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HOUSE BILL 236

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

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO SEX OFFENDERS; PROVIDING FOR THREE TIERS OF SEX  
OFFENSES AND REGISTRATION PERIODS; SHIFTING REGISTRATION DUTIES  
FROM THE COUNTY SHERIFFS TO THE STATE POLICE; REQUIRING  
REGISTRATION AND NOTIFICATION FOR ADDITIONAL SEX OFFENSES;  
REQUIRING ADDITIONAL REGISTRATION INFORMATION; PROVIDING CREDIT  
FOR REGISTRATION IN OTHER JURISDICTIONS OR WHILE ON  
SUPERVISION; DECREASING FIFTEEN-YEAR REGISTRATION TO TEN YEARS  
IN CERTAIN CIRCUMSTANCES; REQUIRING SEX OFFENDERS TO REGISTER  
AND UPDATE INFORMATION WITHIN THREE BUSINESS DAYS; PROVIDING  
FOR VERIFICATION OF REGISTRATION; PROVIDING FOR ELECTRONIC  
UPDATES; INCLUDING ADDITIONAL OFFENDERS ON THE SEX OFFENDER  
INTERNET WEB SITE; REQUIRING THAT CERTAIN CRIMES BE COMMITTED  
WITH SEXUAL INTENT BEFORE THEY ARE DEEMED A SEX OFFENSE;  
EXPANDING THE DEFINITION OF "SEX OFFENDER"; PROVIDING FOR  
INFORMATION TO BE AVAILABLE ON THE SEX OFFENDER INTERNET WEB

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1 SITE; REITERATING STATE PREEMPTION OF THE FIELD OF SEX OFFENDER  
2 REGISTRATION BY PROHIBITING LAW ENFORCEMENT FROM REQUIRING  
3 ADDITIONAL REGISTRATION OR FROM IMPOSING OTHER RESTRICTIONS;  
4 PROVIDING THAT A DISTRICT ATTORNEY IS NOT REQUIRED TO PROVIDE  
5 NOTICE BEFORE PROSECUTION FOR CERTAIN SEX OFFENSES AGAINST  
6 CHILDREN; PROVIDING DEFINITIONS; RECONCILING MULTIPLE  
7 AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2007.

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

12 "29-11A-2. FINDINGS--PURPOSE.--

13 A. The legislature finds that:

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

16 (2) the efforts of law enforcement agencies to  
17 protect their communities from sex offenders are impaired by  
18 the lack of information available concerning convicted sex  
19 offenders who live within the agencies' jurisdictions.

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

23 (1) requiring a sex [offenders] offender who  
24 ~~[are residents]~~ is a resident of New Mexico to register with  
25 the ~~[county sheriff of the county in which the sex offender~~

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1 ~~resides]~~ state police;

2 (2) requiring a sex ~~[offenders]~~ offender who  
3 ~~[are residents]~~ is a resident in ~~[other states]~~ another state,  
4 but who ~~[are]~~ is employed in New Mexico or who ~~[attend]~~ attends  
5 school in New Mexico, to register with the ~~[county sheriff of~~  
6 ~~the county in which the sex offender works or attends school]~~  
7 state police;

8 (3) requiring the establishment of a central  
9 registry for sex offenders; and

10 (4) providing public access to information  
11 regarding certain registered sex offenders."

12 SECTION 2. Section 29-11A-3 NMSA 1978 (being Laws 1995,  
13 Chapter 106, Section 3, as amended by Laws 2007, Chapter 68,  
14 Section 1 and by Laws 2007, Chapter 69, Section 5) is amended  
15 to read:

16 "29-11A-3. DEFINITIONS.--As used in the Sex Offender  
17 Registration and Notification Act:

18 A. "business day" means a day that is not a  
19 Saturday, a Sunday or a national holiday;

20 ~~[A-]~~ B. "conviction" means a conviction in any  
21 court of competent jurisdiction and includes a deferred  
22 sentence, but does not include a conditional discharge;

23 C. "department" means the department of public  
24 safety;

25 ~~[B-]~~ D. "institution of higher education" means a:

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

3 (2) trade school; or

4 (3) professional school;

5 E. "habitually lives" means any place where a sex  
6 offender lives for at least thirty days in any three-hundred-  
7 sixty-five-day period;

8 [~~G.~~] F. "registration requirement" means any  
9 requirement set forth in Section 29-11A-4 NMSA 1978 that  
10 requires a sex offender to register; provide information,  
11 including a DNA sample; renew, revise or change registration  
12 information; or provide written notice or disclosure regarding  
13 the sex offender's status as a sex offender;

14 [~~D.~~] G. "sex offender" means a person who:

15 (1) is a resident of New Mexico who is  
16 convicted of a sex offense pursuant to state, federal, tribal  
17 or military law or pursuant to the law of a foreign nation that  
18 the United States department of state, in its country reports  
19 on human rights practices, has concluded that an independent  
20 judiciary generally or vigorously enforced the right to a fair  
21 trial in that nation during the year in which the conviction  
22 occurred;

23 (2) changes residence to New Mexico, when that  
24 person has been convicted of a sex offense pursuant to state,  
25 federal, tribal or military law or pursuant to the law of a

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

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

16 (4) is a resident of another state and who has  
17 been convicted of a sex offense pursuant to state, federal,  
18 tribal or military law or pursuant to the law of a foreign  
19 nation that the United States department of state, in its  
20 country reports on human rights practices, has concluded that  
21 an independent judiciary generally or vigorously enforced the  
22 right to a fair trial in that nation during the year in which  
23 the conviction occurred, but who is:

24 (a) employed full time or part time in  
25 New Mexico for a period of time exceeding fourteen days or for

