

MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Bill No. 105 EC

Introduced by:

F. T. Ishizaki

J. T. Won Pat

Ray Tenorio

AN ACT TO AMEND CHAPTER 89 OF TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE ADMINISTRATION OF THE GUAM SEX OFFENDER REGISTRY AND REQUIRING ALL THOSE CONVICTED OF CRIMINAL SEXUAL CONDUCT OR OF A CRIME AGAINST A VICTIM WHO IS A MINOR TO REGISTER IN THE SEX OFFENDER REGISTRY AND TO STRENGTHEN THE GUAM SEX OFFENDER REGISTRATION AND NOTIFICATION PROGRAM REQUIREMENTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that Guam's
3 Sex Offender Registry statute is in need of changes in order to strengthen its provisions and close
4 certain gaps within the law. *I Liheslatura* further finds that the Supreme Court of the United States has
5 determined that *Due Process* rights (**Connecticut Dept. of Public Safety v. John Doe, et al.**) and the *ex*
6 *post facto* clause in the U.S. Constitution (**Delbert W. Smith and Bruce M. Botelho v. John Doe I, et**
7 **al.**) have not been violated by requiring those already convicted of criminal sexual conduct or of a
8 crime against a victim who is a minor before the enactment of Sex Offender Registry laws to register
9 with the Guam Sex Offender Registry. *I Liheslatura* also finds that the crime of criminal sexual

1 conduct and the various forms of crimes against children are serious problems on our island, and
2 persons convicted of these crimes may be a danger to the people of our community. *I Liheslatura*
3 further finds that in order to protect the people of our community, most particularly our children,
4 from sex offenses, especially violent sex offenses, the Guam Sex Offender Registry Law must be
5 strengthened.

6 It is the intent of *I Liheslatura* to update the Guam Sex Offender Registry requirements and
7 notification program and to require *all* those convicted of criminal sexual conduct or of a crime
8 against a victim who is a minor to register with the Guam Sex Offender Registry in order to increase
9 the awareness of our island's community and our nation about dangerous individuals released into
10 the community. *I Liheslatura* hopes that such awareness will assist in the prevention of future sex
11 offenses and alert the community of such dangers.

12 **Section 2.** Chapter 89 of Title 9 of the Guam Code Annotated is hereby *amended* to read as
13 follows:

14 **"CHAPTER 89**

15 **CRIMES AGAINST MINORS AND SEX OFFENDER REGISTRY**

16 **Section 89.01. Definitions.** As used in this Chapter:

17 (a) '*Minor*' means a person below the age of eighteen (18) years.

18 (b) '*Criminal offense against a victim who is a minor*' means any criminal

19 offense that consists of any of the following:

20 (1) felony kidnapping, except if by parent, felonious restraint except

21 if by parent, felony child stealing and custodial interference except if by parent,

1 as defined and punished in Chapter 22 of Title 9 of the Guam Code Annotated,
2 *Kidnapping, and Related Offenses*, when the victim is a minor;

3 (2) promoting prostitution, abetting prostitution, compelling
4 prostitution, as defined and punished in Article 1 of Chapter 28 of Title 9 of the
5 Guam Code Annotated, *Prostitution*, when the individual committing or
6 engaging in prostitution is a minor;

7 (3) participation in obscenity, use of one's own child in obscene acts,
8 indecent exposure, photography of minors' sexual acts, as defined and
9 punished in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated,
10 *Obscenity and Related Offenses*, when a minor is employed or used;

11 (4) criminal sexual conduct, as defined and punished in Chapter 25
12 of Title 9 of the Guam Code Annotated, *Sexual Offenses*, when the victim of the
13 crime is a minor; *or*

14 (5) attempt to commit, solicitation to commit, or conspiracy to
15 commit the crimes stated in Paragraphs (1) to (4) of this Subsection (b), in
16 violation of Chapter 13 of Title 9 of the Guam Code Annotated.

17 (c) '*Criminal sexual conduct*' refers to violations defined and punished under
18 Chapter 25 of Title 9 of the Guam Code Annotated, *Sexual Offenses*, and any violations
19 of similar federal laws or laws of other states, territories or tribes.

20 (d) '*Sexually violent offense*' refers to any of the following:

21 (1) criminal sexual conduct involving sexual penetration or sexual

1 contact when the actor causes personal injury to the victim and either of the
2 following circumstances exists: (A) force or coercion is used to accomplish the
3 sexual penetration or contact; *or* (B) the actor knows or has reason to know that
4 the victim is mentally defective, mentally incapacitated or physically helpless;

5 (2) criminal sexual conduct involving sexual penetration or sexual
6 contact where the actor is aided or abetted by one (1) or more other persons and
7 either of the following circumstances exists: (A) force or coercion is used to
8 accomplish the sexual penetration or contact, *or* (B) the actor knows or has
9 reason to know that the victim is mentally defective, mentally incapacitated or
10 physically helpless;

11 (3) criminal sexual conduct involving sexual penetration or sexual
12 contact where the actor is armed with a weapon or any article used or
13 fashioned in a manner to lead the victim to reasonably believe it to be a
14 weapon;

15 (4) criminal sexual conduct involving sexual penetration or sexual
16 contact which occurs under circumstances involving the commission of another
17 felony;

18 (5) criminal sexual conduct involving a victim under fourteen (14)
19 years of age; *or*

20 (6) violation of 18 USC §§2241 *or* 2242, or any other similar laws of
21 other states, territories or tribes.

1 (7) violation of 18 USC §§2251, 2252, and 2252A, or any other
2 similar laws of other states, territories or tribes; or

3 (8) violation of 18 USC §1591 or any other similar laws of other
4 states, territories and tribes; or

5 (9) violation of 18 USC §2422(b) or any other laws of other states,
6 territories and tribes; or

7 (10) violation of 18 USC §2423(a) or any other laws of other states,
8 territories and tribes; or

9 (11) violation of 18 USC §2244 or any other laws of other states,
10 territories and tribes.

