the person believed to be a prostitute was
21 younger than sixteen years of age;

22 (14) promoting prostitution, as provided in
23 Section 30-9-4 NMSA 1978, when there is a separate finding of
24 fact that the sex offender knew or should have known that the
25 victim was younger than sixteen years of age;

.227415.2GLG

underscored material = new
[bracketed material] = delete

1 (15) accepting earnings of a prostitute, as
2 provided in Section 30-9-4.1 NMSA 1978, when there is a
3 separate finding of fact that the sex offender knew or should
4 have known that the person engaged in prostitution was younger
5 than sixteen years of age;

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

9 (17) criminal sexual communication with a
10 child, as provided in Section 30-37-3.3 NMSA 1978;

11 ~~(13)~~ (18) attempt to commit any of the sex
12 offenses set forth in Paragraphs (1) through ~~(11)~~ (17) of
13 this subsection, as provided in Section 30-28-1 NMSA 1978;
14 ~~and~~ or

15 (19) conspiracy to commit any of the sex
16 offenses set forth on Paragraphs (1) through (17) of this
17 subsection, as provided in Section 30-28-2 NMSA 1978;

18 K. "sexually violent offense" means aggravated
19 criminal sexual penetration, criminal sexual penetration in the
20 first degree, criminal sexual penetration in the second degree
21 or criminal sexual penetration in the third degree;

22 ~~(J.)~~ L. "social networking site" means an internet
23 ~~web site~~ website that facilitates online social interaction
24 by offering a mechanism for communication with other users,
25 where such users are likely to include a substantial number of

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 minors under the age of sixteen, and allowing users, through
2 the creation of web pages, profiles or other means, to provide
3 information about themselves that is available to the public or
4 to other users;

5 M. "tier 1 sex offense" means:

- 6 (1) enticement of child, as provided in
7 Section 30-9-1 NMSA 1978;
- 8 (2) sexual exploitation of children, as
9 provided in Subsection A of Section 30-6A-3 NMSA 1978;
- 10 (3) criminal sexual contact in the fourth
11 degree, as provided in Section 30-9-12 NMSA 1978;
- 12 (4) aggravated indecent exposure, as provided
13 in Section 30-9-14.3 NMSA 1978; or
- 14 (5) attempt to commit any of the sex offenses
15 set forth in Paragraphs (1) through (4) of this subsection, as
16 provided in Section 30-28-1 NMSA 1978;

17 N. "tier 2 sex offense" means:

- 18 (1) sexual exploitation of children, as
19 provided in Section 30-6A-3 NMSA 1978;
- 20 (2) sexual exploitation of children by
21 prostitution, as provided in Section 30-6A-4 NMSA 1978;
- 22 (3) false imprisonment, as provided in Section
23 30-4-3 NMSA 1978, committed with the intent to inflict a sex
24 offense;
- 25 (4) patronizing prostitutes, as provided in

1 Subsection B of Section 30-9-3 NMSA 1978, when there is a
2 separate finding of fact that the sex offender knew or should
3 have known that the person believed to be a prostitute was
4 younger than sixteen years of age;

5 (5) promoting prostitution, as provided in
6 Section 30-9-4 NMSA 1978, when there is a separate finding of
7 fact that the sex offender knew or should have known that the
8 victim was younger than sixteen years of age;

9 (6) accepting earnings of a prostitute, as
10 provided in Section 30-9-4.1 NMSA 1978, when there is a
11 separate finding of fact that the sex offender knew or should
12 have known that the person engaged in prostitution was younger
13 than sixteen years of age;

14 (7) criminal sexual penetration in the fourth
15 degree, as provided in Section 30-9-11 NMSA 1978, when the
16 victim is sixteen years of age or older;

17 (8) criminal sexual contact of a minor, as
18 provided in Section 30-9-13 NMSA 1978, when the victim is
19 thirteen to eighteen years of age;

20 (9) incest, as provided in Section 30-10-3
21 NMSA 1978, when the victim is over sixteen but younger than
22 eighteen years of age;

