

NOTICE OF PUBLIC HEARING

The New Mexico Department of Public Safety (DPS) provides notice that it will hold a public hearing via Microsoft Teams on Tuesday, February 23, 2021, at 9:00 a.m. The members of the public may attend the Microsoft Teams meeting on a computer, mobile device or telephone. The videoconference's Meeting ID and Password, videoconference link, and telephone number are as follows:

Join Microsoft Teams Meeting on your computer or mobile app

<https://tinyurl.com/nmdpsSORNA>

Or call in (audio only)

+1 (505) 312-4308

Phone Conference ID: 247 918 324#

The purpose of this public hearing is to receive public comment and input on the proposed new Rule 10.2.3 NMAC *Procedure to Contest SORNA Equivalency Determination* which establishes requirements and procedures: 1) for out-of-state registrants who establish a residence in New Mexico, to obtain judicial review of a determination by a county sheriff that the offense of which the out-of-state registrant was convicted, pursuant to state (other than New Mexico), international, federal, tribal or military law, is the equivalent of an offense listed in Subsection I of Section 29-11A-3, NMSA, 1978, and that the out-of-state registrant is required to register as a sex offender in New Mexico; 2) for the county sheriffs to follow in determining whether the offense for which an out-of-state registrant was convicted is the equivalent of an offense listed in Subsection I of Section 29-11A-3, NMSA 1978; 3) with respect to what information regarding the out-of-state registrant is to be placed on the public and non-public facing portions of the central and local sex offender registries during the period when an equivalency determination is pending or contested.

The proposed rule is promulgated pursuant to Subsection G of Section 29-11A-5, NMSA 1978.

The proposed rule requires the sheriff of the county in which the out-of-state registrant resides, to make the determination whether the offense for which the out-of-state registrant was convicted, pursuant to state (other than New Mexico), international, federal, tribal or military law, is the equivalent of an offense listed in Subsection I of Section 29-11A-3, NMSA 1078, on the basis of clear and convincing evidence. The proposed rule sets forth a procedure by which the petitioner may ask the sheriff to reconsider his or her initial determination, and provides that a petitioner aggrieved by a final decision of a sheriff may petition the district court for a writ of certiorari in accordance with Rule 1-075. The proposed rule requires the sheriff and the department to refrain from placing any information regarding the out-of-state registrant in the public facing portion of the local and central registries while an equivalency determination is pending, or on appeal.

Interested persons may comment at the public hearing or submit written statements to DPS c/o Katherine Garcia, 4491 Cerrillos Road, P.O. Box 1628, Santa Fe, NM 87504, or by electronic mail to: Katherine.Garcia@state.nm.us. All mailed written statements must be received no later than February 23, 2021, or at the public hearing. Early submission of written statements is encouraged. Interested persons may also comment in writing at the public rule hearing.

Copies of the proposed rule may be obtained prior to the hearing at all DPS district, field, and regional offices, at the DPS website, <http://www.dps.state.nm.us>, on the sunshine portal, or by contacting Katherine Garcia by telephone at (505) 470-2343 or by email at Katherine.Garcia@state.nm.us.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing, including a reader, amplifier, qualified sign language interpreter or any form of auxiliary aid or service are asked to contact Katherine Garcia at (505)470-2343 as soon as possible and no later than February 13, 2021. DPS requires at least ten calendar days advance notice to provide special accommodations.