

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; REVISING DEFINITIONS;
ADDING NEW OFFENSES TO REGISTRATION REQUIREMENTS; LENGTHENING
REGISTRATION PERIODS FOR CERTAIN OFFENDERS; REQUIRING
ADDITIONAL NOTIFICATION AND REGISTRATION INFORMATION;
EXPANDING NOTICE REQUIREMENTS TO SEX OFFENDERS; REQUIRING DNA
SAMPLES; ESTABLISHING THE SEX OFFENDER DNA IDENTIFICATION
SYSTEM; PREEMPTING SEX OFFENDER REGISTRATION AND NOTIFICATION.

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

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995,
Chapter 106, Section 3, as amended) is amended to read:

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

A. "conviction" means a conviction in any court of
competent jurisdiction and includes a deferred sentence, but
does not include a conditional discharge;

B. "institution of higher education" means a:

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

(2) trade school; or

(3) professional school;

C. "registration requirement" means any
requirement set forth in Section 29-11A-4 NMSA 1978 that
requires a sex offender to register, provide information,

including a DNA sample, renew, revise or change his registration information or provide written notice or disclosure regarding his status as a sex offender;

D. "sex offender" means a person who:

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

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

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

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

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

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

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

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

E. "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 second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

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

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

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

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

victim;

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

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

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

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

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

Section 2. Section 29-11A-4 NMSA 1978 (being Laws 1995, Chapter 106, Section 4, as amended) 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 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, a municipal or county jail or a federal, military or tribal correctional facility or detention center 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 his arrival in this state. When a sex offender registers with the county sheriff, he shall provide the following registration 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 public or private school or an institution of higher education in New Mexico shall register with the county sheriff for the county in which the sex offender is working or attending school or an institution of higher education.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending public or private school or an institution of higher education 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 registration 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 or an institution of higher education;
- (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;
- (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; and

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

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. When a sex offender who is registered or required to register does not have an established residence, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico, the sex offender shall register with the county sheriff for each county in which the sex offender is living or temporarily located. The sex offender shall register no later than ten days after a change in his living arrangements or temporary location.

I. When a sex offender who is registered or required to register is employed, begins a vocation or is

enrolled as a student at an institution of higher education in New Mexico, the sex offender shall disclose his status as a sex offender in writing to the county sheriff for the county in which the institution of higher education is located, the law enforcement entity responsible for the institution of higher education and the registrar for the institution of higher education no later than ten days after beginning employment, beginning a vocation or enrolling at the institution of higher education. The sex offender shall also send written notice of any change regarding his employment, vocation or enrollment status at an institution of higher education to the county sheriff, the law enforcement entity and the registrar no later than ten days after the change in his employment, vocation or enrollment status.

J. When a sex offender who is registered or required to register is employed or is enrolled as a student at a public or private school in New Mexico, the sex offender shall disclose his status as a sex offender in writing to the county sheriff for the county in which the school is located and to the principal of the school no later than ten days after enrolling at the school. The sex offender shall also send written notice of any change regarding his enrollment status at a school to the county sheriff and the principal no later than ten days after the change in his enrollment status.

K. When a sex offender who is registered or

required to register is employed, begins a vocation or volunteers his services, regardless of whether the sex offender receives payment or other compensation, the sex offender shall disclose his status as a sex offender in writing to his employer, supervisor or person similarly situated. The written disclosure shall be made immediately upon beginning his employment, vocation or volunteer service.

L. Following his initial registration pursuant to the provisions of this section:

(1) a sex offender required to register pursuant to the provisions of Subsection D of Section 29-11A-5 NMSA 1978 shall renew his registration with the county sheriff not less than once in each ninety-day period following the date of the sex offender's initial registration for the entirety of his natural life; and

(2) a sex offender required to register pursuant to the provisions of Subsection E of Section 29-11A-5 NMSA 1978 shall annually renew his registration with the county sheriff prior to December 31 of each subsequent calendar year for a period of ten years.

M. Notwithstanding the provisions of Paragraph (2) of Subsection L of this section, if a sex offender is convicted a second or subsequent time for a sex offense set forth in Subsection E of Section 29-11A-5 NMSA 1978, he shall renew his registration with the county sheriff not less than

once in each ninety-day period following the date of the sex offender's initial registration for the entirety of his natural life.

