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HOUSE BILL 134

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Raymond G. Sanchez

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES THAT ARE SEX OFFENSES; PROVIDING PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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 and Notification 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 and Notification Act is to assist law enforcement agencies'
10 efforts to protect their communities by:

11 (1) requiring sex offenders who are residents
12 of New Mexico to register with the county sheriff of the
13 county in which the sex offender resides; [~~and~~]

14 (2) requiring sex offenders who are residents
15 in other states, but who are employed in New Mexico or who
16 attend school in New Mexico, to register with the county
17 sheriff of the county in which the sex offender works or
18 attends school;

19 [~~(2)~~] (3) requiring the establishment of a
20 central registry for sex offenders; and

21 (4) providing public access to information
22 regarding certain registered sex offenders. "

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

25 "29-11A-3. DEFINITIONS.--As used in the Sex Offender

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1 Registration and Notification Act:

2 A. "sex offender" means:

3 (1) a person who is a resident of New Mexico
4 who is convicted of a sex offense [~~on or after July 1, 1995;~~
5 ~~or~~];

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

9 (3) a person who is a resident of New Mexico
10 who is convicted of a sex offense pursuant to federal or
11 military law; or

12 (4) a person who is a resident of another
13 state, but who is employed in New Mexico or attends school in
14 New Mexico; and

15 B. "sex offense" means:

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

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

23 [~~(1)~~] (3) criminal sexual penetration in the
24 first, second, third or fourth degree, as provided in Section
25 30-9-11 NMSA 1978;

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[bracketed material] = delete

- 1 [~~(2)~~] (4) criminal sexual contact in the
- 2 fourth degree, as provided in Section 30-9-12 NMSA 1978;
- 3 [~~(3)~~] (5) criminal sexual contact of a minor
- 4 in the third or fourth degree, as provided in Section 30-9-13
- 5 NMSA 1978;
- 6 [~~(4)~~] (6) sexual exploitation of children, as
- 7 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;
- 8 [~~or~~
- 9 ~~(5)~~] (7) sexual exploitation of children by
- 10 prostitution, as provided in Section 30-6A-4 NMSA 1978;
- 11 (8) solicitation to commit criminal sexual
- 12 contact of a minor in the third or fourth degree, as provided
- 13 in Section 30-9-13 NMSA 1978 and Section 30-28-3 NMSA 1978; or
- 14 (9) attempt to commit any of the sex offenses
- 15 set forth in Paragraphs (1) through (7) of this subsection, as
- 16 provided in Section 30-28-1 NMSA 1978."

17 Section 4. Section 29-11A-4 NMSA 1978 (being Laws 1995,

18 Chapter 106, Section 4) is amended to read:

19 "29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION

20 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE. --

21 A. A sex offender residing in this state shall

22 register with the county sheriff for the county in which the

23 sex offender resides.

24 B. A sex offender who is a current resident of New

25 Mexico shall register with the county sheriff no later than

underscored material = new
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1 thirty days after being released from the custody of the
2 corrections department or being placed on probation or parole.
3 A sex offender who changes his residence to New Mexico shall
4 register with the county sheriff no later than forty-five days
5 after establishing residence in this state. When a sex
6 offender registers with the county sheriff, he shall provide
7 the following information:

- 8 (1) his legal name and any other names or
9 aliases that [~~the sex offender~~] he is using or has used;
- 10 (2) his date of birth;
- 11 (3) his social security number;
- 12 (4) his current address;
- 13 (5) his place of employment;
- 14 (6) the sex offense for which he was
15 convicted; and
- 16 (7) the date and place of his sex offense
17 conviction.

18 C. A sex offender who is a resident of another
19 state but who is employed in New Mexico or attending school in
20 New Mexico shall register with the county sheriff for the
21 county in which the sex offender is working or attending
22 school.

23 D. A sex offender who is a resident of another
24 state but who is employed in New Mexico or attending school in
25 New Mexico shall register with the county sheriff no later

underscored material = new
[bracketed material] = delete

1 than thirty days after beginning work or school. When the sex
2 offender registers with the county sheriff, he shall provide
3 the following information:

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

17 ~~[C.]~~ E. When a sex offender registers with a
18 county sheriff, the sheriff shall obtain:

- 19 (1) a photograph of the sex offender and a
20 complete set of the sex offender's fingerprints; and
- 21 (2) a description of any tattoos, scars or
22 other distinguishing features on the sex offender's body that
23 would assist in identifying the sex offender.

