



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Refer to
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 11-09-99
Time: 10:25
Rec'd by: [Signature]
Print Name: [Signature]
0525/99-0346

NOV 09 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 299 (COR) "AN ACT TO ADD CHAPTER 89 TO TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A CRIMES AGAINST MINORS AND A SEX OFFENDER REGISTRY, AND TO PROVIDING A MEANS OF NOTICE TO THE COMMUNITY OF THOSE WHO ARE REGISTERED", which I have signed into law today as **Public Law No. 25-75**.

This legislation is required by the federal government as a condition for the use of federal funds. Unless enacted, the federal government will penalize the government of Guam 10% of federal funds for law enforcement purposes, every 2 years.

I Liheslatura, the legislature, has determined that this registry is necessary. Although the effects of this type of registry in a small insular community are not yet determined, it may be effective in the deterrence of crime and in increasing the safety in the community.

Very truly yours,

[Signature]
Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

05548

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: [Signature]
Time: 2:15 PM
Date: 11/9/99

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session


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

This is to certify that Substitute Bill No. 299 (COR) "AN ACT TO ADD CHAPTER 89 TO TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A CRIMES AGAINST MINORS AND A SEX OFFENDER REGISTRY, AND TO PROVIDING A MEANS OF NOTICE TO THE COMMUNITY OF THOSE WHO ARE REGISTERED," was on the 1st day of November, 1999, duly and regularly passed.



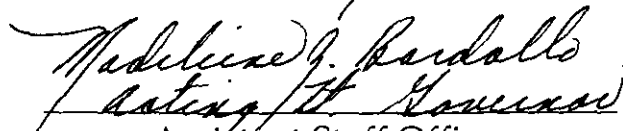
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 1st day of November, 1999,
at 9:55 o'clock P.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 11-9-99

Public Law No. 25-75

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 299 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and
Human Resources Development, and
as further substituted on the Floor of the
Committee of the Whole and amended.

Introduced by:

J. C. Salas

K. S. Moylan

A. R. Unpingco

Mark Forbes

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

L. F. Kasperbauer

A. C. Lamorena, V

C. A. Leon Guerrero

V. C. Pangelinan

S. A. Sanchez, II

**AN ACT TO ADD CHAPTER 89 TO TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A CRIMES AGAINST MINORS AND
A SEX OFFENDER REGISTRY, AND TO PROVIDING
A MEANS OF NOTICE TO THE COMMUNITY OF
THOSE WHO ARE REGISTERED.**

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

2 **Section 1. Legislative Findings and Intent.** The crime of criminal
3 sexual conduct and the various forms of crimes against children are serious
4 problems on our Island, and persons convicted of these crimes are a danger to
5 the people of our community, both at the Village level and at the entire Island
6 level. The purpose and objective of this Act is to protect the people of our
7 community, and most particularly our children, from child and sex offenders,
8 especially violent sex offenders.

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

11 **"CHAPTER 89.**

12 **CRIMES AGAINST MINORS AND SEX OFFENDER**

13 **REGISTRY.**

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

15 (a) '*Minor*' means persons below the age of eighteen (18).

16 (b) '*Criminal offense against a victim who is a minor*' means
17 any criminal offense that consists of any of the following:

18 (1) felony kidnapping, felonious restraint, felony
19 child stealing and custodial interference, as defined and
20 punished in Chapter 22 of Title 9 of the Guam Code
21 Annotated, *Kidnapping, and Related Offenses*, where the
22 victim is a minor;

23 (2) promoting prostitution, abetting prostitution,
24 compelling prostitution, as defined and punished in Article

1 of Chapter 28 of Title 9 of the Guam Code Annotated,
2 *Prostitution*, where the individual committing or engaging in
3 prostitution is a minor;

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

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

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

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

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

22 (1) criminal sexual conduct involving sexual
23 penetration or sexual contact where the actor causes
24 personal injury to the victim and either of the following

1 circumstances exists: (i) force or coercion is used to
2 accomplish the sexual penetration or contact; *or* (ii) the actor
3 knows or has reason to know that the victim is mentally
4 defective, mentally incapacitated or physically helpless;

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

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

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

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

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

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

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

6 (g) The term '*conviction*' refers to each separate charge to
7 which the offender either voluntarily pleads guilty, whether in a
8 single hearing or in separate hearings, or is found guilty by a trier
9 of fact, whether the charges are contained in one (1) indictment, or
10 separate indictments. This term includes pleas of *nolo contendere*
11 and guilty pleas entered pursuant to *North Carolina v. Alford*, 400
12 U.S. 25 (1970).

13 (h) The terms '*employed*' and '*carries on a vocation*' include
14 employment that is full-time or part-time for a period of time
15 exceeding fourteen (14) days, or an aggregate period of time
16 exceeding thirty (30) days during any calendar year, whether
17 financially compensated, volunteer or for the purpose of
18 government or educational benefit.

19 (i) '*Student*' means any person who is enrolled on a full-
20 time or part-time basis, in any public or private educational
21 institution, including any secondary school, trade, or professional
22 institutions, or institution of higher learning.

23 (j) The term '*law enforcement agency*' means any so
24 designated agency on Guam, including, but not limited to, the

1 Guam Police Department, the Port Authority of Guam Police, the
2 Parole Services Division of the Department of Corrections, the
3 Superior Court of Guam Probation Services Division, the U.S.
4 Probation Office, the U.S. Marshal's Service, the Conservation
5 Office of the Department of Agriculture, the Guam International
6 Airport Police, the Attorney Generals Office's Family and
7 Prosecution Divisions, the Superior Court of Guam and its
8 Marshals Division, the Air Force Office of Special Investigations,
9 the Naval Criminal Investigation Section, the Coast Guard
10 Criminal Investigation Section, the United States Army Criminal
11 Investigation Division, and other criminal investigators of the
12 United States Government.

13 (k) '*Court*' means the Superior Court of Guam.

14 (l) The term '*community*' refers to the entire territorial
15 boundaries of Guam.

16 (m) The term '*registrant*' refers to persons required to
17 register under this Chapter.

18 **Section 89.02. Classification of Offenders. (a) Level**

19 **One Offender.** A person convicted of a sexually violent offense.

20 (b) **Level Two Offender.** A person *not* otherwise
21 classified as a Level One Offender and is convicted of:

22 (1) criminal sexual conduct involving two (2) or
23 more victims;

1 (2) two (2) or more separate criminal sexual conduct
2 offenses;

3 (3) a criminal offense against a victim who is a
4 minor, involving two (2) or more minors;

5 (4) two (2) or more separate criminal offenses
6 against a victim who is a minor; *or*

7 (5) one (1) or more separate criminal sexual conduct
8 offenses and one (1) or more separate criminal offenses
9 against a victim who is a minor.

10 (c) **Level Three Offender.** A person *not* otherwise
11 classified as either a Level One or a Level Two Offender and is
12 convicted of:

13 (1) criminal sexual conduct; *or*

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

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

17 (a) **Persons Required to Register.** The following
18 persons shall register pursuant to this Chapter:

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

22 (i) a sexually violent offense;

23 (ii) a criminal sexual conduct offense; *or*

1 (iii) a criminal offense against a victim who is a
2 minor.

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

6 (i) an offense under Title 18 USC §§2241 or
7 2242; *or*

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

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

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

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

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

19 (i) who is or has been convicted in another
20 state, territory or tribe of a criminal sexual conduct
21 offense, or a criminal offense against a victim who is a
22 minor and is required to register in the state, territory
23 or tribe wherein that person was convicted; *or*

24 (ii) who, since January 1, 1993, has been or is
25 hereafter convicted in a military court or a court in

1 another state, territory or tribe, of a criminal sexual
2 conduct offense or a criminal offense against a victim
3 who is a minor.

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

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

8 (i) name, alias(es), date of birth, social security
9 number, *if any*, and any other identifying factors;

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

15 (iii) anticipated future residence;

16 (iv) current/anticipated employment;

17 (v) offense history, including the underlying
18 crime which triggered the registration requirements of
19 this Chapter;

20 (vi) documentation of treatment;

21 (vii) fingerprints; *and*

22 (viii) current photograph.

23 (2) Form B Registration: Level Three offenders shall
24 provide the following:

1 (i) name, alias(es), date of birth, social security
2 number, *if any*, and any other identifying factors;

3 (ii) current physical address and mailing
4 address, or, if the person is incarcerated, the address of
5 the residence where the person will be residing
6 immediately upon release and the mailing address the
7 person plans to use immediately upon release;

8 (iii) fingerprints; *and*

9 (iv) current photograph.

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

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

20 (c) **Biological Samples.**

21 (1) Every person convicted in the Superior Court of
22 Guam of a criminal sexual conduct offense, or of a criminal
23 offense against a victim who is a minor, shall provide a
24 biological sample to the Guam Police Department for DNA

1 typing no later than thirty (30) calendar days after the
2 person's sentencing.

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

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

17 (4) Every person required to register pursuant to
18 Paragraphs (2), (3) or (4) of §89.03(a) shall provide a
19 biological sample to the Guam Police Department for DNA
20 typing at the time of that person's initial registration on
21 Guam.

22 (5) Intentional or knowing failure to provide a
23 biological sample shall have the same penalty as a failure to
24 provide initial registration information.

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

3 **(1) Where a Person Required to Register is**
4 **Sentenced to Incarceration.** Initial registration
5 information must be provided to the Parole Services
6 Division of the Department of Corrections no later than two
7 (2) weeks before the person's anticipated release. Intentional
8 or knowing failure to provide this information shall result in
9 the delay of that person's release.

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

18 **(3) Where a Person Identified as a Person**
19 **Required to Register is on Supervised Parole or Probation**
20 **at the Time of the Passage of This Law.** Initial registration
21 information must be provided to the registrant's parole or
22 probation officer no later than six (6) months after the
23 effective date of this law. Intentional or knowing failure to

1 register pursuant to this Subsection is a felony of the third
2 degree.

3 **(4) Where a Person Required to Register is No**
4 **Longer Under the Supervision of Either Probation or**
5 **Parole at the Time of the Passage of This Law.** Subject
6 to written notice by certified or registered mail provided by
7 the Superior Court of Guam to a person as described in this
8 Section, initial registration information must be provided to
9 the Guam Police Department no later than one (1) year after
10 receipt of written notice by the person. The Guam Police
11 Department shall transmit the information to the Court no
12 later than three (3) business days thereafter for inclusion into
13 the Sex Offender Registry database. Intentional or knowing
14 failure to register pursuant to this Subsection is a felony of
15 the third degree.

16 **(e) Registration Requirements for Persons Required to**
17 **Register Pursuant to §89.03(a), Paragraphs (2), (3) or (4); Initial**
18 **Registration.**

19 (1) Persons required to register pursuant to
20 §89.03(a)(2) shall provide *all* the information that must be
21 registered pursuant to §89.03(b) to the Guam Police
22 Department no later than seven (7) calendar days after
23 release from incarceration, release on probation or arrival on
24 Guam. *If* the registrant is on probation in another

1 jurisdiction and that registrant's probation is to be
2 transferred to Guam, then the Guam Police Department may
3 obtain the necessary information from the office of probation
4 of the jurisdiction from where registrant came; said
5 registrant is required to verify the registered information as
6 required by this Chapter no later than seven (7) calendar
7 days after the person's arrival on Guam.

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

21 (f) **Registration Requirements; Verification.** A
22 registrant must verify the following information:

23 (1) **Level One Offender.** The registrant shall verify
24 the following registered information ninety (90) calendar
25 days from the date the registrant's release from

1 incarceration, or ninety (90) calendar days from the date of
2 the registrant's release on probation *if* the registrant is
3 placed on probation, and every ninety (90) calendar days
4 thereafter. *If* the ninetieth (90th) day falls on a weekend or
5 holiday, the registrant shall verify the following information
6 on the following business day:

- 7 (i) current physical and mailing address(es);
- 8 (ii) recent criminal offenses, *if any*;
- 9 (iii) documentation of treatment; *and*
- 10 (iv) a current photograph.

11 **(2) Level Two Offender.** The registrant shall verify
12 the following registered information exactly one (1) year
13 from the date of the registrant's release from incarceration or
14 the date of the registrant's release on probation *if* the
15 registrant is placed on probation, and exactly every year
16 thereafter. *If* the date the registrant is to verify falls on a
17 weekend or holiday, the registrant shall verify the following
18 information on the following business day:

- 19 (i) current physical and mailing address(es);
- 20 (ii) recent criminal offenses, *if any*;
- 21 (iii) documentation of treatment, *if any*; *and*
- 22 (iv) a current photograph.

1 **(3) Level Three Offender.** The registrant shall
2 verify registered information in the same manner as a Level
3 Two Offender.

4 (4) Notwithstanding Subsections (a), (b) *and* (c) of
5 this Section, a registrant shall register the registrant's new
6 physical address with the Court within seven (7) calendar
7 days of any change in physical residence. If a registrant
8 anticipates moving from Guam, that registrant shall register
9 the registrant's intended place of residence with the Court
10 no later than three (3) calendar days before the registrant's
11 departure from Guam.

12 **(g) Registration Requirements; Verification, Method of**
13 **Verification.** A registrant shall verify the registrant's
14 registered information as required by §89.03(e) in the following
15 manner:

16 (1) **Parolee.** A parolee shall personally present
17 himself to the parolee's parole officer and verify the
18 registered information with the parole officer;

19 (2) **Probationer.** A probationer shall personally
20 present oneself to the person's probation officer and verify
21 the registered information with the probation officer;

22 (3) **Dual Supervision.** A person under dual
23 supervision, that is, the person is supervised by both parole

1 and probation, shall personally present oneself to that
2 person's probation officer; *and*

3 (4) **Others.** All registrants, including persons
4 who are no longer under supervised parole or probation,
5 shall personally appear at the Guam Police Department,
6 Records Section, and register with the Guam Police
7 Department.