N. A sex offender who willfully or knowingly fails to comply with the registration requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. A sex offender who willfully or knowingly fails to comply with the registration requirements set forth in this section after a first or subsequent conviction for a violation pursuant to this section is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. The willful failure to comply with any registration requirement set forth in this section shall be deemed part of a continuing transaction or occurrence. A conviction pursuant to this subsection shall not be considered a felony for purposes of the imposition of sentencing enhancements pursuant to the provisions of Section 31-18-17 NMSA 1978.

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

complying with the registration requirements set forth in this section after a first or subsequent conviction for a violation pursuant to this section is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. The willful providing by a sex offender of false information with respect to the registration requirements set forth in this section shall be deemed part of a continuing transaction or occurrence. A conviction pursuant to this subsection shall not be considered a felony for purposes of the imposition of sentencing enhancements pursuant to the provisions of Section 31-18-17 NMSA 1978."

Section 3. Section 29-11A-4.1 NMSA 1978 (being Laws 2000, Chapter 8, Section 6) is amended to read:

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

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

(1) notify the county sheriff of the county he resides in that he is moving to the other state; and

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

B. Within five days of receiving a sex offender's written notice of intent to move to another state, the county

sheriff shall transmit that information to the department of public safety. Within five days of receiving that information from a county sheriff, the department shall contact the state agency responsible for registering sex offenders in the state to which the sex offender is moving. The department shall provide that state agency with registration information regarding the sex offender. The department shall also obtain information regarding registration requirements for sex offenders in the state to which the sex offender is moving. The department shall provide the sex offender with written notification of the registration requirements in the state to which the sex offender is moving.

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

Section 4. Section 29-11A-5 NMSA 1978 (being Laws 1995, Chapter 106, Section 5, as amended) 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:

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

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

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. The department shall send conviction information and fingerprints for all sex offenders registered in New Mexico to the national sex offender registry administered by the United States department of justice and to the federal bureau of investigation.

D. The department of public safety shall retain registration information regarding a sex offender convicted for any of the following sex offenses for the entirety of his natural life:

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

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

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

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

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

(6) 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.

E. The department of public safety shall retain registration information regarding a sex offender 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 fourth degree, as provided in Section 30-9-11 NMSA 1978;

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

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

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

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

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

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

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

F. Notwithstanding the provisions of Subsection E of this section, if a sex offender is convicted a second or subsequent time for a sex offense set forth in that subsection, the department of public safety shall retain information regarding the sex offender for the entirety of the

sex offender's natural life.

G. The department of public safety shall adopt rules necessary to carry out the provisions of the Sex Offender Registration and Notification Act. Rules necessary for the collection of DNA samples and the administration and operation of the sex offender DNA identification system shall be adopted by the DNA identification system oversight committee pursuant to the provisions of the DNA Identification Act."

Section 5. Section 29-11A-5.1 NMSA 1978 (being Laws 1999, Chapter 19, Section 8, as amended) is amended to read:

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

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

(2) criminal sexual contact of a minor in

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

(3) sexual exploitation of children, as provided in 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 sex offenders described in Subsection A of this section may request that information from the:

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

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

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

(4) secretary of public safety.

C. Upon receiving a request for registration information regarding sex offenders described in Subsection A of this section, the county sheriff, chief municipal law enforcement officer, district attorney or secretary of public safety shall provide that registration information, with the exception of a sex offender's social security number and DNA

information, within a reasonable period of time, and no later than seven days after receiving the request.

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

E. The department of public safety shall establish and manage an internet web site that provides the public with registration information regarding sex offenders described in Subsection A of this section, except that the department of public safety shall not provide registration information on the internet web site regarding a sex offender who was less than eighteen years of age when he committed the sex offense for which he was convicted as a youthful offender, as provided in Section 32A-2-3 NMSA 1978, unless at the time of sentencing, the court made a finding that the sex offender is not amenable to treatment and is a danger to the community. The registration information provided to the public pursuant to this subsection shall not include a sex offender's social security number or DNA information or a sex offender's place of employment, unless the sex offender's employment requires

him to have direct contact with children."