24 ~~[D.]~~ F. When a sex offender who is registered
25 changes his residence within the same county, the sex offender

underscored material = new
[bracketed material] = delete

1 shall send written notice of his change of address to the
2 county sheriff no later than ten days after establishing his
3 new residence.

4 ~~[E.]~~ G. When a sex offender who is registered
5 changes his residence to a new county in New Mexico, the sex
6 offender shall register with the county sheriff of the new
7 county no later than ten days after establishing his new
8 residence. The sex offender shall also send written notice of
9 the change in residence to the county sheriff with whom he
10 last registered no later than ten days after establishing his
11 new residence.

12 H. Following his initial registration pursuant to
13 the provisions of this section, a sex offender shall annually
14 renew his registration with the county sheriff prior to
15 December 31 of each subsequent calendar year.

16 ~~[F.]~~ I. A sex offender who willfully fails to
17 comply with the registration requirements set forth in this
18 section is guilty of a misdemeanor and shall be punished by
19 imprisonment for a definite term less than one year or a fine
20 of not more than one thousand dollars (\$1,000) or both.

21 ~~[G.]~~ J. A sex offender who provides false
22 information when complying with the registration requirements
23 set forth in this section is guilty of a misdemeanor and shall
24 be punished by imprisonment for a definite term less than one
25 year or a fine of not more than one thousand dollars (\$1,000)

underscored material = new
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1 or both. "

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

4 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
5 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY-- [EXCHANGE OF
6 REGISTRATION INFORMATION WITH OTHER STATES-] PARTICIPATION IN
7 THE NATIONAL SEX OFFENDER REGISTRY-- RULES [AND REGULATIONS]. --

8 A. A county sheriff [~~may~~] shall maintain a local
9 registry of sex offenders in his jurisdiction required to
10 register pursuant to the provisions of the Sex Offender
11 Registration and Notification Act.

12 B. The county sheriff shall forward registration
13 information obtained from sex offenders to the department of
14 public safety. The registration information shall be
15 forwarded by the county sheriff no later than ten working days
16 after the information is obtained from a sex offender.

17 C. The department of public safety shall maintain
18 a central registry of sex offenders required to register
19 pursuant to the provisions of the Sex Offender Registration
20 and Notification Act. The department [~~may enter into~~
21 ~~interstate compact agreements providing for the exchange of~~
22 ~~information regarding sex offenders provided that the other~~
23 ~~state does not permit dissemination of information regarding~~
24 ~~sex offenders to any persons or entities other than law~~
25 ~~enforcement agencies] shall participate in the national sex~~

underscored material = new
[bracketed material] = delete

1 offender registry administered by the United States department
2 of justice.

3 D. The department of public safety shall retain
4 registration information regarding sex offenders convicted for
5 the following sex offenses for a period of twenty years
6 following the sex offender's conviction, release from prison
7 or release from probation or parole, whichever occurs later:

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

11 [~~(1)~~] (2) criminal sexual penetration in the
12 first or second degree, as provided in Section 30-9-11 NMSA
13 1978;

14 [~~(2)~~] (3) criminal sexual contact of a minor
15 in the third degree, as provided in Section 30-9-13 NMSA 1978;
16 [or

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

20 (5) attempt to commit any of the sex offenses
21 set forth in Paragraphs (1) through (4) of this subsection, as
22 provided in Section 30-28-1 NMSA 1978.

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

underscored material = new
[bracketed material] = delete

1 sex offender's conviction, release from prison or release from
2 probation or parole, whichever occurs later:

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

7 [~~(1)~~] (2) criminal sexual penetration in the
8 third or fourth degree, as provided in Section 30-9-11 NMSA
9 1978;

10 [~~(2)~~] (3) criminal sexual contact in the
11 fourth degree, as provided in Section 30-9-12 NMSA 1978;

12 [~~(3)~~] (4) criminal sexual contact of a minor
13 in the fourth degree, as provided in Section 30-9-13 NMSA
14 1978; [or

15 ~~(4)]~~ (5) sexual exploitation of children by
16 prostitution, as provided in Section 30-6A-4 NMSA 1978;

17 (6) solicitation to commit criminal sexual
18 contact of a minor in the third or fourth degree, as provided
19 in Section 30-9-13 NMSA 1978 and Section 30-28-3 NMSA 1978; or

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

23 F. The department of public safety shall adopt
24 rules [~~and regulations~~] necessary to carry out the provisions
25 of the Sex Offender Registration and Notification Act."

underscored material = new
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1 Section 6. Section 29-11A-7 NMSA 1978 (being Laws 1995,
2 Chapter 106, Section 7) 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
6 adjudicated guilty in that court with written notice of his
7 duty to register pursuant to the provisions of the Sex
8 Offender Registration and Notification Act. The written
9 notice shall be included in judgment and sentence forms
10 provided to the sex offender.