8 (h) **Registration Requirement; Guam Residents Who are**
9 **Employed, Carry on a Vocation, or are Students in Another State**
10 **or Territory.** A person who is required to register on Guam
11 and who is employed, carries on a vocation, or is a student of
12 another state or territory, shall also register in that other state or
13 territory pursuant to the registration requirements of that state or
14 territory.

15 (i) **Registration Requirement; Persons Who Move to**
16 **Another State or Territory.** When a person who is required to
17 register on Guam anticipates moving to another state or territory,
18 that registrant shall report the change of address to the Guam
19 Police Department pursuant to the requirements of this Chapter,
20 *and* comply with any registration requirement of the new state or
21 territory of residence.

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

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

4 **(b) Ten (10) Years.** A person deemed a Level Three
5 Offender shall register pursuant to §89.03(b)(2), and Subsections
6 (2) and (3) of §89.03(f), for a period of ten (10) years from the date
7 of that person's release on probation or release on parole.

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

14 **(d) Tolling of Registration Requirement.** *If* a registrant
15 is re-incarcerated for violations of release conditions imposed in
16 the same crime, or for the commission of another crime, or the
17 registrant is civilly committed, then the period of registration is
18 tolled and remains tolled until the registrant's subsequent release.
19 Thereafter, the registrant shall recommence and continue
20 registering for the remaining period of time the registrant is
21 required to register.

22 **Section 89.05. Penalties.**

23 **(a) Initial Registration.** Intentional or knowing failure
24 to provide initial registration information shall delay the

1 registrant's release *if* the registrant is to be released, or make the
2 registrant ineligible for probation if the registrant is to be placed
3 on probation. Intentional or knowing failure to provide initial
4 registration information is a felony of the third degree.

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

10 (c) **Address Changes.** A registrant's failure to register
11 the registrant's new physical address within seven (7) calendar
12 days of any change of physical address is a misdemeanor. A
13 second or subsequent failure to so register is a felony of the third
14 degree. Failure of a registrant who is a probationer or parolee to
15 so register may result in sanctions pursuant to 9 GCA §80.66 and 9
16 GCA §80.82, *respectively*.

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

20 **Section 89.06. Duties of the Department of Corrections and**
21 **the Court; Initial Registration.** *If* a registrant is released from
22 incarceration, placed on parole or placed on probation, the Department
23 of Corrections, the Parole Services Division, the Court or the Probation
24 Services Division shall:

1 (a) inform the registrant of the duty to register and obtain
2 the information required for such registration;

3 (b) inform the registrant that *if* the registrant changes
4 residence on Guam, the registrant shall provide the new
5 residential address to the Court;

6 (c) inform the registrant that *if* the registrant moves to
7 another state or territory, the registrant shall report the change of
8 address to the Court no later than three (3) calendar days of the
9 registrant's leaving Guam, and shall comply with any registration
10 requirement of the new state or territory;

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

15 (e) obtain all information that must necessarily be
16 gathered for the registrant's initial registration, and inform the
17 registrant that the registrant must provide the registrant's
18 fingerprints, a photograph and a biological sample to the Guam
19 Police Department. The Department of Corrections or the Office
20 of Probation shall facilitate the obtaining of fingerprints,
21 photograph and biological sample. After this information is
22 gathered, the Guam Police Department shall retain the biological
23 sample and transmit the fingerprints and photograph to the Court
24 within three (3) calendar days;

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

4 (g) forward information described in (f) above to the
5 Court within three (3) calendar days after receipt thereof.

6 **Section 89.07. Duties of the Department of Corrections and**
7 **the Court, Verification of Registered Information.**

8 (a) The Department of Corrections, Parole Services
9 Division, shall receive and obtain initial registration and
10 registration verification information from registrants who are
11 parolees, and shall transmit such information to the Court no later
12 than three (3) business days of receipt of such information.

13 (b) The Court, Probation Services Division, shall receive
14 and obtain initial registration and registration verification
15 information from registrants who are probationers and shall enter
16 such information into the Court's Sex Offender Registry database.

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

18 (a) Upon receipt of the information that is required to be
19 registered or verified pursuant to this Chapter, the Guam Police
20 Department shall *immediately*, and no later than three (3) business
21 days of receipt of this information, transmit the information to the
22 Court which shall record this information in the Sex Offender
23 Registry database. The Guam Police Department shall also
24 immediately transmit the registrant's photograph, fingerprints,
25 conviction data and current residence to the Court. In addition to

1 sex offender data, the Guam Police Department shall also
2 immediately transmit all felony fingerprints to the Court. The
3 Court shall forward these fingerprints to the Federal Bureau of
4 Investigation's Automated Fingerprint Identification System
5 ('AFIS') for assignment of a fingerprint identification number.

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

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

20 (d) **Notification of FBI Regarding Changes of Address.**
21 Upon receipt of information that registrant is or has changed
22 residence within Guam, or is anticipated to move from Guam to
23 another state, territory or tribe, the Guam Police Department shall
24 transmit the new address to the Federal Bureau of Investigation

1 no later than three (3) business days after receipt of this
2 information.

3 **Section 89.09. Duties of the Court.**

4 (a) **Repository.** The Court shall be the central
5 repository for the registered information, in addition to all
6 criminal history records information.

7 (b) **Fees.** The Court is authorized to collect
8 reasonable registration fees from registrants. Such fees shall be
9 used for the maintenance and support of the sex offender
10 registration and notification program. Fifty percent (50%) of the
11 fee paid by the registrant shall be given to the Court and the
12 remaining fifty percent (50%) shall go to the Guam Police
13 Department.

14 **Section 89.10. Notification.**

15 (a) **Release of Information.** The Court shall release
16 the following information to the community:

17 (1) Level One Offender: all registered information
18 *except* the Social Security number, the age of the victim(s) in
19 the underlying case, and the state or territory in which the
20 crime occurred;

21 (2) Level Two Offender: name, physical address,
22 photograph, criminal history, the age of the victim in the
23 underlying case, and the state or territory in which the crime
24 occurred;

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

5 (4) Level Three Offender, Misdemeanor Conviction:
6 no notification.

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

10 **(c) Method of Release of Information.** The Court
11 shall maintain an Internet web-page dedicated to persons required
12 to register, which shall contain the information that is required to
13 be released. The released information shall be updated during the
14 first week of every month. The community shall have access to
15 the Sex Offender Registry Web Page. The Court shall transmit
16 released information concerning Level One and Level Two
17 Offenders to the Department of Education, all public and private
18 schools, day care centers, victim shelters and victim advocates on
19 the first week of every month. The Court may transmit
20 information concerning Level One and Level Two Offenders
21 directly to the media for dissemination.

22 **Section 89.11. Immunity for Good Faith Conduct.** Law
23 enforcement agencies, their employees and government of Guam
24 officials shall be immune from any civil or criminal liability for good

1 faith conduct under this Act, *unless* it is shown that the agency,
2 employee, government official or board member acted with gross
3 negligence or in bad faith.”

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



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

November 1, 1999

Honorable Carl T.C. Gutierrez
I Maga'lahen Guahan
Office of *I Maga'lahi*
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 299 (COR) which was passed by *I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN* on November 1, 1999.

Sincerely,


JOANNE M.S. BROWN
Legislative Secretary

Enclosure: (1)

CLERK OF THE LEGISLATURE
TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN

(Included in File w/ All Bills Transmitted)

BILL NO. 279

FINAL PROOF-READING OF BLUEBACK COPY

Initialed by:

and Date:

- EXHIBITS ATTACHED *None*
- CONFIRM NUMBER OF PAGES *(25)*
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any *None*

Confirmed By:

[Signature]

Dated:

11-15-99

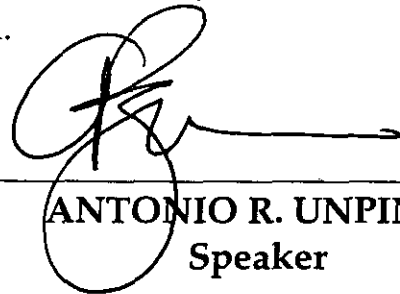
- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (~~DANNY, ROBERT OR OTHERS~~)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to Susan)

- FILED by: Danny, Robert or others

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

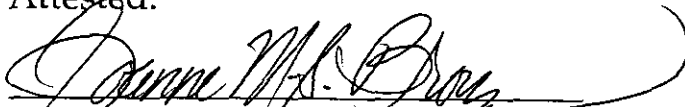
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 299 (COR) "AN ACT TO ADD CHAPTER 89 TO TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A CRIMES AGAINST MINORS AND A SEX OFFENDER REGISTRY, AND TO PROVIDING A MEANS OF NOTICE TO THE COMMUNITY OF THOSE WHO ARE REGISTERED," was on the 1st day of November, 1999, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 1st day of November, 1999,
at 9:50 pm o'clock pm.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 299 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and
Human Resources Development, and
as further substituted on the Floor of the
Committee of the Whole and amended.

Introduced by:

J. C. Salas
K. S. Moylan
A. R. Unpingco
Mark Forbes
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
S. A. Sanchez, II

**AN ACT TO ADD CHAPTER 89 TO TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A CRIMES AGAINST MINORS AND
A SEX OFFENDER REGISTRY, AND TO PROVIDING
A MEANS OF NOTICE TO THE COMMUNITY OF
THOSE WHO ARE REGISTERED.**

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

2 **Section 1. Legislative Findings and Intent.** The crime of criminal
3 sexual conduct and the various forms of crimes against children are serious
4 problems on our Island, and persons convicted of these crimes are a danger to
5 the people of our community, both at the Village level and at the entire Island
6 level. The purpose and objective of this Act is to protect the people of our
7 community, and most particularly our children, from child and sex offenders,
8 especially violent sex offenders.

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

11 **"CHAPTER 89.**

12 **CRIMES AGAINST MINORS AND SEX OFFENDER**
13 **REGISTRY.**

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

15 (a) *'Minor'* means persons below the age of eighteen (18).

16 (b) *'Criminal offense against a victim who is a minor'* means
17 any criminal offense that consists of any of the following:

18 (1) felony kidnapping, felonious restraint, felony
19 child stealing and custodial interference, as defined and
20 punished in Chapter 22 of Title 9 of the Guam Code
21 Annotated, *Kidnapping, and Related Offenses*, where the
22 victim is a minor;

23 (2) promoting prostitution, abetting prostitution,
24 compelling prostitution, as defined and punished in Article

1 of Chapter 28 of Title 9 of the Guam Code Annotated,
2 *Prostitution*, where the individual committing or engaging in
3 prostitution is a minor;

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

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

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

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

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

22 (1) criminal sexual conduct involving sexual
23 penetration or sexual contact where the actor causes
24 personal injury to the victim and either of the following

1 circumstances exists: (i) force or coercion is used to
2 accomplish the sexual penetration or contact; *or* (ii) the actor
3 knows or has reason to know that the victim is mentally
4 defective, mentally incapacitated or physically helpless;

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

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

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

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

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

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

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

6 (g) The term '*conviction*' refers to each separate charge to
7 which the offender either voluntarily pleads guilty, whether in a
8 single hearing or in separate hearings, or is found guilty by a trier
9 of fact, whether the charges are contained in one (1) indictment, or
10 separate indictments. This term includes pleas of *nolo contendere*
11 and guilty pleas entered pursuant to *North Carolina v. Alford*, 400
12 U.S. 25 (1970).

13 (h) The terms '*employed*' and '*carries on a vocation*' include
14 employment that is full-time or part-time for a period of time
15 exceeding fourteen (14) days, or an aggregate period of time
16 exceeding thirty (30) days during any calendar year, whether
17 financially compensated, volunteer or for the purpose of
18 government or educational benefit.

19 (i) '*Student*' means any person who is enrolled on a full-
20 time or part-time basis, in any public or private educational
21 institution, including any secondary school, trade, or professional
22 institutions, or institution of higher learning.

23 (j) The term '*law enforcement agency*' means any so
24 designated agency on Guam, including, but not limited to, the

1 Guam Police Department, the Port Authority of Guam Police, the
2 Parole Services Division of the Department of Corrections, the
3 Superior Court of Guam Probation Services Division, the U.S.
4 Probation Office, the U.S. Marshal's Service, the Conservation
5 Office of the Department of Agriculture, the Guam International
6 Airport Police, the Attorney General's Office's Family and
7 Prosecution Divisions, the Superior Court of Guam and its
8 Marshals Division, the Air Force Office of Special Investigations,
9 the Naval Criminal Investigation Section, the Coast Guard
10 Criminal Investigation Section, the United States Army Criminal
11 Investigation Division, and other criminal investigators of the
12 United States Government.

13 (k) '*Court*' means the Superior Court of Guam.

14 (l) The term '*community*' refers to the entire territorial
15 boundaries of Guam.

16 (m) The term '*registrant*' refers to persons required to
17 register under this Chapter.

18 **Section 89.02. Classification of Offenders. (a) Level**

19 **One Offender.** A person convicted of a sexually violent offense.

20 (b) **Level Two Offender.** A person *not* otherwise
21 classified as a Level One Offender and is convicted of:

22 (1) criminal sexual conduct involving two (2) or
23 more victims;

1 (2) two (2) or more separate criminal sexual conduct
2 offenses;

3 (3) a criminal offense against a victim who is a
4 minor, involving two (2) or more minors;

5 (4) two (2) or more separate criminal offenses
6 against a victim who is a minor; *or*

7 (5) one (1) or more separate criminal sexual conduct
8 offenses and one (1) or more separate criminal offenses
9 against a victim who is a minor.

