

1 HOUSE BILL 270

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO SEX OFFENDER REGISTRATION; AMENDING DEFINITIONS OF
12 SEX OFFENSES; ADDING SEX OFFENSES FOR WHICH A PERSON HAS TO
13 REGISTER, FOR WHICH REGISTRATION INFORMATION WILL BE RETAINED
14 AND THAT WILL BE PLACED ON THE SEX OFFENDER PUBLIC WEB SITE.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
20 Registration and Notification Act:

21 A. "business day" means a day that is not a
22 Saturday, a Sunday or a state holiday;

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

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1 C. "department" means the department of public
2 safety;

3 D. "institution of higher education" means a:
4 (1) private or public post-secondary
5 educational institution;

6 (2) trade school; or

7 (3) professional school;

8 E. "habitually lives" means any place where a sex
9 offender lives for at least thirty days in any three-hundred-
10 sixty-five-day period;

11 F. "out-of-state registrant" means any person who
12 establishes a residence in New Mexico while the person is
13 required to register as a sex offender in another state or
14 territory;

15 G. "registration requirement" means any requirement
16 set forth in Section 29-11A-4 NMSA 1978 that requires a sex
17 offender to register; provide information, including a DNA
18 sample; renew, revise or change registration information; or
19 provide written notice or disclosure regarding the sex
20 offender's status as a sex offender;

21 H. "sex offender" means a person who:

22 (1) is a resident of New Mexico who is
23 convicted of a sex offense pursuant to state, federal, tribal
24 or military law;

25 (2) changes residence to New Mexico, when that

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1 person has been convicted of a sex offense pursuant to state,
2 federal, tribal or military law;

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

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

11 (a) employed full time or part time in
12 New Mexico for a period of time exceeding fourteen days or for
13 an aggregate period of time exceeding thirty days during any
14 calendar year, including any employment or vocation, whether
15 financially compensated, volunteered or for the purpose of
16 government or educational benefit; or

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

20 I. "sex offense" means any of the following
21 offenses or their equivalents in any other jurisdiction:

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

25 (2) criminal sexual contact in the fourth

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

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

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

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

9 (6) kidnapping, as provided in Section 30-4-1
10 NMSA 1978, when committed with the intent to inflict a sexual
11 offense;

12 (7) false imprisonment, as provided in Section
13 30-4-3 NMSA 1978, when committed with the intent to inflict a
14 sexual offense;

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

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

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

22 (11) child solicitation by electronic
23 communication device, as provided in Section 30-37-3.2 NMSA
24 1978, for convictions occurring on or after July 1, 2013;

25 (12) solicitation to commit criminal sexual

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1 contact of a minor in the second, third or fourth degree, as
2 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; [~~or~~]

3 (13) patronizing prostitutes, as provided in
4 Subsection B of Section 30-9-3 NMSA 1978, when the person
5 believed to be a prostitute is less than eighteen years of age;

6 (14) promoting prostitution, as provided in
7 Section 30-9-4 NMSA 1978, when the victim is less than eighteen
8 years of age;

9 (15) accepting earnings of a prostitute, as
10 provided in Section 30-9-4.1 NMSA 1978, from a person engaged
11 in prostitution who is less than eighteen years of age;

12 (16) voyeurism, as provided in Section 30-9-20
13 NMSA 1978;

14 (17) human trafficking, as provided in Section
15 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
16 under sixteen years of age;

17 [~~(13)~~] (18) attempt to commit any of the sex
18 offenses set forth in Paragraphs (1) through [~~(11)~~] (17) of
19 this subsection, as provided in Section 30-28-1 NMSA 1978;
20 [~~and~~] or

21 (19) conspiracy to commit any of the sex
22 offenses set forth in Paragraphs (1) through (17) of this
23 subsection, as provided in Section 30-28-2 NMSA 1978; and

24 J. "social networking site" means an internet web
25 site that facilitates online social interaction by offering a

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1 mechanism for communication with other users, where such users
2 are likely to include a substantial number of minors under the
3 age of sixteen, and allowing users, through the creation of web
4 pages, profiles or other means, to provide information about
5 themselves that is available to the public or to other users."

6 SECTION 2. Section 29-11A-5 NMSA 1978 (being Laws 1995,
7 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,
8 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended
9 to read:

10 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
11 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
12 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

13 A. A county sheriff shall maintain a local registry
14 of sex offenders in the sheriff's jurisdiction required to
15 register pursuant to the provisions of the Sex Offender
16 Registration and Notification Act.

