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SENATE BILL 77

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. L. Stockard

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

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. -- [~~This act~~] 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:

underscored material = new  
[bracketed material] = delete

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[bracketed material] = delete

1 (1) sex offenders pose a significant risk of  
2 recidivism; and

3 (2) the efforts of law enforcement agencies  
4 to protect their communities from sex offenders are impaired  
5 by the lack of information available concerning convicted sex  
6 offenders who live within the agencies' [~~jurisdiction~~]  
7 jurisdictions.

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

11 (1) requiring sex offenders who are residents  
12 of New Mexico to register with the county sheriff of the  
13 county in which the sex offender resides; [~~and~~]

14 (2) requiring sex offenders who are residents  
15 in other states, but who are employed in New Mexico or who  
16 attend school in New Mexico, to register with the county  
17 sheriff of the county in which the sex offender works or  
18 attends school;

19 [~~(2)~~] (3) requiring the establishment of a  
20 central registry for sex offenders; and

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

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

25 "29-11A-3. DEFINITIONS.--As used in the Sex Offender

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1 Registration and Notification Act:

2 A. "sex offender" means:

3 (1) a person who is a resident of New Mexico  
4 who is convicted of a sex offense [ ~~on or after July 1, 1995;~~  
5 ~~or~~];

6 (2) a person who changes his residence to New  
7 Mexico, when that person has been convicted of a sex offense  
8 in another state [ ~~on or after July 1, 1995; and~~];

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

12 (4) a person who is a resident of another  
13 state, but who is employed in New Mexico or attends school in  
14 New Mexico; and

15 B. "sex offense" means:

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

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

23 [~~(1)~~] (3) criminal sexual penetration in the  
24 first, second, third or fourth degree, as provided in Section  
25 30-9-11 NMSA 1978;

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1                    [~~(2)~~] (4) criminal sexual contact in the  
2 fourth degree, as provided in Section 30-9-12 NMSA 1978;

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

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

9                    ~~(5)~~ (7) sexual exploitation of children by  
10 prostitution, as provided in Section 30-6A-4 NMSA 1978;

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

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

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

19                    "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION  
20 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE. --

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

24                    B. A sex offender who is a current resident of New  
25 Mexico shall register with the county sheriff no later than

underscored material = new  
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1 thirty days after being released from the custody of the  
2 corrections department or being placed on probation or parole.  
3 A sex offender who changes his residence to New Mexico shall  
4 register with the county sheriff no later than forty-five days  
5 after establishing residence in this state. When a sex  
6 offender registers with the county sheriff, he shall provide  
7 the following information:

- 8 (1) his legal name and any other names or  
9 aliases that [~~the sex offender~~] he is using or has used;
- 10 (2) his date of birth;
- 11 (3) his social security number;
- 12 (4) his current address;
- 13 (5) his place of employment;
- 14 (6) the sex offense for which he was  
15 convicted; and
- 16 (7) the date and place of his sex offense  
17 conviction.

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

23 D. A sex offender who is a resident of another  
24 state but who is employed in New Mexico or attending school in  
25 New Mexico shall register with the county sheriff no later

underscored material = new  
[bracketed material] = delete

1 than thirty days after beginning work or school. When the sex  
2 offender registers with the county sheriff, he shall provide  
3 the following information:

4 (1) his legal name and any other names or  
5 aliases that the sex offender is using or has used;

6 (2) his date of birth;

7 (3) his social security number;

8 (4) his current address in his state of  
9 residence and, if applicable, the address of his place of  
10 lodging in New Mexico while he is working or attending school;

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

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

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

17 ~~[C.]~~ E. When a sex offender registers with a  
18 county sheriff, the sheriff shall obtain:

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

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

24 ~~[D.]~~ F. When a sex offender who is registered  
25 changes his residence within the same county, the sex offender

underscored material = new  
[bracketed material] = delete

1 shall send written notice of his change of address to the  
2 county sheriff no later than ten days after establishing his  
3 new residence.

4 ~~[E.]~~ G. When a sex offender who is registered  
5 changes his residence to a new county in New Mexico, the sex  
6 offender shall register with the county sheriff of the new  
7 county no later than ten days after establishing his new  
8 residence. The sex offender shall also send written notice of  
9 the change in residence to the county sheriff with whom he  
10 last registered no later than ten days after establishing his  
11 new residence.

