

1 14-990. Chart.

2 SECTIONS 29-11A-4 & -4.1 NMSA 1978

3 SEX OFFENDER REGISTRATION & NOTIFICATION¹

	SORNA Versions			
	1999	2000	2005 & 2007	2013
4 Applicability: 5 applicable to a 6 person 7 convicted of a 8 sex offense 9 who:	Convicted on or after July 1, 1999, subject to subsequent provisions of the 2000 version.	Convicted on or after July 1, 1995, and persons convicted prior to July 1, 1995, and still incarcerated or on probation or parole.	Convicted on or after July 1, 2005, and a person convicted prior to July 1, 2005, who was still incarcerated or on probation or parole.	On or after July 1, 2013, is found guilty of committing a sex offense.
10 Included 11 Offenses 12 (NMSA 1978, 13 §§ 29-11A-3 14 and -5). Period 15 of Renewal 16 (NMSA 1978, 17 § 29-11A-4).				
18 Attempt to 19 commit 20 offenses have 21 same 22 registration 23 period as the 24 actual offense 25 (<u>attempted</u> 26 <u>solicitation not</u> 27 <u>included</u>).	same	same	same	same

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1	CSP, 1st degree.	20 years, annually	20 years, annually	life, 90 days	life, 90 days
2	NMSA 1978, §				
3	30-9-13.				
4					
5	CSP, 2nd degree. NMSA	20 years, annually	20 years, annually	life, 90 days	life, 90 days
6	1978, §				
7	30-9-13.				
8					
9	CSP, 3rd degree. NMSA	10 years, annually	10 years, annually	life, 90 days	life, 90 days
10	1978, §				
11	30-9-13.				
12					
13	CSP, 4th degree. NMSA 1978, §	10 years, annually	10 years, annually	10 years, annually	10 years, every 6 months
14	30-9-13.				
15					
16					
17	Aggravated CSP; 1st, 2nd, 3rd degrees. NMSA 1978, § 30-9-11.	N/A	N/A	life, 90 days (beginning 2007)	life, 90 days
18					
19					
20					
21					
22	CSC, 4th degree. NMSA 1978, § 30-9-12.	10 years, annually	10 years, annually	life, 90 days	life, 90 days
23					
24					
25					
26	CSCM, 2nd Degree. NMSA 1978, § 30-9-13.	N/A	N/A	life, 90 days	life, 90 days
27					
28					
29					
30	CSCM, 3rd degree. NMSA 1978, § 30-9-13.	20 years, annually	20 years, annually	life, 90 days	life, 90 days
31					
32					
33					

1	CSCM, 4th	10 years,	10 years,	life, 90 days	life, 90 days
2	degree. NMSA	annually	annually		
3	1978, §				
4	30-9-13.				
5	Sexual	20 years,	20 years,	life, 90 days	life, 90 days
6	exploitation of	annually	annually		
7	children.				
8	NMSA 1978, §				
9	30-6A-3.				
10	Kidnapping	N/A	20 years,	life, 90 days	[life, 90 days]
11	when victim is		annually		<u>N/A</u> ²
12	less than 18				
13	and offender is				
14	not the parent				
15	of victim.				
16	NMSA 1978, §				
17	30-4-1.				
18	<u>Kidnapping</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>life, 90 days</u> ²
19	<u>when</u>				
20	<u>committed</u>				
21	<u>with the intent</u>				
22	<u>to inflict a</u>				
23	<u>sexual offense.</u>				
24	<u>NMSA 1978, §</u>				
25	<u>30-4-1.</u>				
26	Sexual	10 years,	10 years,	10 years,	10 years, every
27	Exploitation of	annually	annually	annually	6 months
28	children by				
29	prostitution.				
30	NMSA 1978, §				
31	30-6A-4.				