11 B. The corrections department, at the time of
12 release of a sex offender in the department's custody, shall
13 provide written notification to the sex offender of his duty
14 to register pursuant to the provisions of the Sex Offender
15 Registration and Notification Act. The corrections department
16 shall also provide written notification regarding a sex
17 offender's release to the sheriff of the county in which the
18 sex offender is released.

19 C. The department of public safety, at the time it
20 is notified by officials from another state that a sex
21 offender will be establishing residence in New Mexico, shall
22 provide written notification to the sex offender of his duty
23 to register pursuant to the provisions of the Sex Offender
24 Registration and Notification Act. "

25 Section 7. Section 29-11A-8 NMSA 1978 (being Laws 1995,

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1 Chapter 106, Section 8) is amended to read:

2 "29-11A-8. IMMUNITY. -- Nothing in the Sex Offender
3 Registration and Notification Act creates a cause of action on
4 behalf of a person against a public employer, public employee
5 or public agency responsible for enforcement of the provisions
6 of that act, so long as the public employer, public employee
7 or public agency complies with the provisions of that act."

8 Section 8. A new section of the Sex Offender
9 Registration and Notification Act is enacted to read:

10 "[NEW MATERIAL] PUBLIC ACCESS TO INFORMATION REGARDING
11 CERTAIN REGISTERED SEX OFFENDERS. --

12 A. If a sex offender is convicted of one of the
13 following sex offenses, the county sheriff shall forward
14 registration information obtained from the sex offender to the
15 chief municipal law enforcement officer for the municipality
16 in which the sex offender resides and the district attorney
17 for the judicial district in which the sex offender resides:

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

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

23 (3) criminal sexual contact of a minor in the
24 third or fourth degree, as provided in Section 30-9-13 NMSA
25 1978;

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

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

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

8 B. A person who wants to obtain registration
9 information regarding a sex offender described in Subsection A
10 of this section may request that information from the:

11 (1) county sheriff for the county in which
12 the sex offender resides;

13 (2) chief law enforcement officer for the
14 municipality in which the sex offender resides;

15 (3) district attorney for the judicial
16 district in which the sex offender resides; or

17 (4) secretary of public safety.

18 C. All requests for registration information
19 regarding a sex offender described in Subsection A of this
20 section are subject to the provisions of the Inspection of
21 Public Records Act. "

22 Section 9. REPEAL. --Section 29-11A-6 NMSA 1978 (being
23 Laws 1995, Chapter 106, Section 6) is repealed.

24 Section 10. SEVERABILITY. --If any part or application of
25 the Sex Offender Registration and Notification Act is held

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1 invalid, the remainder or its application to other situations
2 or persons shall not be affected.

3 Section 11. APPLICABILITY. --The provisions of Sections 1
4 through 9 of this act apply to persons convicted of a sex
5 offense on or after July 1, 1999. As to persons convicted of
6 a sex offense committed prior to July 1, 1999, the laws with
7 respect to registration requirements for sex offenders in
8 effect at the time the sex offense was committed shall apply.

9 Section 12. EFFECTIVE DATE. --The effective date of the
10 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 15, 1999

7
8 Mr. Speaker:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 134

13
14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

16
17 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
18 HOUSE BILL 134

19 DO PASS, and thence referred to APPROPRIATIONS AND
20 FINANCE COMMITTEE.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Garcia, Godbey, Luna

Absent: None

J: \99Billswp\H0134

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 134

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES
THAT ARE SEX OFFENSES; PROVIDING PUBLIC ACCESS TO INFORMATION
REGARDING CERTAIN REGISTERED SEX OFFENDERS; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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
and Notification 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:

- (1) sex offenders pose a significant risk of
recidivism; and
- (2) the efforts of law enforcement agencies

1 to protect their communities from sex offenders are impaired
2 by the lack of information available concerning convicted sex
3 offenders who live within the agencies' [~~jurisdiction~~]
4 jurisdictions.