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1 an aggregate period of time exceeding thirty days during any  
2 calendar year, including any employment or vocation, whether  
3 financially compensated, volunteered or for the purpose of  
4 government or educational benefit; or

5 (b) enrolled on a full-time or  
6 part-time basis in a private or public school or an institution  
7 of higher education in New Mexico; ~~and~~

8 ~~E.]~~ H. "sex offense" means any of the following  
9 offenses or their equivalents in any other jurisdiction:

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

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

15 (3) criminal sexual contact of a minor in the  
16 second, third or fourth degree, as provided in Section  
17 30-9-13 NMSA 1978;

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

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

22 (6) kidnapping, as provided in Section  
23 30-4-1 NMSA 1978, ~~[when the victim is less than eighteen years~~  
24 ~~of age and the offender is not a parent of the victim]~~ with  
25 intent to inflict a sexual offense;

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1 (7) false imprisonment, as provided in Section  
2 30-4-3 NMSA 1978, [~~when the victim is less than eighteen years~~  
3 ~~of age and the offender is not a parent of the victim~~] with  
4 intent to inflict a sexual offense;

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

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

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

11 (11) patronizing prostitutes, as provided in  
12 Subsection B of Section 30-9-3 NMSA 1978, when there is a  
13 separate finding of fact that the offender knew or should have  
14 known that the person believed to be a prostitute was less than  
15 sixteen years of age, for convictions occurring on or after  
16 January 1, 2013;

17 (12) promoting prostitution, as provided in  
18 Section 30-9-4 NMSA 1978, when there is a separate finding of  
19 fact that the offender knew or should have known that the  
20 victim was less than sixteen years of age, for convictions  
21 occurring on or after January 1, 2013;

22 (13) accepting earnings of a prostitute, as  
23 provided in Section 30-9-4.1 NMSA 1978, when there is a  
24 separate finding of fact that the offender knew or should have  
25 known that the person engaged in prostitution was less than

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1 sixteen years of age, for convictions occurring on or after  
2 January 1, 2013;

3 (14) human trafficking, as provided in Section  
4 30-52-1 NMSA 1978, for a sexual purpose, when the victim is  
5 less than sixteen years of age, for convictions occurring on or  
6 after January 1, 2013;

7 (15) criminal sexual communication with a  
8 child, as provided in Section 30-37-3.3 NMSA 1978, for  
9 convictions occurring on or after January 1, 2013;

10 ~~(11)~~ (16) child solicitation by electronic  
11 communication device, as provided in Section 30-37-3.2 NMSA  
12 1978, for convictions occurring on or after January 1, 2013;

13 ~~(12)~~ (17) solicitation to commit criminal  
14 sexual contact of a minor in the second, third or fourth  
15 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;

16 ~~(13)~~

17 ~~(13)~~ (18) attempt to commit any of the sex  
18 offenses set forth in Paragraphs (1) through ~~(11)~~ (15) of  
19 this subsection, as provided in Section 30-28-1 NMSA 1978;

20 (19) sex trafficking of children by force,  
21 fraud or coercion, as provided in 18 U.S.C. 1591, for  
22 convictions occurring on or after January 1, 2013;

23 (20) misleading domain names on the internet,  
24 as provided in 18 U.S.C. 2252B, for convictions occurring on or  
25 after January 1, 2013;

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1                   (21) misleading words or digital images on the  
2 internet, as provided in 18 U.S.C. 2252C, for convictions  
3 occurring on or after January 1, 2013;

4                   (22) travel with intent to engage in illicit  
5 sexual conduct, as provided in 18 U.S.C. 2423(b), for  
6 convictions occurring on or after January 1, 2013;

7                   (23) engaging in illicit sexual conduct in  
8 foreign places, as provided in 18 U.S.C. 2423(c), for  
9 convictions occurring on or after January 1, 2013;

10                   (24) failure to file a factual statement about  
11 an alien individual, as provided in 18 U.S.C. 2424, for  
12 convictions occurring on or after January 1, 2013; or

13                   (25) use of interstate facilities to transmit  
14 information about a minor, as provided in 18 U.S.C. 2425, for  
15 convictions occurring on or after January 1, 2013;

16                   I. "social networking site" means an internet web  
17 site that facilitates online social interaction by offering a  
18 mechanism for communication with other users, where such users  
19 are likely to include a substantial number of minors under the  
20 age of sixteen, and allowing users, through the creation of web  
21 pages, profiles or other means, to provide information about  
22 themselves that is available to the public or to other users;

23                   J. "state police" means the New Mexico state police  
24 division of the department;

25                   K. "tier I sex offense" means any of the following

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1 sex offenses or their equivalents in any other jurisdiction:

2 (1) false imprisonment, as provided in Section  
3 30-4-3 NMSA 1978, with intent to inflict a sexual offense;

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

6 (3) criminal sexual contact in the fourth  
7 degree, as provided in Section 30-9-12 NMSA 1978;

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

10 (5) child solicitation by electronic  
11 communication device, as provided in Subsection B of Section  
12 30-37-3.2 NMSA 1978, for convictions occurring on or after  
13 January 1, 2013;

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

17 (7) sex trafficking of children by force,  
18 fraud or coercion, as provided in 18 U.S.C. 1591, for  
19 convictions occurring on or after January 1, 2013;

20 (8) misleading domain names on the internet,  
21 as provided in 18 U.S.C. 2252B, for convictions occurring on or  
22 after January 1, 2013;

23 (9) misleading words or digital images on the  
24 internet, as provided in 18 U.S.C. 2252C, for convictions  
25 occurring on or after January 1, 2013;

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1                   (10) travel with intent to engage in illicit  
2 sexual conduct, as provided in 18 U.S.C. 2423(b), for  
3 convictions occurring on or after January 1, 2013;