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

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

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

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1 or both. "

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

4 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
5 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY-- [ EXCHANGE OF  
6 REGISTRATION INFORMATION WITH OTHER STATES ] PARTICIPATION IN  
7 THE NATIONAL SEX OFFENDER REGISTRY--RULES [ AND REGULATIONS ]. --

8 A. A county sheriff [~~may~~] shall maintain a local  
9 registry of sex offenders in his jurisdiction required to  
10 register pursuant to the provisions of the Sex Offender  
11 Registration and Notification Act.

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

17 C. The department of public safety shall maintain  
18 a central registry of sex offenders required to register  
19 pursuant to the provisions of the Sex Offender Registration  
20 and Notification Act. The department [~~may enter into~~  
21 ~~interstate compact agreements providing for the exchange of~~  
22 ~~information regarding sex offenders provided that the other~~  
23 ~~state does not permit dissemination of information regarding~~  
24 ~~sex offenders to any persons or entities other than law~~  
25 ~~enforcement agencies~~] shall participate in the national sex



underscored material = new  
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1 offender registry administered by the United States department  
2 of justice.

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

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

11 [~~(1)~~] (2) criminal sexual penetration in the  
12 first or second degree, as provided in Section 30-9-11 NMSA  
13 1978;

14 [~~(2)~~] (3) criminal sexual contact of a minor  
15 in the third degree, as provided in Section 30-9-13 NMSA 1978;  
16 [or

17 (~~(3)~~] (4) sexual exploitation of children, as  
18 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;  
19 or

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

23 E. The department of public safety shall retain  
24 registration information regarding sex offenders convicted for  
25 the following offenses for a period of ten years following the

underscored material = new  
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1 sex offender's conviction, release from prison or release from  
2 probation or parole, whichever occurs later:

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

7 [~~(1)~~] (2) criminal sexual penetration in the  
8 third or fourth degree, as provided in Section 30-9-11 NMSA  
9 1978;

10 [~~(2)~~] (3) criminal sexual contact in the  
11 fourth degree, as provided in Section 30-9-12 NMSA 1978;

12 [~~(3)~~] (4) criminal sexual contact of a minor  
13 in the fourth degree, as provided in Section 30-9-13 NMSA  
14 1978; [or

15 ~~(4)]~~ (5) sexual exploitation of children by  
16 prostitution, as provided in Section 30-6A-4 NMSA 1978;

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

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

23 F. The department of public safety shall adopt  
24 rules [~~and regulations~~] necessary to carry out the provisions  
25 of the Sex Offender Registration and Notification Act."

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

3           "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO  
4 REGISTER. --

5           A. A court shall provide a sex offender  
6 adjudicated guilty in that court with written notice of his  
7 duty to register pursuant to the provisions of the Sex  
8 Offender Registration and Notification Act. The written  
9 notice shall be included in judgment and sentence forms  
10 provided to the sex offender.

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

19           C. The department of public safety, at the time it  
20 is notified by officials from another state that a sex  
21 offender will be establishing residence in New Mexico, shall  
22 provide written notification to the sex offender of his duty  
23 to register pursuant to the provisions of the Sex Offender  
24 Registration and Notification Act. "

25           Section 7. Section 29-11A-8 NMSA 1978 (being Laws 1995,

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1 Chapter 106, Section 8) is amended to read:

2 "29-11A-8. IMMUNITY. -- Nothing in the Sex Offender  
3 Registration and Notification Act creates a cause of action on  
4 behalf of a person against a public employer, public employee  
5 or public agency responsible for enforcement of the provisions  
6 of that act, so long as the public employer, public employee  
7 or public agency complies with the provisions of that act."

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

10 "[NEW MATERIAL] PUBLIC ACCESS TO INFORMATION REGARDING  
11 CERTAIN REGISTERED SEX OFFENDERS. --

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

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

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

23 (3) criminal sexual contact of a minor in the  
24 third or fourth degree, as provided in Section 30-9-13 NMSA  
25 1978;

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

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

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

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

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

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

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

17 (4) secretary of public safety.

18 C. All requests for registration information  
19 regarding a sex offender described in Subsection A of this  
20 section are subject to the provisions of the Inspection of  
21 Public Records Act. "

22 Section 9. REPEAL. --Section 29-11A-6 NMSA 1978 (being  
23 Laws 1995, Chapter 106, Section 6) is repealed.

24 Section 10. SEVERABILITY. --If any part or application of  
25 the Sex Offender Registration and Notification Act is held

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1 invalid, the remainder or its application to other situations  
2 or persons shall not be affected.

