

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES THAT ARE SEX OFFENSES; PROVIDING PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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.--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, Chapter 106, Section 2) 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.

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

- (1) requiring sex offenders who are residents of New Mexico to register with the county sheriff of the county in which the sex offender resides;
- (2) requiring sex offenders who are residents in other states, but who are employed in New

Mexico or who attend school in New Mexico, to register with the county sheriff of the county in which the sex offender works or attends school;

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

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

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

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

A. "sex offender" means a person eighteen years of age or older:

(1) who is a resident of New Mexico who is convicted of a sex offense in New Mexico;

(2) who changes his residence to New Mexico, when that person has been convicted of a sex offense in another state pursuant to state, federal or military law;

(3) who is a resident of New Mexico who is convicted of a sex offense pursuant to federal or military law; or

(4) who is a resident of another state and who has been convicted of a sex offense pursuant to state, federal or military law, but who is employed in New Mexico or attends school in New Mexico; and

B. "sex offense" means:

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

(2) criminal sexual contact in the fourth

degree, as provided in Section 30-9-12 NMSA 1978;

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

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

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

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

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

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

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

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

B. A sex offender who is a current resident of New Mexico shall register with the county sheriff no later than ten days after being released from the custody of the corrections department or being placed on probation or parole. A sex offender who changes his residence to New Mexico shall register with the county sheriff no later than ten days after establishing residence in this state. When a sex offender registers with the county sheriff, he shall

provide the following information:

- (1) his legal name and any other names or aliases that he is using or has used;
- (2) his date of birth;
- (3) his social security number;
- (4) his current address;
- (5) his place of employment;
- (6) the sex offense for which he was convicted; and
- (7) the date and place of his sex offense conviction.

C. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff for the county in which the sex offender is working or attending school.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff no later than ten days after beginning work or school. When the sex offender registers with the county sheriff, he shall provide the following information:

- (1) his legal name and any other names or aliases that he is using or has used;
- (2) his date of birth;
- (3) his social security number;
- (4) his current address in his state of residence and, if applicable, the address of his place of lodging in New Mexico while he is working or attending school;

(5) his place of employment or the name of the school he is attending;

(6) the sex offense for which he was convicted; and

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

E. When a sex offender registers with a county sheriff, the sheriff shall obtain:

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

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

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

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

H. Following his initial registration pursuant to the provisions of this section, a sex offender shall annually renew his registration with the county sheriff prior to December 31 of each subsequent calendar year.

I. A sex offender who willfully fails to comply with the registration requirements set forth in this section is guilty of a misdemeanor and shall be punished by imprisonment for a definite term less than one year or a fine of not more than one thousand dollars (\$1,000) or both.

J. A sex offender who provides false information when complying with the registration requirements set forth in this section is guilty of a misdemeanor and shall be punished by imprisonment for a definite term less than one year or a fine of not more than one thousand dollars (\$1,000) or both."

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

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

A. A county sheriff shall maintain a local registry of sex offenders in his jurisdiction required to register pursuant to the provisions of the Sex Offender Registration and Notification Act.

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

C. The department of public safety shall maintain a central registry of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The department shall participate in the national sex offender registry administered by the

United States department of justice.

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

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

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

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

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

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

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

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

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

(4) sexual exploitation of children by

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

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

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

F. The department of public safety shall adopt rules necessary to carry out the provisions of the Sex Offender Registration and Notification Act."

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

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

A. A court shall provide a sex offender convicted in that court with written notice of his duty to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The written notice shall be included in judgment and sentence forms provided to the sex offender.

B. The corrections department, at the time of release of a sex offender in the department's custody, shall provide written notification to the sex offender of his duty to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The corrections department shall also provide written notification regarding a sex offender's release to the sheriff of the county in which the sex offender is released.

C. The department of public safety, at the time it is notified by officials from another state that a sex offender will be establishing residence in New Mexico, shall

provide written notification to the sex offender of his duty to register pursuant to the provisions of the Sex Offender Registration and Notification Act."

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

"29-11A-8. IMMUNITY.--Nothing in the Sex Offender Registration and Notification Act creates a cause of action on behalf of a person against a public employer, public employee or public agency responsible for enforcement of the provisions of that act, so long as the public employer, public employee or public agency complies with the provisions of that act."

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

"PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS.--

A. If a sex offender is convicted of one of the following sex offenses, the county sheriff shall forward registration information obtained from the sex offender to the district attorney for the judicial district in which the sex offender resides and, if the sex offender is a resident of a municipality, the chief law enforcement officer for the municipality in which the sex offender resides:

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

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

(3) sexual exploitation of children, as

provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

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

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

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

(1) county sheriff for the county in which the sex offender resides;

(2) chief law enforcement officer for the municipality in which the sex offender resides;

(3) district attorney for the judicial district in which the sex offender resides; or

(4) secretary of public safety.

C. All requests for registration information regarding a sex offender described in Subsection A of this section are 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. SEVERABILITY.--If any part or application of the Sex Offender Registration and Notification Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 11. APPLICABILITY.--The provisions of Sections 1 through 9 of this act apply to persons convicted of a sex offense committed on or after July 1, 1999. As to persons