4                   (11) engaging in illicit sexual conduct in  
5 foreign places, as provided in 18 U.S.C. 2423(c), for  
6 convictions occurring on or after January 1, 2013;

7                   (12) failure to file a factual statement about  
8 an alien individual, as provided in 18 U.S.C. 2424, for  
9 convictions occurring on or after January 1, 2013; or

10                   (13) use of interstate facilities to transmit  
11 information about a minor, as provided in 18 U.S.C. 2425, for  
12 convictions occurring on or after January 1, 2013;

13                   L. "tier II sex offense" means any of the following  
14 sex offenses or their equivalents in any other jurisdiction:

15                   (1) sexual exploitation of children, as  
16 provided in Subsections B through F of Section 30-6A-3 NMSA  
17 1978;

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

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

22                   (4) patronizing prostitutes, as provided in  
23 Subsection B of Section 30-9-3 NMSA 1978, when there is a  
24 separate finding of fact that the offender knew or should have  
25 known that the person believed to be a prostitute was less than

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1 sixteen years of age, for convictions occurring on or after  
2 January 1, 2013;

3 (5) promoting prostitution, as provided in  
4 Section 30-9-4 NMSA 1978, when there is a separate finding of  
5 fact that the offender knew or should have known that the  
6 victim was less than sixteen years of age, for convictions  
7 occurring on or after January 1, 2013;

8 (6) accepting earnings of a prostitute, as  
9 provided in Section 30-9-4.1 NMSA 1978, when there is a  
10 separate finding of fact that the offender knew or should have  
11 known that the person engaged in prostitution was less than  
12 sixteen years of age, for convictions occurring on or after  
13 January 1, 2013;

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

17 (8) criminal sexual contact of a minor, as  
18 provided in Section 30-9-13 NMSA 1978, when the victim is  
19 thirteen to eighteen years of age;

20 (9) incest, as provided in Section 30-10-3  
21 NMSA 1978, when the victim is over sixteen but less than  
22 eighteen years of age;

23 (10) criminal sexual communication with a  
24 child, as provided in Section 30-37-3.3 NMSA 1978, for  
25 convictions occurring on or after January 1, 2013;

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1                   (11) human trafficking, as provided in Section  
2 30-52-1 NMSA 1978, for a sexual purpose, when the victim is  
3 less than sixteen years of age, for convictions occurring on or  
4 after January 1, 2013;

5                   (12) child solicitation by electronic  
6 communication device, as provided in Subsection C of Section  
7 30-37-3.2 NMSA 1978, for convictions occurring on or after  
8 January 1, 2013;

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

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

15                   M. "tier III sex offense" means any of the  
16 following sex offenses or their equivalents in any other  
17 jurisdiction:

18                   (1) kidnapping, as provided in Section 30-4-1  
19 NMSA 1978, with intent to inflict a sexual offense;

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

23                   (3) criminal sexual penetration in the fourth  
24 degree as provided in Section 30-9-11 NMSA 1978, when the  
25 victim is under sixteen years of age;

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1                   (4) criminal sexual contact of a minor, as  
2 provided in Section 30-9-13 NMSA 1978, when the victim is under  
3 thirteen years of age;

4                   (5) incest, as provided in Section 30-10-3  
5 NMSA 1978, when the victim is under sixteen years of age; or

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

9           SECTION 3. Section 29-11A-4 NMSA 1978 (being Laws 1995,  
10 Chapter 106, Section 4, as amended) is amended to read:

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

13           A. A sex offender residing in this state shall  
14 register with the [~~county sheriff for the county in which the~~  
15 ~~sex offender resides~~] state police.

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

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1 ~~county sheriff, he~~ the sex offender shall provide the  
2 following registration information:

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

6 (2) ~~his~~ the sex offender's date of birth;

7 (3) ~~his~~ the sex offender's social security  
8 number;

9 (4) ~~his~~ the sex offender's current physical  
10 and mailing address and the address of every place where the  
11 sex offender habitually lives;

12 (5) ~~his~~ the sex offender's place of  
13 employment;

14 (6) the sex offense for which ~~he~~ the sex  
15 offender was convicted; ~~and~~

16 (7) the date and place of ~~his~~ the sex  
17 offense conviction;

18 (8) the sex offender's names, email addresses  
19 and monikers and other self-identifiers used on social  
20 networking sites, to be used only for law enforcement purposes;

21 (9) the sex offender's landline and cellular  
22 telephone numbers and any other telephone numbers primarily  
23 used by the sex offender;

24 (10) the sex offender's professional licenses;

25 (11) the license plate or other identifier and

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1 the description of any vehicle owned or primarily operated by  
2 the sex offender, including aircraft and watercraft;

3 (12) the name and address of any school or  
4 institution of higher education that the sex offender is  
5 attending; and

6 (13) copies of the sex offender's passport and  
7 immigration documents.

8 C. A sex offender who is a resident of another  
9 state but who is employed in New Mexico or attending public or  
10 private school or an institution of higher education in New  
11 Mexico shall register with the ~~[county sheriff for the county~~  
12 ~~in which the sex offender is working or attending school or an~~  
13 ~~institution of higher education.~~

14 ~~D. A sex offender who is a resident of another~~  
15 ~~state but who is employed in New Mexico or attending public or~~  
16 ~~private school or an institution of higher education in New~~  
17 ~~Mexico shall register with the county sheriff] state police no  
18 later than ~~[ten]~~ three business days after beginning work or  
19 school. When the sex offender registers, ~~[with the county~~  
20 ~~sheriff, he]~~ the sex offender shall provide the following  
21 registration information:~~

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

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

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1 (3) ~~his~~ the sex offender's social security  
2 number;

