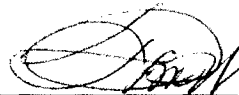


FILE COPY

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session**

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 428-30 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 89 OF TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE GUAM SEX OFFENDER REGISTRY," was on the 22nd day of December, 2010, duly and regularly passed.



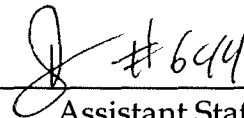
**Judith T. Won Pat, Ed. D.
Speaker**

Attested:



**Tina Rose Muña Barnes
Legislative Secretary**

This Act was received by *I Maga'lahen Guåhan* this 23 day of Dec., 2010, at
8:02 o'clock PM.M.



**Assistant Staff Officer
Maga'lahi's Office**

APPROVED:

**FELIX P. CAMACHO
*I Maga'lahen Guåhan***

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUAHAN
2010 (SECOND) Regular Session

Bill No. 428-30 (COR)

As amended on the Floor.

Introduced by:

Adolpho B. Palacios, Sr.

F. B. Aguon, Jr.

T. C. Ada

V. Anthony Ada

F. F. Blas, Jr.

E. J.B. Calvo

B. J.F. Cruz

J. V. Espaldon

Judith P. Guthertz, DPA

T. R. Muña Barnes

v. c. pangelinan

R. J. Respicio

Telo Taitague

Ray Tenorio

Judith T. Won Pat, Ed.D.

**AN ACT TO *REPEAL* AND *REENACT* CHAPTER 89 OF
TITLE 9 OF THE GUAM CODE ANNOTATED,
RELATIVE TO THE GUAM SEX OFFENDER
REGISTRY.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Guam's Sex Offender Registry statute is in need of changes in order to
4 strengthen its provisions and close certain gaps within the law. *I Liheslatura*
5 further finds that the Supreme Court of the United States has determined that *due*
6 *process* rights (**Connecticut Dept. of Public Safety v. John Doe, et al., 538 U.S.**
7 **1 (2003)**) and the *ex post facto* clause in the U.S. Constitution (**Delbert W. Smith**

1 **and Bruce M. Botelho v. John Doe I, et al., 538 U.S. 84 (2003)** are not violated
2 by requiring those already convicted of criminal sexual conduct *or* of a crime
3 against a victim who is a minor before the enactment of Sex Offender Registry
4 laws, to register with the Guam Sex Offender Registry. *I Liheslatura* also finds
5 that the crime of criminal sexual conduct and crimes committed against children
6 are serious problems on our island, and persons convicted of these crimes may be a
7 danger to the people of our community. *I Liheslatura* further finds that in order to
8 protect our community, most particularly our children, from sex offenses,
9 especially violent sex offenses, the Guam Sex Offender Registry Law must be
10 strengthened.

11 It is the intent of *I Liheslatura* to update the Guam Sex Offender Registry
12 requirements and notification program and to require *all* those convicted of
13 criminal sexual conduct *or* of a crime against a victim who is a minor, to register
14 with the Guam Sex Offender Registry in order to increase the awareness of our
15 community and our nation about dangerous individuals released into the
16 community. *I Liheslatura* hopes that such awareness will assist in the prevention
17 of future sex offenses and alert the community of such dangers.

18 In an attempt to bring Guam's Sex Offender Registry and Notification
19 System into substantial compliance with the Federal Mandates of Title I of Public
20 Law 109-248, of the Adam Walsh Act, the Sex Offender Registration Notification
21 Act (SORNA), and in light of the review and recommendations provided by the
22 Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and
23 Tracking of the United States Department of Justice (SMART Office) relating to
24 Guam's SORNA compliance packet concluding that Guam has not yet
25 substantially implemented SORNA, it is the intent of *I Liheslaturan Guåhan* that in

1 order for Guam to substantially implement SORNA, these amendments of Guam’s
2 current Sex Offender Registry and Notification System are necessary.

3 **Section 2.** Chapter 89 of Title 9 of the Guam Code Annotated, as amended
4 by Public Law 29-30, is hereby *amended* to read as follows:

5 **“CHAPTER 89**

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

7 **§ 89.01. Definitions.** As used in this Chapter:

- 8 (a) *Minor* means a person below the age of eighteen (18) years.
- 9 (b) *Criminal offense against a victim who is a minor* means any criminal
10 offense that consists of any of the following:
- 11 (1)felony kidnapping, felonious restraint, felony child stealing, and
12 custodial interference, as defined and punished in Chapter 22 of Title
13 9 of the Guam Code Annotated, *Kidnapping, and Related Offenses*,
14 when the victim is a minor;
- 15 (2)promoting prostitution, abetting prostitution, compelling prostitution,
16 as defined and punished in Article 1 of Chapter 28 of Title 9 of the
17 Guam Code Annotated, *Prostitution*, when the individual committing
18 *or* engaging in prostitution is a minor;
- 19 (3)participation in obscenity, use of one's own child in obscene acts,
20 indecent exposure, photography of minors' sexual acts, as defined and
21 punished in Article 2 of Chapter 28 of Title 9 of the Guam Code
22 Annotated, *Obscenity and Related Offenses*, when a minor is
23 employed *or* used;
- 24 (4)criminal sexual conduct, as defined and punished in Chapter 25 of
25 Title 9 of the Guam Code Annotated, *Sexual Offenses*, when the
26 victim of the crime is a minor; or

1 (5)any attempt to commit, solicitation to commit, *or* conspiracy to
2 commit the crimes stated in paragraphs (1) to (4) of this Subsection
3 (b), in violation of Chapter 13 of Title 9 of the Guam Code Annotated

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

8 (d) *Sex Offense*. The term “sex offense” as used in this Chapter includes
9 those offenses contained in 42 United States Code (U.S.C.) §16911(5)
10 and also includes the following offenses:

11 (1) *Sexually violent offenses*. A sexually violent offense is defined
12 as any criminal offense which includes the following:

13 (A) criminal sexual conduct involving sexual penetration *or*
14 sexual contact where the actor causes personal injury to the
15 victim and either of the following circumstances exists:

16 (i) force *or* coercion is used to accomplish the sexual
17 penetration *or* sexual contact; or

18 (ii) the actor knows *or* has reason to know that the
19 victim is mentally defective, mentally incapacitated *or*
20 physically helpless.

21 (B) criminal sexual conduct involving sexual penetration *or*
22 sexual contact where the actor is aided *or* abetted by one (1)
23 *or* more other persons and either of the following
24 circumstances exists:

25 (i) force *or* coercion is used to accomplish the sexual
26 penetration *or* sexual contact; or

1 (ii) the actor knows *or* has reason to know that the
2 victim is mentally defective, mentally incapacitated *or*
3 physically helpless.

4 (C) criminal sexual conduct involving sexual penetration *or*
5 sexual contact where the actor is armed with a weapon *or*
6 any article used *or* fashioned in a manner to lead the victim
7 to reasonably believe it to be a weapon;

8 (D) criminal sexual conduct involving sexual penetration *or*
9 sexual contact which occurs under circumstances involving
10 the commission of another felony; or

11 (E) criminal sexual conduct involving a victim under
12 fourteen (14) years of age.