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

25 (11) human trafficking, as provided in Section

underscored material = new
[bracketed material] = delete

1 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
2 younger than sixteen years of age;

3 (12) child solicitation by electronic
4 communication device, as provided in Subsection C of Section
5 30-37-3.2 NMSA 1978;

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

9 (14) attempt to commit any of the sex offenses
10 set forth in Paragraph (1) through (13) of this subsection, as
11 provided in Section 30-28-1 NMSA 1978; and

12 0. "tier 3 sex offense" means:

13 (1) kidnapping, as provided in Section 30-4-1
14 NMSA 1978, when committed with intent to inflict a sex offense
15 and when the victim is younger than eighteen years of age;

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

19 (3) criminal sexual penetration in the fourth
20 degree as provided in Section 30-9-11 NMSA 1978, when the
21 victim is younger than sixteen years of age;

22 (4) criminal sexual contact of a minor, as
23 provided in Section 30-9-13 NMSA 1978, when the victim is
24 younger than thirteen years of age;

25 (5) incest, as provided in Section 30-10-3

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 NMSA 1978, when the victim is younger than sixteen years of
2 age; or

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

6 SECTION 3. Section 29-11A-4 NMSA 1978 (being Laws 1995,
7 Chapter 106, Section 4, as amended) is amended to read:

8 "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION
9 REQUIRED--VERIFICATION--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

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

13 B. A juvenile sex offender shall register with the
14 children, youth and families department within three business
15 days of release into the community after an adjudication for a
16 sexually violent offense.

17 [~~B.~~] C. A sex offender who is a resident of New
18 Mexico shall initially register in person with the county
19 sheriff no later than [~~five~~] three business days after being
20 released from the custody of the corrections department, a
21 municipal or county jail or a federal, military or tribal
22 correctional facility or detention center or being placed on
23 probation or parole. A sex offender who changes residence to
24 New Mexico shall register with the county sheriff no later than
25 [~~five~~] three business days after arrival in this state. When a

.227415.2GLG

1 sex offender initially registers with the county sheriff, the
2 sex offender shall provide the following registration
3 information:

4 (1) the sex offender's legal name and any
5 other names or aliases that the sex offender is using or has
6 used;

7 (2) the sex offender's date of birth;

8 (3) the sex offender's social security number;

9 (4) the sex offender's current physical and
10 mailing address and the address of every place where the sex
11 offender habitually lives;

12 (5) the sex offender's place of employment;

13 (6) the sex offense for which the sex offender
14 was convicted;

15 (7) the date and place of the sex offense
16 conviction;

17 (8) the sex offender's names, email addresses
18 and monikers and other self-identifiers used on social
19 networking sites, to be used only for law enforcement purposes;

20 (9) the sex offender's landline and cellular
21 telephone numbers and any other telephone numbers primarily
22 used by the sex offender;

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

24 (11) the license plate or other identifier and
25 the description of any vehicle owned or primarily operated by

underscored material = new
[bracketed material] = delete

1 the sex offender, including aircraft and watercraft;

2 (12) the name and address of any school or
3 institution of higher education that the sex offender is
4 attending; and

5 (13) copies of the sex offender's passport and
6 immigration documents.

7 [~~C.~~] D. A sex offender who is a resident of another
8 state but who is employed in New Mexico or attending public or
9 private school or an institution of higher education in New
10 Mexico shall register in person with the county sheriff for the
11 county in which the sex offender is working or attending school
12 or an institution of higher education within three business
13 days of beginning work or attending school in New Mexico.