11 (e) The terms '*sexual penetration*' and '*sexual contact*' have the same meaning
12 as '*sexual penetration*' and '*sexual contact*' in Chapter 25 of Title 9 of the Guam Code
13 Annotated.

14 (f) The term '*sex offender*' refers to persons convicted of a criminal sexual
15 conduct offense.

16 (g) The term '*conviction*' refers to each separate charge to which the offender
17 either voluntarily pleads guilty, whether in a single hearing or in separate hearings, or
18 is found guilty by a trier of fact, whether the charges are contained in one (1)
19 indictment, or separate indictments. This term includes convictions based on pleas of
20 *nolo contendere* and guilty pleas entered pursuant to *North Carolina v. Alford*, 400 U.S. 25
21 (1970).

1 (h) The term 'convicted' or a variant thereof, used with respect to a sex
2 offense, also includes adjudicated delinquent as a juvenile for that offense, but only if the
3 offender is fourteen (14) years of age or older at the time of the offense and the offense
4 adjudicated was comparable to or more severe than aggravated sexual abuse (as
5 described in §2241 of Title 18 USC), or was an attempt or conspiracy to commit such an
6 offense.

7 ~~(h)~~(i) The terms 'employed' and 'carries on a vocation' include employment
8 that is full-time or part-time for a period of time exceeding fourteen (14) days, or an
9 aggregate period of time exceeding thirty (30) days during any calendar year, whether
10 financially compensated, on a volunteer bases or for the purpose of government or
11 educational benefit.

12 ~~(i)~~(j) The term 'student' means any person who is enrolled on a full-time or
13 part-time basis, in any public or private educational institution, including any
14 secondary school, trade, or professional institutions, or institution of higher learning.

15 ~~(j)~~(k) The term "Institution of higher education" means post secondary school.

16 ~~(k)~~(l) The term 'law enforcement agency' means any so designated agency on
17 Guam, including, but not limited to, the Guam Police Department, the Jose D. Leon
18 Guerrero Commercial Port Authority of Guam Police, the Parole Services Division of
19 the Department of Corrections, the ~~Superior Court~~ Judiciary of Guam Probation
20 Services Division, the U.S. Probation Office, the U.S. Marshal's Service, the
21 Conservation Office of the Department of Agriculture, the A. B. Won Pat International

1 Airport Guam Police, the Attorney Generals Office's Family and Prosecution Divisions,
2 the ~~Superior Court~~ Judiciary of Guam and its Marshals Division, the Air Force Office of
3 Special Investigations, the Naval Criminal Investigation Section, the Coast Guard
4 Criminal Investigation Section, the United States Army Criminal Investigation
5 Division, and other criminal investigators of the United States Government.

6 As Guam does not have recognized law enforcement Campus Police in Guam's
7 Institution of Higher Education, the Guam Police Department is the recognized law
8 enforcement agency with jurisdiction over Guam's Institution of Higher Education.

9 ~~(h)(m)~~ The term 'Court' means the Superior Court of Guam.

10 ~~(m)(n)~~ The term '*community*' refers to the entire territorial boundaries of
11 Guam.

12 ~~(n)(o)~~ The term '*registrant*' refers to persons required to register under this
13 Chapter.

14 ~~(o)(p)~~ The term 'Change in enrollment or employment status' means the
15 commencement or termination of enrollment or employment or a change in location of
16 enrollment or employment.

17 ~~(q)~~ The term '*parent*' means a parent or legal guardian having blood ties to
18 the victim.

19 **Section 89.02. Classification of Offenders.**

20 (a) **Level One Offender.** A person convicted of a sexually violent offense.

21 (b) **Level Two Offender.** A person *not* otherwise classified as a Level One

1 Offender and is convicted of:

- 2 (1) criminal sexual conduct involving two (2) or more victims;
- 3 (2) two (2) or more separate criminal sexual conduct offenses;
- 4 (3) a criminal offense against a victim who is a minor, involving two
- 5 (2) or more minors;
- 6 (4) two (2) or more separate criminal offenses against a victim who
- 7 is a minor; *or*
- 8 (5) one (1) or more separate criminal sexual conduct offense and one
- 9 (1) or more separate criminal offense against a victim who is a minor.

10 (c) **Level Three Offender.** A person *not* otherwise classified as either

11 a Level One or a Level Two Offender and is convicted of:

- 12 (1) criminal sexual conduct; *or*
- 13 (2) a criminal offense against a victim who is a minor.

14 **Section 89.03. Registration; Duty to Register.**

15 (a) **Persons Required to Register.** The following persons shall have the

16 absolute duty to register pursuant to this Chapter:

- 17 (1) any person who, ~~since January 1, 1993,~~ has been or is hereafter
- 18 convicted in any court of Guam of a violation of any of the following offenses:
- 19 (A) a sexually violent offense;
- 20 (B) a criminal sexual conduct offense; *or*
- 21 (C) a criminal offense against a victim who is a minor.

1 (2) any person who, ~~since January 1, 1993,~~ has been or is hereafter
2 convicted in any Federal or military court for a violation of any of the following
3 offenses:

4 (A) an offense under Title 18 USC §§2241 or 2242; *or*

5 ~~(B) an offense under Title 18 USC §§ 2251, 2252, or 2252A;~~

6 or

7 ~~(B)~~(C) a criminal offense against a victim who is a minor.

8 ~~(D) an offense under Title 18 USC §1591; or~~

9 ~~(E) an offense under Title 18 USC §§ 2422(b) or 2423(a); or~~

10 ~~(F) an offense under Title 18 USC §2244.~~

11 (3) any person convicted in another state, territory or tribe of any of
12 the following offenses if that person is required to register in the state, territory
13 or tribe wherein that person was convicted of any of the following:

14 (A) a criminal sexual conduct offense; *or*

15 (B) a criminal offense against a victim who is a minor.