3 (4) ~~his~~ the sex offender's current physical  
4 and mailing address and the address of every place where the  
5 sex offender habitually lives in ~~his~~ the sex offender's state  
6 of residence and, if applicable, the address of ~~his~~ the sex  
7 offender's place of lodging in New Mexico while ~~he is~~ working  
8 or attending school or an institution of higher education;

9 (5) ~~his~~ the sex offender's place of  
10 employment or the name of the school ~~he~~ the sex offender is  
11 attending;

12 (6) the sex offense for which ~~he~~ the sex  
13 offender was convicted; ~~and~~

14 (7) the date and place of ~~his~~ the sex  
15 offense conviction;

16 (8) the sex offender's names, email addresses  
17 and monikers and other self-identifiers used on social  
18 networking sites, to be used only for law enforcement purposes;

19 (9) the sex offender's landline and cellular  
20 telephone numbers and any other telephone numbers primarily  
21 used by the sex offender;

22 (10) the sex offender's professional licenses;

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

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1                   (12) the name and address of any school or  
2 institution of higher education that the sex offender is  
3 attending; and

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

6                   [~~E.~~] D. When a sex offender registers, [~~with a~~  
7 ~~county sheriff, the sheriff~~] the state police shall obtain:

8                   (1) a photograph of the sex offender and a  
9 complete set of the sex offender's fingerprints and a palm  
10 print;

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

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

18                   [~~F.~~] E. When a sex offender who is registered  
19 changes [~~his~~] residence [~~within the same county~~], the sex  
20 offender shall send written notice of [~~his~~] the change of  
21 address on a form approved by the department to the [~~county~~  
22 ~~sheriff~~] state police no later than [~~ten~~] three business days  
23 after establishing [~~his~~] the new residence.

24                   [~~G.~~ ~~When a sex offender who is registered changes~~  
25 ~~his residence to a new county in New Mexico, the sex offender~~

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1 ~~shall: register with the county sheriff of the new county no~~  
2 ~~later than ten days after establishing his new residence; The~~  
3 ~~sex offender shall also send written notice of the change in~~  
4 ~~residence to the county sheriff with whom he last registered no~~  
5 ~~later than ten days after establishing his new residence.]~~

6 F. When a sex offender who is registered is  
7 incarcerated for more than ten consecutive days, the sex  
8 offender shall report to the state police no later than seven  
9 days after being released.

10 ~~[H.]~~ G. When a sex offender who is registered or  
11 required to register is homeless or does not have an  
12 established residence, but lives in a shelter, halfway house or  
13 transitional living facility or stays in multiple locations in  
14 New Mexico, the sex offender shall register each address or  
15 temporary location with the ~~[county sheriff for each county in~~  
16 ~~which the sex offender is living or temporarily located]~~ state  
17 police. The sex offender shall register no later than ~~[ten]~~  
18 three business days after a change in ~~[his]~~ living arrangements  
19 or temporary location.

20 ~~[F.]~~ H. When a sex offender who is registered or  
21 required to register is employed, begins a vocation or is  
22 enrolled as a student at an institution of higher education in  
23 New Mexico, the sex offender shall disclose ~~[his]~~ the sex  
24 offender's status as a sex offender in writing to ~~[the county~~  
25 ~~sheriff for the county in which the institution of higher~~

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1 ~~education is located~~] the law enforcement entity responsible  
2 for the institution of higher education and the registrar for  
3 the institution of higher education no later than [~~ten~~] three  
4 business days after beginning employment, beginning a vocation  
5 or enrolling at the institution of higher education. The sex  
6 offender shall also send written notice of any change regarding  
7 [~~his~~] employment, vocation or enrollment status at an  
8 institution of higher education to the [~~county sheriff~~] state  
9 police, the law enforcement entity and the registrar no later  
10 than [~~ten~~] three business days after the change in [~~his~~]  
11 employment, vocation or enrollment status.

12 [~~J.~~] I. When a sex offender who is registered or  
13 required to register is employed or is enrolled as a student at  
14 a public or private school in New Mexico, the sex offender  
15 shall disclose [~~his~~] the sex offender's status as a sex  
16 offender in writing to [~~the county sheriff for the county in~~  
17 ~~which the school is located and to~~] the principal of the school  
18 no later than [~~ten~~] three business days after beginning  
19 employment or enrolling at the school. The sex offender shall  
20 also send written notice of any change regarding [~~his~~]  
21 employment or enrollment status at a school to the [~~county~~  
22 ~~sheriff~~] state police and the principal no later than [~~ten~~]  
23 three business days after the change in [~~his~~] employment or  
24 enrollment status.

25 [~~K.~~] J. When a sex offender who is registered or

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1 required to register is employed, begins a vocation or  
2 volunteers [~~his~~] services, regardless of whether the sex  
3 offender receives payment or other compensation, the sex  
4 offender shall disclose [~~his~~] the sex offender's status as a  
5 sex offender in writing to [~~his~~] the sex offender's employer,  
6 supervisor or person similarly situated. The written  
7 disclosure shall be made immediately upon beginning [~~his~~]  
8 employment, vocation or volunteer service.

9 [~~E.~~] K. Following [~~his~~] initial registration  
10 pursuant to the provisions of this section:

11 (1) a sex offender [~~required to register~~  
12 ~~pursuant to the provisions of Subsection D of Section 29-11A-5~~  
13 ~~NMSA-1978~~] convicted of a tier III sex offense shall [~~renew~~  
14 ~~his~~] verify registration information with the [~~county sheriff~~]  
15 state police as provided in Subsection N of this section not  
16 less than once in each ninety-day period following the date of  
17 the sex offender's initial registration for the [~~entirety~~]  
18 remainder of [~~his~~] the sex offender's natural life; [~~and~~]

19 (2) a sex offender [~~required to register~~  
20 ~~pursuant to the provisions of Subsection E of Section 29-11A-5~~  
21 ~~NMSA-1978~~] convicted of a tier II sex offense shall [~~annually~~  
22 ~~renew his~~] verify registration information with the [~~county~~  
23 ~~sheriff prior to December 31 of each subsequent calendar year~~]  
24 state police as provided in Subsection N of this section once  
25 every six months for a period of [~~ten~~] twenty-five years; and

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1                   (3) a sex offender convicted of a tier I sex  
2 offense shall annually verify registration information with the  
3 state police as provided in Subsection N of this section prior  
4 to December 31 of each subsequent calendar year for a period of  
5 fifteen years.