10 **(c) Level Three Offender.** A person *not* otherwise
11 classified as either a Level One or a Level Two Offender and is
12 convicted of:

13 (1) criminal sexual conduct; *or*

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

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

17 **(a) Persons Required to Register.** The following
18 persons shall register pursuant to this Chapter:

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

22 (i) a sexually violent offense;

23 (ii) a criminal sexual conduct offense; *or*

1 (iii) a criminal offense against a victim who is a
2 minor.

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

6 (i) an offense under Title 18 USC §§2241 or
7 2242; *or*

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

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

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

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

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

19 (i) who is or has been convicted in another
20 state, territory or tribe of a criminal sexual conduct
21 offense, or a criminal offense against a victim who is a
22 minor and is required to register in the state, territory
23 or tribe wherein that person was convicted; *or*

24 (ii) who, since January 1, 1993, has been or is
25 hereafter convicted in a military court or a court in

1 another state, territory or tribe, of a criminal sexual
2 conduct offense or a criminal offense against a victim
3 who is a minor.

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

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

8 (i) name, alias(es), date of birth, social security
9 number, *if any*, and any other identifying factors;

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

15 (iii) anticipated future residence;

16 (iv) current/anticipated employment;

17 (v) offense history, including the underlying
18 crime which triggered the registration requirements of
19 this Chapter;

20 (vi) documentation of treatment;

21 (vii) fingerprints; *and*

22 (viii) current photograph.

23 (2) Form B Registration: Level Three offenders shall
24 provide the following:

1 (i) name, alias(es), date of birth, social security
2 number, *if any*, and any other identifying factors;

3 (ii) current physical address and mailing
4 address, or, if the person is incarcerated, the address of
5 the residence where the person will be residing
6 immediately upon release and the mailing address the
7 person plans to use immediately upon release;

8 (iii) fingerprints; *and*

9 (iv) current photograph.

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

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

20 (c) **Biological Samples.**

21 (1) Every person convicted in the Superior Court of
22 Guam of a criminal sexual conduct offense, or of a criminal
23 offense against a victim who is a minor, shall provide a
24 biological sample to the Guam Police Department for DNA

1 typing no later than thirty (30) calendar days after the
2 person's sentencing.

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

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

17 (4) Every person required to register pursuant to
18 Paragraphs (2), (3) or (4) of §89.03(a) shall provide a
19 biological sample to the Guam Police Department for DNA
20 typing at the time of that person's initial registration on
21 Guam.

22 (5) Intentional or knowing failure to provide a
23 biological sample shall have the same penalty as a failure to
24 provide initial registration information.

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

3 **(1) Where a Person Required to Register is**
4 **Sentenced to Incarceration.** Initial registration
5 information must be provided to the Parole Services
6 Division of the Department of Corrections no later than two
7 (2) weeks before the person's anticipated release. Intentional
8 or knowing failure to provide this information shall result in
9 the delay of that person's release.

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

18 **(3) Where a Person Identified as a Person**
19 **Required to Register is on Supervised Parole or Probation**
20 **at the Time of the Passage of This Law.** Initial registration
21 information must be provided to the registrant's parole or
22 probation officer no later than six (6) months after the
23 effective date of this law. Intentional or knowing failure to

1 register pursuant to this Subsection is a felony of the third
2 degree.

3 **(4) Where a Person Required to Register is No**
4 **Longer Under the Supervision of Either Probation or**
5 **Parole at the Time of the Passage of This Law.** Subject
6 to written notice by certified or registered mail provided by
7 the Superior Court of Guam to a person as described in this
8 Section, initial registration information must be provided to
9 the Guam Police Department no later than one (1) year after
10 receipt of written notice by the person. The Guam Police
11 Department shall transmit the information to the Court no
12 later than three (3) business days thereafter for inclusion into
13 the Sex Offender Registry database. Intentional or knowing
14 failure to register pursuant to this Subsection is a felony of
15 the third degree.

16 **(e) Registration Requirements for Persons Required to**
17 **Register Pursuant to §89.03(a), Paragraphs (2), (3) or (4); Initial**
18 **Registration.**

19 (1) Persons required to register pursuant to
20 §89.03(a)(2) shall provide *all* the information that must be
21 registered pursuant to §89.03(b) to the Guam Police
22 Department no later than seven (7) calendar days after
23 release from incarceration, release on probation or arrival on
24 Guam. *If* the registrant is on probation in another

1 jurisdiction and that registrant's probation is to be
2 transferred to Guam, then the Guam Police Department may
3 obtain the necessary information from the office of probation
4 of the jurisdiction from where registrant came; said
5 registrant is required to verify the registered information as
6 required by this Chapter no later than seven (7) calendar
7 days after the person's arrival on Guam.

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

21 **(f) Registration Requirements; Verification. A**

22 registrant must verify the following information:

23 (1) **Level One Offender.** The registrant shall verify
24 the following registered information ninety (90) calendar
25 days from the date the registrant's release from

1 incarceration, or ninety (90) calendar days from the date of
2 the registrant's release on probation *if* the registrant is
3 placed on probation, and every ninety (90) calendar days
4 thereafter. *If* the ninetieth (90th) day falls on a weekend or
5 holiday, the registrant shall verify the following information
6 on the following business day:

- 7 (i) current physical and mailing address(es);
- 8 (ii) recent criminal offenses, *if any*;
- 9 (iii) documentation of treatment; *and*
- 10 (iv) a current photograph.

11 **(2) Level Two Offender.** The registrant shall verify
12 the following registered information exactly one (1) year
13 from the date of the registrant's release from incarceration or
14 the date of the registrant's release on probation *if* the
15 registrant is placed on probation, and exactly every year
16 thereafter. *If* the date the registrant is to verify falls on a
17 weekend or holiday, the registrant shall verify the following
18 information on the following business day:

- 19 (i) current physical and mailing address(es);
- 20 (ii) recent criminal offenses, *if any*;
- 21 (iii) documentation of treatment, *if any*; *and*
- 22 (iv) a current photograph.

1 **(3) Level Three Offender.** The registrant shall
2 verify registered information in the same manner as a Level
3 Two Offender.

4 **(4)** Notwithstanding Subsections (a), (b) *and* (c) of
5 this Section, a registrant shall register the registrant's new
6 physical address with the Court within seven (7) calendar
7 days of any change in physical residence. If a registrant
8 anticipates moving from Guam, that registrant shall register
9 the registrant's intended place of residence with the Court
10 no later than three (3) calendar days before the registrant's
11 departure from Guam.

12 **(g) Registration Requirements; Verification, Method of**
13 **Verification.** A registrant shall verify the registrant's
14 registered information as required by §89.03(e) in the following
15 manner:

16 **(1) Parolee.** A parolee shall personally present
17 himself to the parolee's parole officer and verify the
18 registered information with the parole officer;

19 **(2) Probationer.** A probationer shall personally
20 present oneself to the person's probation officer and verify
21 the registered information with the probation officer;

22 **(3) Dual Supervision.** A person under dual
23 supervision, that is, the person is supervised by both parole

1 and probation, shall personally present oneself to that
2 person's probation officer; *and*

3 (4) Others. All registrants, including persons
4 who are no longer under supervised parole or probation,
5 shall personally appear at the Guam Police Department,
6 Records Section, and register with the Guam Police
7 Department.

8 (h) **Registration Requirement; Guam Residents Who are**
9 **Employed, Carry on a Vocation, or are Students in Another State**
10 **or Territory.** A person who is required to register on Guam
11 and who is employed, carries on a vocation, or is a student of
12 another state or territory, shall also register in that other state or
13 territory pursuant to the registration requirements of that state or
14 territory.

15 (i) **Registration Requirement; Persons Who Move to**
16 **Another State or Territory.** When a person who is required to
17 register on Guam anticipates moving to another state or territory,
18 that registrant shall report the change of address to the Guam
19 Police Department pursuant to the requirements of this Chapter,
20 *and* comply with any registration requirement of the new state or
21 territory of residence.

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

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

4 **(b) Ten (10) Years.** A person deemed a Level Three
5 Offender shall register pursuant to §89.03(b)(2), and Subsections
6 (2) and (3) of §89.03(f), for a period of ten (10) years from the date
7 of that person's release on probation or release on parole.

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

14 **(d) Tolling of Registration Requirement.** *If* a registrant
15 is re-incarcerated for violations of release conditions imposed in
16 the same crime, or for the commission of another crime, or the
17 registrant is civilly committed, then the period of registration is
18 tolled and remains tolled until the registrant's subsequent release.
19 Thereafter, the registrant shall recommence and continue
20 registering for the remaining period of time the registrant is
21 required to register.

22 **Section 89.05. Penalties.**

23 **(a) Initial Registration.** Intentional or knowing failure
24 to provide initial registration information shall delay the

1 registrant's release *if* the registrant is to be released, or make the
2 registrant ineligible for probation if the registrant is to be placed
3 on probation. Intentional or knowing failure to provide initial
4 registration information is a felony of the third degree.

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

10 (c) **Address Changes.** A registrant's failure to register
11 the registrant's new physical address within seven (7) calendar
12 days of any change of physical address is a misdemeanor. A
13 second or subsequent failure to so register is a felony of the third
14 degree. Failure of a registrant who is a probationer or parolee to
15 so register may result in sanctions pursuant to 9 GCA §80.66 *and* 9
16 GCA §80.82, *respectively*.

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

20 **Section 89.06. Duties of the Department of Corrections and**
21 **the Court; Initial Registration.** *If* a registrant is released from
22 incarceration, placed on parole or placed on probation, the Department
23 of Corrections, the Parole Services Division, the Court or the Probation
24 Services Division shall:

1 (a) inform the registrant of the duty to register and obtain
2 the information required for such registration;

3 (b) inform the registrant that *if* the registrant changes
4 residence on Guam, the registrant shall provide the new
5 residential address to the Court;

6 (c) inform the registrant that *if* the registrant moves to
7 another state or territory, the registrant shall report the change of
8 address to the Court no later than three (3) calendar days of the
9 registrant's leaving Guam, and shall comply with any registration
10 requirement of the new state or territory;

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

15 (e) obtain all information that must necessarily be
16 gathered for the registrant's initial registration, and inform the
17 registrant that the registrant must provide the registrant's
18 fingerprints, a photograph and a biological sample to the Guam
19 Police Department. The Department of Corrections or the Office
20 of Probation shall facilitate the obtaining of fingerprints,
21 photograph and biological sample. After this information is
22 gathered, the Guam Police Department shall retain the biological
23 sample and transmit the fingerprints and photograph to the Court
24 within three (3) calendar days;

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

4 (g) forward information described in (f) above to the
5 Court within three (3) calendar days after receipt thereof.

6 **Section 89.07. Duties of the Department of Corrections and**
7 **the Court, Verification of Registered Information.**

8 (a) The Department of Corrections, Parole Services
9 Division, shall receive and obtain initial registration and
10 registration verification information from registrants who are
11 parolees, and shall transmit such information to the Court no later
12 than three (3) business days of receipt of such information.

13 (b) The Court, Probation Services Division, shall receive
14 and obtain initial registration and registration verification
15 information from registrants who are probationers and shall enter
16 such information into the Court's Sex Offender Registry database.

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

18 (a) Upon receipt of the information that is required to be
19 registered or verified pursuant to this Chapter, the Guam Police
20 Department shall *immediately*, and no later than three (3) business
21 days of receipt of this information, transmit the information to the
22 Court which shall record this information in the Sex Offender
23 Registry database. The Guam Police Department shall also
24 immediately transmit the registrant's photograph, fingerprints,
25 conviction data and current residence to the Court. In addition to

1 sex offender data, the Guam Police Department shall also
2 immediately transmit all felony fingerprints to the Court. The
3 Court shall forward these fingerprints to the Federal Bureau of
4 Investigation's Automated Fingerprint Identification System
5 ('AFIS') for assignment of a fingerprint identification number.

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

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

20 (d) **Notification of FBI Regarding Changes of Address.**
21 Upon receipt of information that registrant is or has changed
22 residence within Guam, or is anticipated to move from Guam to
23 another state, territory or tribe, the Guam Police Department shall
24 transmit the new address to the Federal Bureau of Investigation

1 no later than three (3) business days after receipt of this
2 information.

3 **Section 89.09. Duties of the Court.**

4 (a) **Repository.** The Court shall be the central
5 repository for the registered information, in addition to all
6 criminal history records information.

7 (b) **Fees.** The Court is authorized to collect
8 reasonable registration fees from registrants. Such fees shall be
9 used for the maintenance and support of the sex offender
10 registration and notification program. Fifty percent (50%) of the
11 fee paid by the registrant shall be given to the Court and the
12 remaining fifty percent (50%) shall go to the Guam Police
13 Department.

14 **Section 89.10. Notification.**

15 (a) **Release of Information.** The Court shall release
16 the following information to the community:

17 (1) Level One Offender: all registered information
18 *except* the Social Security number, the age of the victim(s) in
19 the underlying case, and the state or territory in which the
20 crime occurred;

21 (2) Level Two Offender: name, physical address,
22 photograph, criminal history, the age of the victim in the
23 underlying case, and the state or territory in which the crime
24 occurred;

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

5 (4) Level Three Offender, Misdemeanor Conviction:
6 no notification.

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

10 **(c) Method of Release of Information.** The Court
11 shall maintain an Internet web-page dedicated to persons required
12 to register, which shall contain the information that is required to
13 be released. The released information shall be updated during the
14 first week of every month. The community shall have access to
15 the Sex Offender Registry Web Page. The Court shall transmit
16 released information concerning Level One and Level Two
17 Offenders to the Department of Education, all public and private
18 schools, day care centers, victim shelters and victim advocates on
19 the first week of every month. The Court may transmit
20 information concerning Level One and Level Two Offenders
21 directly to the media for dissemination.

22 **Section 89.11. Immunity for Good Faith Conduct.** Law
23 enforcement agencies, their employees and government of Guam
24 officials shall be immune from any civil or criminal liability for good

1 faith conduct under this Act, *unless* it is shown that the agency,
2 employee, government official or board member acted with gross
3 negligence or in bad faith.”