16 (4) any person who is a non-resident who is on Guam for the
17 purpose of work or education and:

18 (A) who is or has been convicted in another state, territory or
19 tribal jurisdiction of a criminal sexual conduct offense, or a criminal
20 offense against a victim who is a minor and is required to register in the
21 state, territory or tribal jurisdiction wherein that person was convicted;

1 or

2 (B) who, ~~since January 1, 1993,~~ has been or is hereafter
3 convicted in a military court or a court in another state, territory or
4 tribal jurisdiction, of a criminal sexual conduct offense or a criminal
5 offense against a victim who is a minor.

6 **(b) Registration Requirements; Information to be Registered.**

7 ~~(1) Form A Registration: Level One and Level Two Offenders:~~

8 (1) All persons required to register must register the following:

9 ~~(A)(i)~~ name, aliases, date of birth, social security number, *if*
10 *any*, and any other identifying factors;

11 ~~(B)(ii)~~ current physical address and mailing address, or, if
12 the person is incarcerated, the address of the residence where the person
13 will be residing immediately upon release and the mailing address the
14 person plans to use immediately upon release;

15 ~~(C)(iii)~~ anticipated future residence;

16 ~~(D)(iv)~~ current and/or anticipated employment;

17 ~~(E)(v)~~ offense history, including all relevant information
18 related to the underlying crime which triggered the registration
19 requirements of this Chapter, and any outstanding arrests warrants;

20 ~~(F)(vi)~~ documentation of treatment;

21 ~~(G)(vii)~~ fingerprints and palm prints, which will not be

1 released to the community;

2 ~~(H)(viii)~~ current photograph; and

3 ~~(H)(ix)~~ name and address of the institution of higher
4 education, enrollment or employment status, and any changes of
5 enrollment or employment status if the person is enrolled, employed or
6 carrying on a vocation;:

7 ~~(x)~~ the license plate number and description of any vehicle
8 owned or operated;

9 ~~(xi)~~ a photocopy of the persons driver's license or
10 identification card; and

11 ~~(xii)~~ a photograph of any distinguishing physical
12 characteristics such as scars and tattoos, which will not be released to
13 the community.

14 ~~(2) Form B Registration: Level Three offenders shall provide the~~
15 ~~following:~~

16 ~~(A) name, aliases, date of birth, social security number, if~~
17 ~~any, and any other identifying factors;~~

18 ~~(B) current physical address and mailing address, or, if the~~
19 ~~person is incarcerated, the address of the residence where the person~~
20 ~~will be residing immediately upon release and the mailing address the~~
21 ~~person plans to use immediately upon release;~~

1 (C) ~~fingerprints;~~

2 (D) ~~current photograph; and~~

3 (E) ~~name and address of the institution of higher education,~~
4 ~~enrollment or employment status, and any changes of enrollment or~~
5 ~~employment status if the person is enrolled, employed or carrying on a~~
6 ~~vocation.~~

7 ~~(3)~~(2) Exemptions:

8 (i) Federally Protected Witnesses. Where the person
9 required to register is a Federally protected witness, the person
10 shall *not* be required to provide a photograph, alias(es), original
11 name, place of offense, date of birth, social security number or
12 prior residence.

13 (4) (ii) Pardoned Convict or Conviction Reversed Upon
14 Appeal. The duty to register under this Chapter shall *not* be applicable to any
15 sex offender whose conviction was reversed upon appeal, or who was
16 pardoned by *I Maga'lahaen Guahån*.

17 (c) **Biological Samples.**

18 (1) Every person convicted in the Superior Court of Guam of a
19 criminal sexual conduct offense, or of a criminal offense against a victim who is
20 a minor, shall provide a biological sample to the Guam Police Department for
21 DNA typing ~~no later than thirty (30) calendar days after the person's sentencing~~

1 upon conviction.

2 (2) Every person who was convicted in the Superior Court of Guam
3 ~~prior to the effective date of this law~~ of a criminal sexual conduct offense or of a
4 criminal offense against a victim who is a minor and is incarcerated on the
5 effective date of this law shall provide a biological sample for DNA typing *no*
6 *later than* ~~six (6)~~ three (3) months after the effective date of this law.

7 (3) Every person who was convicted in the Superior Court of Guam
8 ~~prior to the effective date of this law~~ of a criminal sexual conduct offense, or of a
9 criminal offense against a victim who is a minor and ~~was~~ is released on parole
10 or probation ~~after January 1, 1993,~~ shall provide a biological sample for DNA
11 typing to the Guam Police Department at the time of that person's initial
12 registration or within thirty (30) working days of initial registration.

13 (4) Every person required to register pursuant to Paragraphs (2), (3)
14 or (4) of §89.03(a) shall provide a biological sample to the Guam Police
15 Department for DNA typing at the time of that person's initial registration on
16 Guam or within thirty (30) working days upon conviction.

17 (5) Intentional or knowing failure to provide a biological sample
18 shall have the same penalty as a failure to provide initial registration
19 information.

20 **(d) Registration Requirements for Persons Required to Register Pursuant**
21 **to §89.03(a)(1); Initial Registration; Penalty.**

1 (1) Where a Person Required to Register is Sentenced to
2 Incarceration. Initial registration information must be provided to the Parole
3 ~~Services Division of the Department of Corrections~~ Judiciary of Guam, Sex
4 Offender Registry Management Office, prior to release from incarceration and,
5 in any case, no later than two (2) weeks before the person's anticipated release
6 ninety (90) working days after that person's conviction. Intentional or knowing
7 failure to provide this information shall result in the delay of that person's
8 release.

9 (2) Where a Person Required to Register is Sentenced to
10 Probation. Initial registration information must be provided to the ~~Probation~~
11 ~~Services Division of the Superior Court of Guam~~ Judiciary of Guam, Sex
12 Offender Management Office *no later than* the date the person is scheduled to be
13 placed on probation. Intentional or knowing failure to provide this information
14 by that date shall result in the revocation of the person's probation and shall
15 make that person *ineligible* for probation.