13 (2) *Guam Offenses.*

14 (A) any convictions under local laws relating to Title 9 GCA
15 §16.30;

16 (B) any convictions under local laws relating to Title 9 GCA
17 §22.20, wherein the victim of such crime is a minor;

18 (C) any convictions under local laws relating to Title 9 GCA
19 §22.30;

20 (D) any convictions under local laws relating to Title 9 GCA
21 §22.40, wherein the victim of such crime is a minor;

22 (E) any convictions under local laws relating to Title 9 GCA
23 §22.50, wherein the victim of such crime is a minor;

24 (F) any convictions under local laws relating to Title 9 GCA
25 §25.15;

- 1 (G) any convictions under local laws relating to Title 9 GCA
2 §25.20;
- 3 (H) any convictions under local laws relating to Title 9 GCA
4 §25.25;
- 5 (I) any convictions under local laws relating to Title 9 GCA
6 §25.30;
- 7 (J) any convictions under local laws relating to Title 9 GCA
8 §25.35;
- 9 (K) any convictions under local laws relating to Title 9 GCA
10 §28.20, wherein the victim of such crime is a minor
- 11 (L) any convictions under local laws relating to Title 9 GCA
12 §28.25, wherein the victim of such crime is a minor
- 13 (M) any convictions under local laws relating to Title 9 GCA
14 §28.30; wherein the victim of such crime is a minor
- 15 (N) any convictions under local laws relating to 9 G.C.A.
16 §28.49;
- 17 (O) any convictions under local laws relating to Title 9 GCA
18 §28.50;
- 19 (P) any convictions under local laws relating to Title 9 GCA
20 §28.51;
- 21 (Q) any convictions under local laws relating to Title 9 GCA
22 §28.52, wherein the victim of such crime is a minor;
- 23 (R) any convictions under local laws relating to Title 9 GCA
24 §28.65;
- 25 (S) any convictions under local laws relating to Title 9 GCA
26 §28.80, wherein the victim of such crime is a minor;

1 (T) any convictions under local laws relating to Title 9 GCA
2 §31.15;

3 (U) any convictions under local laws relating to Title 9 GCA
4 §70.35;

5 (V) any convictions under local laws relating to Title 9 GCA
6 §89.01(b)(1); or

7 (W) any convictions under local laws relating to Title 9 GCA
8 §89.01(b)(3); and any other offenses under Guam law
9 relating to a criminal offense wherein there is an element
10 involving:

11 (i) a sexual act or sexual contact with another,
12 regardless of the age of the victim;

13 (ii) non-parental kidnapping of a minor; non-parental
14 false imprisonment of a minor;

15 (iii) solicitation to engage a minor in sexual conduct;

16 (iv) use of a minor in a sexual performance;

17 (v) solicitation of a minor to practice prostitution;

18 (vi) video voyeurism of a minor;

19 (vii) possession, production, or distribution of child
20 pornography;

21 (viii) criminal sexual conduct involving a minor; or

22 (ix) use of the internet to engage a minor in criminal
23 sexual conduct.

24 (3) *Convictions from Other Jurisdictions.* Any conviction for any
25 sex offense committed in any jurisdiction that is comparable to any sex offense as
26 defined in 42 U.S.C. §16911(5) or §89.01(b), (c), or (d) of this Chapter. In

1 addition, any conviction for any sex offense committed in any jurisdiction that
2 involves:

- 3 (A) any type or degree of genital, oral, or anal penetration;
- 4 (B) any sexual touching of or sexual contact with a person's
5 body, either directly or through the clothing;
- 6 (C) kidnapping of a minor;
- 7 (D) false imprisonment of a minor;
- 8 (E) solicitation to engage a minor in sexual conduct
9 understood broadly to include any direction, request,
10 enticement, persuasion, or encouragement of a minor to
11 engage in sexual conduct;
- 12 (F) use of a minor in a sexual performance;
- 13 (G) solicitation of a minor to practice prostitution;
- 14 (H) possession, production, or distribution of child
15 pornography;
- 16 (I) criminal sexual conduct that involves physical contact with
17 a minor or the use of the internet to facilitate or attempt such
18 conduct. This includes offenses whose elements involve the
19 use of other persons in prostitution, such as pandering,
20 procuring, or pimping in cases where the victim was a minor
21 at the time of the offense; or
- 22 (J) any conduct that by its nature is a sex offense against a
23 minor.

24 (4) *Federal Offenses*. A conviction for any of the following, and any
25 other offense hereafter included in the definition of "sex offense" at
26 42 U.S.C. §16911(5):

- 1 (A) 18 U.S.C. §1591;
- 2 (B) 18 U.S.C. §1801;
- 3 (C) 18 U.S.C. §2241;
- 4 (D) 18 U.S.C. §2242;
- 5 (E) 18 U.S.C. §2243;
- 6 (F) 18 U.S.C. §2244;
- 7 (G) 18 U.S.C. §2245;
- 8 (H) 18 U.S.C. §2251;
- 9 (I) 18 U.S.C. §2251A;
- 10 (J) 18 U.S.C. §2252;
- 11 (K) 18 U.S.C. §2252A;
- 12 (L) 18 U.S.C. §2252B;
- 13 (M) 18 U.S.C. §2252C;
- 14 (N) 18 U.S.C. §2260;
- 15 (O) 18 U.S.C. §2421;
- 16 (P) 18 U.S.C. §2422;
- 17 (Q) 18 U.S.C. §2423;
- 18 (R) 18 U.S.C. §2424; or
- 19 (S) 18 U.S.C. §2425.

20 (5) *Military Offenses.* Any military offense, as specified by the
21 Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law
22 105-119 (Title 10 U.S.C. §951 note) or listed under 10 U.S.C.
23 §920, that is similar or comparable to any sex offense as defined in
24 §16911(5) or outlined in §89.01(b), (c) or (d) of this Chapter.

25 (6) *Foreign Offenses.* Any foreign convictions wherein the
26 registrant was convicted of any of the sex offenses specified in

1 §89.01(b), (c) or (d) of this Chapter, or any other similar laws of
2 any foreign country. A foreign conviction is *not* a sex offense for
3 the purposes of this Chapter, *unless* it was either: (1) obtained
4 under the laws of Canada, the United Kingdom, Australia, New
5 Zealand; or (2) under the laws of any foreign country when the
6 United States State Department in its Country Reports on Human
7 Rights Practices has concluded that an independent judiciary
8 generally or vigorously enforced the right to a fair trial in that
9 country during the year in which the conviction occurred.

10 (7) *Juvenile Offenses or Adjudications.* Any conviction of a sex
11 offense as defined in §89.01(g)(2).

12 (8) *Exemptions to Registry Requirements.* An offense involving
13 consensual sexual conduct is *not* a sex offense for the purposes of
14 this Chapter *if* the victim was an adult, *unless* the adult was under
15 the custodial authority of the offender at the time of the offense, or
16 if the victim was *at least* thirteen (13) years old, and the offender
17 was *not* more than four (4) years older than the victim.

18 (e) The terms *sexual penetration* and *sexual contact* have the same
19 meaning as *sexual penetration* and *sexual contact* in Chapter 25 of Title 9
20 of the Guam Code Annotated

21 (f) The term *sex offender* refers to persons convicted of a sex offense as
22 defined in §89.01(d).

23 (g) *Conviction.*

24 (1) *Adult Conviction.* The term *conviction* refers to each separate
25 charge to which the offender either voluntarily pleads guilty and
26 such guilty plea has been accepted by the Court, whether in a

1 single hearing *or* in separate hearings, *or* is found guilty by a trier
2 of fact, whether the charges are contained in one (1) indictment, *or*
3 separate indictments. This term includes convictions based on
4 pleas of *nolo contendere* and guilty pleas entered pursuant to *North*
5 *Carolina v. Alford*, 400 U.S. 25 (1970). An adult sex offender is
6 “convicted” for the purposes of this Chapter if the sex offender has
7 been subjected to penal consequences based on the conviction,
8 however the conviction may be styled.

9 (2) Juvenile Conviction. A juvenile offender is “convicted” for
10 the purposes of this Chapter if the juvenile offender is either:

11 (A) prosecuted and found guilty as an adult for any sex
12 offense, including those juveniles convicted through the
13 certification process in Title 19, Guam Code Annotated,
14 §5106; or

15 (B) is adjudicated delinquent as a juvenile for a sex offense,
16 but only if the juvenile is at least fourteen (14) years of age
17 or younger at the time of the offense, and the sex offense
18 adjudicated was one that is comparable to or more severe
19 than the federal crime of “*aggravated sexual abuse*” (as
20 described in either (a) and (b) of Section 2241 of Title 18 of
21 the U.S.C.), or was an attempt or conspiracy to commit such
22 an offense, which is noted in Title 9 GCA § 25.15
23 Subsections (a) (4) (i) or (ii), (a)(5), (a)(6), and (a)(7); and
24 Title 9 GCA § 25.20 (a)(4) (i) or (ii), (a)(5), (a)(6), and
25 (a)(7).

1 (3) *Foreign Conviction.* A foreign conviction is one obtained
2 outside of the United States.

3 (h) *Intimate Parts.* For the purposes of this Chapter, the term *intimate*
4 *parts* is defined to include the primary genital area, groin, inner thigh,
5 buttock or breast of a human being.

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

11 (j) *Employee.* The term *employee* when used in this Chapter includes,
12 but is *not* limited to, an individual who is self-employed or works for any
13 other entity, regardless of compensation. Volunteers of any agency or
14 organization are included with the definition of employee for registration
15 purposes.