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

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 11/1/99

VOTING SHEET

S Bill No. 299 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.					EA
BERMUDES, Eulogio C. /	✓				
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G. /	✓				
FORBES, Mark /	✓				
KASPERBAUER, Lawrence F. /	✓				
LAMORENA, Alberto C., V /	✓				
LEON GUERRERO, Carlotta A.		✓			
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.		✓			
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

12 2 _____ _____ 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

September 28, 1999
(DATE)

FILE

Memorandum

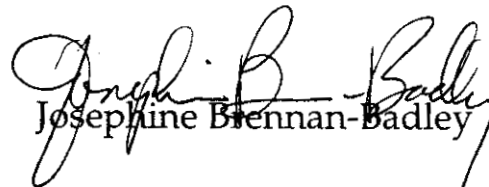
To: Senator MARK FORBES

From: Clerk of the Legislature

Subject: Report on Bill No. 299 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 299 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

ACKNOWLEDGEMENT RECEIPT

Received By: [Signature]
File: 3430 P-11
Date: 9/28/99



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

September 26, 1999

The Honorable Antonio R. Unpingco, Speaker
Mina' Bente Singko na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

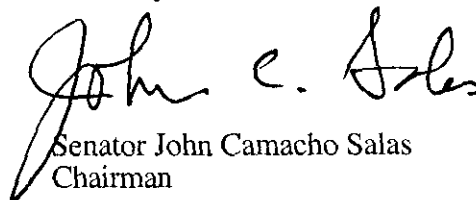
The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 299, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS**, as substituted.

The Committee votes are as follows:

To Do Pass	<u>12</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Other (Off-Island)	<u>0</u>

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,


Senator John Camacho Salas
Chairman



25th GUAM LEGISLATURE

SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER 299

TITLE AN ACT TO ADD A NEW CHAPTER 89 TO TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A SEX OFFENDER REGISTRY AND TO PROVIDING A MEANS OF NOTICE TO THE COMMUNITY OF THOSE WHO ARE REGISTERED AS SEX OFFENDERS

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	✓			
 Kaleo S. Moylan, Vice-Chairman				
 Frank B. Aguon, Jr., Member	✓			
Joanne M.S. Brown, Member				
 Mark Forbes, Member	✓			
 Alberto C. Lamorena V, Member	✓			
 Carlotta A. Leon Guerrero, Member	✓			
Antonio R. Unpingco, Ex-Officio				

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 299
Publicly Heard Monday, August 20, 1999

Bill 299: An Act to add a new Chapter 89 to Title 9 of the Guam Code Annotated, relative to establishing a Sex Offender Registry and to providing a means of notice to the community of those who are registered as sex offenders.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Joanne M.S. Brown, Member
- Senator Vicente C. Pangelinan

II. MAIN SPONSORS

Committee on Rules at the Request of the Governor

III. SYNOPSIS

Bill 299 is the creation of the Guam Sex Offender Registry Committee comprised of Senator John C. Salas - Chairman of the Committee on Judiciary, the Department of Law, Superior Court of Guam, Guam Police Department, Department of Corrections and the Bureau of Planning. Bill 299 proposes to create the Sex Offender Registration and Notification Program to bring Guam in compliance with Federal laws enacted between 1995 and 1997. Bill 299 will require offenders to register in Guam information detailing name, social security number, identifying marks, residential address, anticipated future address, current or anticipated employment, offense history, fingerprints, current photograph, etc. Bill 299 will also ensure proper public safety organizations are notified when offenders move to Guam from another jurisdiction or move away from Guam.

IV. TESTIMONY

Chairman Salas gave an overview of the bill, noting that it was created by a taskforce of the various government of Guam branches.

Fred Nishihara, Legal Counsel for the Department of Education, testified in support of this bill. He asked that page 17, line 3 be amended to include the Department of Education in addition to "all schools" because DOE processes personnel for all the schools and needs to be able to identify an off-island sex offender registrant trying to come into the system.

Clifford Guzman, Director of the Bureau of Planning, read his written testimony in support of Bill 299 for the record.

Anthony Sanchez, Administrative Director of the Superior Court of Guam, testified in support of the bill. He did, however, ask for minor amendments to the bill.

Page 9, Line 6: "... than the date he is scheduled to be ~~released~~ placed on probation." This will make clear that it is prior to an individual serving probation.

Page 16, Lines 7-11: Mr. Sanchez asked a provision be placed that will take care of indigent individuals so that it does not become a financial issue. If an offender is found to be indigent, then such individual will not have to pay the registrant fee.

Page 17, Lines 2-4: Mr. Sanchez asked if instead of the court transmitting released information every month, he would like to teach all concerned to access the registry website to avoid redundancy. Chairman Salas noted that the bill does not stipulate that a facsimile must be sent to all schools, day care centers, etc. However, Senator Pangelinan noted that no matter how computer savvy we think we are, not everyone will have access to computers nor the internet. Until such time that internet accessibility is island wide, the court must transmit this information. Senator Brown asked for an average of

individuals prosecuted locally that will be on the registry. Mr. Sanchez could not provide numbers at the hearing but would submit that data to the Committee at a later date.

Mr. Lenny Rapadas, Prosecution Division of the Department of Law, provided testimony in support of the bill. He noted that the Prosecution Division deals with 2-3 or more sexual conduct cases a week. In some instances, the department handles 1 or more cases a day. He further noted that the fee will not be a factor in ensuring that all offenders are registered. He noted that the Prosecution Division will not have a problem in prosecuting under this Act as it stands up to Constitutional muster and previous case law.

Chairman Salas expressed his concern that like many good laws, enforcement of provisions in the Act may be another matter. He specifically noted the requirement to register, for an off-island offender to register, and the requirement for a biological sample. He asked the panel if this legislation is enacted, will the various agencies be ready to enforce the provisions of the Act. Mr. Guzman noted that there are some issues that still need to be addressed such as the Crime Lab. However, Mr. Guzman noted that the agencies have worked together and know what is needed to implement the Act.

Chairman Salas asked **Mr. Brad Hokansen, Special Programs for the Guam Police Department**, if GPD is ready to implement the program. Mr. Hokansen replied, "no". Chairman Salas asked what GPD needs to implement the program. Mr. Hokansen noted that GPD does not have a DNA Laboratory nor the needed equipment. The computer system and software are not up and running. Although they have federal funding for the lab, they do not have a suitable facility in Tiyan.

Mr. Ron Dervish, Deputy Chief of Police, Guam Police Department, noted that while the Legislature passed a bill allowing GPD to use the Police Services Fund to pay mortgage on a lab, GPD has reached its borrowing limit and would not be allowed to finance a lab. The Police Services Fund has been taken away from GPD for the last two (2) fiscal years. GPD tried a build-to-lease-to-own, but has been turned down by two (2) banks. Mr. Hokansen noted that they are now looking at the long term Municipal Leasing Program similar to the Guam Fire Department as their next option.

Chairman Salas asked if GPD has the manpower to execute this type of law. The Crime Lab needs an infusion of personnel, specifically technicians.

Chairman Salas asked **Mr. Rapadas** if the Department of Law is ready to execute the Act. Mr. Rapadas noted that personnel from other divisions are working in the Criminal Division on a temporary and permanent basis and now have about 19-20 prosecutors and 4 full time felony prosecutors. He noted that not turning in DNA samples is criminalized by this Act, but the fact that GPD cannot process these samples may become a defense for the offender. It is crucial, Mr. Rapadas noted, that the DNA Lab is up and running. Senator Pangelinan asked if it would be possible to send samples to the National Crime Bureau and have them put it in their database.

Ms. Rose Fejeran, GPD Crime Lab, noted that samples could be outsourced to a private firm, but at this point, no expense has been identified.

Senator Pangelinan noted that since this is a federal requirement, have the feds keep the samples and database. Mr. Rapadas noted that federal funding will require both a local database with access to the information for the federal side. Senator Pangelinan noted that since two (2) databases will be created, why not have the federal government keep the database until the local database can be established.

Mr. Rapadas noted that while there is concern of the agencies being able to implement the program, he urged the Committee to pass this legislation now and work out the details, perhaps giving a year for providing biological samples. Chairman Salas noted that he knows we can implement the program. However, it would be lopsided because half of the program would not be in place. It was noted that states are not required, but are recommended to include a provision on DNA samples. The panel felt that the foundation of the program can be put in place and DNA sampling can be revisited once funding is identified and made available.

Chairman Salas asked Ms. Fejeran if there are labs in the region that can be used for outsourcing DNA samples. Ms. Fejeran replied yes, but that she would have to look at each one for federal compliancy.

Mr. Sanchez provided information on the number of individuals convicted of criminal sexual conduct. He noted that since 1993, 169 local individuals convicted with 56 on probation. The Superior Court of Guam is ready to implement and only needs the enactment.

Senator Pangelinan asked how we are addressing those convicted before 1993. Senator Brown asked what happens to those convicted 10 years ago. The Panel noted that the Registry Committee had discussed going back to 1993. It was noted that 5 years is the timeframe that records for the Courts and Guam Police Department have been audited.

Michael Quinata, Chief Parole Officer of the Department of Corrections, provided testimony in support of the bill.

Also noted that under "Definitions" of the initial bill, the term "Law Enforcement Agency" might also include Airport Police, Marshals, etc.

Ms. Michelle Leon Guerrero, Chief Planner, Bureau of Planning, provided testimony as a private person in support of the bill. She noted that she has given this bill much thought and how it will affect the family structure in Guam. She noted that while this program may tear apart the family, the community does not want another child hurt, another woman violently assaulted. We need to know who we are dealing with to protect our communities, our children.

V. COMMITTEE FINDINGS & RECOMMENDATION

The Committee has taken into account the many recommendations received during the public hearing and now recommends **TO DO PASS Bill 299, as substituted.**

**MINA BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session**

Bill No. 299 (COR)

As substituted by the Committee on Judiciary, Public Safety,
Consumer Protection, and Human Resources Development

Introduced by:

Chairman, Committee on Rules,
Government Reform, Reorganization
and Federal Affairs


F. B. Aguon, Jr.

**AN ACT TO ADD A NEW CHAPTER 89 TO TITLE 9
OF THE GUAM CODE ANNOTATED, RELATIVE
TO ESTABLISHING A SEX OFFENDER REGISTRY
AND TO PROVIDING A MEANS OF NOTICE TO
THE COMMUNITY OF THOSE WHO ARE
REGISTERED AS SEX OFFENDERS.**

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

2 **Section 1. Legislative Findings and Intent.** The crime of criminal sexual
3 conduct and the various forms of sexual molestation of children is a serious
4 problem on our island and persons convicted of these crimes are a danger to
5 the people of our community, both at the village level and at the entire island
6 level. The purpose and objective of this Act is to protect the people of our
7 community, and most particularly our children, from child molesters and sex
8 offenders, especially violent sex offenders.

9 **Section 2.** A new Chapter 89 is hereby added to Title 9 of the Guam Code
10 Annotated, to read as follows:

1 **CHAPTER 89**

2 **SEX OFFENDER REGISTRY**

3 **§89.01. Definitions.** For purposes of this Chapter:

4 (a) The term "minor" refers to persons below the age of 18;

5 (b) The term "criminal offense against a victim who is a minor" means any
6 criminal offense that consists of any of the following:

7 (1) kidnapping, felonious restraint, child stealing, and, custodial
8 interference, as defined and punished in 9 GCA Chapter 25
9 (Kidnapping, and Related Offenses), where the victim is a minor;

10 (2) promoting prostitution, abetting prostitution, compelling
11 prostitution, as defined and punished in 9 GCA Chapter 28, Article 1
12 (Prostitution), where the individual committing or engaging in
13 prostitution is a minor;

14 (3) participation in obscenity, use of one's own child in obscene acts,
15 indecent exposure, photography of minors' sexual acts, as defined and
16 punished in 9 GCA Chapter 28, Article 2 (Obscenity and Related
17 Offenses), where a minor is employed or used;

18 (4) criminal sexual conduct, as defined and punished in 9 GCA 15
19 Chapter 25 (Sexual Offenses), where the victim of the crime is a minor;

20 (5) attempt to commit, solicitation to commit, and conspiracy to
21 commit the crimes indicated in the above subparagraphs (1) through (4),
22 in violation of 9 GCA Chapter 13.

23 (c) The term "criminal sexual conduct" refers to violations defined and
24 punished under 9 GCA Chapter 25 (Sexual Offenses) and any violations of
25 similar federal laws or laws of other states, territories, or tribes;

26 (d) The term "sexually violent offense" refers to any of the following:

1 (1) criminal sexual conduct involving sexual penetration or sexual
2 contact where the actor causes personal injury to the victim and either
3 of the following circumstances exists: (i) force or coercion is used to
4 accomplish the sexual penetration or contact; or (ii) the actor knows or
5 has reason to know that the victim is mentally defective, mentally
6 incapacitated or physically helpless;

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

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

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

20 (5) criminal sexual conduct involving a victim under 14 years of age;

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

23 (e) The terms "sexual penetration" and "sexual contact" as used in this
24 Chapter having the same meaning as "sexual penetration" and "sexual
25 contact" as used in 9 GCA Chapter 25;

26 (f) The term "sex offender" refers to persons convicted of a criminal sexual

1 conduct offense;

2 (g) The term "conviction" refers to each separate charge to which the offender
3 either voluntarily pleads guilty, whether in a single hearing or in separate
4 hearings, or is found guilty by a trier of fact, whether the charges are
5 contained in one (1) indictment or separate indictments. This term includes
6 please of *nolo contendere* and guilty pleas entered pursuant to North Carolina
7 v. Alford, 400 U.S. 25 (1970).