16 (3) Where a Person Identified as a Person Required to Register is on
17 Supervised Parole or Probation at the Time of the Passage of This Law and Has
18 Not Been Registered. Initial registration information must be provided to the
19 ~~registrant's parole or probation officer~~ Judiciary of Guam, Sex Offender
20 Registry Management Office *no later than* ~~six (6)~~ three (3) months after the
21 effective date of this law. Intentional or knowing failure to register pursuant to

1 this Subsection is a felony of the third degree.

2 (4) Where a Person Required to Register is No Longer Under the
3 Supervision of Either Probation or Parole at the Time of the Passage of This
4 Law and Has Not Been Registered. Subject to written notice by certified or
5 registered mail provided by the ~~Superior Court of Guam~~ Judiciary of Guam,
6 Sex Offender Registry Management Office to a person as described in this
7 Section, initial registration information must be provided to the ~~Guam Police~~
8 ~~Department~~ Judiciary of Guam, Sex Offender Registry Management Office *no*
9 *later than* one (1) year after ~~receipt of~~ written notice ~~by~~ to the person. ~~The Guam~~
10 ~~Police Department shall transmit the information to the Court~~ *no later than* three
11 ~~(3) business days thereafter for inclusion into the Sex Offender Registry~~
12 ~~database.~~ The required notice shall be given by certified mail, but if such is
13 attempted and is unsuccessful, notice shall be given by publication on Guam in
14 a newspaper of general circulation. Registration must occur within ninety (90)
15 calendar days of successful service by mail or the publication date. Proof of
16 delivery by certified mail, or in the case of notice by publication, proof of the
17 person's presence on Guam on the date(s) of publication establishes evidence of
18 notice. Intentional or knowing failure to register pursuant to this Subsection is a
19 felony of the third degree.

20 (e) **Registration Requirements for Persons Required to Register Pursuant**
21 **to §89.03(a), Paragraphs (2), (3) or (4); Initial Registration with the Judiciary of Guam,**

1 **Sex Offender Management Office.**

2 (1) Persons required to register pursuant to §89.03(a)(2) shall provide
3 *all* the information that must be registered pursuant to §89.03(b) to the ~~Guam~~
4 ~~Police Department~~ Judiciary of Guam, Sex Offender Registry Management
5 Office *no later than* seven (7) calendar days after release from incarceration,
6 release on probation or arrival on Guam. *If* the registrant is on probation in
7 another jurisdiction and that registrant's probation is to be transferred to Guam,
8 then the ~~Guam Police Department~~ Judiciary of Guam, Sex Offender Registry
9 Management Office may obtain the necessary information from the office of
10 probation of the jurisdiction from where registrant came; said registrant is
11 required to verify the registered information as required by this Chapter *no later*
12 *than* seven (7) calendar days after the person's arrival on Guam.

13 (2) Persons required to register pursuant to Paragraphs (3) or (4) of
14 §89.03(a) shall provide all the information that must be registered pursuant to
15 §89.03(b) to the ~~Guam Police Department~~ Judiciary of Guam, Sex Offender
16 Registry Management Office *no later than* seven (7) calendar days after their
17 arrival on Guam. *If* the registrant is on probation in another jurisdiction, and
18 that registrant's probation is to be transferred to Guam, then the ~~Guam Police~~
19 ~~Department~~ Judiciary of Guam, Sex Offender Registry Management Office may
20 obtain the necessary information from the office of probation of the jurisdiction
21 from where the registrant came; said registrant is required to verify the

1 registered information as required by this Chapter *no later than* seven (7)
2 calendar days after the registrant's arrival on Guam.

3 (f) **Registration Requirements; Verification.** A registrant must verify the
4 following information with the Judiciary of Guam, Sex Offender Registry Management
5 Office:

6 (1) **Level One Offender.** The registrant shall verify the following
7 registered information ninety (90) calendar days from the date the registrant's
8 release from incarceration, or ninety (90) calendar days from the date of the
9 registrant's release on probation *if* the registrant is placed on probation, and
10 every ninety (90) calendar days thereafter. *If* the ninetieth (90th) day falls on a
11 weekend or holiday, the registrant shall verify the following information on the
12 following business day:

13 (A) current physical and mailing address(es);

14 (B) recent criminal offenses, *if any*;

15 (C) documentation of treatment;

16 (D) a current photograph; ~~and~~

17 (E) name and address of the institution of higher education,
18 enrollment or employment status, and any changes of enrollment or
19 employment status if the person is enrolled, employed or carrying on a
20 vocation;

21 (F) the license plate number and the year, make, model and

1 color of any vehicle owned or operated by the person; and

2 (G) a photocopy of the person's driver's license or
3 identification card.

4 (2) **Level Two Offender.** The registrant shall verify the following
5 registered information exactly ~~one (1) year~~ six (6) months from the date of the
6 registrant's release from incarceration or the date of the registrant's release on
7 probation *if* the registrant is placed on probation, and exactly ~~every year~~ six (6)
8 months thereafter. *If* the date the registrant is to verify falls on a weekend or
9 holiday, the registrant shall verify the following information on the following
10 business day:

11 (A) current physical and mailing address(es);

12 (B) recent criminal offenses, *if any*;

13 (C) documentation of treatment;

14 (D) a current photograph; ~~and~~

15 (E) name and address of the institution of higher education,
16 enrollment or employment status, and any changes of enrollment or
17 employment status if the person is enrolled, employed or carrying on a
18 vocation;

19 (F) the license plate number and the year, make, model and
20 color of any vehicle owned or operated by the person; and

21 (G) a photocopy of the person's driver's license or

1 identification card.

2 (3) **Level Three Offender.** ~~The registrant shall verify registered~~
3 ~~information in the same manner as a Level Two Offender.~~ The registrant shall
4 verify the following registered information exactly one (1) year from the date of
5 the registrant's release from incarceration or the date of the registrant's release
6 on probation if the registrant is placed on probation, and exactly every year
7 thereafter. If the date the registrant is to verify falls on a weekend or holiday,
8 the registrant shall verify the following information on the following business
9 day:

10 (A) current physical and mailing address(es);

11 (B) recent criminal offenses, if any;

12 (C) documentation of treatment;

13 (D) a current photograph; and

14 (E) name and address of the institution of higher education,
15 enrollment or employment status, and any changes of enrollment or
16 employment status if the person is enrolled, employed or carrying on a
17 vocation;

18 (F) the license plate number and description of any vehicle
19 owned or operated by the person; and

20 (G) a photocopy of the person's driver's license or
21 identification card.