6                   ~~[M.]~~ L. Notwithstanding the provisions of  
7 ~~[Paragraph]~~ Paragraphs (2) and (3) of Subsection ~~[L]~~ K of this  
8 section, if a sex offender is convicted a second or subsequent  
9 time for a sex offense, ~~[set forth in Subsection E of Section~~  
10 ~~29-11A-5 NMSA 1978, he]~~ the sex offender shall [renew his]  
11 verify registration information with the ~~[county sheriff]~~ state  
12 police as provided in Subsection N of this section not less  
13 than once in each ninety-day period following the date of the  
14 sex offender's initial registration for the ~~[entirety]~~  
15 remainder of ~~[his]~~ the sex offender's natural life.

16                   M. A sex offender who was registered in New Mexico  
17 prior to the effective date of this 2012 act shall register for  
18 the lesser duration of time required by Subsection K of this  
19 section or required when the sex offender first registered in  
20 New Mexico.

21                   N. At least fifteen days prior to the time a sex  
22 offender is required to verify registration information, the  
23 department shall send a verification form to the sex offender,  
24 by first class mail, containing the sex offender's current  
25 registration information and a notice of the date that the sex

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1 offender's next verification is due. The sex offender shall  
2 appear in person at a location designated by the state police  
3 to verify the information contained on the form, to change the  
4 information as necessary and to sign a statement under oath  
5 that the information is true and correct. The state police may  
6 photograph the sex offender at that time if the sex offender's  
7 appearance is significantly different from the photograph  
8 already contained in the sex offender's file. If a sex  
9 offender does not receive a verification form before the time  
10 that the sex offender is required to verify registration  
11 pursuant to Subsection K of this section, the sex offender  
12 shall appear at a location designated by the state police to  
13 verify registration information as required by this section.

14 O. The department shall establish a secure system  
15 that will permit a sex offender to notify the state police  
16 electronically of any change in registration information.

17 [N.] P. A sex offender who willfully or  
18 knowingly fails to comply with the registration or verification  
19 requirements set forth in this section is guilty of a fourth  
20 degree felony and shall be sentenced pursuant to the provisions  
21 of Section 31-18-15 NMSA 1978. A sex offender who willfully or  
22 knowingly fails to comply with the registration or verification  
23 requirements set forth in this section after a first or  
24 subsequent conviction for a violation pursuant to this section  
25 is guilty of a third degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978. The  
2 willful failure to comply with any registration or verification  
3 requirement set forth in this section shall be deemed part of a  
4 continuing transaction or occurrence. A conviction pursuant to  
5 this subsection shall not be considered a felony for purposes  
6 of the imposition of sentencing enhancements pursuant to the  
7 provisions of Section 31-18-17 NMSA 1978.

8 ~~[Q-]~~ Q. A sex offender who willfully or knowingly  
9 provides false information when complying with the registration  
10 or verification requirements set forth in this section is  
11 guilty of a fourth degree felony and shall be sentenced  
12 pursuant to the provisions of Section 31-18-15 NMSA 1978. A  
13 sex offender who willfully or knowingly provides false  
14 information when complying with the registration or  
15 verification requirements set forth in this section after a  
16 first or subsequent conviction for a violation pursuant to this  
17 section is guilty of a third degree felony and shall be  
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
19 1978. The willful providing by a sex offender of false  
20 information with respect to the registration or verification  
21 requirements set forth in this section shall be deemed part of  
22 a continuing transaction or occurrence. A conviction pursuant  
23 to this subsection shall not be considered a felony for  
24 purposes of the imposition of sentencing enhancements pursuant  
25 to the provisions of Section 31-18-17 NMSA 1978."

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1           SECTION 4. Section 29-11A-4.1 NMSA 1978 (being Laws 2000,  
2 Chapter 8, Section 6, as amended) is amended to read:

3           "29-11A-4.1. PROCEDURES WHEN A SEX OFFENDER MOVES FROM  
4 NEW MEXICO TO ANOTHER STATE.--

5           A. If a sex offender intends to move from New  
6 Mexico to another state, no later than thirty days prior to  
7 moving to the other state, ~~[he]~~ the sex offender shall:

8                   (1) notify the ~~[county sheriff of the county~~  
9 ~~he resides in]~~ state police that ~~[he]~~ the sex offender is  
10 moving to the other state; and

11                   (2) provide the ~~[county sheriff]~~ state police  
12 with a written notice that identifies the state to which the  
13 sex offender is moving.

14           B. Within five days of receiving a sex offender's  
15 written notice of intent to move to another state, ~~[the county~~  
16 ~~sheriff shall transmit that information to the department of~~  
17 ~~public safety. Within five days of receiving that information~~  
18 ~~from a county sheriff]~~ the department of public safety shall  
19 contact the state agency responsible for registering sex  
20 offenders in the state to which the sex offender is moving.  
21 The department shall provide that state agency with  
22 registration information regarding the sex offender. The  
23 department shall also obtain information regarding registration  
24 requirements for sex offenders in the state to which the sex  
25 offender is moving. The department shall provide the sex

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1 offender with written notification of the registration  
2 requirements in the state to which the sex offender is moving.

