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HOUSE BILL 43

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Matthew McQueen

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; CHANGING REGISTRATION TRIGGER AND TIME REQUIREMENTS; REQUIRING INDIVIDUALS THAT HAVE BEEN CONVICTED OF A SEX OFFENSE IN ANOTHER JURISDICTION THAT ARE REQUIRED TO REGISTER IN THAT JURISDICTION TO REGISTER IN NEW MEXICO.

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

SECTION 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

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

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

B. "conviction" means a conviction in any court of competent jurisdiction and includes a deferred sentence, but

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1 does not include a conditional discharge;

2 C. "department" means the department of public
3 safety;

4 D. "institution of higher education" means a:

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

7 (2) trade school; or

8 (3) professional school;

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

12 F. "out-of-state registrant" means any person who
13 establishes a residence in New Mexico while the person is
14 required to register as a sex offender in another state or
15 territory;

16 G. "registration requirement" means any requirement
17 set forth in Section 29-11A-4 NMSA 1978 that requires a sex
18 offender to register; provide information, including a DNA
19 sample; renew, revise or change registration information; or
20 provide written notice or disclosure regarding the sex
21 offender's status as a sex offender;

22 H. "sex offender" means a person who:

23 (1) is a resident of New Mexico who is
24 convicted of a sex offense pursuant to state, federal, tribal
25 or military law;

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1 (2) changes residence to New Mexico, when that
2 person has been convicted of a sex offense pursuant to state,
3 federal, tribal or military law;

4 (3) does not have an established residence in
5 New Mexico, but lives in a shelter, halfway house or
6 transitional living facility or stays in multiple locations in
7 New Mexico and who has been convicted of a sex offense pursuant
8 to state, federal, tribal or military law; or

9 (4) is a resident of another state and who has
10 been convicted of a sex offense pursuant to state, federal,
11 tribal or military law, but who is

12 [~~(a) employed full time or part time~~]
13 physically present in New Mexico for a period of time exceeding
14 [~~fourteen~~] ten consecutive days or for an aggregate period of
15 time exceeding [~~thirty~~] twenty days during any calendar year
16 [~~including any employment or vocation, whether financially~~
17 ~~compensated, volunteered or for the purpose of government or~~
18 ~~educational benefit; or~~

19 [~~(b) enrolled on a full-time or part-time~~
20 ~~basis in a private or public school or an institution of higher~~
21 ~~education in New Mexico~~];

22 I. "sex offense" means any of the following
23 offenses or their equivalents in any other jurisdiction:

24 (1) aggravated criminal sexual penetration or
25 criminal sexual penetration in the first, second, third or

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1 fourth degree, as provided in Section 30-9-11 NMSA 1978;

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

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

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

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

11 (6) kidnapping, as provided in Section 30-4-1
12 NMSA 1978, when committed with the intent to inflict a sexual
13 offense;

14 (7) false imprisonment, as provided in Section
15 30-4-3 NMSA 1978, when committed with the intent to inflict a
16 sexual offense;

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

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

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

24 (11) child solicitation by electronic
25 communication device, as provided in Section 30-37-3.2 NMSA

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1 1978, for convictions occurring on or after July 1, 2013;

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

5 (13) attempt to commit any of the sex offenses
6 set forth in Paragraphs (1) through (11) of this subsection, as
7 provided in Section 30-28-1 NMSA 1978; or

8 (14) any other conviction that would cause an
9 individual to be registered as a sex offender in the
10 jurisdiction where the offense was committed; and

11 J. "social networking site" means an internet [~~web~~
12 ~~site~~] website that facilitates online social interaction by
13 offering a mechanism for communication with other users, where
14 such users are likely to include a substantial number of minors
15 under the age of sixteen, and allowing users, through the
16 creation of web pages, profiles or other means, to provide
17 information about themselves that is available to the public or
18 to other users."