

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 501

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO CRIMINAL LAW; INCREASING PENALTIES FOR CHILD  
ENTICEMENT; REQUIRING REGISTRATION AND NOTIFICATION FOR A CHILD  
ENTICEMENT CONVICTION.

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. "sex offender" means a person eighteen years of  
age or older 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

underscored material = new  
[bracketed material] = delete

1 state pursuant to state, federal or military law;

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

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

8 (a) employed full time or part time in  
9 New Mexico for a period of time exceeding fourteen days or for  
10 an aggregate period of time exceeding thirty days during any  
11 calendar year; or

12 (b) enrolled on a full-time or part-time  
13 basis in a private or public school in New Mexico, including a  
14 secondary school, a trade school, a professional institution or  
15 an institution of higher education; and

16 B. "sex offense" means:

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

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

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

25 (4) sexual exploitation of children, as

. 154441. 1

underscored material = new  
[bracketed material] = del ete

1 provided in Section 30-6A-3 NMSA 1978;

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

4 (6) 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 (7) false imprisonment, as provided in Section  
8 30-4-3 NMSA 1978, when the victim is less than eighteen years  
9 of age and the offender is not a parent of the victim;

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

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

16 (10) enticement of child, as provided in  
17 Section 30-9-1 NMSA 1978. "

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

20 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
21 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN  
22 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

23 A. A county sheriff shall maintain a local registry  
24 of sex offenders in [~~his~~] the sheriff's jurisdiction required  
25 to register pursuant to the provisions of the Sex Offender

. 154441. 1

underscored material = new  
[bracketed material] = delete

1 Registration and Notification Act.

2 B. The county sheriff shall forward registration  
3 information obtained from sex offenders to the department of  
4 public safety. The initial registration information and any  
5 new registration information subsequently obtained from a sex  
6 offender shall be forwarded by the county sheriff no later than  
7 ten working days after the information is obtained from a sex  
8 offender. If the department of public safety receives  
9 information regarding a sex offender from a governmental entity  
10 other than a county sheriff, the department shall send that  
11 information to the sheriff for the county in which the sex  
12 offender resides.

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

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

underscored material = new  
[bracketed material] = delete

1 following the sex offender's conviction, release from prison or  
2 release from probation or parole, whichever occurs later:

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

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

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

10 (4) kidnapping, as provided in Section 30-4-1  
11 NMSA 1978, when the victim is less than eighteen years of age  
12 and the offender is not a parent of the victim; 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 E. The department of public safety shall retain  
17 registration information regarding sex offenders convicted for  
18 the following offenses for a period of ten years following the  
19 sex offender's conviction, release from prison or release from  
20 probation or parole, whichever occurs later:

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

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

25 (3) criminal sexual contact of a minor in the

. 154441. 1

underscored material = new  
[bracketed material] = delete

1 fourth degree, as provided in Section 30-9-13 NMSA 1978;

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

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

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

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

12 [~~(7)~~] (8) attempt to commit any of the sex  
13 offenses set forth in Paragraphs (1) through (5) of this  
14 subsection, as provided in Section 30-28-1 NMSA 1978.

15 F. The department of public safety shall adopt  
16 rules necessary to carry out the provisions of the Sex Offender  
17 Registration and Notification Act. "

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

20 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING  
21 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY  
22 NOTIFICATION--INTERNET WEB SITE. --

23 A. If a sex offender is convicted of one of the  
24 following sex offenses, the county sheriff shall forward  
25 registration information obtained from the sex offender to the

. 154441. 1

underscored material = new  
[bracketed material] = delete

1 district attorney for the judicial district in which the sex  
2 offender resides and, if the sex offender is a resident of a  
3 municipality, the chief law enforcement officer for the  
4 municipality in which the sex offender resides:

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

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

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

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

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

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

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

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

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

underscored material = new  
[bracketed material] = delete

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

3 (4) secretary of public safety.

4 C. Upon receiving a request for registration  
5 information regarding sex offenders described in Subsection A  
6 of this section, the county sheriff, chief municipal law  
7 enforcement officer, district attorney or secretary of public  
8 safety shall provide that registration information, with the  
9 exception of a sex offender's social security number, within a  
10 reasonable period of time, and no later than seven days after  
11 receiving the request.

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

20 E. The department of public safety may establish  
21 and manage an internet web site that provides the public with  
22 registration information regarding sex offenders described in  
23 Subsection A of this section. The registration information  
24 provided to the public pursuant to this subsection shall not  
25 include a sex offender's social security number or a sex

. 154441. 1

underscored material = new  
[bracketed material] = delete

1 offender's place of employment, unless the sex offender's  
2 employment requires him to have direct contact with children. "

3 Section 4. Section 30-9-1 NMSA 1978 (being Laws 1963,  
4 Chapter 303, Section 9-10) is amended to read:

5 "30-9-1. ENTICEMENT OF CHILD. -- Enticement of child  
6 consists of:

7 A. enticing, persuading or attempting to persuade a  
8 child under the age of sixteen years to enter any vehicle,  
9 building, room or secluded place with intent to commit an act  
10 [which] that would constitute a crime under [~~Article 9 of the~~  
11 ~~Criminal Code~~] Sections 30-9-1 through 30-9-9 NMSA 1978; or

12 B. having possession of a child under the age of  
13 sixteen years in any vehicle, building, room or secluded place  
14 with intent to commit an act [which] that would constitute a  
15 crime under Chapter 30, Article 9 [~~of the Criminal Code~~] NMSA  
16 1978.

17 Whoever commits enticement of child is guilty of a  
18 [~~misdeemeanor~~] fourth degree felony. "

19 - 9 -  
20  
21  
22  
23  
24  
25