3 C. A sex offender who willfully fails to comply  
4 with the requirements set forth in this section is guilty of a  
5 fourth degree felony and shall be sentenced pursuant to the  
6 provisions of Section 31-18-15 NMSA 1978."

7 SECTION 5. A new section of the Sex Offender Registration  
8 and Notification Act is enacted to read:

9 "[NEW MATERIAL] CREDIT FOR REGISTRATION IN OTHER  
10 JURISDICTIONS OR WHILE ON PROBATION OR PAROLE--REDUCTION IN  
11 TIME FOR TIER I SEX OFFENSE.--

12 A. A sex offender's registration period in New  
13 Mexico shall be reduced by any period of time the sex offender:

14 (1) registered in another jurisdiction prior  
15 to registering in New Mexico; or

16 (2) was on probation or parole in New Mexico  
17 for a sex offense.

18 B. A sex offender shall apply to the department for  
19 registration credit. The department shall grant credit upon  
20 receipt of documentation verifying the sex offender's  
21 compliance with another jurisdiction's registration  
22 requirements or the sex offender's compliance with probation or  
23 parole supervision in New Mexico.

24 C. The term of registration for a tier I sex  
25 offender shall be reduced to ten years if, in the ten years

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1 following the date on which the sex offender was required to  
2 register, the sex offender:

- 3 (1) complied with registration requirements;  
4 (2) had not been convicted of a felony offense  
5 or a sex offense; and  
6 (3) successfully completed, without  
7 revocation, any period of supervised release, probation or  
8 parole."

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

13 "29-11A-5. [~~LOCAL REGISTRY~~] CENTRAL REGISTRY--  
14 ADMINISTRATION BY DEPARTMENT [~~OF PUBLIC SAFETY~~]--PARTICIPATION  
15 IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

16 [~~A. A county sheriff shall maintain a local  
17 registry of sex offenders in the sheriff's jurisdiction  
18 required to register pursuant to the provisions of the Sex  
19 Offender Registration and Notification Act.~~

20 B.] A. The [~~county sheriff~~] department shall  
21 forward

22 [~~(1) registration information obtained from  
23 sex offenders to the department of public safety. The initial  
24 registration information and any new registration information  
25 subsequently obtained from a sex offender shall be forwarded by~~

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

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

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

21           [D.] C. The department [~~of public safety~~] shall  
22 retain registration information regarding a sex offender  
23 convicted [~~for any of the following sex offenses~~] of a tier III  
24 sex offense for the [~~entirety~~] remainder of the sex offender's  
25 natural life.

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

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

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

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

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

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

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

23                   ~~[(1) criminal sexual penetration in the fourth~~  
24 ~~degree, as provided in Section 30-9-11 NMSA 1978;~~

25                   ~~(2) sexual exploitation of children by~~

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

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

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

7 ~~(5) enticement of child, as provided in Section~~  
8 ~~30-9-1 NMSA 1978;~~

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

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

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

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

20 E. The department shall retain registration  
21 information regarding a sex offender convicted of a tier I sex  
22 offense for a period of fifteen years following the sex  
23 offender's conviction, release from prison or release from  
24 probation or parole, whichever occurs later.

25 F. Notwithstanding the provisions of Subsection D

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

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

13 SECTION 7. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,  
14 Chapter 19, Section 8, as amended) is amended to read:

15 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING  
16 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY  
17 NOTIFICATION--INTERNET WEB SITE.--

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

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

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

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

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

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

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

17                    (1) [~~sheriff~~] state police district for the  
18 [~~county~~] district in which the sex offenders reside;

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

21                    (3) district attorney for the judicial  
22 district in which the sex offenders reside; or

23                    (4) secretary of public safety.

24                    C. Upon receiving a request for registration  
25 information regarding sex offenders described in Subsection A

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1 of this section, the [~~county sheriff~~] state police, chief  
2 municipal law enforcement officer, district attorney or  
3 secretary of public safety shall provide that registration  
4 information, with the exception of a sex offender's social  
5 security number and DNA information, within a reasonable period  
6 of time, and no later than seven days after receiving the  
7 request.

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

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

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1 made a finding that the sex offender is not amenable to  
2 treatment and is a danger to the community. The registration  
3 information provided to the public pursuant to this subsection  
4 shall not include a sex offender's social security number or  
5 DNA information or a sex offender's place of employment, unless  
6 the sex offender's employment requires the sex offender to have  
7 [~~direct~~] unsupervised contact with children under sixteen years  
8 of age. The internet web site shall provide only 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) if the sex offender's employment involves  
16 unsupervised contact with children under sixteen years of age,  
17 the sex offender's place of employment;

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

20 (5) a photograph of the sex offender;

21 (6) the sex offender's date of birth; and

22 (7) a physical description, including a  
23 description of any tattoos, scars or other distinguishing  
24 features on the sex offender's body that would assist in  
25 identifying the sex offender."