14 [~~D.~~] E. A sex offender who is a resident of another
15 state but who is employed in New Mexico or attending public or
16 private school or an institution of higher education in New
17 Mexico shall register in person with the county sheriff no
18 later than [~~five~~] three business days after beginning work or
19 school. When the sex offender registers with the county
20 sheriff, the sex offender shall provide the following
21 registration information:

22 (1) the sex offender's legal name and any
23 other names or aliases that the sex offender is using or has
24 used;

25 (2) the sex offender's date of birth;

underscoring material = new
~~[bracketed material] = delete~~

1 (3) the sex offender's social security number;

2 (4) the sex offender's current physical and
3 mailing address in the sex offender's state of residence and,
4 if applicable, the address of the sex offender's place of
5 lodging in New Mexico while working or attending school or an
6 institution of higher education;

7 (5) the sex offender's place of employment or
8 the name of the school the sex offender is attending;

9 (6) the sex offense for which the sex offender
10 was convicted; and

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

13 ~~[E.]~~ F. When a sex offender registers in person
14 with a county sheriff, the sheriff shall obtain:

15 (1) a photograph of the sex offender and a
16 complete set of the sex offender's fingerprints and a palm
17 print;

18 (2) a physical description, including a
19 description of any tattoos, scars or other distinguishing
20 features on the sex offender's body that would assist in
21 identifying the sex offender; and

22 (3) a DNA sample for inclusion in the sex
23 offender DNA identification system pursuant to the provisions
24 of the DNA Identification Act.

25 ~~[F.]~~ G. When a sex offender who is registered

underscored material = new
[bracketed material] = delete

1 changes any information required under this section, the sex
2 offender shall immediately send written notice of the change on
3 a form approved by the department to the county sheriff. [~~no~~
4 ~~later than five business days after the change occurs.~~

5 ~~G.]~~ H. When a sex offender who is registered
6 changes residence to a new county in New Mexico, the sex
7 offender shall register in person with the county sheriff of
8 the new county no later than [~~five~~] three business days after
9 establishing the new residence. The sex offender shall also
10 send written notice of the change in residence to the county
11 sheriff with whom the sex offender last registered no later
12 than [~~five~~] three business days after establishing the new
13 residence.

14 [~~H.]~~ I. When a sex offender who is registered or
15 required to register is homeless or does not have an
16 established residence, but lives in a shelter, halfway house or
17 transitional living facility or stays in multiple locations in
18 New Mexico, the sex offender shall register each address or
19 temporary location with the county sheriff for each county in
20 which the sex offender is living or temporarily located. The
21 sex offender shall register in person no later than [~~five~~]
22 three business days after a change in living arrangements or
23 temporary location.

24 [~~I.]~~ J. When a sex offender who is registered or
25 required to register is employed, begins a vocation or is

underscoring material = new
~~[bracketed material] = delete~~

1 enrolled as a student at an institution of higher education in
2 New Mexico, the sex offender shall disclose the sex offender's
3 status as a sex offender in writing to the county sheriff for
4 the county in which the institution of higher education is
5 located, the law enforcement entity responsible for the
6 institution of higher education and the registrar for the
7 institution of higher education no later than ~~[five]~~ three
8 business days after beginning employment, beginning a vocation
9 or enrolling at the institution of higher education. The sex
10 offender shall also send written notice of any change regarding
11 employment, vocation or enrollment status at an institution of
12 higher education to the county sheriff, the law enforcement
13 entity and the registrar no later than ~~[five]~~ three business
14 days after the change in employment, vocation or enrollment
15 status.

16 ~~[J.]~~ K. When a sex offender who is registered or
17 required to register is employed or is enrolled as a student at
18 a public or private school in New Mexico, the sex offender
19 shall disclose the sex offender's status as a sex offender in
20 writing to the county sheriff for the county in which the
21 school is located and to the principal of the school no later
22 than ~~[five]~~ three business days after beginning employment or
23 enrolling at the school. The sex offender shall also send
24 written notice of any change regarding employment or enrollment
25 status at a school to the county sheriff and the principal no

.227415.2GLG

underscored material = new
[bracketed material] = delete

1 later than [~~five~~] three business days after the change in
2 employment or enrollment status.

