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HOUSE BILL 179

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Yvette Herrell

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; PROVIDING FOR THREE
TIERS OF SEX OFFENSES AND REGISTRATION PERIODS; INCREASING
REGISTRATION PERIODS; REQUIRING REGISTRATION AND NOTIFICATION
FOR ADDITIONAL SEX OFFENSES; INCLUDING ADDITIONAL OFFENDERS ON
THE SEX OFFENDER INTERNET WEB SITE; REQUIRING REGISTRATION
WITHIN THREE DAYS; REQUIRING ADDITIONAL INFORMATION UPON
REGISTRATION; EXPANDING THE DEFINITION OF "SEX OFFENDER";
PROVIDING FOR INFORMATION AVAILABLE ON THE SEX OFFENDER
INTERNET WEB SITE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
SECTIONS OF LAW IN LAWS 2007.

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 by Laws 2007, Chapter 68,
Section 1 and by Laws 2007, Chapter 69, Section 5) is amended

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1 to read:

2 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
3 Registration and Notification Act:

4 A. "conviction" means a conviction in any court of
5 competent jurisdiction and includes a deferred sentence, but
6 does not include a conditional discharge;

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

10 [~~B.~~] C. "institution of higher education" means a:

11 (1) private or public post-secondary
12 educational institution;

13 (2) trade school; or

14 (3) professional school;

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

21 [~~D.~~] E. "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 or pursuant to the law of a foreign nation that
25 the United States department of state, in its country reports

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1 on human rights practices, has concluded that an independent
2 judiciary generally or vigorously enforced the right to a fair
3 trial in that nation during the year in which the conviction
4 occurred;

5 (2) changes residence to New Mexico, when that
6 person has been convicted of a sex offense pursuant to state,
7 federal, tribal or military law or pursuant to the law of a
8 foreign nation that the United States department of state, in
9 its country reports on human rights practices, has concluded
10 that an independent judiciary generally or vigorously enforced
11 the right to a fair trial in that nation during the year in
12 which the conviction occurred;

13 (3) does not have an established residence in
14 New Mexico, but lives in a shelter, halfway house or
15 transitional living facility or stays in multiple locations in
16 New Mexico and who has been convicted of a sex offense pursuant
17 to state, federal, tribal or military law or pursuant to the
18 law of a foreign nation that the United States department of
19 state, in its country reports on human rights practices, has
20 concluded that an independent judiciary generally or vigorously
21 enforced the right to a fair trial in that nation during the
22 year in which the conviction occurred; or

23 (4) is a resident of another state and who has
24 been convicted of a sex offense pursuant to state, federal,
25 tribal or military law or pursuant to the law of a foreign

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1 nation that the United States department of state, in its
2 country reports on human rights practices, has concluded that
3 an independent judiciary generally or vigorously enforced the
4 right to a fair trial in that nation during the year in which
5 the conviction occurred, but who is:

6 (a) employed full time or part time in
7 New Mexico for a period of time exceeding fourteen days or for
8 an aggregate period of time exceeding thirty days during any
9 calendar year, including any employment or vocation, whether
10 financially compensated, volunteered or for the purpose of
11 government or educational benefit; or

12 (b) enrolled on a full-time or part-
13 time basis in a private or public school or an institution of
14 higher education in New Mexico; [~~and~~

15 ~~E.] F.~~ "sex offense" means any of the following
16 offenses or their equivalents in any other jurisdiction:

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

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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 30-4-1
5 NMSA 1978, with intent to inflict a sexual offense, when the
6 victim is less than eighteen years of age [~~and the offender is~~
7 ~~not a parent of the victim~~];

8 (7) false imprisonment, as provided in Section
9 30-4-3 NMSA 1978, with intent to inflict a sexual offense, when
10 the victim is less than eighteen years of age [~~and the offender~~
11 ~~is not a parent of the victim~~];

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

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

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

18 (11) 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 (12) promoting prostitution, as provided in
22 Section 30-9-4 NMSA 1978, when the victim is less than eighteen
23 years of age;

24 (13) 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 (14) voyeurism, as provided in Section 30-9-20
3 NMSA 1978;

4 (15) human trafficking, as provided in Section
5 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
6 under sixteen years of age;

7 (16) criminal sexual communication with a
8 child, as provided in Section 30-37-3.3 NMSA 1978;