16 (k) The term *student* when used in this Chapter, and when referring to any
17 sex offender who is required to register under this Act, means an
18 individual who is enrolled in or attends either a private or public
19 education institution, including a secondary school, trade or professional
20 school, or an institution of higher education, including those who are
21 currently enrolled in the school or institution, but are performing
22 internship, externships or apprentices at an agency or organization under
23 the supervision of a school program.

24 (l) The term *institution of higher education* means post secondary school.

25 (m) The term *law enforcement agency* means any so designated agency on
26 Guam, including, but *not limited to*, the Guam Police Department, the

1 Jose D. Leon Guerrero Commercial Port Police, the Parole Services
2 Division of the Department of Corrections, the Judiciary of Guam,
3 Probation Division, the U.S. Probation Office, the U.S. Marshal Service,
4 the Conservation Office of the Department of Agriculture, the A. B. Won
5 Pat International Airport Authority Police, the Office of the Attorney
6 General – Prosecution and Family Divisions, the Judiciary of Guam
7 Marshals Division, the Air Force Office of Special Investigations, the
8 Naval Criminal Investigation Section, the Coast Guard Criminal
9 Investigation Section, the United States Army Criminal Investigation
10 Division, and other criminal investigators of the United States
11 Government. As Guam does *not* have a recognized law enforcement
12 Campus Police in Guam’s institutions of higher education, the Guam
13 Police Department is the recognized law enforcement agency with
14 jurisdiction over Guam’s institutions of higher education.

- 15 (n) The term *court* means the Superior Court of Guam, Judiciary of
16 Guam, District Court of Guam, or Island Court of Guam.
- 17 (o) The term *community* refers to the entire territorial boundaries of
18 Guam.
- 19 (p) The term *registrant* refers to persons required to register under this
20 Chapter, and is used interchangeably throughout this Chapter with the
21 word “sex offender”.
- 22 (q) The term *change in enrollment or employment status* means the
23 commencement *or* termination of enrollment *or* employment *or* a change
24 in location of enrollment *or* employment.
- 25 (r) The term *resides* means, with respect to an individual, the location of
26 the individual’s home *or* any other place where the individual habitually

1 lives or sleeps regardless of whether there is no fixed home or address in
2 the jurisdiction, so long as the individual lived in the jurisdiction for at
3 least thirty (30) days.

4 (s) For the purposes of this Chapter, a “resident” includes any individual
5 who either resides within Guam or who otherwise owns any real property
6 within Guam in fee or trust regardless of its location on Guam, who is
7 employed within Guam or employed by a corporation or organization
8 whose primary business address is on Guam, or who is a student or
9 attends an educational program within Guam, or who files their yearly
10 income taxes on Guam.

11 (t) The term *jurisdiction* refers to any of the following:

- 12 (1) a State;
- 13 (2) the District of Columbia;
- 14 (3) the Commonwealth of Puerto Rico;
- 15 (4) Guam;
- 16 (5) American Samoa;
- 17 (6) the Commonwealth of the Northern Mariana Islands;
- 18 (7) the United States Virgin Islands; and
- 19 (8) to the extent provided and subject to the requirements of 42
20 U.S.C. §16927, a federally recognized Indian tribe.

21 (u) *Immediate*. The term *immediate* or *immediately* when used in this
22 Chapter means within three (3) working days.

23 (v) *Imprisonment*. The term *imprisonment* or *imprisoned* refers to
24 incarceration pursuant to a conviction regardless of the nature of the
25 institution in which the offender serves the sentence. Sex Offenders
26 under “house arrest” following any conviction for any offense are

1 required to register pursuant to the provisions of this Chapter during the
2 period of “house arrest”.

3 (w) *Electronic Monitoring Device (EMD)*. The term *Electronic*
4 *Monitoring Device (EMD)* is a device that monitors the location of the
5 person wearing it through radio frequency, a Global Positioning Satellite
6 (GPS) network or other means of wireless networking, communication or
7 data transmission. Said devices may be *active* or *passive*. An *active*
8 *Electronic Monitoring Device* transmits location data on a real-time
9 current basis to a central monitoring station. A *passive Electronic*
10 *Monitoring Device* collects location data for a specified period of time
11 for subsequent upload to a centralized monitoring system.

12 (x) *Sex Offender*. The term *sex offender* refers to any person convicted of
13 an offense listed in §89.01(b), (c) or (d).

14 **§ 89.02. Classification of Offenders.**

15 (a) *Level One Offender*. Any person convicted of any of the following
16 offenses, including a conviction for an attempt or conspiracy to commit
17 any of the following offenses, *shall* be considered a Level One Offender.

18 (1) *A Sexually Violent Offense* as defined in §89.01(d)(1);

19 (2) *Guam Offenses*: Any conviction under the following statutes
20 and all of their subsections:

21 (A) Title 9 GCA §16.30;

22 (B) Title 9 GCA §22.20, wherein the victim of such crime is
23 a minor;

24 (C) Title 9 GCA §22.40, wherein the victim of such crime is
25 a minor;

1 (D) Title 9 GCA §22.50, wherein the victim of such crime is
2 a minor;

3 (E) Title 9 GCA §25.15, except for a conviction under
4 §25.15(2);

5 (F) Title 9 GCA §25.20, except for a conviction under
6 §25.20(2);

7 (G) Title 9 GCA §25.25;

8 (H) Title 9 GCA §28.49;

9 (I) Title 9 GCA §28.51;

10 (J) Title 9 GCA §31.15; or

11 (K) Title 9 GCA §70.35.

12 (3) *Federal Offenses*: Any conviction under the following statutes
13 and all of their subsections:

14 (A) 18 U.S.C. §2241;

15 (B) 18 U.S.C. §2242; or

16 (C) 18 U.S.C. §2244.

17 (4) *Military Offenses*. Any offense specified by the Secretary of
18 Defense under Section 115(a)(8)(c)(i) of Public Law 105-119
19 (codified at 10 U.S.C. §951 note) or any other conviction of an
20 offense under 10 U.S.C. §920 that is similar or comparable to those
21 offenses outlined in §89.02(a)(1), (2), (3) or (5).

22 (5) *Other Offenses*. Any offense in any jurisdiction or foreign
23 country which involves:

24 (A) non-parental kidnapping of a minor;

25 (B) a sexual act with another by force or threats;

1 (C) a sexual act with another who has been rendered
2 unconscious or involuntarily drugged, or who is otherwise
3 incapable of appraising the nature of the conduct or declining
4 to participate; or

5 (D) sexual contact with a minor fourteen (14) years of age or
6 younger, including offenses that cover sexual touching of or
7 contact with the intimate parts of the body, either directly or
8 through the clothing; or

9 (E) is similar or comparable to those offenses outlined in
10 §89.02(a)(1) or (2).

11 (6) *Recidivism.* Any sex offense that is punishable by more than
12 one (1) year in prison where the offender has at least one (1) prior
13 conviction for an offense listed in §89.02(b), or has previously
14 become a Level Two Offender.

15 (b) *Level Two Offender.* Any person *not* otherwise classified as a Level
16 One Offender, who is convicted of any of the following offenses,
17 including a conviction for an attempt or conspiracy to commit any of the
18 following offenses, *shall* be considered a Level Two Offender:

19 (1) *Guam Offenses*

20 (A) Generally. Any conviction for:

21 (i) criminal sexual conduct involving two (2) *or* more
22 victims;

23 (ii) two (2) *or* more separate criminal sexual conduct
24 offenses;

25 (iii) a criminal offense against a victim who is a minor,
26 involving two (2) *or* more minors;

1 (iv) two (2) *or* more separate criminal offenses against
2 a victim who is a minor; or

3 (v) one (1) *or* more separate criminal sexual conduct
4 offense and one (1) *or* more separate criminal offense
5 against a victim who is a minor.

6 (B) Specific Offenses: Any conviction under the following
7 statutes and all of their subsections:

8 (i) Title 9 GCA §28.20, wherein the victim of such
9 crime is a minor;

10 (ii) Title 9 GCA §28.25, wherein the victim of such
11 crime is a minor;

12 (iii) Title 9 GCA §28.30, wherein the victim of such
13 crime is a minor;

14 (iv) Title 9 GCA §28.52, wherein the victim of such
15 crime is a minor; or

16 (v) Title 9 ... §28.80, wherein the victim of such crime
17 is a minor.