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1           SECTION 8. Section 29-11A-7 NMSA 1978 (being Laws 1995,  
2 Chapter 106, Section 7, as amended) 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 convicted  
6 in that court with written notice of [~~his~~] the sex offender's  
7 duty to register pursuant to the provisions of the Sex Offender  
8 Registration and Notification Act. The written notice shall be  
9 included in judgment and sentence forms provided to the sex  
10 offender. The written notice shall inform the sex offender  
11 that [~~he~~] the sex offender is required to:

12                   (1) register with the [~~county sheriff for the~~  
13 ~~county in which the sex offender will reside or, if the sex~~  
14 ~~offender will not have an established residence, with the~~  
15 ~~county sheriff for each county in which the sex offender will~~  
16 ~~live or be temporarily located~~] state police pursuant to the  
17 provisions of the Sex Offender Registration and Notification  
18 Act;

19                   (2) report subsequent changes of address  
20 pursuant to the provisions of the Sex Offender Registration and  
21 Notification Act;

22                   (3) notify the [~~county sheriff of the county~~  
23 ~~he resides in~~] state police if the sex offender intends to move  
24 to another state and that the sex offender is required to  
25 register in the other state pursuant to the provisions of the

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1 Sex Offender Registration and Notification Act;

2 (4) disclose [~~his~~] the sex offender's status  
3 as a sex offender in writing when [~~he~~] the sex offender begins  
4 employment, begins a vocation or enrolls as a student at an  
5 institution of higher education in New Mexico to the [~~county~~  
6 ~~sheriff for the county in which the institution of higher~~  
7 ~~education is located~~] state police and to the law enforcement  
8 entity and registrar for the institution of higher education  
9 pursuant to the provisions of the Sex Offender Registration and  
10 Notification Act;

11 (5) provide written notice of any change  
12 regarding [~~his~~] the sex offender's employment, vocation or  
13 enrollment status at an institution of higher education to the  
14 [~~county sheriff~~] state police, the law enforcement entity and  
15 the registrar pursuant to the provisions of the Sex Offender  
16 Registration and Notification Act;

17 (6) disclose [~~his~~] the sex offender's status  
18 as a sex offender in writing, when [~~he~~] the sex offender  
19 enrolls as a student at a private or public school in New  
20 Mexico, to the [~~county sheriff for the county in which the~~  
21 ~~school is located~~] state police and to the principal of the  
22 school pursuant to the provisions of the Sex Offender  
23 Registration and Notification Act;

24 (7) provide written notice of any change  
25 regarding [~~his~~] the sex offender's enrollment status at a

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1 public or private school in New Mexico to the [~~county sheriff~~]  
2 state police and the principal of the school pursuant to the  
3 provisions of the Sex Offender Registration and Notification  
4 Act;

5 (8) disclose [~~his~~] the sex offender's status  
6 as a sex offender in writing to [~~his~~] the sex offender's  
7 employer, supervisor or other person similarly situated when  
8 [~~he~~] the sex offender begins employment, begins a vocation or  
9 volunteers [~~his~~] the sex offender's services, regardless of  
10 whether the sex offender receives payment or other  
11 compensation, pursuant to the provisions of the Sex Offender  
12 Registration and Notification Act; and

13 (9) read and sign a form that indicates that  
14 the sex offender has received the written notice and that a  
15 responsible court official, designated by the chief judge for  
16 that judicial district, has explained the written notice to the  
17 sex offender.

18 B. The corrections department, a municipal or  
19 county jail or a detention center, at the time of release of a  
20 sex offender in its custody, shall provide a written notice to  
21 the sex offender of [~~his~~] the sex offender's duty to register,  
22 pursuant to the provisions of the Sex Offender Registration and  
23 Notification Act. The written notice shall inform the sex  
24 offender that [~~he~~] the sex offender is required to:

25 (1) register with the [~~county sheriff for the~~

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1 ~~county in which the sex offender will reside or, if the sex~~  
2 ~~offender will not have an established residence, with the~~  
3 ~~county sheriff for each county in which the sex offender will~~  
4 ~~live or be temporarily located]~~ state police pursuant to the  
5 provisions of the Sex Offender Registration and Notification  
6 Act;

7 (2) report subsequent changes of address  
8 pursuant to the provisions of the Sex Offender Registration and  
9 Notification Act;

10 (3) notify the [~~county sheriff of the county~~  
11 ~~he resides in]~~ state police if the sex offender intends to move  
12 to another state and that the sex offender is required to  
13 register in the other state pursuant to the provisions of the  
14 Sex Offender Registration and Notification Act;

15 (4) disclose [~~his~~] the sex offender's status  
16 as a sex offender in writing when [~~he~~] the sex offender begins  
17 employment, begins a vocation or enrolls as a student at an  
18 institution of higher education in New Mexico to the [~~county~~  
19 ~~sheriff for the county in which the institution of higher~~  
20 ~~education is located]~~ state police and to the law enforcement  
21 entity and registrar for the institution of higher education  
22 pursuant to the provisions of the Sex Offender Registration and  
23 Notification Act;

24 (5) provide written notice of any change  
25 regarding [~~his~~] the sex offender's employment, vocation or

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1 enrollment status at an institution of higher education to the  
2 [~~county sheriff~~] state police, the law enforcement entity and  
3 the registrar pursuant to the provisions of the Sex Offender  
4 Registration and Notification Act;

5 (6) disclose [~~his~~] the sex offender's status  
6 as a sex offender in writing, when [~~he~~] the sex offender  
7 enrolls as a student at a private or public school in New  
8 Mexico, to the [~~county sheriff for the county in which the~~  
9 ~~school is located~~] state police and to the principal of the  
10 school pursuant to the provisions of the Sex Offender  
11 Registration and Notification Act;

12 (7) provide written notice of any change  
13 regarding [~~his~~] the sex offender's enrollment status at a  
14 public or private school in New Mexico to the [~~county sheriff~~]  
15 state police and the principal of the school pursuant to the  
16 provisions of the Sex Offender Registration and Notification  
17 Act;

18 (8) disclose [~~his~~] the sex offender's status  
19 as a sex offender in writing to [~~his~~] the sex offender's  
20 employer, supervisor or other person similarly situated when  
21 [~~he~~] the sex offender begins employment, begins a vocation or  
22 volunteers [~~his~~] the sex offender's services, regardless of  
23 whether the sex offender receives payment or other  
24 compensation, pursuant to the provisions of the Sex Offender  
25 Registration and Notification Act; and

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underscored material = new  
[bracketed material] = delete

1 (9) read and sign a form that indicates that  
2 the sex offender has received the written notice and that a  
3 responsible corrections department official, designated by the  
4 secretary of corrections, or a responsible municipal or county  
5 jail official or detention center official has explained the  
6 written notice to the sex offender.

