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SENATE BILL 380

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Jacob R. Candelaria

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CHILDREN; CREATING THE INTERNET CRIMES AGAINST CHILDREN FUND; ESTABLISHING A FEE FOR INITIAL REGISTRATION BY A SEX OFFENDER AND PROVIDING THAT THE FEE SHALL BE CREDITED TO THE INTERNET CRIMES AGAINST CHILDREN FUND; MAKING AN APPROPRIATION.

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

SECTION 1. Section 29-11A-4 NMSA 1978 (being Laws 1995, Chapter 106, Section 4, as amended) is amended to read:

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

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

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1 B. A sex offender who is a resident of New Mexico
2 shall initially register with the county sheriff no later than
3 five business days after being released from the custody of the
4 corrections department, a municipal or county jail or a
5 federal, military or tribal correctional facility or detention
6 center or being placed on probation or parole. A sex offender
7 who changes residence to New Mexico shall register with the
8 county sheriff no later than five business days after arrival
9 in this state. When a sex offender initially registers with
10 the county sheriff, the sex offender shall pay the fee required
11 pursuant to Subsection F of this section and provide the
12 following registration information:

- 13 (1) the sex offender's legal name and any
14 other names or aliases that the sex offender is using or has
15 used;
- 16 (2) the sex offender's date of birth;
- 17 (3) the sex offender's social security number;
- 18 (4) the sex offender's current physical and
19 mailing address and the address of every place where the sex
20 offender habitually lives;
- 21 (5) the sex offender's place of employment;
- 22 (6) the sex offense for which the sex offender
23 was convicted;
- 24 (7) the date and place of the sex offense
25 conviction;

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

4 (9) the sex offender's landline and cellular
5 telephone numbers and any other telephone numbers primarily
6 used by the sex offender;

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

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

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

14 (13) copies of the sex offender's passport and
15 immigration documents.

16 C. A sex offender who is a resident of another
17 state but who is employed in New Mexico or attending public or
18 private school or an institution of higher education in New
19 Mexico shall register with the county sheriff for the county in
20 which the sex offender is working or attending school or an
21 institution of higher education.

22 D. A sex offender who is a resident of another
23 state but who is employed in New Mexico or attending public or
24 private school or an institution of higher education in New
25 Mexico shall register with the county sheriff no later than

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1 five business days after beginning work or school. When the
2 sex offender registers with the county sheriff, the sex
3 offender shall pay the fee required pursuant to Subsection F of
4 this section and provide the following registration
5 information:

- 6 (1) the sex offender's legal name and any
7 other names or aliases that the sex offender is using or has
8 used;
- 9 (2) the sex offender's date of birth;
- 10 (3) the sex offender's social security number;
- 11 (4) the sex offender's current physical and
12 mailing address in the sex offender's state of residence and,
13 if applicable, the address of the sex offender's place of
14 lodging in New Mexico while working or attending school or an
15 institution of higher education;
- 16 (5) the sex offender's place of employment or
17 the name of the school the sex offender is attending;
- 18 (6) the sex offense for which the sex offender
19 was convicted; and
- 20 (7) the date and place of the sex offense
21 conviction.

22 E. When a sex offender registers with a county
23 sheriff, the sheriff shall obtain:

- 24 (1) a photograph of the sex offender and a
25 complete set of the sex offender's fingerprints and a palm

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1 print;

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

6 (3) a DNA sample for inclusion in the sex
7 offender DNA identification system pursuant to the provisions
8 of the DNA Identification Act.

9 F. When a sex offender registers with a county
10 sheriff, there shall be assessed and the sheriff shall collect
11 a fee of one hundred forty dollars (\$140); provided, however,
12 that a sex offender who is unable to pay the fee in full at the
13 time of registration shall establish a payment plan with the
14 department pursuant to rules established by the department.
15 The sheriff shall transmit monthly all fees collected pursuant
16 to this section to the department for credit to the internet
17 crimes against children fund.

18 [~~F.~~] G. When a sex offender who is registered
19 changes any information required under this section, the sex
20 offender shall send written notice of the change on a form
21 approved by the department to the county sheriff no later than
22 five business days after the change occurs.

23 [~~G.~~] H. When a sex offender who is registered
24 changes residence to a new county in New Mexico, the sex
25 offender shall register with the county sheriff of the new

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1 county no later than five business days after establishing the
2 new residence. The sex offender shall also send written notice
3 of the change in residence to the county sheriff with whom the
4 sex offender last registered no later than five business days
5 after establishing the new residence.

