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AN ACT
RELATING TO CRIMINAL LAW; INCREASING THE AGE OF THE CHILD
VICTIM IN THE CRIME OF AGGRAVATED CRIMINAL SEXUAL PENETRATION
FROM UNDER NINE YEARS TO UNDER THIRTEEN YEARS OF AGE.

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

Section 1. Section 30-9-11 NMSA 1978 (being Laws 1975,
Chapter 109, Section 2, as amended) is amended to read:

"30-9-11. CRIMINAL SEXUAL PENETRATION.--

A. Criminal sexual penetration is the unlawful and
intentional causing of a person to engage in sexual
intercourse, cunnilingus, fellatio or anal intercourse or the
causing of penetration, to any extent and with any object, of
the genital or anal openings of another, whether or not there
is any emission.

B. Criminal sexual penetration does not include
medically indicated procedures.

C. Aggravated criminal sexual penetration consists
of all criminal sexual penetration perpetrated on a child
under thirteen years of age with an intent to kill or with a
depraved mind regardless of human life. Whoever commits
aggravated criminal sexual penetration is guilty of a first
degree felony for aggravated criminal sexual penetration.

D. Criminal sexual penetration in the first degree
consists of all criminal sexual penetration perpetrated:

1 (1) on a child under thirteen years of age;

2 or

3 (2) by the use of force or coercion that
4 results in great bodily harm or great mental anguish to the
5 victim.

6 Whoever commits criminal sexual penetration in the first
7 degree is guilty of a first degree felony.

8 E. Criminal sexual penetration in the second
9 degree consists of all criminal sexual penetration
10 perpetrated:

11 (1) by the use of force or coercion on a
12 child thirteen to eighteen years of age;

13 (2) on an inmate confined in a correctional
14 facility or jail when the perpetrator is in a position of
15 authority over the inmate;

16 (3) by the use of force or coercion that
17 results in personal injury to the victim;

18 (4) by the use of force or coercion when the
19 perpetrator is aided or abetted by one or more persons;

20 (5) in the commission of any other felony;

21 or

22 (6) when the perpetrator is armed with a
23 deadly weapon.

24 Whoever commits criminal sexual penetration in the
25 second degree is guilty of a second degree felony. Whoever

1 commits criminal sexual penetration in the second degree when
2 the victim is a child who is thirteen to eighteen years of
3 age is guilty of a second degree felony for a sexual offense
4 against a child and, notwithstanding the provisions of
5 Section 31-18-15 NMSA 1978, shall be sentenced to a minimum
6 term of imprisonment of three years, which shall not be
7 suspended or deferred. The imposition of a minimum,
8 mandatory term of imprisonment pursuant to the provisions of
9 this subsection shall not be interpreted to preclude the
10 imposition of sentencing enhancements pursuant to the
11 provisions of the Criminal Sentencing Act.

12 F. Criminal sexual penetration in the third degree
13 consists of all criminal sexual penetration perpetrated
14 through the use of force or coercion not otherwise specified
15 in this section.

16 Whoever commits criminal sexual penetration in the third
17 degree is guilty of a third degree felony.

18 G. Criminal sexual penetration in the fourth
19 degree consists of all criminal sexual penetration:

20 (1) not defined in Subsections D through F
21 of this section perpetrated on a child thirteen to sixteen
22 years of age when the perpetrator is at least eighteen years
23 of age and is at least four years older than the child and
24 not the spouse of that child; or

25 (2) perpetrated on a child thirteen to

1 eight years of age when the perpetrator, who is a licensed
2 school employee, an unlicensed school employee, a school
3 contract employee, a school health service provider or a
4 school volunteer, and who is at least eighteen years of age
5 and is at least four years older than the child and not the
6 spouse of that child, learns while performing services in or
7 for a school that the child is a student in a school.

8 Whoever commits criminal sexual penetration in the
9 fourth degree is guilty of a fourth degree felony."

10 Section 2. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2009. _____

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