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SENATE BILL 76

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

R. L. STOCKARD

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING THAT A DELINQUENT CHILD
ADJUDICATED FOR A SEX OFFENSE BE SUBJECT TO THE PROVISIONS OF
THE SEX OFFENDER REGISTRATION ACT; PROVIDING PENALTIES;
PROVIDING PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN
REGISTERED SEX OFFENDERS; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION
ACT.

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

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

"29-11A-1. SHORT TITLE. -- [~~This act~~] Chapter 29, Article
11A NMSA 1978 may be cited as the "Sex Offender Registration
and Notification Act". "

Section 2. Section 29-11A-2 NMSA 1978 (being Laws 1995,

Underscored material = new
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1 Chapter 106, Section 2) is amended to read:

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

3 A. The legislature finds that:

4 (1) sex offenders pose a significant risk of
5 recidivism; and

6 (2) the efforts of law enforcement agencies
7 to protect their communities from sex offenders are impaired
8 by the lack of information available concerning convicted sex
9 offenders who live within the agencies' [~~jurisdiction~~]
10 jurisdictions.

11 B. The purpose of the Sex Offender Registration
12 and Notification Act is to assist law enforcement agencies'
13 efforts to protect their communities by:

14 (1) requiring sex offenders to register with
15 the county sheriff of the county in which the sex offender
16 resides; and

17 (2) requiring the establishment of a central
18 registry for sex offenders. "

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

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

23 A. "sex offender" means:

24 (1) a person convicted of a sex offense on or
25 after July 1, 1995; [~~or~~]

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1 (2) a person who changes his residence to New
2 Mexico, when that person has been convicted of a sex offense
3 in another state on or after July 1, 1995; [and]

4 (3) a delinquent child adjudicated for a sex
5 offense on or after July 1, 1998; or

6 (4) a delinquent child who changes his
7 residence to New Mexico, when that delinquent child has been
8 adjudicated for a sex offense in another state on or after
9 July 1, 1998; and

10 B. "sex offense" means:

11 (1) criminal sexual penetration in the first,
12 second, third or fourth degree, as provided in Section 30-9-11
13 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 third or fourth degree, as provided in Section 30-9-13 NMSA
18 1978;

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

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

24 Section 4. Section 29-11A-4 NMSA 1978 (being Laws 1995,
25 Chapter 106, Section 4) is amended to read:

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1 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
2 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

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

6 B. A sex offender who is a current resident of New
7 Mexico shall register with the county sheriff no later than
8 thirty days after being released from the custody of the
9 corrections department or the children, youth and families
10 department or being placed on probation or parole. A sex
11 offender who changes his residence to New Mexico shall
12 register with the county sheriff no later than forty-five days
13 after establishing residence in this state. When a sex
14 offender registers with the county sheriff, he shall provide
15 the following information:

- 16 (1) his legal name and any other names or
- 17 aliases that [~~the sex offender~~] he is using or has used;
- 18 (2) his date of birth;
- 19 (3) his social security number;
- 20 (4) his current address;
- 21 (5) his place of employment;
- 22 (6) the sex offense for which he was
- 23 convicted or adjudicated delinquent; and
- 24 (7) the date and place of his sex offense
- 25 conviction or adjudication.

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1 C. When a sex offender registers with a county
2 sheriff, the sheriff shall obtain:

3 (1) a photograph of the sex offender and a
4 complete set of the sex offender's fingerprints; and

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

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

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

20 F. If the sex offender is a delinquent child, as
21 provided in Paragraph (3) or (4) of Subsection A of Section
22 29-11A-3 NMSA 1978, the sex offender's parent, guardian or
23 custodian shall be responsible for complying with the
24 registration requirements set forth in the Sex Offender
25 Registration and Notification Act until the sex offender

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1 reaches eighteen years of age. When the sex offender reaches
2 eighteen years of age, he shall be responsible for complying
3 with the registration requirements set forth in the Sex
4 Offender Registration and Notification Act.

5 [F-] G. A sex offender or a sex offender's parent,
6 guardian or custodian who willfully fails to comply with the
7 registration requirements set forth in this section is guilty
8 of a misdemeanor and shall be punished by imprisonment for a
9 definite term less than one year or a fine of not more than
10 one thousand dollars (\$1,000) or both.