3 Section 11. APPLICABILITY. --The provisions of Sections 1  
4 through 9 of this act apply to persons convicted of a sex  
5 offense on or after July 1, 1999. As to persons convicted of  
6 a sex offense committed prior to July 1, 1999, the laws with  
7 respect to registration requirements for sex offenders in  
8 effect at the time the sex offense was committed shall apply.

9 Section 12. EFFECTIVE DATE. --The effective date of the  
10 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5 February 15, 1999

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7 Mr. President:

8  
9 Your JUDICIARY COMMITTEE, to whom has been referred

10  
11 SENATE BILL 77

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13 has had it under consideration and reports same with  
14 recommendation that it DO NOT PASS, but that

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17 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

18 SENATE BILL 77

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20 DO PASS.

21 Respectfully submitted,

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Michael S. Sanchez, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: None

Excused: Aragon, Davis, Tsosie

Absent: None

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SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 77

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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. -- [~~This act~~] 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 (1) sex offenders pose a significant risk of  
2 recidivism; and

3 (2) the efforts of law enforcement agencies to  
4 protect their communities from sex offenders are impaired by  
5 the lack of information available concerning convicted sex  
6 offenders who live within the agencies' [~~jurisdiction~~]  
7 jurisdictions.

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

11 (1) requiring sex offenders who are residents  
12 of New Mexico to register with the county sheriff of the  
13 county in which the sex offender resides; [~~and~~]

14 (2) requiring sex offenders who are residents  
15 in other states, but who are employed in New Mexico or who  
16 attend school in New Mexico, to register with the county  
17 sheriff of the county in which the sex offender works or  
18 attends school;

19 [~~(2)~~] (3) requiring the establishment of a  
20 central registry for sex offenders; and

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

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

25 "29-11A-3. DEFINITIONS. -- As used in the Sex Offender

1 Registration and Notification Act:

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

4 (1) ~~[a person]~~ who is a resident of New Mexico  
5 who is convicted of a sex offense [ ~~on or after July 1, 1995;~~  
6 or] in New Mexico;

7 (2) ~~[a person]~~ who changes his residence to New  
8 Mexico, when that person has been convicted of a sex offense  
9 in another state [ ~~on or after July 1, 1995; and~~ ] pursuant to  
10 state, federal or military law;

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

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

18 B. "sex offense" means:

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

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

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

1 1978;

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

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

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

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

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

15 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION  
16 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

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

20 B. A sex offender who is a current resident of New  
21 Mexico shall register with the county sheriff no later than  
22 [~~thirty~~] ten days after being released from the custody of the  
23 corrections department or being placed on probation or parole.  
24 A sex offender who changes his residence to New Mexico shall  
25 register with the county sheriff no later than [~~forty-five~~]

1 ten days after establishing residence in this state. When a  
2 sex offender registers with the county sheriff, he shall  
3 provide the following information:

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

11 and

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

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

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

- 24 (1) his legal name and any other names or
- 25 aliases that he is using or has used;

- 1                           (2) his date of birth;  
2                           (3) his social security number;  
3                           (4) his current address in his state of  
4 residence and, if applicable, the address of his place of  
5 lodging in New Mexico while he is working or attending school;  
6                           (5) his place of employment or the name of the  
7 school he is attending;  
8                           (6) the sex offense for which he was convicted;  
9 and  
10                           (7) the date and place of his sex offense  
11 conviction.

12                   ~~[C.]~~ E. When a sex offender registers with a county  
13 sheriff, the sheriff shall obtain:

- 14                           (1) a photograph of the sex offender and a  
15 complete set of the sex offender's fingerprints; and  
16                           (2) a description of any tattoos, scars or  
17 other distinguishing features on the sex offender's body that  
18 would assist in identifying the sex offender.

19  
20                   ~~[D.]~~ F. When a sex offender who is registered  
21 changes his residence within the same county, the sex offender  
22 shall send written notice of his change of address to the  
23 county sheriff no later than ten days after establishing his  
24 new residence.

25                   ~~[E.]~~ G. When a sex offender who is registered

1 changes his residence to a new county in New Mexico, the sex  
 2 offender shall register with the county sheriff of the new  
 3 county no later than ten days after establishing his new  
 4 residence. The sex offender shall also send written notice of  
 5 the change in residence to the county sheriff with whom he  
 6 last registered no later than ten days after establishing his  
 7 new residence.

