

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 48

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO SEX OFFENDERS; ENACTING A NEW SECTION OF THE SEX
OFFENDER REGISTRATION AND NOTIFICATION ACT FORBIDDING CERTAIN
REGISTERED SEX OFFENDERS FROM USING INSTANT MESSAGING, CHAT
ROOMS OR SOCIAL MEDIA WEB SITES.

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

SECTION 1. A new section of the Sex Offender Registration
and Notification Act is enacted to read:

"[NEW MATERIAL] RESTRICTIONS ON INTERNET USE.--

A. A sex offender required to register under
Section 29-11A-4 NMSA 1978, whose sex offense involved the use
of the internet or whose victim was a child or a minor, shall
not knowingly or intentionally use or access the following
types of internet interfaces that the sex offender knows allow
a person who is under eighteen years of age to access or use:

.192064.1

underscoring material = new
[bracketed material] = delete

1 (1) an instant messaging or chat room program;

2 or

3 (2) a social networking web site.

4 B. A sex offender who violates a provision of
5 Subsection A of this section is guilty of a misdemeanor and
6 shall be sentenced pursuant to the provisions of Section
7 31-19-1 NMSA 1978.

8 C. A sex offender who violates a provision of
9 Subsection A of this section after a first or subsequent
10 conviction for a violation of a provision of Subsection A of
11 this section is guilty of a fourth degree felony and shall be
12 sentenced pursuant to the provisions of Section 31-18-15 NMSA
13 1978. A conviction pursuant to this subsection shall not be
14 considered a felony for purposes of the imposition of
15 sentencing enhancements pursuant to the provisions of Section
16 31-18-17 NMSA 1978.

17 D. It is a defense to a prosecution under this
18 section that the sex offender:

19 (1) did not know that the social networking
20 web site or instant messaging or chat room program allowed a
21 person who is under eighteen years of age to access or use the
22 web site or program; or

23 (2) upon discovering that the social
24 networking web site or instant messaging or chat room program
25 allows a person who is under eighteen years of age to access or

1 use the web site or program, immediately ceased further use or
2 access of the web site or program.

3 E. As used in this section:

4 (1) "instant messaging or chat room program":

5 (a) means a software program that: 1)
6 requires a person to register or create an account, a username
7 or a password to become a member or registered user of the
8 program; and 2) allows two or more members or authorized users
9 to communicate over the internet in real time using typed text;
10 and

11 (b) does not include an electronic mail
12 program or message board program; and

13 (2) "social networking web site":

14 (a) means an internet web site that: 1)
15 facilitates the social introduction between two or more
16 persons; 2) requires a person to register or create an account,
17 a username or a password to become a member of the web site and
18 to communicate with other members; 3) allows a member to create
19 a web page or a personal profile; and 4) provides a member with
20 the opportunity to communicate with another person; and

21 (b) does not include an electronic mail
22 program or message board program."

23 SECTION 2. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2013.