1 (4) Notwithstanding Subsections (a), (b) and (c) of this Section, a
2 registrant shall register the registrant's new physical address with the ~~Court~~
3 Judiciary of Guam, Sex Offender Registry Management Office within seven (7)
4 calendar days of any change in physical residence. If a registrant anticipates
5 moving from Guam, that registrant shall register his intended place of
6 residence with the ~~Court~~ Judiciary of Guam, Sex Offender Registry
7 Management Office no later than three (3) calendar days before his departure
8 from Guam.

9 (g) **Registration Requirements for Offenders Enrollment and**
10 **Employment in an Institution of Higher Education.** The registrant must update the
11 name and address of the institution of higher education, enrollment or employment
12 status, and any changes of enrollment or employment status if the registrant is
13 enrolled, employed or carrying on a vocation in an institution of higher education
14 within seven (7) calendar days of any changes in employment or enrollment in an
15 institution of higher education with the ~~Guam Police Department~~ Judiciary of Guam,
16 Sex Offender Registry Management Office. The Judiciary of Guam, Sex Offender
17 Registry Management Office shall then notify the Guam Police Department of the
18 update immediately.

19 (h) **Registration Requirements; Verification, Method of Verification.** A
20 registrant shall verify the registrant's registered information as required by §89.03(e)
21 by personally presenting him/herself to the Judiciary of Guam, Sex Offender Registry

1 Management Office to verify registrant information as required by law in the following
2 manner:

3 (1) ~~Parolee. A parolee shall personally present oneself to the~~
4 ~~parolee's parole officer and verify the registered information with the parole~~
5 ~~officer;~~

6 (2) ~~Probationer. A probationer shall personally present oneself to the~~
7 ~~person's probation officer and verify the registered information with the~~
8 ~~probation officer;~~

9 (3) ~~Dual Supervision. A person under dual supervision, that is, the~~
10 ~~person is supervised by both parole and probation, shall personally present~~
11 ~~oneself to that person's probation officer; and~~

12 (4) ~~Others. All registrants, including persons who are no longer~~
13 ~~under supervised parole or probation, shall personally appear at the Guam~~
14 ~~Police Department, Records Section, and register with the Guam Police~~
15 ~~Department.~~

16 (i) **Registration Requirement; Guam Residents Who are Employed, Carry**
17 **on a Vocation, or are Students in Another State or Territory.** A person who is
18 required to register on Guam and who is employed, carries on a vocation, or is a
19 student of another state or territory, shall also register in that other state or territory
20 pursuant to the registration requirements of that state or territory.

21 (j) **Registration Requirement; Persons Who Move to Another State or**

1 **Territory.** When a person who is required to register on Guam anticipates moving to
2 another state or territory, that registrant shall report the change of address to the ~~Guam~~
3 ~~Police Department~~ Judiciary of Guam, Sex Offender Registry Management Office
4 pursuant to the requirements of this Chapter, *and* comply with any registration
5 requirement of the new state or territory of residence.

6 **Section 89.04. Registration.** A registrant shall continue to comply with this Chapter,
7 *except* during ensuing periods of incarceration, for the following period of time:

8 **(a) Lifetime; Level One and Level Two Offenders.** A Level One and Two
9 Offender must comply with this Chapter for the length of that person's life.

10 **(b) ~~Ten (10)~~Fifteen (15) Years; Level Three Offenders.** A person deemed a
11 Level Three Offender ~~shall register pursuant to §89.03(b)(2), and Subsections (2) and (3)~~
12 ~~of §89.03(f), for a period of ten (10)~~must comply with this Chapter for a period of
13 fifteen (15) years from the date of that person's release on probation or release on
14 parole~~registration.~~

15 **(c) Where Conviction Reversed, Vacated or Set Aside or Where Registrant**
16 **Pardoned.** Notwithstanding Subsections (a) and (b) of this Section, where the
17 underlying conviction is reversed, vacated or set aside, or *if* the person is pardoned of
18 the crime which triggered the registration requirement of this Chapter, registration is
19 no longer required.

20 **(d) Tolling of Registration Requirement.** *If* a registrant is re-incarcerated
21 for violations of release conditions imposed in the same crime, or for the commission

1 of another crime, or the registrant is civilly committed, or if the registrant leaves to a
2 foreign country and informs the Sex Offender Registry Management Office, then the
3 period of registration is tolled and remains tolled until the registrant's subsequent
4 release or arrival on a state, territory, or tribe within the jurisdiction of the United
5 States. Thereafter, the registrant shall recommence and continue registering for the
6 remaining period of time the registrant is required to register.

7 **(e) Reduced Period for Clean Record.**

8 (1) Clean Record. The full registration period shall be reduced as
9 described for a Sex Offender who maintains a clean record for the period by:

10 (a) not being convicted of any offense for which
11 imprisonment for more than one (1) year may be imposed;

12 (b) not being convicted of any sex offense;

13 (c) successfully completing any periods of supervised
14 release, probation, and parole; and

15 (d) successfully completing an appropriate sex offender
16 treatment program certified by a jurisdiction or by the Attorney
17 General.

18 (2) Period. In case of:

19 (a) a Level Three Sex Offender, the period during which the
20 clean record shall be maintained is ten (10) years;

21 (b) a Level Two and a Level One Sex Offenders, the period

1 during which the clean record shall be maintained is twenty-five (25)
2 years.

3 (3) Reduction. In case of:

4 (a) a Level Three Sex Offender, the reduction is five (5)
5 years;

6 (b) a Level Two and Level One Sex Offenders, the reduction
7 is from life to that period for which the clean record is maintained.