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1 2 3 4 5 6 7 8 9 10 11	Solicitation to commit 2nd, 3rd, or 4th degree CSCM. NMSA 1978, §§ 30-9-13 & 30-28-1. (2nd added in 2005) (<u>attempted solicitation not included</u>).	10 years, annually	10 years, annually	10 years, annually	10 years, every 6 months
12 13 14 15 16 17 18 19 20 21 22	False imprisonment when victim is less than 18 and offender not a parent of victim. NMSA 1978, § 30-4-3[; <u>including attempt</u>].	N/A	10 years, annually	10 years, annually	[10 years, every 6 months] <u>N/A</u> ²
23 24 25 26 27 28 29 30 31	<u>False imprisonment when committed with the intent to inflict a sexual offense.</u> NMSA 1978, § 30-4-3.	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>10 years, every 6 months</u> ²
32 33 34 35 36	Aggravated indecent exposure. NMSA 1978, § 30-9-14.3.	N/A	N/A	10 years, annually	10 years, every 6 months

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1	Enticement of	N/A	N/A	10 years,	10 years, every
2	a Child.			annually	6 months
3	NMSA 1978, §				
4	30-9-1.				
5	Incest when	N/A	N/A	10 years,	10 years, every
6	victim under			annually	6 months
7	18. NMSA				
8	1978, §				
9	30-10-3.				
10	Second or	N/A	N/A	life, 90 days	life, 90 days
11	subsequent sex				
12	offense.				
13	NMSA 1978, §				
14	29-11A-4(M).				
15	Child	N/A	N/A	N/A	10 years[?], ₁
16	solicitation by				every 6
17	electronic				months[?] ₂
18	commc'n				
19	device. NMSA				
20	1978, §				
21	30-37-3.2.				
22	Trigger	1999	2000	2005 & 2007	2013
23	Registration				
24	and/or Notice				
25	Register from	10 days	10 days	see below	see below
26	release from				
27	custody of				
28	corrections				
29	department or				
30	being placed				
31	on probation or				
32	parole. NMSA				
33	1978, §				
34	29-11A-4(B).				

1	Register from release from custody of corrections department, municipal or county jail; or a federal, military or tribal correctional facility or detention center; or being placed on probation or parole. NMSA 1978, § 29-11A-4(B).	N/A	N/A	10 days	5 business days
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20	Changes Residence to New Mexico. NMSA 1978, § 29-11A-4(B).	10 days	10 days	10 days	5 business days
21					
22					
23					
24	Resident of another state, but working or employed in New Mexico. NMSA 1978, § 29-11A-4(D).	10 days	10 days	10 days	5 business days
25					
26					
27					
28					
29					
30					
31					
32	Changes residence within County. NMSA 1978, § 29-11A-4(F).	10 days	10 days	10 days	5 business days
33					
34					
35					
36					

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1	Changes	10 days (both	10 days (both	10 days (both	5 business
2	residence to	new and old	new and old	new and old	days (both new
3	new County.	county)	county)	county)	and old
4	NMSA 1978, §				county)
5	29-11A-4(G).				
6	Does not have	N/A	N/A	10 days after	5 business
7	established			change in	days after
8	residence			temporary	change in
9	(shelter,			location	temporary
10	halfway house,				location
11	transient);				
12	register each				
13	county				
14	temporarily				
15	living in.				
16	NMSA 1978, §				
17	29-11A-4(H).				
18	Attending	N/A	N/A	10 days from	5 business
19	institution of			start and 10	days from start
20	higher			days from any	and 5 business
21	learning.			change	days from
22	Notify:				change
23	(1) local				
24	county sheriff,				
25	(2)				
26	institution's				
27	law				
28	enforcement				
29	entity, and (3)				
30	registrar.				
31	NMSA 1978, §				
32	29-11A-4(I).				
33	School	N/A	N/A	10 days from	5 business
34	employment,			start and 10	days from start
35	notice to			days from any	and 5 business
36	school and			change	days from
37	principal.				change
38	NMSA 1978, §				
39	29-11A-4(J).				

