

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 1119

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
REVISING THE DEFINITIONS FOR SEX OFFENDER AND SEX OFFENSE;  
REQUIRING A SEX OFFENDER TO PROVIDE ADDITIONAL REGISTRATION  
INFORMATION; AMENDING SECTIONS OF THE SEX OFFENDER REGISTRATION  
AND NOTIFICATION ACT; DECLARING AN EMERGENCY.

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

1 the lack of information available concerning convicted sex  
2 offenders who live within the agencies' jurisdictions.

3 B. The purpose of the Sex Offender Registration and  
4 Notification Act is to assist law enforcement agencies' efforts  
5 to protect their 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]~~  
13 attends school in New Mexico or visits New Mexico for more than  
14 twenty-four hours, to register with the ~~[county]~~ sheriff of the  
15 county in which the sex offender works, ~~[or]~~ attends school or  
16 visits;

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

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

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

23 "29-11A-3. DEFINITIONS. -- As used in the Sex Offender  
24 Registration and Notification Act:

25 A. "sex offender" means a person eighteen years of

1 age or older who:

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

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

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

10 (4) is a resident of another state and who has  
11 been convicted of a sex offense pursuant to state, federal or  
12 military law, but who is:

13 (a) employed full time or part time in  
14 New Mexico for a period of time exceeding fourteen days or for  
15 an aggregate period of time exceeding thirty days during any  
16 calendar year; [~~or~~]

17 (b) enrolled on a full-time or part-time  
18 basis in a private or public school in New Mexico, including a  
19 secondary school, a trade school, a professional institution or  
20 an institution of higher education; [~~and~~] or

21 (c) a visitor from another state and  
22 will be in New Mexico for more than twenty-four hours; and

23 B. "sex offense" means:

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

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1 NMSA 1978;

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

4 (3) criminal sexual contact of a minor in the  
5 second, third or fourth degree, as provided in Section  
6 30-9-13 NMSA 1978;

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

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

11 (6) kidnapping, as provided in Section  
12 30-4-1 NMSA 1978, when the victim is less than eighteen years  
13 of age and the offender is not a parent of the victim;

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

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

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

21 [~~(8)~~] (10) solicitation to commit criminal  
22 sexual contact of a minor in the second, third or fourth  
23 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;  
24 or

25 [~~(9)~~] (11) attempt to commit any of the sex

1 offenses set forth in Paragraphs (1) through [~~(7)~~] (8) of this  
 2 subsection, as provided in Section 30-28-1 NMSA 1978. "

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

5 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION  
 6 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

7 A. A sex offender residing in this state shall  
 8 register with the [~~county~~] sheriff for the county in which the  
 9 sex offender resides.

10 B. A sex offender who is a current resident of New  
 11 Mexico shall register with the county sheriff no later than  
 12 [~~ten days~~] twenty-four hours after being released from the  
 13 custody of the corrections department or being placed on  
 14 probation or parole. A sex offender who changes his residence  
 15 to New Mexico shall register with the county sheriff no later  
 16 than [~~ten days~~] twenty-four hours after establishing residence  
 17 in this state. When a sex offender registers with the county  
 18 sheriff, he shall provide the following registration  
 19 information:

- 20 (1) his legal name and any other names or  
 21 aliases that he is using or has used;  
 22 (2) his date of birth;  
 23 (3) his social security number;  
 24 (4) [~~his current address~~] the addresses of all  
 25 residences he owns, specifying which address is his primary

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1 residence;

2 (5) his motor vehicle registration information  
3 with a description of all motor vehicles owned;

4 [~~5~~] (6) his place of employment;

5 [~~6~~] (7) the sex offense for which he was  
6 convicted; and

7 [~~7~~] (8) the date and place of his sex  
8 offense conviction.

9 C. A sex offender who is a resident of another  
10 state but who is employed in New Mexico, [~~or~~] attending school  
11 in New Mexico or visiting New Mexico shall register with the  
12 [~~county~~] sheriff for the county in which the sex offender is  
13 working, [~~or~~] attending school or visiting.