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

11 [~~L.~~] M. Following initial registration pursuant to
12 the provisions of this section:

13 (1) a sex offender [~~required to register~~
14 ~~pursuant to the provisions of Subsection D of Section 29-11A-5~~
15 ~~NMSA 1978~~] convicted of a tier 3 sex offense shall verify
16 registration information with the county sheriff as provided in
17 Subsection [~~N~~] Q of this section not less than once in each
18 ninety-day period following the date of the sex offender's
19 initial registration for the remainder of the sex offender's
20 natural life;

21 (2) a sex offender [~~required to register~~
22 ~~pursuant to the provisions of Subsection E of Section 29-11A-5~~
23 ~~NMSA 1978~~] convicted of a tier 2 sex offense shall verify
24 registration information with the [~~county sheriff~~] department
25 as provided in Subsection [~~N~~] Q of this section once every six

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 months for a period of [~~ten~~] twenty-five years [~~and~~] from the
2 date of initial registration;

3 (3) a sex offender convicted of a tier 1 sex
4 offense shall annually verify registration information with the
5 department as provided in Subsection 0 of this section prior to
6 December 31 of each subsequent calendar year for a period of
7 fifteen years from the date of initial registration;

8 (4) a sex offender required to register for
9 the remainder of the sex offender's natural life as the result
10 of an out-of-state conviction shall verify registration
11 information with the department as provided in Subsection 0 of
12 this section not less than once in each ninety-day period for
13 the remainder of the sex offender's natural life;

14 [~~(3)~~] (5) an out-of-state registrant shall
15 verify registration information with the [county sheriff]
16 department as provided in Subsection 0 of the section for
17 [whichever is the longer of: (a)] the duration of time
18 remaining in the registrant's convicting jurisdiction and at
19 the same frequency as required in that state or territory, but
20 no less than once every six months [or

21 (b) the duration of time remaining that
22 would be required for the equivalent offense in New Mexico];
23 and

24 (6) a juvenile sex offender's obligation to
25 register shall extend until the offender attains twenty-one

underscoring material = new
~~[bracketed material] = delete~~

1 years of age or until the juvenile offender is released from
2 supervision by the children, youth and families department.

3 ~~[M.]~~ N. Notwithstanding the provisions of
4 ~~[Paragraph (2) of Subsection L]~~ Paragraphs (2) and (3) of
5 Subsection M of this section, if a sex offender is convicted a
6 second or subsequent time for a sex offense, ~~[set forth in~~
7 ~~Subsection E of Section 29-11A-5 NMSA 1978]~~ the sex offender
8 shall verify registration information with the ~~[county sheriff]~~
9 department as provided in Subsection ~~[N]~~ O of this section not
10 less than once in each ninety-day period following the date of
11 the sex offender's initial registration for the remainder of
12 the sex offender's natural life.

13 ~~[N.]~~ O. At least fifteen days prior to the time a
14 sex offender is required to verify registration information,
15 the department shall send a verification form to the sex
16 offender, by first class mail, containing the sex offender's
17 current registration information and a notice of the date that
18 the sex offender's next verification is due. The sex offender
19 shall appear in person at a location designated by the
20 department to verify the information contained on the form, to
21 change the information as necessary and to sign a statement
22 under oath that the information is true and correct. The
23 department may photograph the sex offender at that time if the
24 sex offender's appearance is significantly different from the
25 photograph already contained in the sex offender's file. If a

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 sex offender does not receive a verification form before the
2 time that the sex offender is required to verify registration
3 pursuant to Subsection [~~L~~] M of this section, the sex offender
4 shall appear at a location designated by the department to
5 verify registration information as required by this section. A
6 sex offender shall be relieved of the in-person verification
7 requirements of this subsection if the sex offender is confined
8 to a hospice facility or skilled nursing home.

9 ~~[O. The department shall establish a secure system~~
10 ~~that will permit a sex offender to notify the department~~
11 ~~electronically of any change in registration information.]~~ P.
12 A sex offender shall appear in person to notify the county
13 sheriff in the county where the sex offender resides no later
14 than three days after a sex offender's change of name, change
15 of residence, change of employment or change in student status.

