

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 48

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO SEX OFFENDERS; ENACTING A NEW SECTION OF THE SEX
OFFENDER REGISTRATION AND NOTIFICATION ACT FORBIDDING CERTAIN
REGISTERED SEX OFFENDERS FROM USING INSTANT MESSAGING, CHAT
ROOMS OR SOCIAL MEDIA WEB SITES.

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

SECTION 1. A new section of the Sex Offender Registration
and Notification Act is enacted to read:

"[NEW MATERIAL] RESTRICTIONS ON INTERNET USE.--

A. A sex offender required to register under
Section 29-11A-4 NMSA 1978, whose sex offense was facilitated
through the use of the internet and whose victim was under
sixteen years of age, shall not knowingly or intentionally
communicate with any person that the sex offender knows to be
or who is represented to be under sixteen years of age when

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underscored material = new
[bracketed material] = delete

1 using:

2 (1) an instant messaging or chat room program;

3 or

4 (2) a social networking web site.

5 B. The provisions of Subsection A of this section
6 shall apply until ten years after the sex offender has
7 completed serving any sentence of incarceration and completed
8 all conditions of probation or parole.

9 C. A sex offender who violates a provision of
10 Subsection A or B of this section is guilty of a fourth degree
11 felony and shall be sentenced pursuant to the provisions of
12 Section 31-18-17 NMSA 1978.

13 D. A sex offender who violates a provision of
14 Subsection A or B of this section after a first or subsequent
15 conviction for a violation of a provision of Subsection A or B
16 of this section is guilty of a third degree felony and shall be
17 sentenced pursuant to the provisions of Section 31-18-15 NMSA
18 1978. A conviction pursuant to this subsection shall not be
19 considered a felony for purposes of the imposition of
20 sentencing enhancements pursuant to the provisions of Section
21 31-18-17 NMSA 1978.

22 E. The provisions of Subsections A and B of this
23 section do not apply to a sex offender who:

24 (1) is communicating with the sex offender's
25 own child, stepchild or adopted child; provided that such

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1 contact does not violate a condition of the sex offender's
2 supervision or an order issued by a court; or

3 (2) was under twenty-one years of age at the
4 time of the sex offense and was no more than four years older
5 than the person the sex offender solicited for sexual contact.

6 F. As used in this section:

7 (1) "instant messaging or chat room program":

8 (a) means a software program that: 1)
9 requires a person to register or create an account, a username
10 or a password to become a member or registered user of the
11 program; and 2) allows two or more members or authorized users
12 to communicate over the internet in real time using typed text;
13 and

14 (b) does not include an electronic mail
15 program or message board program; and

16 (2) "social networking web site":

17 (a) means an internet web site that: 1)
18 facilitates the social introduction between two or more
19 persons; 2) requires a person to register or create an account,
20 a username or a password to become a member of the web site and
21 to communicate with other members; 3) allows a member to create
22 a web page or a personal profile; and 4) provides a member with
23 the opportunity to communicate with another person; and

24 (b) does not include an electronic mail
25 program or message board program."

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