11 [G-] H. A sex offender or a sex offender's parent,
12 guardian or custodian who provides false information when
13 complying with the registration requirements set forth in this
14 section is guilty of a misdemeanor and shall be punished by
15 imprisonment for a definite term less than one year or a fine
16 of not more than one thousand dollars (\$1,000) or both. "

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

19 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
20 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--EXCHANGE OF
21 REGISTRATION INFORMATION WITH OTHER STATES--RULES [AND
22 REGULATIONS]. --

23 A. A county sheriff may maintain a local registry
24 of sex offenders in his jurisdiction required to register
25 pursuant to the provisions of the Sex Offender Registration

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1 and Notification Act.

2 B. The county sheriff shall forward registration
3 information obtained from sex offenders to the department of
4 public safety. The registration information shall be
5 forwarded by the county sheriff no later than ten working days
6 after the information is obtained from a sex offender.

7 C. The department of public safety shall maintain
8 a central registry of sex offenders required to register
9 pursuant to the provisions of the Sex Offender Registration
10 and Notification Act. The department may enter into
11 interstate compact agreements providing for the exchange of
12 information regarding sex offenders [~~provided that the other~~
13 ~~state does not permit dissemination of information regarding~~
14 ~~sex offenders to any persons or entities other than law~~
15 ~~enforcement agencies~~].

16 D. The department of public safety shall retain
17 registration information regarding sex offenders convicted or
18 adjudicated delinquent for the following sex offenses for a
19 period of twenty years following the sex offender's
20 conviction, adjudication, release from prison or release from
21 probation or parole, whichever occurs later:

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

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

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

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

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

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

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

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

17 F. The department of public safety shall adopt
18 rules [~~and regulations~~] necessary to carry out the provisions
19 of the Sex Offender Registration and Notification Act. "

20 Section 6. Section 29-11A-7 NMSA 1978 (being Laws 1995,
21 Chapter 106, Section 7) is amended to read:

22 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
23 REGISTER. --

24 A. A court shall provide a sex offender
25 adjudicated guilty or delinquent in that court with written

. 119786. 3

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1 notice of his duty to register pursuant to the provisions of
2 the Sex Offender Registration and Notification Act. [~~The~~
3 ~~written notice shall be included in judgment and sentence~~
4 ~~forms provided to the sex offender.~~]

5 B. The corrections department or the children,
6 youth and families department, at the time of release of a sex
7 offender in the department's custody, shall provide written
8 notification to the sex offender or the sex offender's parent,
9 guardian or custodian of his duty to register pursuant to the
10 provisions of the Sex Offender Registration and Notification
11 Act. The corrections department or the children, youth and
12 families department shall also provide written notification
13 regarding a sex offender's release to the sheriff of the
14 county in which the sex offender is released.

15 C. The department of public safety, at the time it
16 is notified by officials from another state that a sex
17 offender will be establishing residence in New Mexico, shall
18 provide written notification to the sex offender or the sex
19 offender's parent, guardian or custodian of his duty to
20 register pursuant to the provisions of the Sex Offender
21 Registration and Notification Act. "

22 Section 7. Section 29-11A-8 NMSA 1978 (being Laws 1995,
23 Chapter 106, Section 8) is amended to read:

24 "29-11A-8. IMMUNITY.--Nothing in the Sex Offender
25 Registration and Notification Act creates a cause of action on

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1 behalf of a person against a public employer, public employee
2 or public agency responsible for enforcement of the provisions
3 of that act, so long as the public employer, public employee
4 or public agency complies with the provisions of that act."

5 Section 8. A new section of the Sex Offender
6 Registration and Notification Act is enacted to read:

7 "[NEW MATERIAL] PUBLIC ACCESS TO INFORMATION REGARDING
8 CERTAIN REGISTERED SEX OFFENDERS. --

9 A. If a sex offender is convicted or adjudicated
10 delinquent for one of the following sex offenses, the county
11 sheriff shall forward registration information obtained from
12 the sex offender to the chief municipal law enforcement
13 officer, the chief administrator of the public library and the
14 superintendent of schools in the municipality in which the sex
15 offender resides:

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

18 (2) criminal sexual contact of a minor in the
19 third or fourth degree, as provided in Section 30-9-13 NMSA
20 1978;

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

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

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B. A person who wishes to obtain registration information regarding sex offenders described in Subsection A of this section may request that information from a county sheriff, a chief law enforcement officer of a municipality, a chief administrator of a public library or a superintendent of schools. All requests for registration information regarding sex offenders described in Subsection A of this section shall be subject to the provisions of the Inspection of Public Records Act. "

Section 9. REPEAL. -- Section 29-11A-6 NMSA 1978 (being Laws 1995, Chapter 106, Section 6) is repealed.