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

.227415.2GLG

underscoring material = new
~~[bracketed material]~~ = delete

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

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

25 **SECTION 4.** Section 29-11A-4.1 NMSA 1978 (being Laws 2000,
.227415.2GLG

underscoring material = new
~~[bracketed material]~~ = delete

1 Chapter 8, Section 6, as amended) is amended to read:

2 "29-11A-4.1. PROCEDURES WHEN A SEX OFFENDER MOVES FROM
3 NEW MEXICO TO ANOTHER STATE.--

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

7 (1) notify the county sheriff of the county
8 ~~[he]~~ the sex offender resides in that ~~[he]~~ the sex offender is
9 moving to the other state; and

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

13 B. Within five days of receiving a sex offender's
14 written notice of intent to move to another state, the county
15 sheriff shall transmit that information to the department of
16 public safety. Within five days of receiving that information
17 from a county sheriff, the department shall contact the state
18 agency responsible for registering sex offenders in the state
19 to which the sex offender is moving. The department shall
20 provide that state agency with registration information
21 regarding the sex offender. The department shall also obtain
22 information regarding registration requirements for sex
23 offenders in the state to which the sex offender is moving.
24 The department shall provide the sex offender with written
25 notification of the registration requirements in the state to

.227415.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 which the sex offender is moving.

2 C. A sex offender who willfully fails to comply
3 with the requirements set forth in this section is guilty of a
4 fourth degree felony and shall be sentenced pursuant to the
5 provisions of Section 31-18-15 NMSA 1978."

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

10 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
11 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
12 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

13 A. A county sheriff shall maintain a local registry
14 of sex offenders in the sheriff's jurisdiction required to
15 register pursuant to the provisions of the Sex Offender
16 Registration and Notification Act.

17 B. The county sheriff shall forward:

18 (1) registration information obtained from sex
19 offenders to the department of public safety. The initial
20 registration information and any new registration information
21 subsequently obtained from a sex offender shall be forwarded by
22 the county sheriff no later than ten working days after the
23 information is obtained from a sex offender. If the department
24 of public safety receives information regarding a sex offender
25 from a governmental entity other than a county sheriff, the

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 department shall send that information to the sheriff for the
2 county in which the sex offender resides; and

3 (2) samples of DNA obtained from sex offenders
4 to the administrative center for the sex offender DNA
5 identification system pursuant to the provisions of the DNA
6 Identification Act.

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

17 D. The department [~~of public safety~~] shall retain
18 registration information regarding a sex offender convicted
19 [~~for any of the following sex offenses for the entirety~~] of a
20 tier 3 sex offense for the remainder of the sex offender's
21 natural life.

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

25 (2) ~~criminal sexual contact of a minor in the~~

.227415.2GLG

underscored material = new
[bracketed material] = delete

1 ~~second, third or fourth degree, as provided in Section~~
2 ~~30-9-13 NMSA 1978;~~

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

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

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

13 E. The department of public safety shall retain
14 registration information regarding a sex offender convicted
15 [for the following offenses] of a tier 2 sex offense for a
16 period of [~~ten~~] twenty-five years following the latest of the
17 sex offender's conviction, release from prison or release from
18 probation or parole. [~~whichever occurs later:~~

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

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

23 ~~(3) false imprisonment, as provided in Section~~
24 ~~30-4-3 NMSA 1978, when the victim is less than eighteen years~~
25 ~~of age and the offender is not a parent of the victim;~~

.227415.2GLG

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

16 F. The department shall retain registration
17 information regarding a sex offender convicted of a tier 1 sex
18 offense for a period of fifteen years following the latest of a
19 sex offender's conviction, release from prison or release from
20 probation or parole.

21 G. The children, youth, and families department
22 shall retain registration information regarding a juvenile sex
23 offender until the juvenile sex offender attains twenty-one
24 years of age, at which time the children, youth and families
25 department shall notify the department of public safety that

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 the registration period of the juvenile sex offender has
2 expired. Within ten days of receiving the notice, the
3 department of public safety shall remove all information
4 regarding the juvenile sex offender from the department's
5 database of sex offenders and remove or cause to be removed all
6 information entered by any governmental entity in the state of
7 New Mexico from all law enforcement databases.