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

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

17 (j) The term "Law Enforcement Agency" in this Chapter refers to the Guam
18 Police Department, Department of Corrections, Guam International Airport
19 Police, the Attorney General's Office Family and Prosecution Divisions, the
20 Superior Court and its Marshals, the Air Force Office of Special
21 Investigations, the Naval Criminal Investigation Section, the Coast Guard
22 Criminal Investigation Section, the United States Army Criminal
23 Investigation Division, and Criminal Investigators of the United States
24 Government.

25 (k) The term "The Court" refers to the Superior Court of Guam;

26 (l) The term "community" refers to the entire island of Guam, including Cocos

1 Island;

2 (m) The term "registrant" refers to persons required to register under this
3 Chapter.

4 **§89.02. Classification of Offenders. (a) Level One Offender.** A person
5 convicted of a sexually violent offense.

6 **(b) Level Two Offender.** A person not otherwise classified as a Level One
7 Offender and is convicted of:

8 (1) criminal sexual conduct involving two (2) or more victims; or

9 (2) two (2) or more separate criminal sexual conduct offenses; or

10 (3) a criminal offense against a victim who is a minor, involving two
11 (2) or more minors; or

12 (4) two (2) or more separate "criminal offenses against a victim who
13 is a minor"; or

14 (5) one (1) or more separate criminal sexual conduct offenses and one

15 (1) or more separate "criminal offenses against a victim who is a
16 minor".

17 **(c) Level Three Offender.** A person not otherwise classified as either a Level
18 One or a Level Two Offender and is convicted of:

19 (1) criminal sexual conduct; or

20 (2) a criminal offense against a victim who is a minor.

21 **§89.03. Registration; Duty to Register. (a) Persons Required to Register.** The
22 following persons, upon release, release from incarceration, placement or
23 parole, or placement on probation, shall register pursuant to this Chapter:

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

- 1 (i) a sexually violent offense;
- 2 (ii) a criminal sexual conduct offense; or
- 3 (iii) a criminal offense against a victim who is a minor.
- 4 (2) any person who, since January 1, 1993, has been or is hereafter
- 5 convicted in any federal or military court for a violation of any of the
- 6 following offenses:
 - 7 (i) an offense under Title 18 U.S.C. §§2241 or 2242; or
 - 8 (ii) a criminal offense against a victim who is a minor.
- 9 (3) any person convicted in another state, territory or tribe of any of
- 10 the following offense if that person is required to register in the state,
- 11 territory or tribe wherein he or she was convicted of any of the
- 12 following:
 - 13 (i) a criminal sexual conduct offense; or
 - 14 (ii) a criminal offense against a victim who is a minor.
- 15 (4) any person who is a non-resident who is on Guam for the purpose
- 16 of work or education and:
 - 17 (I) who is or has been convicted in another state, territory or
 - 18 tribe of a criminal sexual offense or a criminal offense against a
 - 19 victim who is a minor and is required to register in the state,
 - 20 territory or tribe wherein he was convicted; or
 - 21 (ii) who, since January 1, 1993, has been or is hereafter
 - 22 convicted in a military court or a court in another state, territory
 - 23 or tribe, of a criminal sexual conduct or a criminal offense against
 - 24 a victim who is a minor.

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

- 26 (1) **Form A Registration:** Level One and Level Two Offenders:

1 (i) name, aliases, date of birth, social security number, if any,
2 and any other identifying factors;

3 (ii) current physical address and mailing address or, if he or she
4 is incarcerated, the address of the residence where he or she will
5 be residing immediately upon release and the mailing address he
6 or she plans to use immediately upon release;

7 (iii) anticipated future residence;

8 (iv) current/anticipated employment;

9 (v) offense history, including the underlying crime which
10 triggered the registration requirements of this Chapter;

11 (vi) documentation of treatment;

12 (vii) fingerprints; and

13 (viii) current photograph.

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

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

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

22 (iii) fingerprints; and

23 (iv) current photograph.

24 (3) **Federally Protected Witnesses.** Where the person required to
25 register is a federally protected witness, the person shall not be required
26 to provide a photograph, aliases, original name, place of offense, date

1 of birth, social security number, or prior residence;

2 (4) **Pardoned Convict or Conviction Reversed upon Appeal.** The duty
3 to register under this Chapter shall not be applicable to any sex
4 offender whose conviction was reversed upon appeal or who was
5 pardoned by the Governor.

6 (c) **Biological Samples.**

7 (1) Every person convicted in the Superior Court of Guam of a
8 criminal sexual conduct offense or of a criminal offense against a victim
9 who is a minor shall provide a biological sample to the Guam Police
10 Department for DNA typing no later than thirty (30) calendar days of
11 his sentencing;

12 (2) Every person who was convicted in the Superior Court of Guam
13 prior to the effective date of this law of a criminal sexual conduct
14 offense or of a criminal offense against a victim who is a minor and is
15 incarcerated on the effective date of this law shall provide a biological
16 sample for DNA typing no later than six (6) months after the effective
17 date of this law;

18 (3) Every person who was convicted in the Superior Court of Guam
19 prior to the effective date of this law of a criminal sexual conduct
20 offense or of a criminal offense against a victim who is a minor and was
21 released on parole or probation after January 1, 1993 shall provide a
22 biological sample for DNA typing to the Guam Police Department at
23 the time of that person's initial registration;

24 (4) Every person required to register pursuant to §89.03(a)
25 subsections (2), (3), and (4) shall provide a biological sample to the
26 Guam Police Department for DNA typing at the time of that person's

1 initial registration on Guam.

2 (5) Intentional or knowing failure to provide a biological sample shall
3 have the same penalty as a failure to provide initial registration
4 information.

5 **(d) Registration Requirements for Persons Required to Register Pursuant to**
6 **§89.03(a)(1); Initial Registration; Penalty.**

7 **(1) Where a Person Required to Register is Sentenced to**
8 **Incarceration.** Initial registration information must be provided to the
9 Parole Services Division of the Department of Corrections no later
10 than two (2) weeks before his anticipated release. Intentional or
11 knowing failure to provide this information shall result in the delay of
12 his release.

13 **(2) Where a Person Required to Register is Sentenced to Probation.**
14 Initial registration information must be provided to the Probation
15 Services Division of the Superior Court no later than the date he is
16 scheduled to be placed on probation. Intentional or knowing failure to
17 provide this information by that date shall result in the revocation of his
18 probation and shall make him ineligible for probation.

19 **(3) Where a Person identified as a Person Required to Register is on**
20 **Supervised Parole or Probation at the time of the passage of this law.**
21 Initial registration information must be provided to the registrant's
22 parole or probation officer no later than six (6) months after the
23 effective date of this law. Intentional or knowing failure to register
24 pursuant to this subsection is a felony of the third degree.

25 **(4) Where a Person Required to Register is no longer under the**
26 **Supervision of either Probation or Parole at the time of the passage of**

1 **this law.** Initial registration information must be provided to the Guam
2 Police Department no later than one (1) year after the effective date of
3 this law. Intentional or knowing failure to register pursuant to this
4 subsection is a felony of the third degree.

5 **(e) Registration Requirements for Persons Required to Register Pursuant to**
6 **§89.03(a), subsections (1), (2), (3), and (4); Initial Registration.**

7 (1) Persons required to register pursuant to §89.03(a)(2) shall provide
8 all the information that must be registered pursuant to §89.03(b) to the
9 Guam Police Department no later than seven (7) calendar days after
10 release from incarceration, release on probation, or arrival on Guam. If
11 the registrant is on probation in another jurisdiction and that
12 registrant's probation is to be transferred to Guam, then the Guam
13 Police Department may obtain the necessary information from the
14 office of probation of the jurisdiction from where registrant came; said
15 registrant is required to verify the registered information as required by
16 this Chapter no later than seven (7) calendar days of, his or her arrival
17 on Guam.

18 (2) Persons required to register pursuant to §89.03(a), subsections (3)
19 and (4) shall provide all the information that must be registered
20 pursuant to §89.03(b) to the Guam Police Department no later than
21 seven (7) calendar days after their arrival in Guam. If the registrant is
22 on probation in another jurisdiction and that registrant's probation is to
23 be transferred to Guam, then the Guam Police Department may obtain
24 the necessary information from the office of probation of the
25 jurisdiction from where registrant came; said registrant is required to
26 verify the registered information as required by this Chapter no later

1 than seven (7) calendar days of his arrival on Guam.

2 (f) **Registration Requirements; Verification.** A registrant must verify the
3 following information:

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

11 (i) current physical and mailing addresses;

12 (ii) recent criminal offenses, if any;

13 (iii) documentation of treatment; and

14 (iv) a current photograph.

15 (2) **Level Two Offender.** The registrant shall verify the following
16 registered information exactly one (1) year from the date of his release
17 from incarceration or the date of his release on probation if he is placed
18 on probation, and exactly every year thereafter. If the date his is to
19 verify falls on a weekend or holiday, the registrant shall verify the
20 information on the following business day.

21 (i) current physical and mailing addresses;

22 (ii) recent criminal offenses, if any;

23 (iii) documentation of treatment, if any; and

24 (iv) a current photograph.

25 (3) **Level Three Offender:** The registrant shall verify registered
26 information in the same manner as a Level Two Offender;

1 (4) Notwithstanding subsections (a), (b), and (c) above, a registrant
2 shall register his new physical address within seven (7) calendar days of
3 any change in physical residence. If a registrant anticipates moving
4 from Guam, that registrant shall register his intended place of
5 residence no later than three (3) calendar days before his departure
6 from Guam.

7 **(g) Registration Requirements; Verification,- Method of Verification.** A
8 registrant shall verify his registered information as required by §89.03(e) in
9 the following manner:

10 (1) **Parolee.** A parolee shall personally present himself to his parole
11 officer and verify the registered information with the parole officer;

12 (2) **Probationer.** A probationer shall personally present himself to his
13 probation officer and verify the registered information with the
14 probation officer;

15 (3) **Dual Supervision.** A person under dual supervision, that is, he is
16 supervised by both parole and probation, shall personally present
17 himself to his probation officer; and

18 (4) **Others.** All registrants, including persons who are no longer
19 under supervised parole or probation, shall personally appear at the
20 Guam Police Department, Records Section Division, and register with
21 the Guam Police Department.

22 **(h) Registration Requirement; Guam residents who are employed, carry on a**
23 **vocation, or are students in another state or territory.** A person who is
24 required to register on Guam and who is employed, carries on a vocation, or
25 is a student of another state or territory shall also register in that other state
26 or territory pursuant to the registration requirements of that state or

1 territory.

2 (i) **Registration Requirement: Persons who move to another state or**
3 **territory.** When a person who is required to register on Guam anticipates
4 moving to another state or territory, that registrant shall report the change
5 of address to the Guam Police Department pursuant to the requirements of
6 this Chapter, and comply with any registration requirement of the new state
7 or territory of residence.

8 **§89.04. Registration.** A registrant shall continue to comply with this Chapter,
9 except during ensuing periods of incarceration, for the following period of
10 time:

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

13 (b) **Ten (10) Years.** A person deemed a Level Three Offender shall register
14 pursuant to §89-03(b)(2), and subsections (2) and (3) of §89-03(e), for a period
15 of ten (10) years from the date of his release on probation or release on
16 parole.

17 (c) **Where conviction is reversed, vacated or set aside or where registrant is**
18 **pardoned.** Notwithstanding subsections (a) and (b) of this Section, where the
19 underlying conviction is reversed, vacated or set aside, or if the person is
20 pardoned, registration is no longer required.

21 (d) **Tolling of registration requirement.** If a registrant is re-incarcerated, for
22 violations of release conditions imposed in the same crime or for the
23 commission of another crime, or he is civilly committed, then the period of
24 registration is tolled and remains tolled until his subsequent release.
25 Thereafter, the registrant shall recommence and continue registering for the
26 remaining period of time he or she is required to register.

1 **§89.05. Penalties. (a) Initial registration.** Intentional or knowing failure to
2 provide initial registration information shall delay the registrant's release if
3 he is to be released, or make the registrant ineligible for probation if he is to
4 be placed on probation. Intentional or knowing failure to provide initial
5 registration information is a felony of the third degree.

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

10 **(c) Address changes.** A registrant's failure to register his new physical
11 address within seven (7) days of any change of physical address is a
12 misdemeanor. A second or subsequent failure to so register is a felony of the
13 third degree. Failure of a registrant who is a probationer or parolee to so
14 register may result in sanctions pursuant to 8 GCA §80.66 and 9 GCA §80.82,
15 respectively.

16 **(d) False information.** Intentionally and knowingly provide false information
17 during initial registration or subsequent verification is a felony of the second
18 degree.

19 **§89.05. Duties of the Department of Correction's and the Court; Initial**
20 **Registration.** If a registrant is released from incarceration, placed on parole,
21 or placed on probation, the Department of Correction, the Court, or the
22 Office of Probation shall:

23 **(a)** inform the registrant of the duty to register and obtain the information
24 required for such registration; and

25 **(b)** inform the registrant that if he changes residence in Guam, he shall
26 provide the new residential address to the Guam Police Department; and

1 (c) inform the registrant that if he moves to another state or territory, he
2 shall report the change of address to the Guam Police Department no later
3 than three (3) calendar days of his leaving Guam, and shall comply with any
4 registration requirement of the new state or territory.

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

8 (e) obtain all information that must necessarily be gathered for the
9 registrant's initial registration, and inform the registrant that he must
10 provide his fingerprints, a photograph, and a biological sample to the Guam
11 Police Department. The Department of Corrections or the Office of
12 Probation shall facilitate the obtaining of fingerprints, photograph, and
13 biological sample;

14 (f) require the registrant to read and sign a form stating that his duty to
15 register under this Chapter has been explained; and

16 (g) forward information described above to the Guam Police Department
17 within three (3) calendar days after receipt thereof.