1	Notice to	N/A	N/A	Immediately	Immediately
2	employer				
3	immediately				
4	(whether				
5	compensated				
6	or volunteers).				
7	NMSA 1978, §				
8	29-11A-4(K).				
9	Moves out of	N/A	30 days prior	30 days prior	30 days prior
10	New Mexico.		to move	to move	to move
11	Notify county				
12	sheriff where				
13	currently				
14	resides and				
15	identify state				
16	moving to.				
17	NMSA 1978, §				
18	29-11A-4.1.				
19	Penalties	1999	2000	2005 & 2007	2013
20	Failure to	willfully,	willfully, 4th	willfully or	willfully or
21	Comply.	misdemeanor	degree felony	knowingly. 1st	knowingly. 1st
22	NMSA 1978, §			violation: 4th	violation: 4th
23	29-11A-4.			degree felony;	degree felony;
				subsequent	subsequent
				violation: 3rd	violation: 3rd
				degree felony	degree felony
24	Provides false	misdemeanor	willfully, 4th	willfully or	willfully or
25	information.		degree felony	knowingly. 1st	knowingly. 1st
26	NMSA 1978, §			violation: 4th	violation: 4th
27	29-11A-4.			degree felony;	degree felony;
				subsequent	subsequent
				violation: 3rd	violation: 3rd
				degree felony.	degree felony.

1	Failure to provide notice of moving from New Mexico. NMSA 1978, § 29-11A-4.1.	N/A	willfully, misdemeanor	willfully, 4th degree felony	willfully, 4th degree felony
2					
3					
4					
5					
6					
7					

8 **USE ~~[NOTE]~~ NOTES**

9 1. New Mexico’s Sex Offender Notification and Registration Act (“SORNA”)
 10 has been amended multiple times since it first was enacted. Different versions of SORNA
 11 also impose different requirements on someone subject to its provisions. Consequently, the
 12 necessary first step in correctly instructing a jury on the essential elements of an alleged
 13 SORNA violation is to identify which version of the statute applies. This chart is to be used
 14 to determine which version of the statute applies and to provide guidance in selecting the
 15 correct elements instruction from the instructions that follow. When using the chart to
 16 determine the applicable version of SORNA, it is important to first look at when a person
 17 was convicted of a sex offense as well as when a person completed their sentence for that
 18 sex offense. Second, it is important to determine whether or not the “sex offense” was a
 19 registerable offense under the applicable version of SORNA before proceeding further.

20 2. In 2013, the Legislature changed the sex offense definitions for kidnapping
 21 and false imprisonment in NMSA 1978, Section 29-11A-3(I). The Legislature deleted “the
 22 victim is less than eighteen years of age and the offender is not a parent of the victim” and
 23 added “committed with the intent to inflict a sexual offense.” However, these changes were

1 not incorporated into NMSA 1978, Section 29-11A-5(D) or (E). Based on this legislative
2 history it appears the legislative intent of the 2013 amendment was to narrow down the scope
3 of offenders convicted of kidnapping and false imprisonment to those that committed the
4 offense with the intent to inflict a sexual offense.

5 [2-] 3. Child solicitation by electronic device was added in 2013 to the list of
6 registerable sex offenses but not incorporated into NMSA 1978, Section 29-11A-5(D) or (E)
7 for purposes of length of registration period. Previously in 2007, the Legislature added child
8 solicitation by electronic communication device under Section 29-11A-5(E), requiring a ten
9 (10)-year registration period, but it failed to become law. *See State v. Ho*, 2014-NMCA-038,
10 321 P.3d 147. Based on this legislative history it appears the legislative intent of the 2013
11 amendment is to require a ten (10)-year registration period.

12 [Adopted by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed
13 on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-016,
14 effective for all cases pending or filed on or after December 31, 2019.]