9 ~~(11)~~ (17) child solicitation by electronic
10 communication device, as provided in Section 30-37-3.2 NMSA
11 1978;

12 ~~(12)~~ (18) solicitation to commit criminal
13 sexual contact of a minor in the second, third or fourth
14 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;
15 ~~or~~

16 ~~(13)~~ (19) attempt to commit any of the sex
17 offenses set forth in Paragraphs (1) through ~~(10)~~ (16) of
18 this subsection, as provided in Section 30-28-1 NMSA 1978; or

19 (20) conspiracy to commit any of the sex
20 offenses set forth in Paragraphs (1) through (18) of this
21 subsection, as provided in Section 30-28-2 NMSA 1978;

22 G. "social networking site" means an internet web
23 site that facilitates online social interaction by offering a
24 mechanism for communication with other users, where such users
25 are likely to include a substantial number of minors under the

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1 age of sixteen, and allowing users, through the creation of web
2 pages, profiles or other means, to provide information about
3 themselves that is available to the public or to other users;

4 H. "tier I sex offense" means any of the following
5 sex offenses or their equivalents in any other jurisdiction:

6 (1) false imprisonment, as provided in Section
7 30-4-3 NMSA 1978, with intent to inflict a sexual offense, when
8 the victim is less than eighteen years of age;

9 (2) aggravated indecent exposure, as provided
10 in Section 30-9-14.3 NMSA 1978;

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

13 (4) 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; or

16 (5) conspiracy to commit any of the sex
17 offenses set forth in Paragraphs (1) through (4) of this
18 subsection, as provided in Section 30-28-2 NMSA 1978;

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

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

23 (2) patronizing prostitutes, as provided in
24 Subsection B of Section 30-9-3 NMSA 1978, when the person
25 believed to be a prostitute is under eighteen years of age;

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1 (3) promoting prostitution, as provided in
2 Section 30-9-4 NMSA 1978, when the victim is under eighteen
3 years of age;

4 (4) accepting earnings of a prostitute, as
5 provided in Section 30-9-4.1 NMSA 1978, when the person engaged
6 in prostitution is under eighteen years of age;

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

9 (6) criminal sexual penetration in the fourth
10 degree, as provided in Section 30-9-11 NMSA 1978, when the
11 victim is sixteen years of age or older;

12 (7) incest, as provided in Section 30-10-3
13 NMSA 1978, when the victim is sixteen years of age or older but
14 under eighteen years of age;

15 (8) criminal sexual communication with a
16 child, as provided in Section 30-37-3.3 NMSA 1978;

17 (9) human trafficking, as provided in Section
18 30-52-1 NMSA 1978, for a sexual purpose, when the victim is
19 under sixteen years of age;

20 (10) child solicitation by electronic
21 communication device, as provided in Section 30-37-3.2 NMSA
22 1978;

23 (11) solicitation to commit criminal sexual
24 contact of a minor, as provided in Sections 30-9-13 and 30-28-3
25 NMSA 1978;

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1 (12) attempt to commit any of the sex offenses
2 set forth in Paragraphs (1) through (8) of this subsection, as
3 provided in Section 30-28-1 NMSA 1978; or

4 (13) conspiracy to commit any of the sex
5 offenses set forth in Paragraphs (1) through (10) of this
6 subsection, as provided in Section 30-28-2 NMSA 1978; and

7 J. "tier III sex offense" means any of the
8 following sex offenses or their equivalents in any other
9 jurisdiction:

10 (1) kidnapping, as provided in Section 30-4-1
11 NMSA 1978, with intent to inflict a sexual offense, when the
12 victim is less than eighteen years of age;

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

15 (3) aggravated criminal sexual penetration or
16 criminal sexual penetration in the first, second or third
17 degree, as provided in Section 30-9-11 NMSA 1978;

18 (4) criminal sexual penetration in the fourth
19 degree, as provided in Section 30-9-11 NMSA 1978, when the
20 victim is under sixteen years of age;

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

23 (6) criminal sexual contact of a minor, as
24 provided in Section 30-9-13 NMSA 1978;

25 (7) incest, as provided in Section 30-10-3

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1 NMSA 1978, when the victim is under sixteen years of age;
2 (8) attempt to commit any of the sex offenses
3 set forth in Paragraphs (1) through (7) of this subsection, as
4 provided in Section 30-28-1 NMSA 1978; or
5 (9) conspiracy to commit any of the sex
6 offenses set forth in Paragraphs (1) through (7) of this
7 subsection, as provided in Section 30-28-2 NMSA 1978."