7 C. A court, the corrections department, a municipal  
8 or county jail or a detention center shall also provide written  
9 notification regarding a sex offender's release [~~to the sheriff~~  
10 ~~of the county in which the sex offender is released and~~] to the  
11 department of public safety.

12 D. The department of public safety, at the time it  
13 is notified by officials from another state that a sex offender  
14 will be establishing residence in New Mexico, shall provide  
15 written notice to the sex offender of [~~his~~] the sex offender's  
16 duty to register pursuant to the provisions of the Sex Offender  
17 Registration and Notification Act."

18 SECTION 9. Section 29-11A-9 NMSA 1978 (being Laws 2005,  
19 Chapter 279, Section 7) is amended to read:

20 "29-11A-9. STATE PREEMPTION--SAVING CLAUSE.--

21 A. The state preempts the field of sex offender  
22 registration and notification. Cities, counties, home rule  
23 municipalities and other political subdivisions of the state  
24 are prohibited from adopting or continuing in effect any  
25 ordinance, rule, regulation, resolution or statute on sex

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1 offender registration and notification and from imposing any  
2 other restrictions on sex offenders that are not included in  
3 the Sex Offender Registration and Notification Act. Law  
4 enforcement agencies shall not require a sex offender to report  
5 or to register more frequently or to provide information not  
6 required by the Sex Offender Registration and Notification Act.

7 B. After January 18, 2005, cities, counties, home  
8 rule municipalities and other political subdivisions of the  
9 state are prohibited from adopting or amending an ordinance,  
10 rule, regulation or resolution on sex offender registration and  
11 notification. An ordinance in effect on January 18, 2005 shall  
12 continue in force and effect until repealed; provided that the  
13 ordinance shall only continue in force and effect with regard  
14 to sex offenders who are required to register pursuant to the  
15 provisions of the ordinance but who are not required to  
16 register pursuant to the provisions of the Sex Offender  
17 Registration and Notification Act. All other sex offenders  
18 shall register pursuant to the provisions of the Sex Offender  
19 Registration and Notification Act."

20 SECTION 10. Section 30-37-3.2 NMSA 1978 (being Laws 1998,  
21 Chapter 64, Section 1, as amended) is amended to read:

22 "30-37-3.2. CHILD SOLICITATION BY ELECTRONIC  
23 COMMUNICATION DEVICE.--

24 A. Child solicitation by electronic communication  
25 device consists of a person knowingly [~~and intentionally~~]

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1 soliciting a child under sixteen years of age, by means of an  
2 electronic communication device, with the intent to engage the  
3 child in sexual intercourse, sexual contact, [~~or in a~~] sexual  
4 or obscene performance or [~~to engage in~~] any other sexual  
5 conduct when the perpetrator is at least four years older than  
6 the child.

7 B. Whoever commits child solicitation by electronic  
8 communication device is guilty of a:

9 (1) fourth degree felony if the child is at  
10 least thirteen but under sixteen years of age; or

11 (2) third degree felony if the child is under  
12 thirteen years of age.

13 C. Whoever commits child solicitation by electronic  
14 communication device and also appears for, attends or is  
15 present at a meeting that the person arranged pursuant to the  
16 solicitation is guilty of a:

17 (1) third degree felony if the child is at  
18 least thirteen but under sixteen years of age; or

19 (2) second degree felony if the child is under  
20 thirteen years of age.

21 D. In a prosecution for child solicitation by  
22 electronic communication device, it is not a defense that the  
23 intended victim of the defendant was a peace officer posing as  
24 a child under sixteen years of age.

25 E. For purposes of determining jurisdiction, child

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1 solicitation by electronic communication device is committed in  
2 this state if an electronic communication device transmission  
3 either originates or is received in this state.

4 F. The notice provisions of Section 30-37-4 NMSA  
5 1978 shall not apply to this section.

6 [~~F.~~] G. As used in this section:

7 (1) "electronic communication device" means a  
8 computer, video recorder, digital camera, fax machine,  
9 telephone, cellular telephone, pager, audio equipment or any  
10 other device that can produce an electronically generated  
11 image, message or signal; and

12 (2) "soliciting" means requesting, inducing,  
13 urging, advising, commanding or otherwise attempting to promote  
14 or facilitate another to engage in certain conduct."

15 SECTION 11. Section 30-37-3.3 NMSA 1978 (being Laws 2007,  
16 Chapter 67, Section 1) is amended to read:

17 "30-37-3.3. CRIMINAL SEXUAL COMMUNICATION WITH A CHILD--  
18 PENALTY.--

19 A. Criminal sexual communication with a child  
20 consists of a person knowingly and intentionally communicating  
21 directly with a specific child under sixteen years of age by  
22 sending the child obscene images of the person's intimate parts  
23 by means of an electronic communication device when the  
24 perpetrator is at least four years older than the child.

25 B. Whoever commits sexual communication with a

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1 child is guilty of a fourth degree felony.

2 C. The notice provisions of Section 30-37-4 NMSA  
3 1978 shall not apply to this section.

4 [~~G.~~] D. As used in this section:

5 (1) "electronic communication device" means a  
6 computer, video recorder, digital camera, fax machine,  
7 telephone, pager or any other device that can produce an  
8 electronically generated image; and

9 (2) "intimate parts" means the primary genital  
10 area, groin, buttocks, anus or breast."

11 SECTION 12. APPLICABILITY.--The provisions of Sections 1  
12 through 9 of this act apply to:

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

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

18 SECTION 13. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is January 1, 2013.