15 **Committee commentary.** — New Mexico’s first Sex Offender Registration Act
16 (SORA) was enacted on July 1, 1995, in response to the Jacob Wetterling Crimes against
17 Children and Sexually Violent Offender Registration Program. Under the original SORA,
18 the legislature listed 5 offenses that would require registration: (1) criminal sexual
19 penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA
20 1978; (2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12
21 NMSA 1978; (3) criminal sexual contact of a minor in the third or fourth degree, as

1 provided in Section 30-9-13 NMSA 1978; (4) sexual exploitation of children, as provided
2 in Subsection A, B or C of Section 30-6A-3 NMSA 1978; and (5) sexual exploitation of
3 children by prostitution, as provided in Section 30-6A-4 NMSA 1978.

4 Subsequent amendments were made to SORA and in 1999, the Legislature amended
5 SORA to what has now become SORNA—Sex Offender Registration and Notification Act.
6 Major changes again were made in 2000, 2005, 2007, and 2013.

7 Laws 1999, Chapter 19, Section 11 provided that “Sections 1 through 9 of this act
8 apply to persons convicted of a sex offense committed on or after July 1, 1999. As to
9 persons convicted of a sex offense committed prior to July 1, 1999, the laws with respect to
10 registration requirements for sex offenders in effect at the time the sex offense was
11 committed shall apply.” The changes went into effect on July 1, 1999. Due to the changes
12 of applicability in the 2000 version, expressly allowing for retroactivity, the 1999 version
13 has been superseded by the 2000 version. *See State v. Druktenis*, 2004-NMCA-032, 135
14 N.M. 223.

15 Laws 2000, Chapter 8, Section 9 provided that “the provisions of this 2000 version
16 of the Sex Offender Registration and Notification Act apply to: A. persons convicted of a
17 sex offense on or after July 1, 1995; and B. persons convicted of a sex offense prior to July
18 1, 1995 and who, on July 1, 1995, were incarcerated, on probation or on parole.” The
19 changes went into effect on July 1, 1999. Based on the applicable statute, any person who
20 completed their sentence, including probation and parole, prior to July 1, 1995 has no
21 registration obligation.

1 Laws 2005, Chapter 279, Section 14 provided that “the provisions of this 2005
2 version of the Sex Offender Registration and Notification Act are applicable to: A. a person
3 convicted of a sex offense on or after July 1, 2005; and B. a person convicted of a sex
4 offense prior to July 1, 2005 and who, on July 1, 2005, was still incarcerated, on probation
5 or on parole for commission of that sex offense.” The changes went into effect on July 1,
6 2005.

7 In 2007, there was a change to Section 29-11A-3 to add “aggravated criminal sexual
8 penetration,” which became a new offense pursuant to Section 30-9-11. Laws 2007, Chapter
9 69, Section 8 provided that “the provisions of Section 5 of this act are applicable to: A. a
10 person convicted of a sex offense on or after July 1, 1995; and B. a person convicted of
11 a sex offense prior to July 1, 1995 and who, on July 1, 1995, was still incarcerated, on
12 probation or on parole for commission of that sex offense.” Since Chapter 69, Section 5,
13 only deals with Section 29-11A-3—Definitions and adds “aggravated criminal sexual
14 penetration,” this doesn’t affect the prior applicability of the 2005 version. Therefore, the
15 Chart reflects the 2005 and 2007 versions of SORNA in the same column.

16 Laws 2013, Chapter 152, Section 5 provided that “the provisions of these 2013
17 amendments to the Sex Offender Registration and Notification Act are applicable to a person
18 who, on or after July 1, 2013, is found guilty of committing a sex offense.” The changes
19 went into effect on July 1, 2013. The application of the 2013 version was not made
20 retroactive to those offenders who were still serving their sentence or on probation or parole.
21 Therefore, those offenders convicted prior to July 1, 2013, would still fall under one of the

- 1 prior versions of SORNA.
- 2 [Adopted by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed
- 3 on or after December 31, 2016.]