18 (2) *Federal Offenses:* Any conviction under the following statutes
19 and all of their subsections:

20 (A) 18 U.S.C. §1591;

21 (B) 18 U.S.C. §2243;

22 (C) 18 U.S.C. §2244;

23 (D) 18 U.S.C. §2251;

24 (E) 18 U.S.C. §2251A;

25 (F) 18 U.S.C. §2252 (production or distribution of child
26 pornography);

1 (G) 18 U.S.C. §2252A (production or distribution of child
2 pornography);

3 (H) 18 U.S.C. §2260;

4 (I) 18 U.S.C. §2421;

5 (J) 18 U.S.C. §2422(b); or

6 (K) 18 U.S.C. §2423(a).

7 (3) *Military Offenses*: Any offense specified by the Secretary of
8 Defense under Section 115(a)(8) (c)(i) of Public Law 105-119
9 (codified at 10 U.S.C. §951 note) or any other conviction of an
10 offense under 10 U.S.C. §920 that is similar or comparable to those
11 offenses outlined in §89.02(b)(1), (2), (4).

12 (4) *Other Offenses*. Any offense in any jurisdiction or foreign
13 country which involves:

14 (A) the use of minors in prostitution, including solicitation;

15 (B) enticing a minor to engage in criminal sexual activity;

16 (C) sexual contact with a minor fourteen (14) years of age or
17 younger, whether directly or indirectly through the clothing,
18 that involves the intimate parts of the body;

19 (D) the use of a minor in a sexual performance;

20 (E) the production or distribution of child pornography; or

21 (F) is similar or comparable to those offenses outlined in
22 §89.02(b)(1).

23 (5) *Recidivism*. Unless otherwise covered under §89.02(a)(6), any
24 sex offense that is *not* the first sex offense for which an offender
25 has been convicted and that is punishable by more than one (1)
26 year imprisonment.

1 (c) *Level Three Offender.* Any person *not* otherwise classified as a
2 Level One Offender or Level Two Offender, who is convicted of any of
3 the following offenses, including a conviction for an attempt or
4 conspiracy to commit any of the following offenses, shall be considered a
5 Level Three Offender.

6 (1) *Guam Offenses.* Any conviction under the following statutes
7 and all of their subsections:

8 (A) Title 9 G.C.A. §22.30;

9 (B) Title 9 G.C.A. §25.15(2);

10 (C) Title 9 G.C.A. §25.20(2);

11 (D) Title 9 G.C.A. §25.25;

12 (E) Title 9 G.C.A. §25.30;

13 (F) Title 9 G.C.A. §25.35;

14 (G) Title 9 G.C.A. §28.50;

15 (H) Title 9 G.C.A. §28.65;

16 (I) Title 9 G.C.A. §89.01(b)(1);

17 (J) Title 9 G.C.A. §89.01(b)(3);

18 (K) any criminal sexual conduct offense not otherwise listed
19 in §89.02 (a), (b) or (c); or

20 (L) any criminal offense against a victim who is a minor not
21 otherwise listed in §89.02 (a), (b) or (c).

22 (2) *Federal Offenses.* Any conviction under the following statutes
23 and all of their subsections:

24 (A) 18 U.S.C. §1801;

25 (B) 18 U.S.C. §2252 (receipt or possession of child
26 pornography);

1 (C) 18 U.S.C. §2252A (receipt or possession of child
2 pornography);

3 (D) 18 U.S.C. §2252B;

4 (E) 18 U.S.C. §2252C;

5 (F) 18 U.S.C. §2422(a);

6 (G) 18 U.S.C. §2423(b);

7 (H) 18 U.S.C. §2423(c);

8 (I) 18 U.S.C. §2424; or

9 (J) 18 U.S.C. §2425;

10 (3) *Military Offenses.* Any offense specified by the Secretary of
11 Defense under Section 115(a)(8)(c)(i) of Public Law 105-119
12 (codified at 10 U.S.C. §951 note) or any other conviction of an
13 offense under 10 U.S.C. §920 that is similar or comparable to those
14 offenses outlined in §89.02(c)(1), (2), (4).

15 (4) *Other Offenses.* Any offense in any jurisdiction or foreign
16 country which involves:

17 (A) false imprisonment of a minor;

18 (B) video voyeurism of a minor;

19 (C) possession or receipt of child pornography; or

20 (D) is similar or comparable to those offenses outlined in
21 §89.02(c)(1).

22 **§ 89.03. Registration; Duty to Register.**

23 (a) *Persons Required to Register on Guam.* The following persons *shall*
24 have the absolute duty to register on Guam at the Judiciary of Guam,
25 Probation Division, pursuant to this Chapter:

1 (1) *Residents.* Any person who resides on Guam that has
2 been or is hereafter convicted of a sex offense; and

3 (2) *Non-Residents.* Any person who is a non-resident who is
4 on Guam for the purpose of being employed or as a student and
5 has been or is hereafter convicted of a sex offense.

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

7 (1) *Registrants required to provide information.* All persons
8 required to register *shall* provide all of the information detailed
9 in this Section to the Judiciary of Guam, Probation Division,
10 and the Judiciary of Guam, Probation Division, *shall* obtain all
11 of the information detailed in this Section from any person
12 required to register with Guam in accordance with this Chapter,
13 and *shall* implement any relevant policies and procedures
14 necessary to effectuate the intent of this code.

15 (2) *Digitized Format.* To the greatest extent possible, all
16 information obtained under this code *shall* be maintained by the
17 Judiciary of Guam, Probation Division, in a digitized format.

18 (3) *Sex Offender Registry Management System.* There is
19 hereby established a Sex Offender Registry, which the Judiciary
20 of Guam, Probation Division, *shall* maintain and operate
21 pursuant to the provisions of this Chapter, as amended. The sex
22 offender registry *shall* be maintained in an electronic database
23 by the Judiciary of Guam, Probation Division, and *shall* be in a
24 form capable of electronic transmission. This sex offender
25 registry may also be maintained in any other form in addition to
26 the electronic database described above.

1 (4) *Provided by the Offender.* The following information
2 must be registered and updated by any sex offender required to
3 register under this Chapter at the Judiciary of Guam, Probation
4 Division, or at the designated agency assigned to manage the
5 Sex Offender Registry Management System:

6 (A) *Name, Date of Birth, Social Security Number.* All
7 primary and given names, alias(es), nicknames, and
8 pseudonyms to include ethnic and tribal names (regardless
9 of the context in which they are used, actual date of birth
10 and any purported dates of birth, and actual social security
11 number and any purported social security numbers used, if
12 any, and any other identifying factors;

13 (B) *Residential and Physical Address.*

14 (i) Current physical address and mailing address, or if
15 the person is incarcerated, the address of the residence
16 where the person will be residing immediately upon
17 release and the mailing address the person plans to use
18 immediately upon release;

19 (ii) If a registrant does *not* have a fixed or definite
20 address, then a specific name, description and the
21 location of the place or places where the registrant
22 habitually lives, to include, but *not* be limited to,
23 information of a certain part of the city or village that
24 is the registrant's habitual locale, a park or spot on the
25 street where the registrant stations himself/herself
26 during the day or sleeps at night, any shelters or

1 temporary homeless shelters which the registrant
2 circulates, or places of public buildings, restaurants,
3 libraries, or other establishments that the registrant
4 frequents;

5 (iii) physical address and mailing address of any
6 anticipated future residence or any residence of
7 temporary lodging, wherein the offender leaves the
8 current residence for seven (7) days or more,
9 including any land line telephone numbers of the
10 anticipated future residence or temporary lodging,
11 pagers or cellular/mobile numbers that the offender
12 has access to or anticipates in having access to;

13 (C) *Employment Information.* Employer name, employer's
14 telephone numbers, physical address and mailing address of
15 current and/or anticipated employment, and if applicable,
16 transient/day labor information. If the employment requires
17 registrant to travel to different locales, then the registrant
18 shall provide the specific names and addresses of the other
19 locales;

20 (D) *Photograph.* A current photograph (paper records);

21 (E) *School Information.* Name and address of any place
22 where the sex offender is a student or will be a student,
23 including the name and address of any secondary school,
24 institution of higher education, trade school or professional
25 school (public or privately owned), and enrollment status;

1 (F) *Phone Numbers.* Any land line telephone numbers,
2 pagers, cellular/mobile numbers, or any other designations
3 used by the offender for purposes of routing or self-
4 identification in telephonic communications, that the
5 offender has access to or anticipates having access to;