8 **Section 89.05. Penalties.**

9 (a) **Initial Registration.** Intentional or knowing failure to provide initial
10 registration information shall delay the registrant's release *if* the registrant is to be
11 released, or make the registrant ineligible for probation if the registrant is to be placed
12 on probation. Intentional or knowing failure to provide initial registration information
13 is a felony of the third degree.

14 (b) **Verification.** The failure to verify registered information is a
15 misdemeanor. A second or subsequent failure to so register is a felony of the third
16 degree. Failure of a probationer or parolee to so register may result in sanctions
17 pursuant to 8 GCA §80.66 and 9 GCA §80.82, *respectively*.

18 (c) **Address Changes.** A registrant's failure to register the registrant's new
19 physical and mailing address within seven (7) calendar days of any change of physical
20 and mailing address is a misdemeanor. A second or subsequent failure to so register is
21 a felony of the third degree. Failure of a registrant who is a probationer or parolee to

1 so register may result in sanctions pursuant to 9 GCA §80.66 *and* 9 GCA §80.82,
2 *respectively*.

3 (d) **False Information.** Intentionally and knowingly providing false
4 information during initial registration or subsequent verification is a felony of the
5 second degree.

6 (e) **Enrollment or Employment at an Institution of Higher Education.** A
7 registrant's failure to update enrollment or employment at an institution of higher
8 education or termination of such enrollment or employment at an institution of higher
9 education with the ~~Guam Police Department~~ Judiciary of Guam, Sex Offender Registry
10 Management Office within seven (7) calendar days of any change would constitute a
11 failure to register or keep such registration current is a felony of the third degree.

12 **Section 89.06. Duties of the Department of Corrections and the Court Probation**
13 **Services Division of the Judiciary of Guam; Initial Registration.** *If* a registrant is released
14 from incarceration, placed on parole or placed on probation, the Department of Corrections,
15 the Parole Services Division, ~~the Court~~ or the Probation Services Division shall:

16 (a) inform the registrant of the duty to register ~~and obtain the information~~
17 ~~required for such registration;~~

18 (b) ~~inform the registrant that if the registrant changes residence on Guam,~~
19 ~~the registrant shall provide the new residential address to the Court;~~

20 (c) ~~inform the registrant that if the registrant moves to another state or~~
21 ~~territory, the registrant shall report the change of address to the Court *no later than*~~

1 three (3) calendar days of the registrant's leaving Guam, and shall comply with any
2 registration requirement of the new state or territory;

3 (d) — inform the registrant that *if* the registrant is, or becomes, employed,
4 carries on a vocation, or becomes a student in another state or territory, then the
5 registrant must comply with the registration requirement of that new state or territory;

6 (e) — obtain all information that must necessarily be gathered for the
7 registrant's initial registration, and inform the registrant that the registrant must
8 provide the registrant's fingerprints, a photograph and a biological sample to the
9 Guam Police Department. The Department of Corrections or the Office of Probation
10 shall facilitate the obtaining of fingerprints, photograph and biological sample. After
11 this information is gathered, the Guam Police Department shall retain the biological
12 sample and transmit the fingerprints and photograph to the Court within three (3)
13 ealendar days;

14 (b) refer the registrant to the Judiciary of Guam, Sex Offender Registry
15 Management Office for initial registration and verification;

16 (f)(c) require the registrant to read and sign a form stating that the
17 registrant's duty to register under this Chapter has been explained; *and*

18 (g)(d) forward information described in (f)(c) above to the CourtJudiciary of
19 Guam, Sex Offender Registry Management Office within three (3) calendar days after
20 receipt thereof.

21 (h)(e) inform the registrant that if the registrant enrolls at, is employed at, or

1 carries on a vocation at an institution of higher education in Guam the registrant must
2 inform the ~~Guam Police Department~~Judiciary of Guam, Sex Offender Registry
3 Management Office, who shall then, and to notify the Guam Police Department of any
4 change in such enrollment or employment status at the institution of higher education
5 within seven (7) calendar days of any changes.

6 (i)(f) ensure the registration information collected on the registrant's
7 enrollment or employment status at the institution of higher education, and any
8 change of enrollment or employment status of the registrants at the institution of
9 higher education is promptly made available to the ~~Guam Police Department~~Judiciary
10 of Guam, Sex Offender Registry Management Office.

11 (j)(g) ensure the registration information collected on the registrant's
12 enrollment or employment status at the institution of higher education, and any
13 change of enrollment or employment status of the registrants at the institution of
14 higher education is provided to the ~~Superior Court of Guam~~Judiciary of Guam, Sex
15 Offender Registry Management Office to be entered into Guam's Sex Offender
16 Registry.

17 ~~Section 89.07. Duties of the Department of Corrections and the Court, Verification~~
18 ~~of Registered Information.~~

19 (a) ~~The Department of Corrections, Parole Services Division, shall receive~~
20 ~~and obtain initial registration and registration verification information from registrants~~
21 ~~who are parolees, and shall transmit such information to the Court no later than three~~

1 ~~(3) business days of receipt of such information.~~

2 ~~(b) The Court, Probation Services Division, shall receive and obtain initial~~
3 ~~registration and registration verification information from registrants who are~~
4 ~~probationers and shall enter such information into the Court's Sex Offender Registry~~
5 ~~database.~~

6 **Section 89.08. Duties of the Guam Police Department.**

7 ~~(a) Upon receipt of the information that is required to be registered or~~
8 ~~verified pursuant to this Chapter, the Guam Police Department shall *immediately*, and~~
9 ~~*no later than* three (3) business days of receipt of this information, transmit the~~
10 ~~information to the Court which shall record this information in the Sex Offender~~
11 ~~Registry database. The Guam Police Department shall also immediately transmit the~~
12 ~~registrant's photograph, fingerprints, conviction data and current residence to the~~
13 ~~Court. In addition to sex offender data, the Guam Police Department shall also~~
14 ~~immediately transmit all felony fingerprints to the Court. The Court shall forward~~
15 ~~these fingerprints to the Federal Bureau of Investigation's Automated Fingerprint~~
16 ~~Identification System ('AFIS') for assignment of a fingerprint identification number.~~