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

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

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1 offender shall also send written notice of any change regarding
2 employment, vocation or enrollment status at an institution of
3 higher education to the county sheriff, the law enforcement
4 entity and the registrar no later than five business days after
5 the change in employment, vocation or enrollment status.

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

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

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1 ~~[E-]~~ M. Following initial registration pursuant to
2 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 shall verify registration information with the county
6 sheriff as provided in Subsection ~~[N]~~ O of this section not
7 less than once in each ninety-day period following the date of
8 the sex offender's initial registration for the remainder of
9 the sex offender's natural life;

10 (2) a sex offender required to register
11 pursuant to the provisions of Subsection E of Section 29-11A-5
12 NMSA 1978 shall verify registration information with the county
13 sheriff as provided in Subsection ~~[N]~~ O of this section once
14 every six months for a period of ten years; and

15 (3) an out-of-state registrant shall verify
16 registration information with the county sheriff for whichever
17 is the longer of:

18 (a) the duration of time remaining in
19 the registrant's convicting jurisdiction and at the same
20 frequency as required in that state or territory, but no less
21 than once every six months; or

22 (b) the duration of time remaining that
23 would be required for the equivalent offense in New Mexico.

24 ~~[M-]~~ N. Notwithstanding the provisions of Paragraph
25 (2) of Subsection ~~[E]~~ M of this section, if a sex offender is

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1 convicted a second or subsequent time for a sex offense set
2 forth in Subsection E of Section 29-11A-5 NMSA 1978, the sex
3 offender shall verify registration information with the county
4 sheriff as provided in Subsection ~~[N]~~ O of this section not
5 less than once in each ninety-day period following the date of
6 the sex offender's initial registration for the remainder of
7 the sex offender's natural life.

8 ~~[N-]~~ O. At least fifteen days prior to the time a
9 sex offender is required to verify registration information,
10 the department shall send a verification form to the sex
11 offender, by first class mail, containing the sex offender's
12 current registration information and a notice of the date that
13 the sex offender's next verification is due. The sex offender
14 shall appear in person at a location designated by the
15 department to verify the information contained on the form, to
16 change the information as necessary and to sign a statement
17 under oath that the information is true and correct. The
18 department may photograph the sex offender at that time if the
19 sex offender's appearance is significantly different from the
20 photograph already contained in the sex offender's file. If a
21 sex offender does not receive a verification form before the
22 time that the sex offender is required to verify registration
23 pursuant to Subsection ~~[E]~~ M of this section, the sex offender
24 shall appear at a location designated by the department to
25 verify registration information as required by this section.

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1 ~~[P-]~~ P. The department shall establish a secure
2 system that will permit a sex offender to notify the department
3 electronically of any change in registration information.

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

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

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

13 SECTION 2. Section 29-11A-7 NMSA 1978 (being Laws 1995,
14 Chapter 106, Section 7, as amended) is amended to read:

15 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO REGISTER.--

16 A. A court shall provide a sex offender convicted
17 in that court with written notice of [~~his~~] the sex offender's
18 duty to register pursuant to the provisions of the Sex Offender
19 Registration and Notification Act. The written notice shall be
20 included in judgment and sentence forms provided to the sex
21 offender. The written notice shall inform the sex offender
22 that [~~he~~] the sex offender is required to:

23 (1) register with the county sheriff for the
24 county in which the sex offender will reside or, if the sex
25 offender will not have an established residence, with the

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1 county sheriff for each county in which the sex offender will
2 live or be temporarily located pursuant to the provisions of
3 the Sex Offender Registration and Notification Act;

4 (2) pay a registration fee of one hundred
5 forty dollars (\$140) at the time of registration;

6 [~~(2)~~] (3) report subsequent changes of address
7 pursuant to the provisions of the Sex Offender Registration and
8 Notification Act;

9 [~~(3)~~] (4) notify the county sheriff of the
10 county [~~he~~] the sex offender resides in if the sex offender
11 intends to move to another state and that the sex offender is
12 required to register in the other state pursuant to the
13 provisions of the Sex Offender Registration and Notification
14 Act;

15 [~~(4)~~] (5) disclose [~~his~~] the sex offender's
16 status as a sex offender in writing when [~~he~~] the sex offender
17 begins employment, begins a vocation or enrolls as a student at
18 an 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 and to the law enforcement entity and
21 registrar for the institution of higher education pursuant to
22 the provisions of the Sex Offender Registration and
23 Notification Act;

24 [~~(5)~~] (6) 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, the law enforcement entity and the registrar
3 pursuant to the provisions of the Sex Offender Registration and
4 Notification Act;