6 (G) *Vehicle Information.* The license plate number and
7 description of any vehicle, which includes all land vehicles,
8 aircrafts, or watercrafts, whether owned or operated for
9 work or personal use, to include a description of the vehicle,
10 its permanent or frequent location;

11 (H) *Internet Identifiers.* Internet identifiers and all
12 designations used by sex offenders for purposes of routing
13 or self-identification in Internet communications or postings,
14 including email addresses, instant messaging addresses or
15 any other designation used in internet communication;

16 (I) *Driver's License and Identification Card.* A photocopy
17 of all valid driver's licenses or identification cards, if any,
18 issued to the offender by any and all jurisdictions;

19 (J) *Passport and Immigration Documents.* A photocopy of
20 all passport and immigrations documents, if any, issued to
21 the offender by any and all countries and jurisdictions;

22 (K) *Professional Licensing Information.* Professional
23 Licensing Information, to include all licensing in which the
24 registrant has obtained or had previously obtained which
25 authorizes the registrant to engage in an occupation or carry
26 out a trade or business. This includes any information as to

1 the name, place of employment and contact information as
2 required in this Section, as well as any organization or
3 business wherein the professional license was obtained and
4 to which the registrant is affiliated or has some financial
5 stake in;

6 (L) *International Travel.* Any intended travel plans or
7 arrangements that the sex offender has, whether such travel
8 is to an international jurisdiction or within the United States
9 or its territories. The Offender *shall* provide such travel
10 plans or arrangements at least twenty-one (21) days in
11 advance of such travel. Information provided by the sex
12 offender *shall* include the destination and any other
13 information requested by the Judiciary of Guam, Probation
14 Office or the designated Guam agency in charge of
15 managing the Sex Offender Registry; and

16 (M) *Miscellaneous.* Any other information as may be
17 deemed appropriate by the Judiciary of Guam, Probation
18 Office or the designated Guam agency in charge of
19 managing the Sex Offender Registry.

20 (5) *Provided by Guam.* The Judiciary of Guam, Probation
21 Office, or the designated agency that manages Guam's Sex
22 Offender Registry in which the sex offender registers *shall*
23 ensure that the following information is included in the Guam
24 Sex Offender Registry for that sex offender:

25 (A) *Physical Description.* A physical description of the
26 offender, to include a written general physical description of

1 the offender and any distinguishing physical characteristics
2 or marks such as birthmarks, scars, moles, and tattoos, and
3 its location on the offender. A photograph of any such
4 distinguishing physical characteristics or marks should be
5 included if possible, but is *not* required;

6 (B) *Photograph*. A current photograph of the offender
7 (digitized form);

8 (C) *Driver's License and Identification Card*. A photocopy
9 of all valid driver's licenses or identification cards, if any,
10 issued to the offender by any and all jurisdictions (digitized
11 form);

12 (D) *Passport and Immigration Documents*. A photocopy of
13 all passport and immigration documents, if any, issued to the
14 offender by any and all countries and jurisdictions (digitized
15 form);

16 (E) *Criminal History*. Criminal history, including the date
17 of all arrests and convictions, the status of parole, probation,
18 or supervised release, registration status, all relevant
19 information related to the underlying crime which triggered
20 the registration requirements of this Chapter, any sex
21 offender registration status, and any outstanding arrest
22 warrants;

23 (F) *Treatment Documentation*. Documentation of any
24 treatment that the sex offender has completed, is currently
25 undergoing, or wherein the sex offender has been ordered to

1 attend and complete by any court on Guam, as defined under
2 §89.01(n);

3 (G) *Fingerprints and Palm Prints*. Fingerprints and palm
4 prints;

5 (H) *DNA Sample*. A DNA sample of the offender;

6 (I) *Text of Registration of Offense*. The text of the provision
7 of law defining the criminal offense for which the sex
8 offender is registered;

9 (J) *Notice and Acknowledgement Form of Registration*
10 *Requirements*. All sex offenders will sign and acknowledge
11 a notice and acknowledgement form which *shall* provide
12 information regarding the registration requirements and
13 duties of sex offenders. The sex offender will be required to
14 sign an acknowledgement that the information of the
15 registration requirements have been provided upon their
16 initial registration, and an original, photocopy, or electronic
17 copy of the offender's notice form signed *shall* be made
18 available on Guam's sex offender registry; and

19 (K) *Miscellaneous*. Any other information as may be
20 deemed appropriate by the Judiciary of Guam, Probation
21 Division, or the designated Guam agency in charge of
22 managing the Sex Offender Registry.

23 (6) *Exemptions*.

24 (A) *Federally Protected Witnesses*. Where the person
25 required to register is a Federally protected witness, the
26 person *shall not* be required to provide a photograph,

1 alias(es), and original name, place of offense, date of birth,
2 social security number or prior residence.

3 (B) *Pardoned Convict or Conviction Reversed Upon Appeal.*

4 The duty to register under this Chapter *shall not* be
5 applicable to any sex offender whose conviction was
6 reversed upon appeal, or who was pardoned by *I*
7 *Maga'lahaen Guåhan*, or who has been pardoned by the
8 designated agency or individual of any jurisdiction as
9 defined in this code.

10 (c) *Biological Samples.*

11 (1) Every person convicted in court of a criminal sexual
12 conduct offense, or of a criminal offense against a victim who is
13 a minor, *shall* provide a biological sample to the Guam Police
14 Department for DNA profile information typing upon
15 conviction.

16 (2) Every person who was convicted in court of a criminal
17 sexual conduct offense or of a criminal offense against a victim
18 who is a minor and is incarcerated on the effective date of this
19 law *shall* provide a biological sample for DNA profile
20 information *no later than* ninety (90) calendar days after the
21 effective date of this law.

22 (3) Every person who was convicted in court of a criminal
23 sexual conduct offense or of a criminal offense against a victim
24 who is a minor and is released on parole or probation *shall*
25 provide a biological sample for DNA profile information to the
26 Guam Police Department at the time of that person's initial

1 registration or within thirty (30) working days of initial
2 registration.

3 (4) Every person required to register pursuant to §89.03(a)
4 *shall* provide a biological sample to the Guam Police
5 Department for DNA profile information at the time of that
6 person's initial registration on Guam or within thirty (30)
7 working days upon conviction.

8 (5) Intentional or knowing failure to provide a biological
9 sample *shall* have the same penalty as a failure to provide initial
10 registration information, which is a felony of the third degree as
11 noted under §89.05(f).

12 (6) All biological samples for DNA profile information
13 typing that is provided to the Guam Police Department pursuant
14 to this Subsection *shall* be submitted for analysis and entry of
15 the resulting DNA profile into the Combined DNA Index
16 System (CODIS).

17 (d) *Registration Requirements for Persons Required to Register Pursuant*
18 *to §89.03(a); Initial Registration; Penalty.*

19 (1) *Registry Requirements for Sex Offenders, In General.*

20 All persons required to register must register, and keep the
21 registration current, in each jurisdiction where the offender
22 resides, where the offender is an employee, and where the
23 offender is a student.

24 (2) *Initial Registration, In General.* All sex offenders *shall*
25 initially register:

1 (A) before completing a sentence of imprisonment with
2 respect to the offense giving rise to the registration
3 requirements, if the person is so incarcerated on or after the
4 date of the enactment of this statute. Intentional or knowing
5 failure to provide this information shall result in the delay of
6 that person's release;

7 (B) *no later than* three (3) working days after being
8 sentenced for that offense, if the sex offender is not
9 sentenced to a term of imprisonment, if the person is
10 sentenced on or after the date of the enactment of this
11 statute;

12 (C) *no later than* the date the person is scheduled to be
13 placed on probation. Intentional or knowing failure to
14 provide this information by that date *shall* result in the
15 revocation of the person's probation and *shall* make that
16 person ineligible for probation;

17 (D) *no later than* three (3) working days after arrival on
18 Guam;

19 (E) if the registrant is on probation in another jurisdiction
20 and that registrant's probation is to be transferred to Guam,
21 then the Judiciary of Guam, Probation Division, may obtain
22 the necessary information from the office of probation or
23 parole of the jurisdiction from where the registrant came;
24 said registrant is required to verify the registered
25 information as required by this Chapter *no later than* three
26 (3) calendar days after the person's arrival on Guam.