8 SECTION 2. Section 29-11A-4 NMSA 1978 (being Laws 1995,
9 Chapter 106, Section 4, as amended) is amended to read:

10 "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION
11 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

12 A. A sex offender residing in this state shall
13 register with the county sheriff for the county in which the
14 sex offender resides.

15 B. A sex offender who is a resident of New Mexico
16 shall register with the county sheriff no later than [~~ten~~]
17 three days after being released from the custody of the
18 corrections department, a municipal or county jail or a
19 federal, military or tribal correctional facility or detention
20 center or being placed on probation or parole. A sex offender
21 who changes [~~his~~] residence to New Mexico shall register with
22 the county sheriff no later than [~~ten~~] three days after [~~his~~]
23 arrival in this state. When a sex offender registers with the
24 county sheriff, [~~he~~] the sex offender shall provide the
25 following registration information:

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- 1 (1) [~~his~~] the sex offender's legal name and
2 any other names or aliases that [~~he~~] the sex offender is using
3 or has used;
- 4 (2) [~~his~~] the sex offender's date of birth;
- 5 (3) [~~his~~] the sex offender's social security
6 number;
- 7 (4) [~~his~~] the sex offender's current address
8 and the address of every place where the sex offender
9 habitually lives;
- 10 (5) [~~his~~] the name and address of the sex
11 offender's place of employment;
- 12 (6) [~~the sex~~] every offense for which [~~he was~~]
13 the sex offender has been convicted; [~~and~~]
- 14 (7) the date and place of [~~his sex offense~~]
15 every arrest or conviction;
- 16 (8) the sex offender's names, email addresses,
17 monikers or other self-identifiers used in internet
18 communications or postings or on social networking sites, to be
19 used only for law enforcement purposes;
- 20 (9) the sex offender's telephone numbers;
- 21 (10) the sex offender's professional licenses;
- 22 (11) the license plate or other identifier and
23 the description of any vehicle owned or primarily operated by
24 the sex offender, including aircraft and watercraft;
- 25 (12) the name and address of any school or

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1 institution of higher education that the sex offender is
2 attending; and

3 (13) copies of the sex offender's passport and
4 immigration documents.

5 C. A sex offender who is a resident of another
6 state but who is employed in New Mexico or attending public or
7 private school or an institution of higher education in New
8 Mexico shall register with the county sheriff for the county in
9 which the sex offender is working or attending school or an
10 institution of higher education. [~~D. A sex offender who is a~~
11 ~~resident of another state but who is employed in New Mexico or~~
12 ~~attending public or private school or an institution of higher~~
13 ~~education in New Mexico] The sex offender shall register [~~with~~
14 ~~the county sheriff~~] no later than [~~ten~~] three days after
15 beginning work or school. When the sex offender registers with
16 the county sheriff, [~~he~~] the sex offender shall provide the
17 following registration information:~~

18 (1) [~~his~~] the sex offender's legal name and
19 any other names or aliases that [~~he~~] the sex offender is using
20 or has used;

21 (2) [~~his~~] the sex offender's date of birth;

22 (3) [~~his~~] the sex offender's social security
23 number;

24 (4) [~~his~~] the sex offender's current address
25 and the address of every place where the sex offender

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1 habitually lives in [~~his~~] the sex offender's state of residence
2 and, if applicable, the address of [~~his~~] the sex offender's
3 place of lodging in New Mexico while [~~he is~~] working or
4 attending school or an institution of higher education;

5 ~~[(5) his place of employment or the name of~~
6 ~~the school he is attending;~~

7 ~~(6) the sex offense for which he was~~
8 ~~convicted; and~~

9 ~~(7) the date and place of his sex offense~~
10 ~~conviction]~~

11 (5) every offense for which the sex offender
12 has been convicted;

13 (6) the date and place of every arrest or
14 conviction;

15 (7) the sex offender's names, email addresses,
16 monikers or other self-identifiers used in internet
17 communications or postings or on social networking sites, to be
18 used only for law enforcement purposes;

19 (8) the sex offender's telephone numbers;

20 (9) the sex offender's professional licenses;

21 (10) the license plate or other identifier and
22 description of any vehicle owned or primarily operated by the
23 sex offender, including aircraft and watercraft;

24 (11) the name and address of the sex
25 offender's place of employment and any school or institution of

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1 higher education that the sex offender is attending; and

2 (12) copies of the sex offender's passport and
3 immigration documents.