18 **§89.06. Duties of the Department of Correction's and the Court, Verification**
19 **of Registered Information.** (a) The Department of Corrections, Parole

20 Services Division, shall receive and obtain initial registration and
21 registration verification information from registrants who are parolees and
22 shall transmit such information to the Guam Police Department no more
23 than three (3) business days of receipt of such information;

24 (b) The Court, Probation Services Division, shall receive and obtain initial
25 registration and registration verification information from registrants who
26 are probationers and shall transmit such information to the Guam Police

1 Department no more than three (3) business days of receipt of such
2 information.

3 **§89.07. Duties of the Guam Police Department.** Upon receipt of the
4 information that is required to be registered or verified pursuant to this
5 Chapter, the Guam Police Department shall immediately, and no later than
6 three (3) business days of receipt of this information, transmit the information
7 to the Court which shall record this information. The Guam Police
8 Department shall also immediately transmit the registrant's photograph,
9 fingerprints, conviction data, and current residence, to the Federal Bureau of
10 Investigation ("FBI") for inclusion in the FBI database. All registered
11 information shall then be transmitted to the National Database no later than
12 three (3) business days after receipt of such information.

13 (a) **Notification of local law enforcement agencies regarding changes of**
14 **address; moving from Guam.** Upon receipt of information that registrant is
15 anticipated to move from Guam to another state or territory, the Guam
16 Police Department shall immediately notify that state or territory to which
17 the registrant is moving and shall transmit the address of the registrant's
18 anticipated residence to the FBI no later than three (3) business days of receipt
19 of this information.

20 (b) **Notification of FBI regarding changes of address.** Upon receipt of
21 information that registrant is or has changed residence within Guam, or is
22 anticipated to move from Guam to another state or territory, the Guam
23 Police Department shall transmit the new address to the FBI no later than
24 three (3) business days of receipt of this information.

25 **§89.08. Duties of the Court.** (a) **Repository.** The Court shall be the central
26 repository for the registered information. The court shall record and

1 maintain the records of all the information registered pursuant to this
2 Chapter.

3 (b) **Fees.** The Court is authorized to collect reasonable registration fees from
4 registrants. Such fees shall be used for the maintenance and support of the
5 sex offender registration and notification program. Fifty percent (50%) of the
6 fee paid by the registrant shall be given to the Court and the remaining fifty
7 percent (50%) shall go to the Guam Police Department. If a registrant is
8 found to be indigent, no fee shall be assessed.

9 **§89.09. Notification.** (a) **Release of information.** The Court shall release the
10 following information to the community:

11 (1) **Level One Offender:** All registered information, the age of the
12 victim(s) in the underlying case, and the state or territory in which the
13 crime occurred;

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

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

20 (4) **Level Three Offender, Misdemeanor Conviction.** No notification.

21 (b) **Victims.** The identity of the victim or victims shall not be released.

22 (c) **Method of release of information.** The Court shall maintain an internet
23 web-page dedicated to persons required to register which shall contain the
24 information that is required to be released. The released information shall be
25 updated during the first week of every month. The community shall have
26 access to the Sex Offender Registry Web Page. The Court shall transmit

1 released information concerning Level One and Level Two Offenders to the
2 Department of Education, all public and private schools, day care centers,
3 victim shelters, and victim advocates on the first week of every month. The
4 Court may transmit information concerning Level One and Level Two
5 Offenders directly to the media for disbursement.

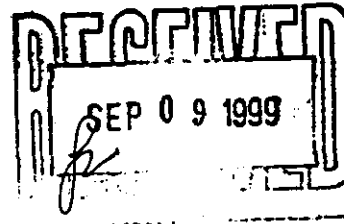
6 **§89.10. Immunity from good faith conduct.** Law enforcement agencies, their
7 employees, and government of Guam officials shall be immune from any civil
8 or criminal liability for good faith conduct under this Act, unless it is shown
9 that the agency, employee, government official, or board member acted with
10 gross negligence or in bad faith."



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senator Mark Forbes, Chairman
Kabisiyon Mayurdit*

SEP 0 8 1999



MEMORANDUM

TO: Chairman
Committee on Judiciary, Public Safety, Consumer Protection and Human Resources Development

FROM: Chairman *[Signature]*
Committee on Rules, Government Reform, Reorganization and Federal Affairs

SUBJECT: Principal Referral – Bill No. 299

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

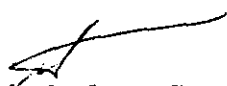
Introduced

SEP 01 1999

**MINA' BENTE SINGKO NA LIHESLATURAN GUÁHAN
TWENTY-FIFTH GUAM LEGISLATURE
1999 (FIRST) Regular Session**

Bill No. 299 (COR)

Introduced by:

Chairman, 
Committee on Rules, Government Refo:
Reorganization and Federal Affairs
at the request of I Maga'lahaen Guáhan,
the Governor of Guam, in accordance
with the Organic Act of Guam.

AN ACT TO ADD A NEW CHAPTER 89 TO TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A SEX OFFENDER REGISTRY AND TO
PROVIDING A MEANS OF NOTICE TO THE COMMUNITY
OF THOSE WHO ARE REGISTERED AS SEX OFFENDERS.

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

2 **Section 1. Legislative intent.** The crime of criminal sexual conduct and the
3 various forms of sexual molestation of children is a serious problem on our island
4 and persons convicted of these crimes are a danger to the people of our community,
5 both at the village level and at the entire island level. The purpose and objective of
6 this Act is to protect the people of our community, and most particularly our
7 children, from child molesters and sex offenders, especially violent sex offenders.

8 **Section 2.** A new Chapter 89 is hereby added to Title 9 of the Guam Code
9 Annotated, to read as follows:

10 **"CHAPTER 89**
11 **SEX OFFENDER REGISTRY**

12 **§89.01. Definitions.** For purposes of this Chapter:

- 13 (a) The term "minor" refers to persons below the age of 18;

1 (b) The term "criminal offense against a victim who is a minor" means any
2 criminal offense that consists of any of the following:

3 (1) kidnapping, felonious restraint, child stealing, and custodial
4 interference, as defined and punished in 9 GCA Chapter 25
5 (Kidnapping and Related Offenses), where the victim is a minor;

6 (2) promoting prostitution, abetting prostitution, compelling
7 prostitution, as defined and punished in 9 GCA Chapter 28, Article
8 1 (Prostitution), where the individual committing or engaging in
9 prostitution is a minor;

10 (3) participation in obscenity, use of one's own child in obscene acts,
11 indecent exposure, photography of minors' sexual acts, as defined
12 and punished in 9 GCA Chapter 28, Article 2 (Obscenity and
13 Related Offenses), where a minor is employed or used;

14 (4) criminal sexual conduct, as defined and punished in 9 GCA
15 Chapter 25 (Sexual Offenses), where the victim of the crime is a
16 minor;

17 (5) attempt to commit, solicitation to commit, and conspiracy to
18 commit the crimes indicated in the above subparagraphs (1)
19 through (4), in violation of 9 GCA Chapter 13.

20 (c) The term "criminal sexual conduct" refers to violations defined and
21 punished under 9 GCA Chapter 25 (Sexual Offenses) and any violations of similar
22 federal laws or laws of other states, territories, or tribes;

23 (d) The term "sexually violent offense" refers to any of the following:

24 (1) criminal sexual conduct involving sexual penetration or sexual
25 contact where the actor causes personal injury to the victim and
26 either of the following circumstances exists: (i) force or coercion
27 is used to accomplish the sexual penetration or contact; or (ii) the

1 actor knows or has reason to know that the victim is mentally
2 defective, mentally incapacitated or physically helpless;

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

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

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

17 (5) criminal sexual conduct involving a victim under 14 years of age;

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

20 (e) The terms "sexual penetration" and "sexual contact" as used in this
21 Chapter having the same meaning as "sexual penetration" and "sexual contact" as
22 used in 9 GCA Chapter 25;

23 (f) The term "sex offender" refers to persons convicted of a criminal sexual
24 conduct offense;

25 (g) The term "conviction" refers to each separate charge to which the
26 offender either voluntarily pleads guilty, whether in a single hearing or in separate
27 hearings, or is found guilty by a trier of fact, whether the charges are contained in

1 one (1) indictment or separate indictments. This term includes pleas of *nolo*
2 *contendere* and guilty pleas entered pursuant to North Carolina v. Alford, 400 U.S. 25
3 (1970).

4 (h) The term "employed" and "carries on a vocation" include employment
5 that is full-time or part-time for a period of time exceeding fourteen (14) days or for
6 an aggregate period of time exceeding thirty (30) days during any calendar year,
7 whether financially compensated, volunteer, or for the purpose of government or
8 educational benefit;

9 (i) The term "student" means any person who is enrolled on a full-time or
10 part-time basis, in any public or private educational institution, including any
11 secondary school, trade, or professional institutions, or institution of higher
12 learning;

13 (j) The term "Law Enforcement Agency" in this Chapter refers to the Guam
14 Police Department, Department of Corrections, the Attorney General's Office Family
15 and Prosecution Divisions, the Superior Court, the Air Force Office of Special
16 Investigations, the Naval Criminal Investigation Section, the Coast Guard Criminal
17 Investigation Section, the United States Army Criminal Investigation Division, and
18 Criminal Investigators of the United States Government.

19 (k) The term "The Court" refers to the Superior Court of Guam;

20 (l) The term "community" refers to the entire island of Guam, including
21 Cocos Island;

22 (m) The term "registrant" refers to persons required to register under this
23 Chapter.

24 **§89.02. Classification of Offenders. (a) Level One Offender.** A person
25 convicted of a sexually violent offense.

26 (b) **Level Two Offender.** A person not otherwise classified as a Level One
27 Offender and is convicted of:

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

10 (c) **Level Three Offender.** A person not otherwise classified as either a Level
11 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 **§89.03. Registration; Duty to Register. (a) Persons Required to Register.** The
15 following persons, upon release, release from incarceration, placement or parole, or
16 placement on probation, shall 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
- 19 following offenses:
 - 20 (i) a sexually violent offense;
 - 21 (ii) a criminal sexual conduct offense; or
 - 22 (iii) a criminal offense against a victim who is a minor.
- 23 (2) any person who, since January 1, 1993, has been or is hereafter
- 24 convicted in any federal or military court for a violation of any of
- 25 the following offenses:
 - 26 (i) an offense under Title 18 U.S.C. §§2241 or 2242; or
 - 27 (ii) a criminal offense against a victim who is a minor.

1 (3) any person convicted in another state, territory or tribe of any of
2 the following offense if that person is required to register in the
3 state, territory or tribe wherein he or she was convicted of any of
4 the following:

5 (i) a criminal sexual conduct offense; or

6 (ii) a criminal offense against a victim who is a minor.

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

9 (i) who is or has been convicted in another state, territory or
10 tribe of a criminal sexual offense or a criminal offense
11 against a victim who is a minor and is required to register
12 in the state, territory or tribe wherein he was convicted; or

13 (ii) who, since January 1, 1993, has been or is hereafter
14 convicted in a military court or a court in another state,
15 territory or tribe, of a criminal sexual conduct or a criminal
16 offense against a victim who is a minor.

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

18 **(1) Form A Registration: Level One and Level Two Offenders:**

19 (i) name, aliases, date of birth, social security number, if any,
20 and any other identifying factors;

21 (ii) current physical address and mailing address or, if he or she
22 is incarcerated, the address of the residence where he or she
23 will be residing immediately upon release and the mailing
24 address he or she plans to use immediately upon release;

25 (iii) anticipated future residence;

26 (iv) current/anticipated employment;

- (v) offense history, including the underlying crime which triggered the registration requirements of this Chapter;
- (vi) documentation of treatment;
- (vii) fingerprints; and
- (viii) current photograph.

(2) **Form B Registration: Level Three Offenders** shall provide the following:

- (i) name, aliases, date of birth, social security number, if any, and any other identifying factors;
- (ii) current physical address and mailing address or, if he or she is incarcerated, the address of the residence where he or she will be residing immediately upon release and the mailing address he or she plans to use immediately upon release;
- (iii) fingerprints; and
- (iv) current photograph.

(3) **Federally Protected Witnesses.** Where the person require to register is a federally protected witness, the person shall not be required to provide a photograph, aliases, original name, place of offense, date of birth, social security number, or prior residence;

(4) **Pardoned Convict or Conviction Reversed upon Appeal.** The duty to register under this Chapter shall not be applicable to any sex offender whose conviction was reversed upon appeal or who was pardoned by the Governor.

(c) **Biological Samples.**

- (1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense or of a criminal offense against a victim who is a minor shall provide a biological sample to the

1 Guam Police Department for DNA typing no later than thirty (30)
2 calendar days of his sentencing;

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

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

15 (4) Every person required to register pursuant to §89.03(a) subsections
16 (2), (3), and (4) shall provide a biological sample to the Guam
17 Police Department for DNA typing at the time of that person's
18 initial registration on Guam.

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

22 (d) **Registration Requirements for Persons Required to Register Pursuant to**
23 **§89.03(a)(1); Initial Registration; Penalty.**

24 (1) **Where a Person Required to Register is Sentenced to**
25 **Incarceration.** Initial registration information must be provided
26 to the Parole Services Division of the Department of Corrections
27 no later than two (2) weeks before his anticipated release.

1 Intentional or knowing failure to provide this information shall
2 result in the delay of his release.

3 (2) **Where a Person Required to Register is Sentenced to**
4 **Probation.** Initial registration information must be provided to
5 the Probation Services Division of the Superior Court no later
6 than the date he is scheduled to be released on probation.
7 Intentional or knowing failure to provide this information by that
8 date shall result in the revocation of his probation and shall make
9 him ineligible for probation.

10 (3) **Where a Person identified as a Person Required to Register is on**
11 **Supervised Parole or Probation at the time of the passage of this**
12 **law.** Initial registration information must be provided to the
13 registrant's parole or probation officer no later than six (6) months
14 after the effective date of this law. Intentional or knowing failure
15 to register pursuant to this subsection is a felony of the third
16 degree.

