

FIFTY-FIRST LEGISLATURE
FIRST SESSION

February 28, 2013

HOUSE FLOOR AMENDMENT number 1 to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE
CONSUMER AND PUBLIC AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 48

Amendment sponsored by Representative Yvette Herrell

1. On page 1, line 14, before the period, insert "; CHANGING THE DEFINITION OF "SEX OFFENDER" TO INCLUDE SOMEONE HAVING TO REGISTER IN ANY JURISDICTION AS A SEX OFFENDER;".

2. On page 3, after line 25, insert:

"SECTION 2. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended by Laws 2007, Chapter 68, Section 1 and by Laws 2007, Chapter 69, Section 5) 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;

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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 registration information or provide written notice or disclosure regarding the sex offender's status as a sex offender;

D. "sex offender" means a person who is convicted of a sex offense pursuant to state, federal, tribal or military law, or who is required to register as a sex offender in any jurisdiction or register pursuant to the law of a foreign nation about which the United States department of state, in its country reports on human rights practices, has concluded the nation has an independent judiciary that generally or vigorously enforced the right to a fair trial in that nation during the year in which the conviction occurred, and who:

(1) is a resident of New Mexico [~~who is convicted of a sex offense pursuant to state, federal, tribal or military law~~];

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

(3) 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 pursuant to state, federal, tribal or military law~~]; or

(4) 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

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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 any of the following offenses or their equivalents in any other jurisdiction:

(1) aggravated criminal sexual penetration or 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;

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(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) as of July 1, 2013, child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978;

(12) 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

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

3. Renumber the succeeding section accordingly.

Yvette Herrell

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____