4 [E-] D. When a sex offender registers with a county
5 sheriff, the sheriff shall obtain:

6 (1) a photograph of the sex offender, [~~and~~] a
7 complete set of the sex offender's fingerprints and a palm
8 print on an annual basis;

9 (2) a physical description, including a
10 description of any tattoos, scars or other distinguishing
11 features on the sex offender's body that would assist in
12 identifying the sex offender; and

13 (3) a DNA sample [~~of his DNA~~] for inclusion in
14 the sex offender DNA identification system pursuant to the
15 provisions of the DNA Identification Act.

16 [F-] E. When a sex offender who is registered
17 changes [~~his~~] residence within the same county, the sex
18 offender shall send written notice of [~~his~~] the change of
19 address to the county sheriff no later than [~~ten~~] three days
20 after establishing [~~his~~] the new residence.

21 [G-] F. When a sex offender who is registered
22 changes [~~his~~] residence to a new county in New Mexico, the sex
23 offender shall register with the county sheriff of the new
24 county no later than [~~ten~~] three days after establishing [~~his~~]
25 the new residence. The sex offender shall also send written

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1 notice of the change in residence to the county sheriff with
2 whom [~~he~~] the sex offender last registered no later than [~~ten~~]
3 three days after establishing [~~his~~] the new residence.

4 [~~H.~~] G. When a sex offender who is registered or
5 required to register does not have an established residence,
6 but lives in a shelter, halfway house or transitional living
7 facility or stays in multiple locations in New Mexico, the sex
8 offender shall register with the county sheriff for each county
9 in which the sex offender is living or temporarily located.
10 The sex offender shall register no later than [~~ten~~] three days
11 after a change in [~~his~~] living arrangements or temporary
12 location.

13 [~~F.~~] H. When a sex offender who is registered or
14 required to register is employed, begins a vocation or is
15 enrolled as a student at an institution of higher education in
16 New Mexico, the sex offender shall disclose [~~his~~] the sex
17 offender's status as a sex offender in writing to the county
18 sheriff for the county in which the institution of higher
19 education is located, the law enforcement entity responsible
20 for the institution of higher education and the registrar for
21 the institution of higher education no later than [~~ten~~] three
22 days after beginning employment, beginning a vocation or
23 enrolling at the institution of higher education. The sex
24 offender shall also send written notice of any change regarding
25 [~~his~~] employment, vocation or enrollment status at an

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1 institution of higher education to the county sheriff, the law
2 enforcement entity and the registrar no later than [~~ten~~] three
3 days after the change in [~~his~~] employment, vocation or
4 enrollment status.

5 [~~J.~~] I. When a sex offender who is registered or
6 required to register is employed or is enrolled as a student at
7 a public or private school in New Mexico, the sex offender
8 shall disclose [~~his~~] the sex offender's status as a sex
9 offender in writing to the county sheriff for the county in
10 which the school is located and to the principal of the school
11 no later than [~~ten~~] three days after beginning employment or
12 enrolling at the school. The sex offender shall also send
13 written notice of any change regarding [~~his~~] employment or
14 enrollment status at a school to the county sheriff and the
15 principal no later than [~~ten~~] three days after the change in
16 [~~his~~] employment or enrollment status.

17 [~~K.~~] J. When a sex offender who is registered or
18 required to register is employed, begins a vocation or
19 volunteers [~~his~~] services, regardless of whether the sex
20 offender receives payment or other compensation, the sex
21 offender shall disclose [~~his~~] the sex offender's status as a
22 sex offender in writing to [~~his~~] the sex offender's employer,
23 supervisor or person similarly situated. The written
24 disclosure shall be made immediately upon beginning [~~his~~]
25 employment, vocation or volunteer service.