1 (3) *Where a Person Identified as a Person Required to*
2 *Register is on Supervised Parole or Probation at the Time of*
3 *the Passage of This Law and Is Not Currently Registered.*

4 Initial registration information must be provided to the
5 Judiciary of Guam, Probation Division, Sex Offender Registry
6 Management Office *no later than* ninety (90) calendar days
7 after the effective date of this law. Intentional or knowing
8 failure to register pursuant to this Subsection is a felony of the
9 third degree, as noted under §89.05(a).

10 (4) *Where a Person Required to Register is No Longer*
11 *Under the Supervision of Either Probation or Parole at the*
12 *Time of the Passage of This Law and Is Not Currently*

13 *Registered.* Sex offenders required to register pursuant to this
14 Chapter who fall within this category type *shall* have the
15 absolute duty to report to and register with the Judiciary of
16 Guam, Probation Division, Sex Offender Registry Management
17 Office. Intentional or knowing failure to register pursuant to
18 this Subsection is a felony of the third degree, as noted under
19 §89.05(a).

20 (5) *Conviction Jurisdiction.* Any person who has been or is
21 convicted on Guam that is required to register under this
22 Chapter, but does *not* plan to reside in Guam, be employed on
23 Guam, or register or enroll in a school on Guam, and upon
24 release will reside in another jurisdiction, be employed or will
25 be registering or enrolling in a school in another jurisdiction,
26 *shall* still be required to register initially in Guam, and upon

1 relocating to the other jurisdiction, the registrant *shall* be
2 required to make an in-person registration appearance within
3 three (3) working days of commencing residence or
4 employment in that jurisdiction.

5 (6) *Incarceration Jurisdiction.* Any person who has been
6 convicted in another jurisdiction, other than in Guam, but the
7 person will be released from custody of the conviction
8 jurisdiction and released to the custody of Guam and
9 incarcerated on Guam, such registrant, prior to the registrant
10 being released from incarceration on Guam, *shall* be required
11 to initially register in-person on Guam.

12 (e) *Registration Requirements; Frequency, Verification, Duration, and*
13 *Reduction.*

14 (1) A registrant must verify their registration in person with
15 the Judiciary of Guam, Probation Division, in the manner
16 specified in this Section. At each in-person verification the sex
17 offender *shall*:

18 (A) permit the Judiciary of Guam, Probation Division, to
19 take a photograph of the offender, and

20 (B) review existing information for accuracy and update, as
21 necessary, any changes to existing registration information.

22 (2) *Level One Offender.* A person who is a Level One
23 Offender *shall* verify the following registered information
24 ninety (90) calendar days from the date of initial registration;
25 and *shall* appear in person once every ninety (90) calendar days
26 thereafter to verify and update their registration information for

1 the rest of their lives. *If* the ninetieth (90th) day falls on a
2 weekend *or* holiday, the registrant *shall* appear on the following
3 working day.

4 (3) *Level Two Offender.* A person who is a Level Two
5 Offender *shall* verify the following registered information one
6 hundred eighty (180) calendar days from the date of initial
7 registration; and *shall* appear in person once every one hundred
8 eighty (180) calendar days thereafter to verify and update their
9 registration information for the rest of their lives. *If* the one
10 hundred eightieth (180th) day falls on a weekend *or* holiday, the
11 registrant *shall* appear on the following working day.

12 (4) *Level Three Offender.* A person who is a Level Three
13 Offender *shall* verify the following registered information one
14 (1) year from the date of the registrant's initial registration; and
15 *shall* appear in person once every year thereafter to verify and
16 update their registration information for fifteen (15) years. *If*
17 the date the registrant is to verify falls on a weekend *or* holiday,
18 the registrant *shall* appear on the following working day.

19 (5) If any new information or change in information is
20 obtained at an in-person verification, the Judiciary of Guam,
21 Probation Division, *shall* immediately notify:

22 (A) all other jurisdictions in which the sex offender is
23 required to register of the information or change in
24 information;

25 (B) the Guam Police Department; and

1 (C) any other appropriate governmental agency as
2 determined by the Judiciary of Guam, Probation Division.

3 (f) *Keeping the Registration Current.* A sex offender who is a resident of
4 Guam shall:

5 (1) *no later than* three (3) working days after each change of
6 name, residence, employment, student status, or termination of
7 residence, appear in person at the Judiciary of Guam, Probation
8 Division, and inform the Judiciary of Guam, Probation Division
9 of all changes in the information required for that sex offender
10 in the sex offender registry. *If* a registrant anticipates moving
11 from Guam, that registrant shall register in person his intended
12 place of residence with the Judiciary of Guam, Probation
13 Division, *no later than* three (3) calendar days before his
14 departure from Guam; and

15 (2) *no later than* three (3) working days after each change in
16 temporary lodging information, vehicle information, internet
17 identifiers, or telephone numbers, immediately notify the
18 Judiciary of Guam, Probation Division, and inform the
19 Judiciary of Guam, Probation Division, of all changes in the
20 information required for that sex offender in the sex offender
21 registry.

22 (3) The Judiciary of Guam, Probation Division, shall
23 immediately provide the updated information, via electronic
24 forwarding, to:

25 (A) all other jurisdictions in which the sex offender is
26 required to register;

1 (B) the Guam Police Department; and

2 (C) any other appropriate governmental agency as
3 determined by the Judiciary of Guam, Probation Division.

4 (g) *Registration Requirement; Guam Residents Who are Employed, Carry*
5 *on a Vocation, or are Students in Another Jurisdiction.* A person
6 who is required to register on Guam and who is employed, carries on
7 a vocation, *or* is a student in another jurisdiction *shall* also register in
8 that other jurisdiction pursuant to the registration requirements of that
9 jurisdiction.

10 (h) *Registration Requirement; Sex offenders Who Move to Another*
11 *Jurisdiction.* When a sex offender who is required to register on Guam
12 anticipates moving to another jurisdiction, that registrant *shall* report
13 the change of address to the Judiciary of Guam, Probation Division,
14 pursuant to the requirements of this Chapter, *and* comply with any
15 registration requirement of the new jurisdiction.

16 **§ 89.04. Duration of Registration.**

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

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

22 (b) *Fifteen (15) Years; Level Three Offenders.* A Level Three
23 Offender must comply with this Chapter for a period of fifteen
24 (15) years from the date of that person's initial registration.

25 (c) *Where Conviction Reversed, Vacated or Set Aside or Where*
26 *Registrant Pardoned.* Notwithstanding subsections (a) and (b)

1 of this Section, where the underlying conviction is reversed,
2 vacated *or* set aside, *or if* the person is pardoned of the crime
3 which triggered the registration requirement of this Chapter,
4 registration is *no longer* required.

5 (d) *Tolling of Registration Requirement.* If a registrant is re-
6 incarcerated for violations of release conditions imposed in the
7 same crime, *or* for the commission of another crime, *or* the
8 registrant is civilly committed, *or* if the registrant leaves to a
9 foreign country and informs the Judiciary of Guam, Probation
10 Division, then the period of registration is tolled and remains
11 tolled until the registrant's subsequent release *or* arrival in
12 another jurisdiction. Thereafter, the registrant *shall*
13 recommence and continue registering for the remaining period
14 of time the registrant is required to register.

15 **§ 89.05. Penalties.**

16 (a) *Initial Registration.* Intentional *or* knowing failure to provide initial
17 registration information *shall* delay the registrant's release *if* the registrant
18 is to be released, *or* make the registrant ineligible for probation *if* the
19 registrant is to be placed on probation. Intentional *or* knowing failure to
20 provide initial registration information is a felony of the third degree.

21 (b) *Verification.* The failure to verify registered information is a felony
22 of the third degree. A second *or* subsequent failure to so register is a
23 felony of the second degree. Failure of a probationer *or* parolee to so
24 register may result in sanctions pursuant to Title 8 GCA §80.66 and Title
25 9 GCA §80.82, *respectively*.

1 (c) *Address Changes.* A registrant's failure to register the registrant's
2 new physical and mailing address within three (3) calendar days of any
3 change of physical and mailing address is a felony of the third degree. A
4 second *or* subsequent failure to so register is a felony of the second
5 degree. Failure of a registrant who is a probationer *or* parolee to so
6 register may result in sanctions pursuant to Title 9 GCA §80.66 and Title
7 9 GCA §80.82, respectively.