5 ~~[(6)]~~ (7) disclose ~~[his]~~ the sex offender's
6 status 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 and to the principal of the school pursuant
10 to the provisions of the Sex Offender Registration and
11 Notification Act;

12 ~~[(7)]~~ (8) 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 and the principal of the school pursuant to the provisions of
16 the Sex Offender Registration and Notification Act;

17 ~~[(8)]~~ (9) disclose ~~[his]~~ the sex offender's
18 status as a sex offender in writing to ~~[his]~~ the sex offender's
19 employer, supervisor or other person similarly situated when
20 ~~[he]~~ the sex offender begins employment, begins a vocation or
21 volunteers ~~[his]~~ the sex offender's services, regardless of
22 whether the sex offender receives payment or other
23 compensation, pursuant to the provisions of the Sex Offender
24 Registration and Notification Act; and

25 ~~[(9)]~~ (10) read and sign a form that indicates

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1 that the sex offender has received the written notice and that
2 a responsible court official, designated by the chief judge for
3 that judicial district, has explained the written notice to the
4 sex offender.

5 B. The corrections department, a municipal or
6 county jail or a detention center, at the time of release of a
7 sex offender in its custody, shall provide a written notice to
8 the sex offender of [~~his~~] the sex offender's duty to register,
9 pursuant to the provisions of the Sex Offender Registration and
10 Notification Act. The written notice shall inform the sex
11 offender 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 pursuant to the provisions of
17 the Sex Offender Registration and Notification Act;

18 (2) pay a registration fee of one hundred
19 forty dollars (\$140) at the time of registration;

20 [~~(2)~~] (3) report subsequent changes of address
21 pursuant to the provisions of the Sex Offender Registration and
22 Notification Act;

23 [~~(3)~~] (4) notify the county sheriff of the
24 county [~~he~~] the sex offender resides in if the sex offender
25 intends to move to another state and that the sex offender is

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1 required to register in the other state pursuant to the
2 provisions of the Sex Offender Registration and Notification
3 Act;

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

13 [~~(5)~~] (6) provide written notice of any change
14 regarding [~~his~~] the sex offender's employment, vocation or
15 enrollment status at an institution of higher education to the
16 county sheriff, the law enforcement entity and the registrar
17 pursuant to the provisions of the Sex Offender Registration and
18 Notification Act;

19 [~~(6)~~] (7) disclose [~~his~~] the sex offender's
20 status as a sex offender in writing, when [~~he~~] the sex offender
21 enrolls as a student at a private or public school in New
22 Mexico, to the county sheriff for the county in which the
23 school is located and to the principal of the school pursuant
24 to the provisions of the Sex Offender Registration and
25 Notification Act;

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1 [~~(7)~~] (8) provide written notice of any change
2 regarding [~~his~~] the sex offender's enrollment status at a
3 public or private school in New Mexico to the county sheriff
4 and the principal of the school pursuant to the provisions of
5 the Sex Offender Registration and Notification Act;

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

14 [~~(9)~~] (10) read and sign a form that indicates
15 that the sex offender has received the written notice and that
16 a responsible corrections department official, designated by
17 the secretary of corrections, or a responsible municipal or
18 county jail official or detention center official has explained
19 the written notice to the sex offender.

20 C. A court, the corrections department, a municipal
21 or county jail or a detention center shall also provide written
22 notification regarding a sex offender's release to the sheriff
23 of the county in which the sex offender is released and to the
24 department of public safety.

25 D. The department of public safety, at the time it

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1 is notified by officials from another state that a sex offender
2 will be establishing residence in New Mexico, shall provide
3 written notice to the sex offender of [~~his~~] the sex offender's
4 duty to register pursuant to the provisions of the Sex Offender
5 Registration and Notification Act."

6 SECTION 3. [NEW MATERIAL] INTERNET CRIMES AGAINST
7 CHILDREN FUND--CREATED.--The "internet crimes against children
8 fund" is created in the state treasury. The fund shall consist
9 of appropriations, gifts, grants and donations to the fund,
10 income from investment of the fund, money that is credited to
11 the fund pursuant to Section 29-11A-4 NMSA 1978 and money
12 otherwise accruing to the fund. Money in the fund shall not
13 revert to any other fund at the end of a fiscal year. The
14 attorney general shall administer the fund, and money in the
15 fund is appropriated to the attorney general for costs related
16 to the investigation of internet crimes against children.
17 Payments from the internet crimes against children fund shall
18 be made upon vouchers issued and signed by the attorney general
19 or the attorney general's designee upon warrants drawn by the
20 secretary of finance and administration.

21 SECTION 4. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2015.