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HOUSE BILL 95

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

BOBBIE K. MALLORY

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING THAT A DELINQUENT CHILD
ADJUDICATED FOR A SEX OFFENSE BE SUBJECT TO THE PROVISIONS OF
THE SEX OFFENDER REGISTRATION ACT; PROVIDING PENALTIES;
AMENDING SECTIONS OF THE SEX OFFENDER REGISTRATION ACT.

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

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

"29-11A-1. SHORT TITLE. -- [~~This act~~] Chapter 29, Article
11A NMSA 1978 may be cited as the "Sex Offender Registration
Act". "

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

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

A. The legislature finds that:

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

3 (2) the efforts of law enforcement agencies
4 to protect their communities from sex offenders are impaired
5 by the lack of information available concerning convicted sex
6 offenders who live within the agencies' [~~jurisdiction~~]
7 jurisdictions.

8 B. The purpose of the Sex Offender Registration
9 Act is to assist law enforcement agencies' efforts to protect
10 their communities by:

11 (1) requiring sex offenders to register with
12 the county sheriff of the county in which the sex offender
13 resides; and

14 (2) requiring the establishment of a central
15 registry for sex offenders. "

16 Section 3. Section 29-11A-3 NMSA 1978 (being Laws 1995,
17 Chapter 106, Section 3) is amended to read:

18 "29-11A-3. DEFINITIONS. -- As used in the Sex Offender
19 Registration Act:

20 A. "sex offender" means:

21 (1) a person convicted of a sex offense on or
22 after July 1, 1995; [~~or~~]

23 (2) a person who changes his residence to New
24 Mexico, when that person has been convicted of a sex offense
25 in another state on or after July 1, 1995; [~~and~~]

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1 (3) a delinquent child adjudicated for a sex
2 offense on or after July 1, 1998; or

3 (4) a delinquent child who changes his
4 residence to New Mexico, when that delinquent child has been
5 adjudicated for a sex offense in another state on or after
6 July 1, 1998; and

7 B. "sex offense" means:

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

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

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

16 (4) sexual exploitation of children, as
17 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;
18 or

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

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

23 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
24 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

25 A. A sex offender residing in this state shall

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1 register with the county sheriff for the county in which the
2 sex offender resides.

3 B. A sex offender who is a current resident of New
4 Mexico shall register with the county sheriff no later than
5 thirty days after being released from the custody of the
6 corrections department or the children, youth and families
7 department or being placed on probation or parole. A sex
8 offender who changes his residence to New Mexico shall
9 register with the county sheriff no later than forty-five days
10 after establishing residence in this state. When a sex
11 offender registers with the county sheriff, he shall provide
12 the following information:

13 (1) his legal name and any other names or
14 aliases that [~~the sex offender~~] he is using or has used;

15 (2) his date of birth;

16 (3) his social security number;

17 (4) his current address;

18 (5) his place of employment;

19 (6) the sex offense for which he was
20 convicted or adjudicated delinquent; and

21 (7) the date and place of his sex offense
22 conviction or adjudication.

23 C. When a sex offender registers with a county
24 sheriff, the sheriff shall obtain:

25 (1) a photograph of the sex offender and a

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1 complete set of the sex offender's fingerprints; and

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

5 D. When a sex offender who is registered changes
6 his residence within the same county, the sex offender shall
7 send written notice of his change of address to the county
8 sheriff no later than ten days after establishing his new
9 residence.

10 E. When a sex offender who is registered changes
11 his residence to a new county in New Mexico, the sex offender
12 shall register with the county sheriff of the new county no
13 later than ten days after establishing his new residence. The
14 sex offender shall also send written notice of the change in
15 residence to the county sheriff with whom he last registered
16 no later than ten days after establishing his new residence.

17 F. If the sex offender is a delinquent child, as
18 provided in Paragraph (3) or (4) of Subsection A of Section
19 29-11A-3 NMSA 1978, the sex offender's parent, guardian or
20 custodian shall be responsible for complying with the
21 registration requirements set forth in the Sex Offender
22 Registration Act until the sex offender reaches eighteen years
23 of age. When the sex offender reaches eighteen years of age,
24 he shall be responsible for complying with the registration
25 requirements set forth in the Sex Offender Registration Act.