14 D. A sex offender who is a resident of another  
15 state but who is employed in New Mexico, [~~or~~] attending school  
16 in New Mexico or visiting New Mexico shall register with the  
17 county sheriff no later than [~~ten days~~] twenty-four hours after  
18 beginning work, [~~or~~] school or his visit. When the sex  
19 offender registers with the county sheriff, he shall provide  
20 the following registration information:

21 (1) his legal name and any other names or  
22 aliases that he is using or has used;

23 (2) his date of birth;

24 (3) his social security number;

25 (4) his current address in his state of

1 residence and, if applicable, the address of his place of  
2 lodging in New Mexico while he is working or attending school;

3 (5) his motor vehicle registration information  
4 and a description of all motor vehicles owned or that will be  
5 used in New Mexico by him while he is working, attending school  
6 or visiting;

7 ~~[(5)]~~ (6) his place of employment or the name  
8 of the school he is attending;

9 ~~[(6)]~~ (7) the sex offense for which he was  
10 convicted; and

11 ~~[(7)]~~ (8) the date and place of his sex  
12 offense conviction.

13 E. When a sex offender registers with a county  
14 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 DNA  
17 sample; and

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

21 F. When a sex offender who is registered changes  
22 his residence within the same county, the sex offender shall  
23 send written notice of his change of address to the county  
24 sheriff ~~[no later than ten days after]~~ prior to establishing  
25 his new residence.

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1           G. When a sex offender who is registered changes  
2 his residence to a new county in New Mexico, the sex offender  
3 shall register with the [eounty] sheriff of the new county no  
4 later than [~~ten days~~] twenty-four hours after establishing his  
5 new residence, including proof of the new residence. The sex  
6 offender shall also send written notice of the change in  
7 residence to the county sheriff with whom he last registered no  
8 later than [~~ten days~~] twenty-four hours after establishing his  
9 new residence, including proof of the new residence.

10           H. Following his initial registration pursuant to  
11 the provisions of this section:

12                   (1) a sex offender required to register  
13 pursuant to the provisions of Subsection D of Section 29-11A-5  
14 NMSA 1978 shall [~~annually~~] renew his registration with the  
15 county sheriff [~~prior to December 31 of each subsequent~~  
16 ~~calendar year for a period of twenty years~~] every ninety days  
17 following his initial registration for a period of twenty  
18 years; and

19                   (2) a sex offender required to register  
20 pursuant to the provisions of Subsection E of Section 29-11A-5  
21 NMSA 1978 shall [~~annually~~] renew his registration with the  
22 county sheriff [~~prior to December 31 of each subsequent~~  
23 ~~calendar year~~] every ninety days following his initial  
24 registration for a period of ten years.

25           I. A sex offender who willfully fails to comply



1 with the registration requirements set forth in this section is  
 2 guilty of a fourth degree felony and shall be sentenced  
 3 pursuant to the provisions of Section 31-18-15 NMSA 1978.

4 J. A sex offender who willfully provides false  
 5 information when complying with the registration requirements  
 6 set forth in this section is guilty of a fourth degree felony  
 7 and shall be sentenced pursuant to the provisions of Section  
 8 31-18-15 NMSA 1978. "

9 Section 4. Section 29-11A-4.1 NMSA 1978 (being Laws 2000,  
 10 Chapter 8, Section 6) is amended to read:

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

13 A. If a sex offender intends to move from New  
 14 Mexico to another state, no later than thirty days prior to  
 15 moving to the other state, he shall:

16 (1) notify the [~~county~~] sheriff of the county  
 17 he resides in that he is moving to the other state; and

18 (2) provide the county sheriff with a written  
 19 notice that identifies the [~~state~~] new address of the residence  
 20 to which the sex offender is moving.

