

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

Bill No. 71 (EC)

Introduced by:

FT Ishizaki
JT Won Pat

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edm

AN ACT TO AMEND §89.03 SUBSECTION (a), §89.04 AND §89.10 OF CHAPTER 89 OF TITLE 9 OF THE GUAM CODE ANNOTATED AND TO ADD A SUBSECTION (c) TO §89.09 OF CHAPTER 89 OF TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE SEX OFFENDER REGISTRY AND TO REQUIRE 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.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that Guam's Sex
3 Offender Registry statute is in need of certain changes that would strengthen and close certain gaps
4 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 It is the intent of *I Liheslatura* to update the requirements and to require *all* those convicted of criminal
10 sexual conduct or of a crime against a victim who is a minor to be registered for the purposes of
11 disseminating the information to keep aware and safe the community of Guam.

1 **Section 2.** Title 9 GCA Chapter 89 §89.03, subsection (a) is hereby *amended* to read as follows:

2 **§ 89.03. Registration; Duty to Register.**

3 **(a) Persons Required to Register.** The following persons shall have the absolute duty
4 to register pursuant to this Chapter:

5 (1) any person who, ~~since January 1, 1993,~~ has been or is hereafter convicted in
6 any court of Guam of a violation of any of the following offenses:

7 (A) a sexually violent offense;

8 (B) a criminal sexual conduct offense; *or*

9 (C) a criminal offense against a victim who is a minor.

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

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

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

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

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

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

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

21 (A) who is or has been convicted in another state, territory or tribal
22 jurisdiction of a criminal sexual conduct offense, or a criminal offense against a victim

1 who is a minor and is required to register in the state, territory or tribal jurisdiction
2 wherein that person was convicted; *or*

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

6 **Section 3.** Title 9 GCA Chapter 89 §89.04 is hereby *amended* to read as follows:

7 **§ 89.04. Registration.**

8 A registrant shall continue to comply with this Chapter, *except* during ensuing periods
9 of incarceration, for the following period of time:

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

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

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

19 **(d) Tolling of Registration Requirement.** *If* a registrant is reincarcerated for violations
20 of release conditions imposed in the same crime, or for the commission of another crime, or
21 the registrant is civilly committed, then the period of registration is tolled and remains tolled

1 until the registrant's subsequent release. Thereafter, the registrant shall recommence and
2 continue registering for the remaining period of time the registrant is required to register.

3 **Section 4.** Title 9 G.C.A. Chapter 89 §89.10 is hereby *amended* to read as follows:

4 **§ 89.10. Notification.**

5 (a) **Release of Information.** The Court shall release the following information to the
6 community for Levels One, Two and Three Offenders: all registered information, *except* the
7 Social Security number, ~~the age of the victim(s) in the underlying case, and the state or~~
8 ~~territory in which the crime occurred;~~ inclusive of the following information:

9 (A) criminal sexual conduct offense or the 'criminal offense against a victim
10 who is a minor' of which the person was convicted;

11 (B) the age of the victim(s) in the underlying case;

12 (C) the city and state or territory, inclusive of the village, if on Guam, in which
13 the crime occurred;

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

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

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

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

1 (c) Reincarceration. In the event that a registrant is reincarcerated for violation of any
2 section of this Chapter or for the reason(s) as stated in §89.04 (d) of this Chapter, the
3 information that the registrant is reincarcerated and the reason(s) for such action shall be
4 released to the community.

5 **(e) (d) Method of Release of Information.** The Court shall maintain an Internet web-
6 page dedicated to persons required to register, which shall contain the information that is
7 required to be released. The released information shall be updated during the first week of
8 every month. The community shall have access to the Sex Offender Registry Web Page. The
9 Court shall transmit released information concerning ~~Level One and Level Two~~ all Offenders
10 to the Guam Public School System, the Guam Community College, the University of Guam, all
11 public and private schools, day care centers, victim shelters and victim advocates on the first
12 week of every month. The Court may transmit information concerning ~~Level One and Level~~
13 all Two Offenders directly to the media for dissemination.

14 **(e) Functionality of Sex Offender Registry Web-page.**

15 The Court shall provide for (1) a searchable database within the Sex Offender Registry
16 web-page of all sex offenders on Guam and (2) a mechanism within the Sex Offender Registry
17 web-page to allow visitors to subscribe, through an electronic mail (“e-mail”) address, to
18 notification of any updates or changes made to the Sex Offender Registry.

19 **Section 5.** A new subsection (c) is hereby *added* to §89.09 of Chapter 89 of Title 9 of the Guam
20 Code Annotated to read as follows:

1 “(c) **Notification.** The Court every six (6) months shall publish a notification in any
2 publication of general circulation informing all persons required to register as stated in §89.03 (a) of
3 their duty to register. Such notification shall include, but is not limited to, the following:

4 (1) the provision requiring duty to register;

5 (2) the provision stating the information that needs to be registered;

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

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

9 (5) the contact information and name of the person of whom persons required to
10 register can receive further information regarding registration.”

11 **Section 6. Severability.** If any provision of this act of 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 act which can be given effect without the invalid provisions or application, and
14 to this end the provisions of this act are severable.