17 ~~(b) inform the registrant that if the registrant enrolls at, is employed at, or~~
18 ~~carries on a vocation at an institution of higher education in Guam the registrant must~~
19 ~~inform Guam Police Department, and to notify the Guam Police Department of any~~
20 ~~change in such enrollment or employment status at the institution of higher education~~
21 ~~within seven (7) calendar days.~~

1 ~~(c) ensure the registration information collected on the registrant's~~
2 ~~enrollment or employment status at the institution of higher education, and any~~
3 ~~change of enrollment or employment status of the registrant at the institution of higher~~
4 ~~education is promptly made available to the Guam Police Department.~~

5 ~~(d) ensure the registration information collected on the registrant's~~
6 ~~enrollment or employment status at the institution of higher education, and any~~
7 ~~change of enrollment or employment status of the registrant at the institution of higher~~
8 ~~education is provided to the Superior Court of Guam *no later than* three (3) business~~
9 ~~days of receipt of the information to be entered into Guam's Sex Offender Registry.~~

10 ~~(e) The Superior Court of Guam is the state sole source for submission of~~
11 ~~information and fingerprints to the Federal Bureau of Investigation and the National~~
12 ~~Crime Information Center ('NCIC'). The Court shall enter all registered information~~
13 ~~into the NCIC system *no later than* three (3) business days after receipt of such~~
14 ~~information.~~

15 ~~**(f) Notification of Local Law Enforcement Agencies Regarding Changes of**~~
16 ~~**Address; Moving From Guam.** Upon receipt of information that the registrant is~~
17 ~~anticipated to move from Guam to another state, territory or tribe, the Court shall~~
18 ~~*immediately* notify that state or territory to which the registrant is moving, and shall~~
19 ~~transmit the address of the registrant's anticipated residence to the Federal Bureau of~~
20 ~~Investigation *no later than* three (3) business days of receipt of this information.~~

21 ~~**(g) Notification of FBI Regarding Changes of Address.**~~

1 Upon receipt of information that registrant is or has changed residence within Guam,
2 or is anticipated to move from Guam to another state, territory or tribe, the Guam
3 Police Department shall transmit the new address to the Federal Bureau of
4 Investigation *no later than* three (3) business days after receipt of this information.

5 The Guam Police Department shall:

6 (a) inform all persons required to register under this Chapter of their duty
7 to register;

8 (b) require any person required to register under this Chapter who has not
9 yet provided his or her initial registration information to read an sign a form stating
10 the registrant's duty to register under this Chapter has been explained;

11 (c) forward information described in (b) *supra* to the Judiciary of Guam, Sex
12 Offender Registry Management Office within three (3) calendar days after receipt
13 thereof;

14 (d) collect a biological sample from the registered offender as required in
15 this Chapter and submit the sample to the Federal Bureau of Investigations within
16 twenty-four (24) hours of collection and to any local entity that may be Guam's central
17 repository for DNA; and

18 (e) collect and keep records of fingerprints and palm prints from the
19 registrant and also distribute cards containing such prints to the Judiciary of Guam,
20 Sex Offender Registry Management Office.

21 **Section 89.09. Duties of the ~~Court~~Judiciary of Guam.**

1 (a) **Repository.** ~~The Court~~ Judiciary of Guam shall be the central
2 repository for the registered information, in addition to all criminal history records
3 information.

4 (b) **Sole Source of Submission of information to the Federal Bureau of**
5 **Information ('FBI') and the National Crime Information Center ('NCIC').** The
6 Judiciary of Guam shall enter all registered information into the NCIC system no later
7 than three (3) business days after receipt of such information. The Judiciary of Guam,
8 Sex Offender Registry Management Office shall forward the fingerprints and palm
9 prints to the FBI's Automated Fingerprint Identification System ('AFIS') for assignment
10 of a fingerprint identification number.

11 (c) **Notification of Local Law Enforcement Agencies Regarding Changes**
12 **of Address; Relocation from Guam.** Upon receipt of information that the registrant is
13 anticipated to relocated from Guam to another state, territory or tribe, the Judiciary of
14 Guam shall immediately notify the state, territory or tribe to which the registrant is
15 relocating and shall transmit the address of the registrant's anticipated residence to the
16 FBI no later than three (3) working days of receipt of such information.

17 (d) **Notification of FBI Regarding Changes of Address.** Upon receipt of
18 information that registrant is or has changed residence within Guam, or is anticipated
19 to relocate from Guam to another state, territory or tribe, the Judiciary of Guam shall
20 transmit the new address to the FBI no later than three (3) working days after receipt of
21 such information.

1 (e) Release of Information. The Judiciary of Guam, Sex Offender Registry
2 Management Office shall ensure that all of the registrant's information that is required
3 to be released under this Chapter is properly and timely released.

4 ~~(b)~~(f) Fees. The ~~Court~~ Judiciary of Guam is authorized to collect reasonable
5 registration fees from registrants. Such fees shall be used for the maintenance and
6 support of the sex offender registration and notification program. ~~Fifty percent (50%)~~
7 One Hundred percent (100%) of the fee paid by the registrant shall be given to the
8 ~~Court~~ Judiciary of Guam, Sex Offender Registry Management Office ~~and the remaining~~
9 ~~fifty percent (50%) shall go to the Guam Police Department.~~

10 Section 89.09.01 Duties of the Judiciary of Guam, Sex Offender Registry
11 Management Office. The Judiciary of Guam, Sex Offender Registry Management Office shall:

12 (a) supervise, upkeep, and maintain the Crimes Against Minors and Sex
13 Offender Registry of Guam;

14 (b) inform the registrant of his/her registration duties under this Chapter;

15 (c) ensure that any person required to register under this Chapter has read
16 and signed a form stating that the registrant's duty to register under this Chapter has been
17 explained;