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1 ~~[F-]~~ G. A sex offender or a sex offender's parent,
2 guardian or custodian who willfully fails to comply with the
3 registration requirements set forth in this section is guilty
4 of a misdemeanor and shall be punished by imprisonment for a
5 definite term less than one year or a fine of not more than
6 one thousand dollars (\$1,000) or both.

7 ~~[G-]~~ H. A sex offender or a sex offender's parent,
8 guardian or custodian who provides false information when
9 complying with the registration requirements set forth in this
10 section is guilty of a misdemeanor and shall be punished by
11 imprisonment for a definite term less than one year or a fine
12 of not more than one thousand dollars (\$1,000) or both. "

13 Section 5. Section 29-11A-5 NMSA 1978 (being Laws 1995,
14 Chapter 106, Section 5) is amended to read:

15 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
16 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--EXCHANGE OF
17 REGISTRATION INFORMATION WITH OTHER STATES--RULES [AND
18 REGULATIONS]. --

19 A. A county sheriff may maintain a local registry
20 of sex offenders in his jurisdiction required to register
21 pursuant to the provisions of the Sex Offender Registration
22 Act.

23 B. The county sheriff shall forward registration
24 information obtained from sex offenders to the department of
25 public safety. The registration information shall be

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1 forwarded by the county sheriff no later than ten working days
2 after the information is obtained from a sex offender.

3 C. The department of public safety shall maintain
4 a central registry of sex offenders required to register
5 pursuant to the provisions of the Sex Offender Registration
6 Act. The department may enter into interstate compact
7 agreements providing for the exchange of information regarding
8 sex offenders; provided that the other state does not permit
9 dissemination of information regarding sex offenders to any
10 persons or entities other than law enforcement agencies.

11 D. The department of public safety shall retain
12 registration information regarding sex offenders convicted or
13 adjudicated delinquent for the following sex offenses for a
14 period of twenty years following the sex offender's
15 conviction, adjudication, release from prison or release from
16 probation or parole, whichever occurs later:

17 (1) criminal sexual penetration in the first
18 or second degree, as provided in Section 30-9-11 NMSA 1978;

19 (2) criminal sexual contact of a minor in the
20 third degree, as provided in Section 30-9-13 NMSA 1978; or

21 (3) sexual exploitation of children, as
22 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978.

23 E. The department of public safety shall retain
24 registration information regarding sex offenders convicted or
25 adjudicated delinquent for the following offenses for a period

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1 of ten years following the sex offender's conviction,
2 adjudication, release from prison or release from probation or
3 parole, whichever occurs later:

4 (1) criminal sexual penetration in the third
5 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

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

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

10 (4) sexual exploitation of children by
11 prostitution, as provided in Section 30-6A-4 NMSA 1978.

12 F. The department of public safety shall adopt
13 rules [~~and regulations~~] necessary to carry out the provisions
14 of the Sex Offender Registration Act. "

15 Section 6. Section 29-11A-7 NMSA 1978 (being Laws 1995,
16 Chapter 106, Section 7) is amended to read:

17 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
18 REGISTER. --

19 A. A court shall provide a sex offender
20 adjudicated guilty or delinquent in that court with written
21 notice of his duty to register pursuant to the provisions of
22 the Sex Offender Registration Act. [~~The written notice shall~~
23 ~~be included in judgment and sentence forms provided to the sex~~
24 ~~offender.~~]

25 B. The corrections department or the children,

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1 youth and families department, at the time of release of a sex
2 offender in the department's custody, shall provide written
3 notification to the sex offender or the sex offender's parent,
4 guardian or custodian of his duty to register pursuant to the
5 provisions of the Sex Offender Registration Act. The
6 corrections department or the children, youth and families
7 department shall also provide written notification regarding a
8 sex offender's release to the sheriff of the county in which
9 the sex offender is released.

10 C. The department of public safety, at the time it
11 is notified by officials from another state that a sex
12 offender will be establishing residence in New Mexico, shall
13 provide written notification to the sex offender or the sex
14 offender's parent, guardian or custodian of his duty to
15 register pursuant to the provisions of the Sex Offender
16 Registration Act. "

17 Section 7. EFFECTIVE DATE. --The effective date of the
18 provisions of this act is July 1, 1998.