17 (4) **Where a Person Required to Register is no longer under the**
18 **Supervision of either Probation or Parole at the time of the**
19 **passage of this law.** Initial registration information must be
20 provided to the Guam Police Department no later than one (1)
21 year after the effective date of this law. Intentional or knowing
22 failure to register pursuant to this subsection is a felony of the
23 third degree.

24 (e) **Registration Requirements for Persons Required to Register Pursuant to**
25 **§89.03(a), subsections (1), (2), (3), and (4); Initial Registration.**

26 (1) Persons required to register pursuant to §89.03(a)(2) shall provide
27 all the information that must be registered pursuant to §89.03(b) to

1 the Guam Police Department no later than seven (7) calendar days
2 after release from incarceration, release on probation, or arrival on
3 Guam. If the registrant is on probation in another jurisdiction
4 and that registrant's probation is to be transferred to Guam, then
5 the Guam Police Department may obtain the necessary
6 information from the office of probation of the jurisdiction from
7 where registrant came; said registrant is required to verify the
8 registered information as required by this Chapter no later than
9 seven (7) calendar days of his or her arrival on Guam.

10 (2) Persons required to register pursuant to §89.03(a), subsections (3)
11 and (4) shall provide all the information that must be registered
12 pursuant to §89.03(b) to the Guam Police Department no later than
13 seven (7) calendar days after their arrival in Guam. If the
14 registrant is on probation in another jurisdiction and that
15 registrant's probation is to be transferred to Guam, then the Guam
16 Police Department may obtain the necessary information from the
17 office of probation of the jurisdiction from where registrant came;
18 said registrant is required to verify the registered information as
19 required by this Chapter no later than seven (7) calendar days of
20 his arrival on Guam.

21 (f) **Registration Requirements; Verification.** A registrant must verify the
22 following information:

23 (1) **Level One Offender:** The registrant shall verify the following
24 registered information ninety (90) calendar days from the date of
25 his release from incarceration or ninety (90) days from the date of
26 his release on probation if he is placed on probation, and every
27 ninety (90) calendar days thereafter. If the ninetieth day falls on a

1 weekend or holiday, the registrant shall verify the information on
2 the following business day.

- 3 (i) current physical and mailing addresses;
- 4 (ii) recent criminal offenses, if any;
- 5 (iii) documentation of treatment; and
- 6 (iv) a current photograph.

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

- 13 (i) current physical and mailing addresses;
- 14 (ii) recent criminal offenses, if any;
- 15 (iii) documentation of treatment, if any; and
- 16 (iv) a current photograph.

17 (3) **Level Three Offender:** The registrant shall verify registered
18 information in the same manner as a Level Two Offender;

19 (4) Notwithstanding subsections (a), (b), and (c) above, a registrant
20 shall register his new physical address within seven (7) calendar
21 days of any change in physical residence. If a registrant anticipates
22 moving from Guam, that registrant shall register his intended
23 place of residence no later than three (3) calendar days before his
24 departure from Guam.

25 (g) **Registration Requirements; Verification; Method of Verification.** A
26 registrant shall verify his registered information as required by §89.03(e) in the
27 following manner:

- 1 (1) **Parolee.** A parolee shall personally present himself to his parole
2 officer and verify the registered information with the parole
3 officer;
- 4 (2) **Probationer.** A probationer shall personally present himself to his
5 probation officer and verify the registered information with the
6 probation officer;
- 7 (3) **Dual Supervision.** A person under dual supervision, that is, he is
8 supervised by both parole and probation, shall personally present
9 himself to his probation officer; and
- 10 (4) **Others.** All registrants, including persons who are no longer
11 under supervised parole or probation, shall personally appear at
12 the Guam Police Department, Records Section Division, and
13 register with the Guam Police Department.

14 **(h) Registration Requirement; Guam residents who are employed, carry on a**
15 **vocation, or are students in another state or territory.** A person who is required to
16 register on Guam and who is employed, carries on a vocation, or is a student of
17 another state or territory shall also register in that other state or territory pursuant to
18 the registration requirements of that state or territory.

19 **(i) Registration Requirement: Persons who move to another state or**
20 **territory.** When a person who is required to register on Guam anticipates moving
21 to another state or territory, that registrant shall report the change of address to the
22 Guam Police Department pursuant to the requirements of this Chapter, and comply
23 with any registration requirement of the new state or territory of residence.

24 **§89.04. Registration.** A registrant shall continue to comply with this Chapter,
25 except during ensuing periods of incarceration, for the following period of time:

26 **(a) Lifetime. Level One and Level Two Offenders.** A Level One and Two
27 Offenders must comply with this Chapter, for the length of that person's life.

1 (b) **Ten (10) Years.** A person deemed a Level Three Offender shall register
2 pursuant to §89.03(b)(2), and subsections (2) and (3) of §89.03(e), for a period of ten
3 (10) years from the date of his release on probation or release on parole.

4 (c) **Where conviction is reversed, vacated or set aside or where registrant is**
5 **pardoned.** Notwithstanding subsections (a) and (b) of this Section, where the
6 underlying conviction is reversed, vacated or set aside, or if the person is pardoned,
7 registration is no longer required.

8 (d) **Tolling of registration requirement.** If a registrant is re-incarcerated, for
9 violations of release conditions imposed in the same crime or for the commission
10 of another crime, or he is civilly committed, then the period of registration is tolled
11 and remains tolled until his subsequent release. Thereafter, the registrant shall re-
12 commence and continue registering for the remaining period of time he or she is
13 required to register.

14 §89.05. **Penalties.** (a) **Initial registration.** Intentional or knowing failure to
15 provide initial registration information shall delay the registrant's release if he is to
16 be released, or make the registrant ineligible for probation if he is to be placed on
17 probation. Intentional or knowing failure to provide initial registration
18 information is a felony of the third degree.

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

23 (c) **Address changes.** A registrant's failure to register his new physical
24 address within seven (7) days of any change of physical address is a misdemeanor. A
25 second or subsequent failure to so register is a felony of the third degree. Failure of a
26 registrant who is a probationer or parolee to so register may result in sanctions
27 pursuant to 8 GCA §80.66 and 9 GCA §80.82, respectively.

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

4 **§89.05. Duties of the Department of Correction's and the Court; Initial**
5 **Registration.** If a registrant is released from incarceration, placed on parole, or
6 placed on probation, the Department of Correction, the Court, or the Office of
7 Probation shall:

8 (a) inform the registrant of the duty to register and obtain the information
9 required for such registration; and

10 (b) inform the registrant that if he changes residence in Guam, he shall
11 provide the new residential address to the Guam Police Department; and

12 (c) inform the registrant that if he moves to another state or territory, he
13 shall report the change of address to the Guam Police Department no later than
14 three (3) calendar days of his leaving Guam, and shall comply with any registration
15 requirement of the new state or territory.

16 (d) inform the registrant that if he is or becomes employed, carries on a
17 vocation, or becomes a student in another state or territory, then he must comply
18 with the registration requirement of that new state or territory;

19 (e) obtain all information that must necessarily be gathered for the
20 registrant's initial registration, and inform the registrant that he must provide his
21 fingerprints, a photograph, and a biological sample to the Guam Police Department.
22 The Department of Corrections or the Office of Probation shall facilitate the
23 obtaining of fingerprints, photograph, and biological sample;

24 (f) require the registrant to read and sign a form stating that his duty to
25 register under this Chapter has been explained; and

26 (g) forward information described above to the Guam Police Department
27 within three (3) calendar days after receipt thereof.

1 **§89.06. Duties of the Department of Correction's and the Court; Verification**
2 **of Registered Information.** (a) The Department of Corrections, Parole Services
3 Division, shall receive and obtain initial registration and registration verification
4 information from registrants who are parolees and shall transmit such information
5 to the Guam Police Department no more than three (3) business days of receipt of
6 such information;

7 (b) The Court, Probation Services Division, shall receive and obtain initial
8 registration and registration verification information from registrants who are
9 probationers and shall transmit such information to the Guam Police Department
10 no more than three (3) business days of receipt of such information.

11 **§89.07. Duties of the Guam Police Department.** Upon receipt of the
12 information that is required to be registered or verified pursuant to this Chapter, the
13 Guam Police Department shall immediately, and no later than three (3) business
14 days of receipt of this information, transmit the information to the Court which
15 shall record this information. The Guam Police Department shall also immediately
16 transmit the registrant's photograph, fingerprints, conviction data, and current
17 residence, to the Federal Bureau of Investigation ("FBI") for inclusion in the FBI
18 database. All registered information shall then be transmitted to the National
19 Database no later than three (3) business days after receipt of such information.

20 (a) **Notification of local law enforcement agencies regarding changes of**
21 **address; moving from Guam.** Upon receipt of information that registrant is
22 anticipated to move from Guam to another state or territory, the Guam Police
23 Department shall immediately notify that state or territory to which the registrant is
24 moving and shall transmit the address of the registrant's anticipated residence to
25 the FBI no later than three (3) business days of receipt of this information.

26 (b) **Notification of FBI regarding changes of address.** Upon receipt of
27 information that registrant is or has changed residence within Guam, or is

1 anticipated to move from Guam to another state or territory, the Guam Police
2 Department shall transmit the new address to the FBI no later than three (3)
3 business days of receipt of this information.

4 **§89.08. Duties of the Court. (a) Repository.** The Court shall be the central
5 repository for the registered information. The court shall record and maintain the
6 records of all the information registered pursuant to this Chapter.

7 (b) **Fees.** The Court is authorized to collect reasonable registration fees from
8 registrants. Such fees shall be used for the maintenance and support of the sex
9 offender registration and notification program. Fifty percent (50%) of the fee paid by
10 the registrant shall be given to the Court and the remaining fifty percent (50%) shall
11 go to the Guam Police Department.

12 **§89.09. Notification. (a) Release of information.** The Court shall release the
13 following information to the community:

14 (1) **Level One Offender:** All registered information, the age of the
15 victim(s) in the underlying case, and the state or territory in which
16 the crime occurred;

17 (2) **Level Two Offender:** Name, physical address, photograph,
18 criminal history, the age of the victim in the underlying case, and
19 the state or territory in which the crime occurred;

20 (3) **Level Three Offender, Felony Conviction:** Name, photograph,
21 criminal sexual conduct offense or 'the criminal offense against a
22 victim who is a minor' of which the person was convicted.

23 (4) **Level Three Offender, Misdemeanor Conviction:** No notification.

24 (b) **Victims.** The identity of the victim or victims shall not be released.

25 (c) **Method of release of information.** The Court shall maintain an internet
26 web-page dedicated to persons required to register which shall contain the
27 information that is required to be released. The released information shall be

1 updated during the first week of every month. The community shall have access to
2 the Sex Offender Registry Web Page. The Court shall transmit released information
3 concerning Level One and Level Two Offenders to all schools, day care centers,
4 victim shelters, and victim advocates on the first week of every month. The Court
5 may transmit information concerning Level One and Level Two Offenders directly
6 to the media for disbursement.

7 **§89.10. Immunity from good faith conduct.** Law enforcement agencies, their
8 employees, and government of Guam officials shall be immune from any civil or
9 criminal liability for good faith conduct under this Act, unless it is shown that the
10 agency, employee, government official, or board member acted with gross
11 negligence or in bad faith."

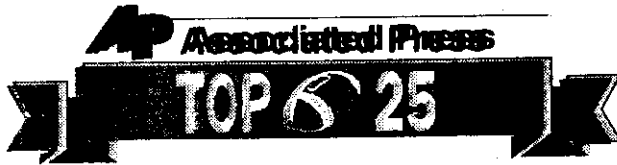
SPORTS

Warrick leads 'Noles to 41-35 win

The Associated Press

Peter Warrick caught a touchdown pass, ran for a TD and finished with 167 yards as Florida State extended its home unbeaten streak to 42 games with a victory over Georgia Tech.

Joe Hamilton threw a 22-yard touchdown pass to Kelly Campbell with 1:35 left as the Yellow Jackets (1-1) closed to 41-35 in the final minute. An onside kick was blocked by Florida State.



for the Badgers (2-0) wasn't Dayne, who needs 1,424 in Wisconsin's nine remaining games to beat the NCAA major-college mark set last year by Texas' Ricky Williams. He finished with 31 carries that included a 2-yard TD in the third quarter.

▲ No. 11 Virginia Tech 31-TAR 10: Steve Sitt

▲ No. 20 Purdue 28, No. 16 Notre Dame 23: Purdue's Mike Rose stopped quarterback Jarious Jackson on third-and-goal with less than 15 seconds left to preserve the victory for Purdue.

Travis Dorsch kicked two fourth-quarter field goals to put the Boilermakers (2-0) ahead, but Jackson led the

▲ Clemson 33, No. 22 Virginia 14: Old coach Danny Ford may have gotten the loudest ovation, but Clemson's Brandon Streeter showed the Tigers' future, passing for a school-record 342 yards and two touchdowns.

Ford, saluted at Death Valley for the first time in 10 years as he was inducted into the school's hall of fame, led the Tigers to a national championship and five Atlantic Coast Conference titles in the

their opponents 87-7 this season.

▲ No. 6 Michigan 37, Rice 3: Drew Henson scored one touchdown and passed for another as Michigan routed Rice.

Anthony Thomas ran for two touchdowns and Jeff Del Verne, a walk-on who received a scholarship earlier in the week, kicked three field goals for the Wolverines (2-0).

▲ No. 9 Wisconsin 50, Ball St. 10: Ron Dayne moved 158 yards closer to a national rushing record and Nick Davis returned a kickoff for a touchdown as Wisconsin rolled over Ball State.