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

11 (e) *Enrollment or Employment at an Institution of Higher Education.* A
12 registrant's failure to update enrollment *or* employment at an institution
13 of higher education *or* termination of such enrollment *or* employment at
14 an institution of higher education with the Judiciary of Guam, Probation
15 Division, within three (3) calendar days of any change would constitute a
16 failure to register *or* keep such registration current and is a felony of the
17 third degree.

18 (f) *Failure to Provide Biological Sample.* Intentional *or* knowing failure
19 to provide biological samples for DNA profile information to the Guam
20 Police Department pursuant to this Chapter is a felony of the third
21 degree.

22 **§ 89.06. Failure to Appear for Registration, Absconding and Failure to**
23 **Register.**

24 (a) *Failure to Appear.* In the event a sex offender fails to register on Guam as
25 required by this Chapter, then the Judiciary of Guam, Probation Division, or
26 designee *shall* immediately inform the jurisdiction that provided notification

1 that the sex offender was to commence residency, employment, or school
2 enrollment on Guam, and that the sex offender failed to appear for
3 registration.

4 (b) *Absconded Sex Offenders*. If the Judiciary of Guam, Probation Division, or
5 its designee receives information that a sex offender has absconded, then the
6 Judiciary of Guam, Probation Division, shall make an effort to determine if
7 the sex offender has actually absconded.

8 (1) In the event that *no* determination can be made, the Judiciary
9 of Guam or designee *shall* ensure that the Guam Police
10 Department and other local law enforcement agencies are
11 notified so that a proper investigation may be conducted.

12 (2) *If* the information indicating the possible absconding came
13 through notice from another jurisdiction or federal authorities, the
14 other jurisdiction or the federal authorities *shall* be informed that
15 the sex offender failed to appear and register.

16 (3) *If* an absconded sex offender cannot be located by the Guam
17 Police Department after the matter had been forwarded for
18 investigation, then the Guam Police Department *shall* inform the
19 Judiciary of Guam, Probation Division, and the Judiciary of
20 Guam, Probation Division, *shall* take the forthcoming steps:

21 (A) update the registry to reflect the sex offender has
22 absconded or is otherwise *not* capable of being located;

23 (B) notify the U.S. Marshals;

24 (C) *if* all legal requirements are met to obtain a federal
25 warrant of arrest, then the U.S. Marshals Service or the
26 Federal Bureau of Investigations may be contacted in an

1 attempt to obtain a federal warrant for the sex offender's
2 arrest;

3 (D) update the National Sex Offender Registry (NSOR) to
4 reflect the sex offender's status as an absconder, or is
5 otherwise *not* capable of being located; and

6 (E) enter the sex offender into the National Crime
7 Information Center Wanted Persons File.

8 (c) *Failure to Register.* In the event a sex offender who is required to register
9 due to their employment or school attendance status fails to do so or otherwise
10 violate a registration requirement of this Chapter, then the Judiciary of Guam,
11 Probation Division, shall take all appropriate follow-up measures including
12 those outlined in the above Section. The Judiciary of Guam, Probation
13 Division, shall first make an effort to determine if the sex offender is actually
14 employed or attending or enrolled in school within its jurisdiction.

15 **§ 89.07. Duties of the Department of Corrections and the Parole Services**
16 **and Probation Division of the Judiciary of Guam; Initial Registration.**

17 *If* a registrant is placed on parole *or* placed on probation, or prior to the
18 registrant being released from incarceration, the Department of Corrections, the
19 Parole Services Division, *or* the Judiciary of Guam, Probation Division, shall:

20 (a) inform the registrant of the duty to register;

21 (b) ensure that the sex offender completes his/her initial registration pursuant to
22 this Chapter;

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

25 (d) forward information described in (c) above to the Judiciary of Guam,
26 Probation Division, within three (3) calendar days after receipt thereof; and

1 (e) ensure any registration information is promptly made available to the
2 Judiciary of Guam, Probation Division.

3 **§ 89.08. Duties of the Guam Police Department.**

4 The Guam Police Department *shall*:

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

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

11 (c) forward information described in (b) above to the Judiciary of Guam,
12 Probation Division, within three (3) calendar days after receipt thereof;

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

17 (e) collect and keep records of fingerprints and palm prints from the registrant
18 and also distribute cards containing such prints to the Judiciary of Guam,
19 Probation Division, to submit such fingerprints and palm prints to the
20 Federal Bureau of Investigation within twenty-four (24) hours of collection
21 and to any local entity that may be Guam's central repository for fingerprints
22 or palm prints.

23 **§ 89.09. Duties of the Judiciary of Guam.**

24 (a) *Repository*. The Judiciary of Guam *shall* be the central repository for all
25 registration information gathered pursuant to this Chapter, in addition to all
26 criminal history records information.

1 (b) *Sole Source of Submission of Information to the Federal Bureau of*
2 *Investigation (FBI) and the National Crime Information Center (NCIC).*

3 The Judiciary of Guam, Probation Division, shall enter all registration
4 information into the NCIC system and National Sex Offender Registry
5 (NSOR) *no later than* three (3) working days after receipt of such
6 information. The Judiciary of Guam, Probation Division, shall forward the
7 fingerprints and palm prints to the FBI for inclusion in the appropriate
8 databases.

9 (c) *Notification of Local Law Enforcement Agencies Regarding Changes of*
10 *Address; Relocation from Guam.* Upon receipt of information that the

11 registrant is anticipated to relocate from Guam to another jurisdiction, the
12 Judiciary of Guam, Probation Division, *shall* immediately notify the
13 jurisdiction to which the registrant is relocating and *shall* transmit the
14 address of the registrant's anticipated residence to the FBI *no later than*
15 three (3) working days of receipt of such information.

16 (d) *Notification of FBI Regarding Changes of Address.* Upon receipt of
17 information that the registrant is *or* has changed residence within Guam, *or*

18 is anticipated to relocate from Guam to another state, territory *or* tribe, the
19 Judiciary of Guam, Probation Division, *shall* transmit the new address to the
20 FBI *no later than* three (3) working days after receipt of such information.

21 (e) *Release of Information.* The Judiciary of Guam, Probation Division, shall
22 ensure that all of the registrant's information that is required to be released
23 under this Chapter is properly and timely released.

24 (f) *Fees.* The Judiciary of Guam, Probation Division, is authorized to collect
25 reasonable registration fees from registrants. Such fees *shall* be used for the
26 maintenance and support of the sex offender registration and notification

1 program. One hundred percent (100%) of the fee paid by the registrant *shall*
2 be given to the Judiciary of Guam, Probation Division.

3 **§ 89.10. Duties of the Judiciary of Guam in Managing the Sex Offender**
4 **Registry.**

5 The Judiciary of Guam *shall*:

- 6 (a) supervise, upkeep, and maintain the Crimes Against Minors and Sex
7 Offender Registry;
- 8 (b) inform the registrant of his/her registration duties under this Chapter;
- 9 (c) ensure that any person required to register under this Chapter has read
10 and signed a form stating that the registrant's duty to register under this
11 Chapter has been explained;
- 12 (d) receive and obtain initial registration and registration verification
13 information from all persons required to register under this Chapter, and
14 enter such information into the Sex Offender Registry database;
- 15 (e) supervise the release of verified information, as required in this
16 Chapter;
- 17 (f) perform all other duties necessary to ensure the proper maintenance of
18 the Sex Offender Registry and to ensure that all registrants comply with
19 their registration duties as set out in this Chapter; and
- 20 (g) publish, every year, a notification in any publication of general
21 circulation informing all persons required to register pursuant to this
22 Chapter of their duty of register. Such notification *shall* include, but is
23 *not limited to*, the following:
- 24 (1) the provision requiring the duty to register;
- 25 (2) the provision stating the information that is required to be
26 registered;

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

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

4 (5) the contact information and name of the person from whom
5 persons required to register can receive further information regarding
6 registration requirements.

7 (h) *Local Appropriations to Fund Sex Offender Registry.* *I Liheslaturan*
8 *Guahan* shall hereby appropriate a reasonable amount from the General
9 Fund as part of the budget of the respective agency who is assigned to
10 implement, maintain, and operate the Sex Offender Registry. Such
11 budget shall be used by the respective agency for the implementation,
12 maintenance, and support of the Sex Offender Registration and
13 Notification Program.

