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**HOUSE BILL 10**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003**

**INTRODUCED BY**

John A. Heaton

**AN ACT**

**RELATING TO SEXUAL OFFENDERS; PROVIDING AUTHORITY TO REFUSE,  
REFUSE TO RENEW, SUSPEND OR REVOKE PUBLIC EMPLOYMENT OR A  
LICENSE BASED ON A PERSON'S CONVICTION FOR A SEX OFFENSE.**

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

**Section 1. Section 28-2-4 NMSA 1978 (being Laws 1974,  
Chapter 78, Section 4, as amended by Laws 1997, Chapter 238,  
Section 5 and also by Laws 1997, Chapter 251, Section 1) is  
amended to read:**

**"28-2-4. POWER TO REFUSE, RENEW, SUSPEND OR REVOKE PUBLIC  
EMPLOYMENT OR LICENSE. --**

**A. Any board or other agency having jurisdiction  
over employment by the state or any of its political  
subdivisions or the practice of any trade, business or  
profession may refuse to grant or renew or may suspend or**

**. 148525. 1GR**

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1 revoke any public employment or license or other authority to  
2 engage in the public employment, trade, business or profession  
3 for any one or any combination of the following causes:

4 (1) [~~where~~] when the applicant, employee or  
5 licensee has been convicted of a felony or a misdemeanor  
6 involving moral turpitude and the criminal conviction directly  
7 relates to the particular employment, trade, business or  
8 profession;

9 (2) [~~where~~] when the applicant, employee or  
10 licensee has been convicted of a felony or a misdemeanor  
11 involving moral turpitude and the criminal conviction does not  
12 directly relate to the particular employment, trade, business  
13 or profession, if the board or other agency determines after  
14 investigation that the person so convicted has not been  
15 sufficiently rehabilitated to warrant the public trust; [~~or~~]

16 (3) [~~where~~] when the applicant, employee or  
17 licensee has been convicted of homicide, kidnapping,  
18 trafficking in controlled substances [~~criminal sexual~~  
19 ~~penetration or related sexual offenses~~] or child abuse and the  
20 applicant, employee or licensee has applied for reinstatement,  
21 renewal or issuance of a teaching certificate, a license to  
22 operate a child care facility or employment at a child care  
23 facility, regardless of rehabilitation; or

24 (4) when the applicant, employee or licensee  
25 has been convicted of a sexual offense and is required to

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1 register pursuant to the Sex Offender Registration and  
2 Notification Act and, in the course of the employment or  
3 license, the applicant, employee or licensee would be required  
4 to have direct contact with children.

5 B. The board or other agency shall explicitly state  
6 in writing the reasons for a decision [~~which~~] that prohibits  
7 the person from engaging in the employment, trade, business or  
8 profession if the decision is based in whole or in part on  
9 conviction of any crime described in Paragraphs (1), [~~and~~] (3)  
10 and (4) of Subsection A of this section. Completion of  
11 probation or parole supervision or expiration of a period of  
12 three years after final discharge or release from any term of  
13 imprisonment without any subsequent conviction shall create a  
14 presumption of sufficient rehabilitation for purposes of  
15 Paragraph (2) of Subsection A of this section. "

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