18 (d) receive and obtain initial registration and registration verification
19 information from all persons required to register under this Chapter, and enter such
20 information into the Sex Offender Registry database;

21 (e) supervise the release of verified information, as required in this

1 Chapter;

2 (f) perform all other duties necessary to ensure the proper maintenance of
3 the Sex Offender Registry and to ensure that all registrants comply with their registration
4 duties as set out in this Chapter; and

5 (g) publish, every six (6) months, a notification in any publication of general
6 circulation informing all persons required to register pursuant to this Chapter of their duty of
7 register. Such notification shall include, but is not limited to, the following:

8 (1) the provision requiring the duty to register;

9 (2) the provision stating the information that is required to be
10 registered;

11 (3) the physical address of location in which persons required to
12 register must report to;

13 (4) the provisions stating the penalties for failure to register; and

14 (5) the contact information and name of the person of whom person
15 required to register can receive further information regarding registration
16 requirements.

17 **Section 89.10. Notification.**

18 (a) **Release of Information.** The Court Judiciary of Guam, Sex Offender
19 Registry Management Office shall release the following information to the community:

20 (1) Level One and Level Two Offenders: all registered information
21 except the Social Security number, the age of the victim(s) in the underlying

1 case, and the state or territory in which the crime occurred

2 (A) All registered information except Social Security number,
3 the victim's identity, and any reference to arrests of the sex offender that
4 did not result in conviction;

5 (B) the age(s) and gender(s) of the victim(s) at the time of the
6 offense(s); and

7 (C) state, territory or tribe, inclusive of the village, if on
8 Guam, in which the crime occurred.

9 ~~(2) Level Two Offender: name, physical address, photograph,~~
10 ~~criminal history, the age of the victim in the underlying case, and the state or~~
11 ~~territory in which the crime occurred;~~

12 ~~(3) Level Three Offender, Felony Conviction: name, photograph,~~
13 ~~criminal sexual conduct offense or 'the criminal offense against a victim who is~~
14 ~~a minor' of which the person was convicted; and~~

15 ~~(4) Level Three Offender, Misdemeanor Conviction: no notification.~~

16 (2) Level Three Offender:

17 (A) All registered information except Social Security number,
18 the victim's identity, any reference to arrests of the sex offender that did
19 not result in conviction and criminal history unrelated to the underlying
20 crime which triggered the registered requirements;

21 (B) the age(s) and gender(s) of the victim(s) at the time of the

1 offense(s); and

2 (C) state, territory or tribe, inclusive of the village, if on
3 Guam, in which the crime occurred.

4 **(b) Victims.** The identity of the victim or any information that may identify
5 the victim shall *not* be released, *subject* to Subsection (a).

6 **(c) Re-incarceration.** In the event that a registrant is re-incarcerated for
7 violation of any section of this Chapter, for the reason(s) as stated in §89.04(d) of this
8 Chapter, or for any other reason, the information that the registrant is re-incarcerated
9 and the reason(s) for such re-incarceration shall be released to the community.

10 **(e)(d) Method of Release of Information.** The Court Judiciary of Guam,
11 Sex Offender Registry Management Office shall maintain an Internet web-page
12 dedicated to persons required to register, which shall contain the information that is
13 required to be released. The released information shall be updated ~~during the first~~
14 ~~week of every month~~ immediately after a registrant registers, or updates registered
15 information. The community shall have access to the Sex Offender Registry Web
16 Page. The Court Judiciary of Guam, Sex Offender Registry Management Office shall
17 transmit released information concerning Level One, ~~and Level Two, and Level Three~~
18 Offenders to the Department of Education, the Guam Community College, the
19 University of Guam, the Department of Administration, the Department of Labor &
20 Agency for Human Resource Development, the Department of Public Health & Social
21 Services, the Department of Youth Affairs, all public and private schools, day care

1 centers, victim shelters and victim advocates on the first week of every month. The
2 ~~Court~~ Judiciary of Guam, Sex Offender Registry Management Office may transmit
3 information concerning ~~Level One and Level Two~~ all Offenders directly to the media
4 for dissemination.

5 (e) Verification of Names on Sex Offender Registry. Entities within the
6 Government of Guam may request the Judiciary of Guam, Sex Offender Registry
7 Management Office to verify the identities of individuals registered on the Sex
8 Offender Registry for the purposes of employment.

9 (f) Functionality of Sex Offender Registry Web Page. The Judiciary of
10 Guam, Sex Offender Registry Management Office shall, within the Sex Offender
11 Registry Web Page, provide for:

12 (1) a searchable database of all Sex Offenders;

13 (2) a mechanism to allow visitors to subscribe, through an electronic
14 mail ('e-mail') address, to notification of any updates or changes made to the
15 Sex Offender Registry;

16 (3) links, to the extent practicable, to sex offender safety and
17 education resources;

18 (4) instructions on how to seek correction of information that an
19 individual contends is erroneous; and

20 (5) a warning that information on the site should not be used to
21 unlawfully injure, harass, or commit a crime against any individual named in

1 the registry or residing or working at any reported address, and such warning
2 shall note that any such action could result in civil or criminal penalties.

3 (g) Notice of Change. The Judiciary of Guam, Sex Offender Management
4 Office shall, upon passage of this Act, publish every month for the first twelve (12)
5 months in a publication of general circulation a notice to the public of changes made by
6 this act requiring all convicted sex offenders to register with the Sex Offender Registry.

7 **Section 89.11. Immunity for Good Faith Conduct.** Law enforcement agencies, their
8 employees and government of Guam officials shall be immune from any civil or criminal
9 liability for good faith conduct under this Act, *unless* it is shown that the agency, employee,
10 government official or board member acted with gross negligence or in bad faith.”

11 **Section 3. Severability.** *If* any provision of this Law or its application to any person or
12 circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions
13 or applications of this Law which can be given effect without the invalid provisions or application,
14 and to this end the provisions of this Law are severable.