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1 ~~[L.]~~ K. Following ~~[his]~~ initial registration
2 pursuant to the provisions of this section:

3 (1) a sex offender ~~[required to register~~
4 ~~pursuant to the provisions of Subsection D of Section 29-11A-5~~
5 ~~NMSA 1978]~~ convicted of a tier III sex offense shall renew
6 ~~[his]~~ registration with the county sheriff not less than once
7 in each ninety-day period following the date of the sex
8 offender's initial registration for the ~~[entirety]~~ remainder of
9 ~~[his]~~ the sex offender's natural life; ~~[and]~~

10 (2) a sex offender ~~[required to register~~
11 ~~pursuant to the provisions of Subsection E of Section 29-11A-5~~
12 ~~NMSA 1978]~~ convicted of a tier II sex offense shall ~~[annually]~~
13 renew ~~[his]~~ registration with the county sheriff ~~[prior to~~
14 ~~December 31 of each subsequent calendar year]~~ every six months
15 for a period of ~~[ten]~~ twenty-five years; and

16 (3) a sex offender convicted of a tier I sex
17 offense shall annually renew registration with the county
18 sheriff prior to December 31 of each subsequent calendar year
19 for a period of fifteen years.

20 ~~[M.]~~ L. Notwithstanding the provisions of Paragraph
21 (2) or (3) of Subsection ~~[L]~~ K of this section, if a sex
22 offender is convicted a second or subsequent time for a sex
23 offense, ~~[set forth in Subsection E of Section 29-11A-5 NMSA~~
24 ~~1978, he]~~ the sex offender shall renew ~~[his]~~ registration with
25 the county sheriff not less than once in each ninety-day period

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1 following the date of the sex offender's initial registration
2 for the ~~[entirety]~~ remainder of ~~[his]~~ the sex offender's
3 natural life.

4 ~~[N.]~~ M. A sex offender who willfully or
5 knowingly fails to comply with the registration requirements
6 set forth in this section is guilty of a fourth degree felony
7 and shall be sentenced pursuant to the provisions of Section
8 31-18-15 NMSA 1978. A sex offender who willfully or knowingly
9 fails to comply with the registration requirements set forth in
10 this section after a first or subsequent conviction for a
11 violation pursuant to this section is guilty of a third degree
12 felony and shall be sentenced pursuant to the provisions of
13 Section 31-18-15 NMSA 1978. The willful failure to comply with
14 any registration requirement set forth in this section shall be
15 deemed part of a continuing transaction or occurrence. A
16 conviction pursuant to this subsection shall not be considered
17 a felony for purposes of the imposition of sentencing
18 enhancements pursuant to the provisions of Section 31-18-17
19 NMSA 1978.

20 ~~[O.]~~ N. A sex offender who willfully or knowingly
21 provides false information when complying with the registration
22 requirements set forth in this section is guilty of a fourth
23 degree felony and shall be sentenced pursuant to the provisions
24 of Section 31-18-15 NMSA 1978. A sex offender who willfully or
25 knowingly provides false information when complying with the

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1 registration requirements set forth in this section after a
2 first or subsequent conviction for a violation pursuant to this
3 section is guilty of a third degree felony and shall be
4 sentenced pursuant to the provisions of Section 31-18-15 NMSA
5 1978. The willful providing by a sex offender of false
6 information with respect to the registration requirements set
7 forth in this section shall be deemed part of a continuing
8 transaction or occurrence. A conviction pursuant to this
9 subsection shall not be considered a felony for purposes of the
10 imposition of sentencing enhancements pursuant to the
11 provisions of Section 31-18-17 NMSA 1978."

12 SECTION 3. Section 29-11A-5 NMSA 1978 (being Laws 1995,
13 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,
14 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended
15 to read:

16 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
17 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
18 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

19 A. A county sheriff shall maintain a local registry
20 of sex offenders in the sheriff's jurisdiction required to
21 register pursuant to the provisions of the Sex Offender
22 Registration and Notification Act.

23 B. The county sheriff shall forward:

24 (1) registration information obtained from sex
25 offenders to the department of public safety. The initial

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

9 (2) samples of DNA obtained from sex offenders
10 to the administrative center for the sex offender DNA
11 identification system pursuant to the provisions of the DNA
12 Identification Act.

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 a sex offender convicted
25 [~~for any of the following sex offenses~~] of a tier III sex

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1 offense for the [~~entirety~~] remainder of the sex offender's
2 natural life.

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

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

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

11 [~~(4) kidnapping, as provided in Section 30-4-1~~
12 ~~NMSA 1978, when the victim is less than eighteen years of age~~
13 ~~and the offender is not a parent of the victim;~~

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

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

19 E. The department of public safety shall retain
20 registration information regarding a sex offender convicted
21 [~~for the following offenses~~] of a tier II sex offense for a
22 period of [~~ten~~] twenty-five years following the sex offender's
23 conviction, release from prison or release from probation or
24 parole, whichever occurs later.