Section 6. Section 29-11A-7 NMSA 1978 (being Laws 1995, Chapter 106, Section 7, as amended) 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. The written notice shall inform the sex offender that he is required to:

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

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

(3) notify the county sheriff of the county he resides in if the sex offender intends to move to another state and that the sex offender is required to register in the other state pursuant to the provisions of the Sex Offender

Registration and Notification Act;

(4) disclose his status as a sex offender in writing when he begins employment, begins a vocation or enrolls as a student at an institution of higher education in New Mexico to the county sheriff for the county in which the institution of higher education is located and to the law enforcement entity and registrar for the institution of higher education pursuant to the provisions of the Sex Offender Registration and Notification Act;

(5) provide written notice of any change regarding his employment, vocation or enrollment status at an institution of higher education to the county sheriff, the law enforcement entity and the registrar pursuant to the provisions of the Sex Offender Registration and Notification Act;

(6) disclose his status as a sex offender in writing when he enrolls as a student at a private or public school in New Mexico, to the county sheriff for the county in which the school is located and to the principal of the school pursuant to the provisions of the Sex Offender Registration and Notification Act;

(7) provide written notice of any change regarding his enrollment status at a public or private school in New Mexico to the county sheriff and the principal of the school pursuant to the provisions of the Sex Offender

Registration and Notification Act;

(8) disclose his status as a sex offender in writing to his employer, supervisor or other person similarly situated, when he begins employment, begins a vocation or volunteers his services, regardless of whether the sex offender receives payment or other compensation, pursuant to the provisions of the Sex Offender Registration and Notification Act; and

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

B. The corrections department, a municipal or county jail or a detention center at the time of release of a sex offender in its custody, shall provide a written notice to the sex offender of his duty to register, pursuant to the provisions of the Sex Offender Registration and Notification Act. The written notice shall inform the sex offender that he is required to:

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

the Sex Offender Registration and Notification Act;

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

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

(4) disclose his status as a sex offender in writing when he begins employment, begins a vocation or enrolls as a student at an institution of higher education in New Mexico to the county sheriff for the county in which the institution of higher education is located and to the law enforcement entity and registrar for the institution of higher education pursuant to the provisions of the Sex Offender Registration and Notification Act;

(5) provide written notice of any change regarding his employment, vocation or enrollment status at an institution of higher education to the county sheriff, the law enforcement entity and the registrar pursuant to the provisions of the Sex Offender Registration and Notification Act;

(6) disclose his status as a sex offender in writing when he enrolls as a student at a private or public

school in New Mexico, to the county sheriff for the county in which the school is located and to the principal of the school pursuant to the provisions of the Sex Offender Registration and Notification Act;

(7) provide written notice of any change regarding his enrollment status at a public or private school in New Mexico to the county sheriff and the principal of the school pursuant to the provisions of the Sex Offender Registration and Notification Act;

(8) disclose his status as a sex offender in writing to his employer, supervisor or other person similarly situated, when he begins employment, begins a vocation or volunteers his services, regardless of whether the sex offender receives payment or other compensation, pursuant to the provisions of the Sex Offender Registration and Notification Act; and

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

C. A court, the corrections department, a municipal or county jail or a detention center shall also provide written notification regarding a sex offender's

release to the sheriff of the county in which the sex offender is released and to the department of public safety.

D. 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 notice to the sex offender of his duty to register pursuant to the provisions of the Sex Offender Registration and Notification Act."

Section 7. A new section of the Sex Offender Registration and Notification Act is enacted to read:

"STATE PREEMPTION--SAVING CLAUSE.--

A. The state preempts the field of sex offender registration and notification. Cities, counties, home rule municipalities and other political subdivisions of the state are prohibited from adopting or continuing in effect any ordinance, rule, regulation, resolution or statute on sex offender registration and notification.

B. After January 18, 2005, cities, counties, home rule municipalities and other political subdivisions of the state are prohibited from adopting or amending an ordinance, rule, regulation or resolution on sex offender registration and notification. An ordinance in effect on January 18, 2005 shall continue in force and effect until repealed; provided that the ordinance shall only continue in force and effect with regard to sex offenders who are required to register

pursuant to the provisions of the ordinance, but who are not required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. All other sex offenders shall register pursuant to the provisions of the Sex Offender Registration and Notification Act."

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

"SEVERABILITY.--If any part or application of the Sex Offender Registration and Notification Act is held invalid, the remainder of that act and its application to other situations or persons shall not be affected."