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

8 (1) requiring sex offenders who are residents
9 of New Mexico to register with the county sheriff of the
10 county in which the sex offender resides; [~~and~~]

11 (2) requiring sex offenders who are residents
12 in other states, but who are employed in New Mexico or who
13 attend school in New Mexico, to register with the county
14 sheriff of the county in which the sex offender works or
15 attends school;

16 [~~(2)~~] (3) requiring the establishment of a
17 central registry for sex offenders; and

18 (4) providing public access to information
19 regarding certain registered sex offenders. "

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

22 "29-11A-3. DEFINITIONS. -- As used in the Sex Offender
23 Registration and Notification Act:

24 A. "sex offender" means a person eighteen years of
25 age or older:

(1) [~~a person~~] who is a resident of New
Mexico who is convicted of a sex offense [~~on or after July 1,~~
~~1995; or~~] in New Mexico;

1 (2) [~~a person~~] who changes his residence to
2 New Mexico, when that person has been convicted of a sex
3 offense in another state [~~on or after July 1, 1995; and~~]
4 pursuant to state, federal or military law;

5 (3) who is a resident of New Mexico who is
6 convicted of a sex offense pursuant to federal or military
7 law; or

8 (4) who is a resident of another state and
9 who has been convicted of a sex offense pursuant to state,
10 federal or military law, but who is employed in New Mexico or
11 attends school in New Mexico; and

12 B. "sex offense" means:

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

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

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

21 (4) sexual exploitation of children, as
22 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;
23 [~~or~~]

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

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

underscored material = new
[bracketed material] = delete

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

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

6 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
7 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

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

11 B. A sex offender who is a current resident of New
12 Mexico shall register with the county sheriff no later than
13 [~~thirty~~] ten days after being released from the custody of the
14 corrections department or being placed on probation or parole.
15 A sex offender who changes his residence to New Mexico shall
16 register with the county sheriff no later than [~~forty-five~~]
17 ten days after establishing residence in this state. When a
18 sex offender registers with the county sheriff, he shall
19 provide the following information:

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

22 (2) his date of birth;

23 (3) his social security number;

24 (4) his current address;

25 (5) his place of employment;

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

 (7) the date and place of his sex offense

underscored material = new
[bracketed material] = delete

conviction.

C. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff for the county in which the sex offender is working or attending school.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff no later than ten days after beginning work or school. When the sex offender registers with the county sheriff, he shall provide the following information:

- (1) his legal name and any other names or aliases that he is using or has used;
- (2) his date of birth;
- (3) his social security number;
- (4) his current address in his state of residence and, if applicable, the address of his place of lodging in New Mexico while he is working or attending school;
- (5) his place of employment or the name of the school he is attending;
- (6) the sex offense for which he was convicted; and
- (7) the date and place of his sex offense conviction.

~~[C-]~~ E. When a sex offender registers with a county sheriff, the sheriff shall obtain:

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

underscored material = new
[bracketed material] = delete

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

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

18 H. Following his initial registration pursuant to
19 the provisions of this section, a sex offender shall annually
20 renew his registration with the county sheriff prior to
21 December 31 of each subsequent calendar year.

22 ~~[F.]~~ I. A sex offender who willfully fails to
23 comply with the registration requirements set forth in this
24 section is guilty of a misdemeanor and shall be punished by
25 imprisonment for a definite term less than one year or a fine
of not more than one thousand dollars (\$1,000) or both.

~~[G.]~~ J. A sex offender who provides false
information when complying with the registration requirements

1 set forth in this section is guilty of a misdemeanor and shall
2 be punished by imprisonment for a definite term less than one
3 year or a fine of not more than one thousand dollars (\$1,000)
4 or both."

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

7 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
8 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY-- [~~EXCHANGE OF~~
9 ~~REGISTRATION INFORMATION WITH OTHER STATES~~] PARTICIPATION IN
10 THE NATIONAL SEX OFFENDER REGISTRY--RULES [~~AND REGULATIONS~~].--

11 A. A county sheriff [~~may~~] shall maintain a local
12 registry of sex offenders in his jurisdiction required to
13 register pursuant to the provisions of the Sex Offender
14 Registration and Notification Act.

15 B. The county sheriff shall forward registration
16 information obtained from sex offenders to the department of
17 public safety. The registration information shall be
18 forwarded by the county sheriff no later than ten working days
19 after the information is obtained from a sex offender.

20 C. The department of public safety shall maintain
21 a central registry of sex offenders required to register
22 pursuant to the provisions of the Sex Offender Registration
23 and Notification Act. The department [~~may enter into~~
24 ~~interstate compact agreements providing for the exchange of~~
25 ~~information regarding sex offenders provided that the other~~
~~state does not permit dissemination of information regarding~~
~~sex offenders to any persons or entities other than law~~
~~enforcement agencies~~] shall participate in the national sex

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[bracketed material] = delete

1 offender registry administered by the United States department
2 of justice.