Section 10. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 January 27, 1998

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 76

13
14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 15, and thence referred to
16 the PUBLIC AFFAIRS COMMITTEE.
17

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19 Respectfully submitted,

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24 _____
25 Manny M. Aragon, Chairman

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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3 SB 76/a

4
5
6 February 4, 1998

7
8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

11
12 SENATE BILL 76

13
14 has had it under consideration and reports same with recommendation
15 that it DO PASS, amended as follows:

16
17
18 1. On page 1, lines 11 through 13, strike "PROVIDING THAT A
19 DELINQUENT CHILD ADJUDICATED FOR A SEX OFFENSE BE SUBJECT TO THE
20 PROVISIONS OF THE SEX OFFENDER REGISTRATION ACT; PROVIDING
21 PENALTIES;".

22
23 2. On page 1, lines 16 and 17, strike "SEX OFFENDER REGISTRATION
24 AND NOTIFICATION ACT" and insert in lieu thereof "NMSA 1978".

25 3. On page 2, line 25, remove the brackets and line through

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/SB 76

Page 15

"or".

4. On page 3, line 3, remove the brackets and line through
"and".

5. On page 3, strike lines 4 through 9 in their entirety.

6. On page 4, lines 9 and 10, strike "or the children, youth and
families department".

7. On page 4, line 23, strike "or adjudicated delinquent".

8. On page 4, line 25, strike "or adjudication".

9. On page 5, strike lines 20 through 25 in their entirety and
on page 6, strike lines 1 through 4 in their entirety.

10. Reletter the succeeding subsections accordingly.

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/SB 76

Page 16

11. On page 6, lines 5 and 6, strike "or a sex offender's
parent, guardian or custodian".

12. On page 6, lines 11 and 12, strike "or a sex offender's
parent, guardian or custodian".

13. On page 7, lines 17 and 18, strike "or adjudicated
delinquent".

14. On page 7, line 20, strike "adjudication,".

15. On page 8, lines 4 and 5, strike "or adjudicated
delinquent".

16. On page 8, line 7, strike "adjudication,".

17. On page 8, line 25, strike "or delinquent".

18. On page 9, lines 2 through 4, remove the brackets and line
through "The written notice shall be included in the judgment and
sentence forms provided to the sex offender.".

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/SB 76

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19. On page 9, lines 5 and 6, strike "or the children, youth and families department,".

20. On page 9, lines 8 and 9, strike "or the sex offender's parent, guardian or custodian".

21. On page 9, lines 11 and 12, strike "or the children, youth and families department".

22. On page 9, lines 18 and 19, strike "or the sex offender's parent, guardian or custodian".

23. On page 10, lines 9 and 10, strike "or adjudicated delinquent".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/SB 76

Page 18

Shannon Robinson, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Smith, Vernon

Absent: None

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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SPAC/SB 76

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1 FORTY-THIRD LEGISLATURE

SB 76/a

2 SECOND SESSION, 1998

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6 February 13, 1998

7
8 Mr. President:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 76, as amended

13
14 has had it under consideration and reports same with recommendation
15 that it DO PASS, amended as follows:

16
17
18 1. On page 7, line 10, after "into" insert "intrastate or".

19
20 2. On page 10, line 12, after "offender" insert the words "to
21 the district attorney, and".

22
23 3. On page 10, line 13, after "officer", delete the comma, and
24 delete the remainder of line 13.

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SJC SB/76

Page 21

4. On page 10, line 14, delete "superintendent of schools".
5. On page 11, line 4, after the second comma, insert "or".
6. On page 11, delete line 5 in its entirety.
7. On page 11, line 6, delete "schools", and insert in lieu thereof "district attorney".
8. On page 11, line 9, after the period insert the following sentence, "Upon and applicant's compliance with the provisions of the Inspection of Public Records Act, the department of public safety, through compact agreements with intrastate entities empowered under the Sex Offender Registration and Notification Act, shall provide the relevant information to the requesting entity for dissemination to the person originating the request for information as to a particular offender. ",

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SJC SB/76

Page 22

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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SJC SB/76

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No: 0

Excused: McSorley

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 18, 1998
7

8 Mr. Speaker:
9

10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 SENATE BILL 76, as amended
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 APPROPRIATIONS AND FINANCE COMMITTEE.

17 Respectfully submitted,
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21 _____
22 Thomas P. Foy, Chairman
23
24
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 25

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

8
9 The roll call vote was 7 For 0 Against

10 Yes: 7

11 Excused: Alwin, Luna, Mallory, Rios, Sanchez, Stewart

12 Absent: None

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