Section 9. Section 29-16-2 NMSA 1978 (being Laws 1997, Chapter 105, Section 2, as amended) is amended to read:

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

A. establish a DNA identification system for covered offenders;

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

(1) identification, detection or exclusion of persons in connection with criminal investigations; and

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

C. establish a missing persons DNA identification

system consisting of the following DNA indexes:

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

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

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

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

A. "administrative center" means the law enforcement agency or unit that administers and operates the DNA identification system;

B. "DNA oversight committee" means the DNA identification system oversight committee;

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

D. "covered offender" means any person convicted of a felony offense as an adult under the Criminal Code, the Motor Vehicle Code or the constitution of New Mexico or

convicted as an adult pursuant to youthful offender or serious youthful offender proceedings under the Children's Code or a sex offender required to register pursuant to the provisions of the Sex Offender Registration and Notification Act;

E. "department" means the department of public safety;

F. "DNA" means deoxyribonucleic acid as the basis of human heredity;

G. "DNA identification system" means the DNA identification system established pursuant to the DNA Identification Act;

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

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

J. "fund" means the DNA identification system fund;

K. "missing persons DNA identification system" means the missing persons DNA identification system established by the DNA Identification Act;

L. "sample" means a sample of biological material sufficient for DNA testing; and

M. "sex offender DNA identification system" means

the sex offender DNA identification system established by the DNA Identification Act."

Section 11. Section 29-16-4 NMSA 1978 (being Laws 1997, Chapter 105, Section 4, as amended) is amended to read:

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

A. The administrative center shall be an appropriate unit of the department or such other qualified New Mexico law enforcement agency as the secretary of public safety may designate in accordance with this section.

B. The administrative center shall:

(1) establish and administer the DNA identification system. The DNA identification system shall provide for collection, storage, DNA testing, maintenance and comparison of samples and DNA records for forensic and humanitarian purposes. Those purposes shall include generation of investigative leads, statistical analysis of DNA profiles and identification of missing persons and unidentified human remains. Procedures used for DNA testing shall be compatible with the procedures the federal bureau of investigation has specified, including comparable test procedures, laboratory equipment, supplies and computer software. Procedures used shall meet or exceed the provisions of the federal DNA Identification Act of 1994 regarding minimum standards for state participation in CODIS, including

minimum standards for the acceptance, security and dissemination of DNA records;

(2) coordinate sample collection activities;

(3) perform or contract for DNA testing;

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

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

(6) adopt rules and procedures governing:

(a) sample collection;

(b) DNA testing;

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

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

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

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

(9) establish and administer the sex offender DNA identification system as part of the DNA

identification system.

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

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

Section 12. Section 29-16-5 NMSA 1978 (being Laws 1997, Chapter 105, Section 5, as amended) is amended to read:

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

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

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

(2) a scientific representative from the crime laboratory of the police department for the largest municipality in a class A county having a population of more

than two hundred fifty thousand at the most recent federal decennial census;

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

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

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

(6) the president of the district attorneys association or the president's designated representative;

(7) the chief public defender or the chief public defender's designated representative;

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

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

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

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

D. The DNA oversight committee shall oversee the

establishment and administration of the missing persons DNA identification system as part of the DNA identification system.

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

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

G. The DNA oversight committee shall adopt rules and procedures regarding the administration and operation of the sex offender DNA identification system as part of the DNA identification system."

Section 13. Section 29-16-6 NMSA 1978 (being Laws 1997, Chapter 105, Section 6, as amended) is amended to read:

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

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

(1) a covered offender convicted on or after July 1, 1997 shall provide a sample immediately upon request of the corrections department so long as the request is made before release from any correctional facility or, if the covered offender is not sentenced to incarceration, before the

end of any period of probation or other supervised release;

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

(3) a covered offender on probation or other supervised release on or after July 1, 1997 shall provide a sample immediately upon request of the corrections department so long as the request is made before the end of any period of probation or other supervised release; and

(4) a covered offender required to register or renew his registration pursuant to the provisions of the Sex Offender Registration and Notification Act shall provide a sample immediately upon request by the county sheriff located in any county in which the sex offender is required to register, unless the sex offender provided a sample while in the custody of the corrections department or to the county sheriff of another county in New Mexico in which the sex offender is registered.

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

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

(2) upon the receipt of a properly executed