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

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

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

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

25 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--

. 127036. 2

1 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY-- [ EXCHANGE OF  
2 REGISTRATION INFORMATION WITH OTHER STATES ] PARTICIPATION IN  
3 THE NATIONAL SEX OFFENDER REGISTRY-- RULES [ AND REGULATIONS ]. --

4 A. A county sheriff [ may ] shall maintain a local  
5 registry of sex offenders in his jurisdiction required to  
6 register pursuant to the provisions of the Sex Offender  
7 Registration and Notification Act.

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

13 C. The department of public safety shall maintain a  
14 central registry of sex offenders required to register  
15 pursuant to the provisions of the Sex Offender Registration  
16 and Notification Act. The department [ may enter into  
17 interstate compact agreements providing for the exchange of  
18 information regarding sex offenders provided that the other  
19 state does not permit dissemination of information regarding  
20 sex offenders to any persons or entities other than law  
21 enforcement agencies ] shall participate in the national sex  
22 offender registry administered by the United States department  
23 of justice.

24 D. The department of public safety shall retain  
25 registration information regarding sex offenders convicted for



1 the following sex offenses for a period of twenty years  
 2 following the sex offender's conviction, release from prison  
 3 or release from probation or parole, whichever occurs later:

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

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

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

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

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

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

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

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

25 (4) sexual exploitation of children by

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

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

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

8 F. The department of public safety shall adopt rules  
9 [~~and regulations~~] necessary to carry out the provisions of the  
10 Sex Offender Registration and Notification Act. "

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

13 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO  
14 REGISTER. --

15 A. A court shall provide a sex offender [~~adjudicated~~  
16 ~~guilty~~] convicted in that court with written notice of his  
17 duty to register pursuant to the provisions of the Sex  
18 Offender Registration and Notification Act. The written  
19 notice shall be included in judgment and sentence forms  
20 provided to the sex offender.

21 B. The corrections department, at the time of  
22 release of a sex offender in the department's custody, shall  
23 provide written notification to the sex offender of his duty  
24 to register pursuant to the provisions of the Sex Offender  
25 Registration and Notification Act. The corrections department

1 shall also provide written notification regarding a sex  
2 offender's release to the sheriff of the county in which the  
3 sex offender is released.

4 C. The department of public safety, at the time it  
5 is notified by officials from another state that a sex  
6 offender will be establishing residence in New Mexico, shall  
7 provide written notification to the sex offender of his duty  
8 to register pursuant to the provisions of the Sex Offender  
9 Registration and Notification Act. "

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

12 "29-11A-8. IMMUNITY.--Nothing in the Sex Offender  
13 Registration and Notification Act creates a cause of action on  
14 behalf of a person against a public employer, public employee  
15 or public agency responsible for enforcement of the provisions  
16 of that act, so long as the public employer, public employee  
17 or public agency complies with the provisions of that act."

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

20 "[NEW MATERIAL] PUBLIC ACCESS TO INFORMATION REGARDING  
21 CERTAIN REGISTERED SEX OFFENDERS.--

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

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

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

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

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

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

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

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

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

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

25 (4) secretary of public safety.

1 C. All requests for registration information  
2 regarding a sex offender described in Subsection A of this  
3 section are subject to the provisions of the Inspection of  
4 Public Records Act. "

5 Section 9. REPEAL. --Section 29-11A-6 NMSA 1978 (being  
6 Laws 1995, Chapter 106, Section 6) is repealed.

7 Section 10. SEVERABILITY. --If any part or application of  
8 the Sex Offender Registration and Notification Act is held  
9 invalid, the remainder or its application to other situations  
10 or persons shall not be affected.

11 Section 11. APPLICABILITY. --The provisions of Sections 1  
12 through 9 of this act apply to persons convicted of a sex  
13 offense committed on or after July 1, 1999. As to persons  
14 convicted of a sex offense committed prior to July 1, 1999,  
15 the laws with respect to registration requirements for sex  
16 offenders in effect at the time the sex offense was committed  
17 shall apply.

18 Section 12. EFFECTIVE DATE. --The effective date of the  
19 provisions of this act is July 1, 1999.

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**SJC/SB 77**

**FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999**

**February 27, 1999**

**Mr. Speaker:**

**Your JUDICIARY COMMITTEE, to whom has been referred**

**SENATE JUDICIARY COMMITTEE SUBSTITUTE  
FOR SENATE BILL 77**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

underscoring material = new  
~~[bracketed material]~~ = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/SB 77

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Respectfully submitted,

\_\_\_\_\_  
R. David Pederson, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, T. Taylor, Sanchez

Absent: None

J: \99BillSWP\S0077

underscored material = new  
[bracketed material] = delete