21 B. Within five days of receiving a sex offender's  
 22 written notice of intent to move to another state, the county  
 23 sheriff shall transmit that information to the department of  
 24 public safety. Within five days of receiving that information  
 25 from a county sheriff, the department shall contact the state

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1 agency responsible for registering sex offenders in the state  
2 to which the sex offender is moving. The department shall  
3 provide that state agency with registration information  
4 regarding the sex offender. The department shall also obtain  
5 information regarding registration requirements for sex  
6 offenders in the state to which the sex offender is moving.  
7 The department shall provide the sex offender with written  
8 notification of the registration requirements in the state to  
9 which the sex offender is moving.

10 C. A sex offender who willfully fails to comply  
11 with the requirements set forth in this section is guilty of a  
12 [~~misdemeanor~~] fourth degree felony and shall be punished by  
13 imprisonment for a definite term [~~less than~~] of one year or a  
14 fine of not more than one thousand dollars (\$1,000) or both."

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

17 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
18 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN  
19 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

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

24 B. The county sheriff shall forward registration  
25 information obtained from sex offenders to the department of

1 public safety. The initial registration information and any  
2 new registration information subsequently obtained from a sex  
3 offender shall be forwarded by the county sheriff no later than  
4 ten working days after the information is obtained from a sex  
5 offender. If the department of public safety receives  
6 information regarding a sex offender from a governmental entity  
7 other than a county sheriff, the department shall send that  
8 information to the sheriff for the county in which the sex  
9 offender resides.

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

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

25 (1) criminal sexual penetration in the first

1 or second degree, as provided in Section 30-9-11 NMSA 1978;

2 (2) criminal sexual contact of a minor in the  
3 second or third degree, as provided in Section 30-9-13 NMSA  
4 1978;

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

7 (4) kidnapping, as provided in Section 30-4-1  
8 NMSA 1978, when the victim is less than eighteen years of age  
9 and the offender is not a parent of the victim; [or]

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

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

14 [~~(5)~~] (7) attempt to commit any of the sex  
15 offenses set forth in Paragraphs (1) through [~~(4)~~] (5) of this  
16 subsection, as provided in Section 30-28-1 NMSA 1978.

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

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

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

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

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

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

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

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

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

17 Section 6. Section 29-11A-5.1 NMSA 1978 (being Laws  
18 1999, Chapter 19, Section 8, as amended) is amended to read:

19 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING  
20 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY  
21 NOTIFICATION--INTERNET WEB SITE.--

22 A. If a sex offender is convicted of one of the  
23 following sex offenses, the county sheriff shall forward  
24 registration information obtained from the sex offender to the  
25 district attorney for the judicial district in which the sex

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1 offender resides and, if the sex offender is a resident of a  
2 municipality, the chief law enforcement officer for the  
3 municipality in which the sex offender resides:

4 (1) criminal sexual penetration in the first,  
5 [~~or~~] second or third degree, as provided in Section 30-9-11  
6 NMSA 1978;

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

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

12 (4) sexual exploitation of children by  
13 prostitution, as provided in Section 30-6A-4 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 B. A person who wants to obtain registration  
18 information regarding sex offenders described in Subsection A  
19 of this section may request that information from the:

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

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

24 (3) district attorney for the judicial  
25 district in which the sex offenders reside; or

1 (4) secretary of public safety.

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

10 D. Within seven days of receiving registration  
11 information from a sex offender described in Subsection A of  
12 this section, the county sheriff shall contact every licensed  
13 daycare center, elementary school, middle school and high  
14 school within a one-mile radius of the sex offender's residence  
15 and provide them with the sex offender's registration  
16 information, with the exception of the sex offender's social  
17 security number.

18 E. The department of public safety [~~may~~] shall  
19 establish and ~~manage~~ an internet web site that provides the  
20 public with registration information regarding sex offenders  
21 described in Subsection A of this section. The registration  
22 information provided to the public pursuant to this subsection  
23 shall not include a sex offender's social security number or a  
24 sex offender's place of employment, unless the sex offender's  
25 employment requires him to have direct contact with children."

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1           Section 7.   EMERGENCY.--It is necessary for the public  
2   peace, health and safety that this act take effect immediately.

underscored material = new  
~~bracketed material~~ = delete