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

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

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

23 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
24 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
25 NOTIFICATION--INTERNET [~~WEB SITE~~] WEBSITE.--

.227415.2GLG

underscored material = new
[bracketed material] = delete

1 A. If a sex offender is convicted of [~~one of the~~
2 ~~following sex offenses~~] a tier 2 or tier 3 sex offense or
3 required to register as a lifetime sex offender as a result of
4 an out-of-state conviction, the county sheriff shall forward
5 registration information obtained from the sex offender to the
6 district attorney for the judicial district in which the sex
7 offender resides and, if the sex offender is a resident of a
8 municipality, the chief law enforcement officer for the
9 municipality in which the sex offender resides.

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

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

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

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

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

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

underscored material = new
[bracketed material] = delete

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

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

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

7 (4) secretary of public safety.

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

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

24 E. The department shall establish and manage an
25 internet [~~web site~~] website that provides the public with

.227415.2GLG

underscoring material = new
~~[bracketed material]~~ = delete

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

17 (1) the sex offender's legal name and any
18 other names or aliases that the sex offender is using or has
19 used;

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

22 (3) [~~if the sex offender's employment involves~~
23 ~~direct contact with children]~~ the sex offender's place of
24 employment;

25 (4) the sex offenses for which the sex

underscoring material = new
~~[bracketed material] = delete~~

1 offender has been convicted;

2 (5) a photograph of the sex offender;

3 (6) the sex offender's date of birth;

4 (7) a physical description, including a
5 description of any tattoos, scars or other distinguishing
6 features on the sex offender's body that would assist in
7 identifying the sex offender; and

8 (8) a link that will pinpoint the location of
9 the sex offender's place of employment if the sex offender has
10 direct contact with children."

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

13 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO REGISTER.--

14 A. A court shall provide a sex offender convicted
15 in that court with written notice of ~~[his]~~ the sex offender's
16 duty to register pursuant to the provisions of the Sex Offender
17 Registration and Notification Act. The written notice shall be
18 included in judgment and sentence forms provided to the sex
19 offender. The written notice shall inform the sex offender
20 that ~~[he]~~ the sex offender is required to:

21 (1) register with the county sheriff for the
22 county in which the sex offender will reside or, if the sex
23 offender will not have an established residence, with the
24 county sheriff for each county in which the sex offender will
25 live or be temporarily located pursuant to the provisions of

.227415.2GLG

underscoring material = new
[bracketed material] = delete

1 the Sex Offender Registration and Notification Act;

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

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

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

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

25 (6) disclose [~~his~~] the sex offender's status

.227415.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 as a sex offender in writing, when ~~[he]~~ the sex offender
2 enrolls as a student at a private or public school in New
3 Mexico, to the county sheriff for the county in which the
4 school is located and to the principal of the school pursuant
5 to the provisions of the Sex Offender Registration and
6 Notification Act;

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

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

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

25 B. The corrections department, a municipal or

underscoring material = new
[bracketed material] = delete

1 county jail or a detention center, at the time of release of a
2 sex offender in its custody, shall provide a written notice to
3 the sex offender of [~~his~~] the sex offender's duty to register,
4 pursuant to the provisions of the Sex Offender Registration and
5 Notification Act. The written notice shall inform the sex
6 offender that [~~he~~] the sex offender is required to:

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

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

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

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

underscoring material = new
[bracketed material] = delete

1 education is located and to the law enforcement entity and
2 registrar for the institution of higher education pursuant to
3 the provisions of the Sex Offender Registration and
4 Notification Act;

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

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

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

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

.227415.2GLG

underscored material = new
[bracketed material] = delete

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

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

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

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

23 SECTION 8. APPLICABILITY.--The provisions of this act
24 apply to any person convicted of a sex offense on or after July
25 1, 1995.

.227415.2GLG