17 B. The county sheriff shall forward:

18 (1) registration information obtained from sex
19 offenders to the department of public safety. The initial
20 registration information and any new registration information
21 subsequently obtained from a sex offender shall be forwarded by
22 the county sheriff no later than ten working days after the
23 information is obtained from a sex offender. If the department
24 of public safety receives information regarding a sex offender
25 from a governmental entity other than a county sheriff, the

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1 department shall send that information to the sheriff for the
2 county in which the sex offender resides; and

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

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

17 D. The department of public safety shall retain
18 registration information regarding a sex offender convicted for
19 any of the following sex offenses for the entirety of the sex
20 offender's natural life:

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

24 (2) criminal sexual contact of a minor in the
25 second, third or fourth degree, as provided in Section

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1 30-9-13 NMSA 1978;

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

4 (4) kidnapping, as provided in Section
5 30-4-1 NMSA 1978, when [~~the victim is less than eighteen years~~
6 ~~of age and the offender is not a parent of the victim~~]
7 committed with the intent to commit a sex offense;

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

10 (6) patronizing prostitutes, as provided in
11 Subsection B of Section 30-9-3 NMSA 1978, when the person
12 believed to be a prostitute is less than eighteen years of age;

13 (7) promoting prostitution, as provided in
14 Section 30-9-4 NMSA 1978, when the victim is less than eighteen
15 years of age;

16 (8) accepting earnings of a prostitute, as
17 provided in Section 30-9-4.1 NMSA 1978, from a person engaged
18 in prostitution who is less than eighteen years of age;

19 (9) voyeurism, as provided in Section 30-9-20
20 NMSA 1978;

21 (10) human trafficking, as provided in Section
22 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
23 under sixteen years of age;

24 [~~6~~] (11) attempt to commit any of the sex
25 offenses set forth in Paragraphs (1) through [~~5~~] (10) of this

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1 subsection, as provided in Section 30-28-1 NMSA 1978; or
2 (12) conspiracy to commit any of the sex
3 offenses set forth in Paragraphs (1) through (10) of this
4 subsection, as provided in Section 30-28-2 NMSA 1978.

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

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

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

14 (3) 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 committed with the intent to commit a sex offense;

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

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

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

24 (7) solicitation to commit criminal sexual
25 contact of a minor in the second, third or fourth degree, as

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1 provided in Sections 30-9-13 and 30-28-3 NMSA 1978;

2 (8) child solicitation by electronic
3 communication device, as provided in Section 30-37-3.2 NMSA
4 1978; or

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

8 F. Notwithstanding the provisions of Subsection E
9 of this section, if a sex offender is convicted a second or
10 subsequent time for a sex offense set forth in that subsection,
11 the department of public safety shall retain information
12 regarding the sex offender for the entirety of the sex
13 offender's natural life.

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

21 SECTION 3. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
22 Chapter 19, Section 8, as amended) is amended to read:

23 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
24 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
25 NOTIFICATION--INTERNET WEB SITE.--

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

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

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

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

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

18 (5) patronizing prostitutes, as provided in
19 Subsection B of Section 30-9-3 NMSA 1978, when the person
20 believed to be a prostitute is less than eighteen years of age;

21 (6) promoting prostitution, as provided in
22 Section 30-9-4 NMSA 1978, when the victim is less than eighteen
23 years of age;

24 (7) accepting earnings of a prostitute, as
25 provided in Section 30-9-4.1 NMSA 1978, from a person engaged

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1 in prostitution who is less than eighteen years of age;

2 (8) human trafficking, as provided in Section
3 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
4 under sixteen years of age;

5 [~~5~~] (9) attempt to commit any of the sex
6 offenses set forth in Paragraphs (1) through [~~4~~] (8) of this
7 subsection, as provided in Section 30-28-1 NMSA 1978; or

8 (10) conspiracy to commit any of the sex
9 offenses set forth in Paragraphs (1) through (8) of this
10 subsection, as provided in Section 30-28-2 NMSA 1978.

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

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

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

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

20 (4) secretary of public safety.

21 C. Upon receiving a request for registration
22 information regarding sex offenders described in Subsection A
23 of this section, the county sheriff, chief municipal law
24 enforcement officer, district attorney or secretary of public
25 safety shall provide that registration information, with the

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1 exception of a sex offender's social security number and DNA
2 information, within a reasonable period of time, and no later
3 than seven days after receiving the request.

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

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

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1 offender's place of employment, unless the sex offender's
2 employment requires the sex offender to have direct contact
3 with children. The internet web site shall provide only the
4 following registration information:

5 (1) the sex offender's legal name and any
6 other names or aliases that the sex offender is using or has
7 used;

8 (2) the sex offender's current address and the
9 address of every place where the sex offender habitually lives;

10 (3) if the sex offender's employment involves
11 direct contact with children, the sex offender's place of
12 employment;

13 (4) the sex offenses for which the sex
14 offender has been convicted;

15 (5) a photograph of the sex offender;

16 (6) the sex offender's date of birth;

17 (7) a physical description, including a
18 description of any tattoos, scars or other distinguishing
19 features on the sex offender's body that would assist in
20 identifying the sex offender; and

21 (8) a link that will pinpoint the location of
22 the sex offender's place of employment if the sex offender has
23 direct contact with children."