25 [~~(1) criminal sexual penetration in the fourth~~

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1 ~~degree, as provided in Section 30-9-11 NMSA 1978;~~

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

4 ~~(3) 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 ~~(4) aggravated indecent exposure, as provided~~
8 ~~in Section 30-9-14.3 NMSA 1978;~~

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

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

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

16 ~~(8) child solicitation by electronic~~
17 ~~communication device, as provided in Section 30-37-3.2 NMSA~~
18 ~~1978; or~~

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

22 F. The department of public safety shall retain
23 registration information regarding a sex offender convicted of
24 a tier I sex offense for a period of fifteen years following
25 the sex offender's conviction, release from prison or release

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1 from probation or parole, whichever occurs later.

2 [F-] G. Notwithstanding the provisions of
3 Subsection E or F of this section, if a sex offender is
4 convicted a second or subsequent time for a sex offense [~~set~~
5 ~~forth in that subsection~~], the department of public safety
6 shall retain information regarding the sex offender for the
7 [~~entirety~~] remainder of the sex offender's natural life.

8 [G-] H. The department of public safety shall adopt
9 rules necessary to carry out the provisions of the Sex Offender
10 Registration and Notification Act. Rules necessary for the
11 collection of DNA samples and the administration and operation
12 of the sex offender DNA identification system shall be adopted
13 by the DNA identification system oversight committee pursuant
14 to the provisions of the DNA Identification Act."

15 SECTION 4. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
16 Chapter 19, Section 8, as amended) is amended to read:

17 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
18 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
19 NOTIFICATION--INTERNET WEB SITE.--

20 A. If a sex offender is convicted of [~~one of the~~
21 ~~following sex offenses~~] a tier II or a tier III sex offense,
22 the county sheriff shall forward registration information
23 obtained from the sex offender to the district attorney for the
24 judicial district in which the sex offender resides and, if the
25 sex offender is a resident of a municipality, the chief law

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1 enforcement officer for the municipality in which the sex
2 offender resides.

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

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

9 ~~(3) sexual exploitation of children, as~~
10 ~~provided in 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 sex offenders described in Subsection A
18 of this section may request that information from the:

19 (1) sheriff for the county in which the sex
20 offenders reside;

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

23 (3) district attorney for the judicial
24 district in which the sex offenders reside; or

25 (4) secretary of public safety.

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

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

17 E. The department of public safety shall establish
18 and manage an internet web site that provides the public with
19 registration information regarding sex offenders described in
20 Subsection A of this section, except that the department of
21 public safety shall not provide registration information on the
22 internet web site regarding a sex offender who was less than
23 eighteen years of age when the sex offender committed the sex
24 offense for which the sex offender was convicted as a youthful
25 offender, as provided in Section 32A-2-3 NMSA 1978, unless at

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1 the time of sentencing, the court made a finding that the sex
2 offender is not amenable to treatment and is a danger to the
3 community. The [~~registration information provided to the~~
4 ~~public pursuant to this subsection shall not include a sex~~
5 ~~offender's social security number or DNA information or a sex~~
6 ~~offender's place of employment, unless the sex offender's~~
7 ~~employment requires the sex offender to have direct contact~~
8 ~~with children]~~ internet web site shall provide the following
9 registration information:

10 (1) the sex offender's legal name and any
11 other names or aliases that the sex offender is using or has
12 used;

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

15 (3) the address of the sex offender's place of
16 employment, if the sex offender's employment requires the sex
17 offender to have direct contact with children;

18 (4) every sex offense for which the sex
19 offender has been convicted;

20 (5) the sex offender's professional licenses;

21 (6) the license plate or other identifier and
22 description of any vehicle owned or primarily operated by the
23 sex offender, including aircraft and watercraft;

24 (7) a photograph of the sex offender;

25 (8) a physical description, including a

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1 description of any tattoos, scars or other distinguishing
2 features on the sex offender's body that would assist in
3 identifying the sex offender; and
4 (9) the sex offender's date of birth."

5 SECTION 5. APPLICABILITY.--The provisions of this act
6 apply to:

7 A. a person convicted of a sex offense on or after
8 July 1, 2005; and

9 B. a person convicted of a sex offense prior to
10 July 1, 2005 and who, on July 1, 2005, was still incarcerated,
11 on probation or on parole for commission of that sex offense.

12 SECTION 6. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2012.

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