3 D. The department of public safety shall retain
4 registration information regarding sex offenders convicted for
5 the following sex offenses for a period of twenty years
6 following the sex offender's conviction, release from prison
7 or release from probation or parole, whichever occurs later:

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

10 (2) criminal sexual contact of a minor in the
11 third degree, as provided in Section 30-9-13 NMSA 1978; [~~or~~]

12 (3) sexual exploitation of children, as
13 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;
14 or

15 (4) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (3) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 E. The department of public safety shall retain
19 registration information regarding sex offenders convicted for
20 the following offenses for a period of ten years following the
21 sex offender's conviction, release from prison or release from
22 probation or parole, whichever occurs later:

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

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

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

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

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

6 (6) attempt to commit any of the sex offenses
7 set forth in Paragraphs (1) through (4) of this subsection, as
8 provided in Section 30-28-1 NMSA 1978.

9 F. The department of public safety shall adopt
10 rules [~~and regulations~~] necessary to carry out the provisions
11 of the Sex Offender Registration and Notification Act."

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

14 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
15 REGISTER. --

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

22 B. The corrections department, at the time of
23 release of a sex offender in the department's custody, shall
24 provide written notification to the sex offender of his duty
25 to register pursuant to the provisions of the Sex Offender
Registration and Notification Act. The corrections department
shall also provide written notification regarding a sex
offender's release to the sheriff of the county in which the

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1 sex offender is released.

2 C. The department of public safety, at the time it
3 is notified by officials from another state that a sex
4 offender will be establishing residence in New Mexico, shall
5 provide written notification to the sex offender of his duty
6 to register pursuant to the provisions of the Sex Offender
7 Registration and Notification Act. "

8 Section 7. Section 29-11A-8 NMSA 1978 (being Laws 1995,
9 Chapter 106, Section 8) is amended to read:

10 "29-11A-8. IMMUNITY. -- Nothing in the Sex Offender
11 Registration and Notification Act creates a cause of action on
12 behalf of a person against a public employer, public employee
13 or public agency responsible for enforcement of the provisions
14 of that act, so long as the public employer, public employee
15 or public agency complies with the provisions of that act. "

16 Section 8. A new section of the Sex Offender
17 Registration and Notification Act is enacted to read:

18 "[NEW MATERIAL] PUBLIC ACCESS TO INFORMATION REGARDING
19 CERTAIN REGISTERED SEX OFFENDERS. --

20 A. If a sex offender is convicted of one of the
21 following sex offenses, the county sheriff shall forward
22 registration information obtained from the sex offender to the
23 district attorney for the judicial district in which the sex
24 offender resides and, if the sex offender is a resident of a
25 municipality, the chief law enforcement officer for the
municipality in which the sex offender resides:

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

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

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

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

8 (5) attempt to commit any of the sex offenses
9 set forth in Paragraphs (1) through (4) of this subsection, as
10 provided in Section 30-28-1 NMSA 1978.

11 B. A person who wants to obtain registration
12 information regarding a sex offender described in Subsection A
13 of this section may request that information from the:

14 (1) county sheriff for the county in which
15 the sex offender resides;

16 (2) chief law enforcement officer for the
17 municipality in which the sex offender resides;

18 (3) district attorney for the judicial
19 district in which the sex offender resides; or

20 (4) secretary of public safety.

21 C. All requests for registration information
22 regarding a sex offender described in Subsection A of this
23 section are subject to the provisions of the Inspection of
24 Public Records Act. "

25 Section 9. REPEAL. --Section 29-11A-6 NMSA 1978 (being
Laws 1995, Chapter 106, Section 6) is repealed.

Section 10. SEVERABILITY. --If any part or application of
the Sex Offender Registration and Notification Act is held

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1 invalid, the remainder or its application to other situations
2 or persons shall not be affected.

3 Section 11. APPLICABILITY. --The provisions of Sections 1
4 through 9 of this act apply to persons convicted of a sex
5 offense committed on or after July 1, 1999. As to persons
6 convicted of a sex offense committed prior to July 1, 1999,
7 the laws with respect to registration requirements for sex
8 offenders in effect at the time the sex offense was committed
9 shall apply.

10 Section 12. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 1999.

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 February 23, 1999

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6
7 Mr. Speaker:

8
9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
12 HOUSE BILL 134

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

16
17 Respectfully submitted,

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21 _____
22 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 134

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Garcia, Pearce, Salazar, Watchman

Absent: None

J: \99BillSWP\H0134

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