14 **§ 89.11. Notification.**

15 (a) *Public Sex Offender Registry Website.* There is hereby established a
16 public sex offender registry website, which the Judiciary of Guam,
17 Probation Division, shall maintain and operate pursuant to the provisions
18 of this Chapter, as amended.

19 (b) *Functionality.* The Judiciary of Guam, Probation Division, *shall*,
20 within the Public Sex Offender Registry Website, provide for:

21 (1) a searchable database of all Sex Offenders that *shall* have the
22 capability of conducting searches by (A) name, (B) county, city and/or
23 town, and (C) zip code and/or geographic radius;

24 (2) a mechanism to allow visitors to subscribe, through an electronic
25 mail (e-mail) address, to notification of any updates *or* changes made
26 to the Sex Offender Registry;

1 (3) links, to the extent practicable, to sex offender safety and
2 education resources;
3 (4) instructions on how to seek correction of information that an
4 individual contends is erroneous; and
5 (5) a warning that information on the site should *not* be used to
6 unlawfully injure, harass, *or* commit a crime against any individual
7 named in the registry *or* residing *or* working at any reported address,
8 and such warning *shall* note that any such action could result in civil
9 *or* criminal penalties.

10 (c) *Dru Sjodin National Sex Offender Public Website*. The Judiciary of
11 Guam, Probation Division, *shall* include in the design of its website all
12 field search capabilities needed for full participation in the Dru Sjodin
13 National Sex Offender Public Website, and *shall* participate in that
14 website as provided by the Attorney General of the United States.

15 (d) *Information on the Public Sex Offender Registry Website*. The
16 following information *shall* be made available to the public on the sex
17 offender registry website:

- 18 (1) notice that an offender is in violation of their registration
19 requirements or cannot be located if the sex offender has absconded;
20 (2) all sex offenses for which the sex offender has been convicted,
21 which should include the text of the registration offense;
22 (3) the sex offense(s), including the text of the registration offense, for
23 which the sex offender is currently registered;
24 (4) the address of the sex offender's employer;
25 (5) the name of the sex offender including all aliases, nicknames,
26 pseudonyms, and tribal or ethnic names;

- 1 (6) a current photograph of the sex offender;
- 2 (7) a physical description of the sex offender;
- 3 (8) the residential address, and if relevant, a description of a habitual
- 4 residence of the sex offender;
- 5 (9) all addresses of schools in which the sex offender attends or is
- 6 enrolled in; and
- 7 (10) the sex offender's vehicle license plate number, along with a
- 8 description of the vehicle;

9 (e) *Prohibited Information.* The following information *shall not* be
10 available to the public on the sex offender registry website:

- 11 (1) any arrest that did *not* result in conviction;
- 12 (2) the sex offender's social security number;
- 13 (3) any travel and immigration documents;
- 14 (4) the identity of the victim; and
- 15 (5) any Internet Identifiers.

16 (f) *Victims.* The identity of the victim *or* any information that may
17 identify the victim is strictly prohibited under this Chapter.

18 (g) *Re-incarceration.* In the event that a registrant is re-incarcerated for
19 any reason, the information that the registrant is re-incarcerated, and the
20 reason(s) for such re-incarceration, *shall* be released to the community.

21 (h) *Method of Release of Information.* The Judiciary of Guam, Probation
22 Division, shall maintain the Public Sex Offender Registry Website and it
23 *shall* be updated immediately after a registrant registers, *or* updates
24 registered information. The community *shall* have access to the Sex
25 Offender Registry Web Page. The Judiciary of Guam, Probation
26 Division, *shall* transmit a notice of any updates to registration

1 information concerning any sex offender to the Guam Department of
2 Education, the Guam Community College, the University of Guam, the
3 Department of Administration, the Department of Labor & Agency for
4 Human Resources Development, the Department of Public Health &
5 Social Services, the Department of Youth Affairs, the Child Protective
6 Services Agency, the Office of the Attorney General, all public and
7 private schools, day care centers, victim shelters and victim advocates,
8 within three (3) calendar days with the information in which such
9 registration information can be found. The Judiciary of Guam, Probation
10 Division, may transmit such information and fulfill the requirement of
11 this Section by use of an email notification system described in §89.10(j),
12 below. The Judiciary of Guam, Probation Division, may transmit any
13 information concerning all sex offenders directly to the media for
14 dissemination.

15 (i) *Law Enforcement Notification.* Whenever a sex offender registers or
16 updates his or her information with Guam, the Judiciary of Guam,
17 Probation Division, *shall*:

18 (1) immediately notify the FBI or other federal agency as designated
19 by the Attorney General in order that the information may be updated
20 on the National Sex Offender Registry (NSOR), or other relevant
21 database;

22 (2) immediately notify any agency, department, or program with
23 Guam responsible for criminal investigation, prosecution of child
24 welfare, or sex offender supervision functions, which will include the
25 Guam Police Department, Child Protective Services, Office of the
26 Attorney General, and the Judiciary of Guam, Probation Division;

1 (3) immediately notify any and all other registration jurisdictions
2 where the sex offender is registered due to the sex offender's
3 residency, school enrollment or employment;

4 (j) *Community Notification.* The Judiciary of Guam, Probation Division,
5 *shall* ensure there is an automated community notification process in
6 place that ensures the following:

7 (1) that upon a sex offender's registration or update of information
8 with Guam, Guam's public sex offender registry website is
9 immediately updated within (3) working days;

10 (2) that Guam's public sex offender's registry has a function that
11 enables the general public to request email notices that will notify the
12 person requesting such information when a sex offender commences
13 residence, employment or school enrollment on Guam, within a
14 specified zip code, or within a certain geographic radius. This email
15 notice *shall* include the sex offender's identity so that the public can
16 access the public registry for the new information.

17 (k) *Verification of Names on Sex Offender Registry.* Entities within the
18 government of Guam may request the Judiciary of Guam, Probation
19 Division, to verify the identities of individuals registered on the Sex
20 Offender Registry for the purposes of employment.

21 (l) *Notice of Change.* The Judiciary of Guam, Probation Division, shall,
22 upon the passage of this Act, provide for education to the community
23 through a notice to the public of changes made by this Chapter requiring
24 all convicted sex offenders to register with the Sex Offender Registry.
25 Such education may include sending of information to local schools,
26 notice in a publication of general circulation, notices to various local

1 media entities, and actively promoting safety through and awareness of
2 the Guam Sex Offender Registry.

3 **§ 89.12. Immunity for Good Faith Conduct.** Law enforcement agencies,
4 their employees and government of Guam officials *shall* be immune from any civil
5 *or* criminal liability for good faith conduct under this Chapter, *unless* it is shown
6 that the agency, employee, government official *or* board member acted with gross
7 negligence *or* in bad faith.

8 **§89.13. Electronic Monitoring of Sex Offenders.**

9 (a) The Superior Court may order that a sex offender wear an
10 *electronic monitoring device*, as defined by § 89.01 (w) of this Chapter, for
11 any portion of *or* all of the duration of his probation, as a condition of his
12 probation. The offender *shall* pay for the purchase *or* lease of the electronic
13 monitoring device, provided that the Court may order that the cost or a
14 portion thereof be paid by the Court.

15 (b) If a sex offender is released on parole from incarceration, the
16 Territorial Parole Board *may* require, as a condition of his parole, that the
17 offender wear an *electronic monitoring device* as defined by § 89.01(w) of
18 this Chapter, for any portion of *or* all of the duration of his parole. The
19 offender *shall* pay for the purchase *or* lease of the electronic monitoring
20 device, provided that the Parole Board may direct that the cost or a portion
21 thereof be paid by the Parole Office.

22 (c) The Supreme Court of Guam *shall* enact rules and regulations,
23 pursuant to the Administrative Adjudication Law, to effectuate Subsections
24 (a) and (b) herein. Said rules *shall* include a means of determining EMD
25 costs and assessing the offenders therefor.

1 (d) Any person(s) who disables *or* attempts to disable *or* otherwise
2 render wholly *or* partially unusable, an electronic monitoring device defined
3 in § 89.01(w) of this Chapter, while being used by an “offender” as defined
4 by §89.02 of this Chapter, commits a third degree felony. The penalty for
5 such felony *shall* be re-incarceration for the remainder of the original
6 sentence, inclusive of any probationary period, *and* an additional sentence of
7 confinement of *not less than* one (1) year and *no more than* five (5) years.
8 Such additional sentence *shall* run subsequent to the original sentence.”