The best offensive weapon



MINA BENTE SINGKO
NALHEBLATURAN GUAHAN

9:00 am
Sept. 20, 1999
Legislature's
Public
Hearing Room

Notice of Public Hearing
Senator John Camacho Salas
 Chairman of the Committee on
 Judiciary, Public Safety, Consumer Protection & Human Resources Development

Confirmation: Jo Ann Canovas, Member, Criminal Injuries Compensation Commission for a 3 year term ending July 8, 2002.

Bill 279: An Act to add §§2108 and 2109 to Title 2 Guam Code Annotated, relative to establishing a Guam Law Commission; enacting new provisions; and appropriating money.

Bill 299: An Act to add a new Chapter 89 to Title 9 of the Guam Code Annotated, relative to establishing a Sex Offender Registry and to providing a means of notice to the community of those who are registered as sex offenders

address: 777 Sinajana Commercial Building, Route 4, Sinajana, Guam 96926
 telephone: 472-3431, fax: 472-3433
 website: KUENTOS-http://www.guam.net/sensalas
 American Disabilities Association Coordinator.
 e-mail: jsalas@sensalas.guam.net
 TALAYA-http://www2.ite.net/senators/sensalas
 John Mero tel: 472-3431

FOR SALE HINO BUSES

(47 PAX AND 43 PAX)

Call 646-1028, ask for Mr. Pete Benavente

Make some noise!
classifieds
work!

PRIVATE PARTY
PLEASANT
GILBERTSON

472-1PON

NOTICE OF SALE UNDER MORTGAGE
NOTICE HEREBY GIVEN,
 Pursuant to G.C.A. §36113

any information that is obtained will be used for that purpose.
 Dated this 26th day of August, 1999.
 McCULLY & BEGGS, P.C.,
 Attorneys for Citibank, N.A.
 By: /s/ MARK S. BEGGS

On this 26th day of August, 1999, before me, the undersigned Notary, personally appeared, MARK S. BEGGS, the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as attorney for Citibank, N.A.

/s/ MAUREEN E. TAITANO
 NOTARY PUBLIC
 In and for Guam, U.S.A.
 My Commission Expires:
 Aug. 11, 2002
 Ste. 200, 139 Murray Blvd., Agaña

AMENDED NOTICE OF SALE UNDER MORTGAGE

NOTICE is hereby given, pursuant to 18 G.C.A. §36113 of the Civil Code of Guam that the mortgage executed and delivered by James Yee and Hae Soek Yoo, hereinafter referred to as "Mortgagors", to Guam Comfort Development, a Guam corporation, hereinafter referred to as "Mortgagee", dated March 9, 1995, and filed for record on March 9, 1995, in the Office of the Recorder, Territory of Guam, under Instrument No. 225081, will be FORECLOSED pursuant to a POWER OF SALE contained in the above Mortgage. The property described below will be sold WITHOUT WARRANTY BEING GIVEN, and the proceeds of the sale of same shall be used to pay the debt of said mortgagors to the mortgagee.

The undersigned reserves the right to withdraw this Notice, to reject any bid or to accept the highest bid, and to postpone the sale from time to time.

Dated August 24, 1999.
 LAW OFFICES OF BRONZ & TANG
 A Professional Corporation
 Attorneys for Guam Comfort Development
 By: JERRY J. TANG
 Guam,) ss:
 City of Tamuning)
 ON THIS 24th day of August, 1999, before me, a Notary Public, in and for Guam, personally appeared JERRY J. TANG, of the Law Office of Bronze & Tang, known to me to be one of the attorneys for Guam Comfort Development whose name is subscribed to the foregoing AMENDED NOTICE OF SALE UNDER MORTGAGE, and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of said corporation for the uses and purpose therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

/s/ by: MONICA M. RIOS
 NOTARY PUBLIC
 MONICA M. RIOS
 NOTARY PUBLIC
 In and for Guam U.S.A.
 My Commission Expires: Mar. 10, 2003
 P.O. Box 26218 GMF, Guam 96921



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

PUBLIC HEARING AGENDA
Legislature's Public Hearing Room
Monday, September 20, 1999
9:00 a.m.

Confirmation: Jo Ann Canovas, Member,
Criminal Injuries Compensation Commission
for a 3 year term ending July 8, 2002.

Bill 279: An Act to add §§2108 and 2109 to
Title 2 Guam Code Annotated, relative to
establishing a Guam Law Commission;
enacting new provisions; and appropriating
money.

Bill 299: An Act to add a new Chapter 89 to
Title 9 of the Guam Code Annotated, relative
to establishing a Sex Offender Registry and to
providing a means of notice to the community
of those who are registered as sex offenders.



Mina Bente Singko na
Liheslaturan Guahan

SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND
HUMAN RESOURCES DEVELOPMENT

TESTIMONY SIGN IN SHEET

Monday, September 20, 1999

Bill Number **299**

Title AN ACT TO ADD A NEW CHAPTER 89 TO TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A SEX OFFENDER REGISTRY AND TO PROVIDING A MEANS OF NOTICE TO THE
COMMUNITY OF THOSE WHO ARE REGISTERED AS SEX OFFENDERS

NAME	ORGANIZATION	TESTIMONY
FRED Nishihira	DOE	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Anthony P. Sanchez	Supreme Court	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Cliff GUZMAN	BOP	<input checked="" type="checkbox"/> FOR <input checked="" type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input type="checkbox"/> ORAL
Lenny Rapada	Dept of Law, Pros. Div.	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Machelle Leon Guerrero		<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
	PO Box AF Hagatna GU	<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Ron Dervish	GPD	<input type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input type="checkbox"/> ORAL
Michael Quinata	Chief parole officer	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Charles Inoué		<input type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input type="checkbox"/> ORAL

TESTIMONY
BY
CLIFFORD A. GUZMAN
DIRECTOR, BUREAU OF PLANNING
ON BILL NUMBER 299

An Act To Add A New Chapter 89 To Title 9 Of The Guam
code Annotated, Relative To Establishing A Sex Offender
Registry And To Providing A Means Of Notice To The
Community Of Those Who Are Registered As Sex Offenders

SEPTEMBER 20, 1999

I am here to provide testimony on Bill Number 299, An Act to add a new Chapter 89 to Title 9 of the *Guam Code Annotated*, relative to establishing a Sex Offender Registry and to providing a means of notice to the community of those who are registered as sex offenders. The Bureau of Planning is in full support of establishing a Sex Offender Registry and establishing a form of community notification. This legislation was submitted by the Governor to the Twenty-Fifth Guam Legislature for consideration in response to federal mandates that were placed upon States that receive federal funds under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

Before going into the specifics of Bill Number 299, it is helpful to first understand the circumstances that prompted Congress to place mandates upon States to establish sex offender registries and community notification systems. In October 1989, 11-year old Jacob Wetterling bicycled with his brother and a friend to a store near his St. Joseph, Minnesota, home to rent a video. Ten months later, Houston real estate agent Pam Lychner prepared to show a vacant residence to a prospective buyer. In July 1994, Megan Kanka, age 7, accepted an invitation from a neighbor in Hamilton Township, New Jersey, to see his new puppy. As they went about their daily routines, Wetterling, Lychner and Kanka could not have known that they were fated to become crime victims, or that their names would ultimately become synonymous with Federal laws mandating more stringent control of sex offenders.

Wetterling's ride home was interrupted by an armed man wearing a nylon mask who ordered the boy's companions to flee. Wetterling has not been seen since. Investigators later learned that, unbeknownst to local law enforcement, halfway houses in St. Joseph housed sex offenders after their release from prison. Wetterling disappearance transformed his mother, Patty, a self-described "stay-at-home mom," into a tireless advocate for missing children. She was appointed to a governor's task force that recommended stronger sex offender registration requirements in Minnesota. The more stringent requirements were subsequently implemented on a national basis

when the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act was included in the Federal Violent Crime Control and Law Enforcement Act of 1994. The Wetterling Act required States to establish stringent registration programs for sex offenders - including life long registration for a subclass of offenders classified as sexual predators.

Awaiting Lychner at the vacant house was a twice-convicted felon who brutally assaulted the former flight attendant. Her life was saved when her husband arrived on the scene and interrupted the attack. The experience motivated Lychner to form Justice for All, a Texas-based victims rights advocacy group that lobbied for tougher sentences for violent criminals.

The neighbor who invited Megan Kanka to see his puppy was a twice-convicted pedophile who raped and murdered her, then dumped her body in a nearby park. Megan's grieving parents said they never would have let their daughter travel their neighborhood freely if they had been alerted to the presence of a convicted sex offender living across the street from their residence. Congress passed the Federal version of "Megan's Law," another amendment to the Violent Crime Control and Law Enforcement Act of 1994, in 1996. It required States to establish some form of community notification.

The mandates Congress imposed on the states and territories were placed upon the Edward Byrne Memorial State and Local Law Enforcement Assistance Program formula grant, of which Guam is a recipient. The mandates imposed by Congresses are as follows:

- Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the Wetterling Act), as amended requires states to establish registration requirements and community notification programs for persons convicted of certain crimes against minors and sexually violent offenses that meet specific minimum standard;
- Megan's Law, which amended the Jacob Wetterling Act in 1996, requires the release of relevant information to protect the public from sexually violent offenders; and
- The Pam Lychner Sex Offender Tracking and Identification Act, which calls for the creation of a national database to track sex offenders across States lines, and makes more stringent certain registry requirements under the Jacob Wetterling Act.

Pursuant to the federal mandates, the requirements of the Jacob Wetterling Act, as amended, and Megan's Law must be implemented by September 12, 1999; and the

Pam Lychner requirements must be implemented by October 2, 1999. States that fail to meet the statutes' compliance deadline will lose ten (10) percent of their appropriation from the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which provides funding for State and local crime eradication efforts. The ten percent reduction will apply to each fiscal year the Act is not enacted beginning with fiscal year 2000.

At this time because Guam does not have enacted legislation that is approved by the U.S. Department of Justice, we are slated to lose ten percent of our fiscal year 2000 grant award. However, as Congress has not passed the Fiscal Year 2000 budget and as the U.S. Department of Justice has not allocated the federal funds among the States and Territories, there may be a chance Guam will not be negatively impacted if Bill Number 299 is expeditiously enacted into law.

In developing and writing Bill Number 299, representatives from the Guam Police Department, the Department of Law, the Department of Corrections, the Superior Court of Guam and the Bureau of Planning along with a representative from the Legislature's Committee on Judiciary, Public Safety and Consumer Protection and Human Resources, from both the Twenty-Fourth and Twenty-Fifth Guam Legislatures, came together to develop the bill before you and to identify and develop the mechanisms that need to be put into place to implement it. This group has been working since 1997 on the bill before you. In addition, Bill Number 299 in its draft state was extensively reviewed by the U.S. Department of Justice to ensure that it is in compliance with the Congressional mandates. As this is an extensive, complex piece of legislation, every effort was taken to ensure that the bill submitted by the Governor would comply with the Congressional mandates. It is the Bureau of Planning's opinion that based upon the reviews and comments received from the U.S. Department of Justice, Bill Number 299 meets the minimum requirements set forth by Congress under the Wetterling Act, Megan's Law and the Pam Lychner Act.

Bill Number 299 requires only those individuals who are convicted of a criminal sexual conduct crime to register with the Sex Offender Registry. Should a registrant's conviction be reversed, vacated or set aside, or should the person be pardoned, registration would no longer be required and the registrant's name would be removed from the Registry. Bill Number 299 also provides for three classifications of registrants. These classifications are based upon the seriousness of the sexual conduct crime committed by the registrant. With regard to Level One and Level Two registrants, they are required to register for the length of their life. Level Three registrants however are only required to register for a period of ten years. The Superior Court of Guam will be Guam's Official Repository for Registrant's information.

In addition to creating a Registry, Bill Number 299 creates a mechanism for the release of information to the general public. Guam's residents will be able to find out about

sexual assault offenders who live in our community on a Sex Offender Registry Web maintained by the Superior Court of Guam. Level Three misdemeanor registrants will not be on the Web Page, however. The Superior Court of Guam will also transmit information concerning Level One and Two offenders to all schools, day care centers, victim shelters and victim advocates monthly. The monthly transmittal of information of Level One and Two offenders will enable schools and day care centers to comply with other federal laws requiring them to ensure they do not hire individuals who have been convicted of sexual assault crimes and place children in jeopardy.

Bill Number 299 recognizes that individuals who commit sexual assault crimes do move back and forth between Guam, Hawaii and the U.S. Mainland. The bill provides that individuals who are convicted of Level One and Two sexual assault crimes in other American jurisdictions must register on Guam should they move to Guam. Information on sexual assault offenders who move to Guam will be provided by the U.S. Federal Bureau of Investigation to the Guam Police Department. In addition, the Bill authorizes the Guam Police Department to transmit to the FBI the names of those registrants who plan to relocate from Guam and their new address.

Lastly, Bill Number 299 requires every person convicted of a criminal sexual conduct offense or of a criminal offense against a victim who is a minor to provide a biological sample to the Guam Police Department for DNA Typing. This information will be kept with the sex offender's registrant information.

As I stated earlier in my testimony, Bill Number 299 meets Congresses minimum requirements. Should the Twenty-Fifth Guam Legislature decide to make the Bill's provisions more stringent, Guam's federal funds will not be negatively impacted. If any provisions are made less stringent however, Guam will lose federal funds.

The requirements of the Wetterling Act, Megan's Law and Pam Lychner Act are unfunded federal mandates. The Executive Branch and the Superior Court of Guam have collaborated to identify cost centers related to the implementation of the Bill and to mitigate them. One such area is to link street names and addresses to a geographic information system. As you are aware, on Guam when you give someone an address to find you, rarely is the house number and street name given. Instead, you provide directions similar to, "go to the third bus stop, turn right until you get to the first coconut tree, then turn left and I live at the purple house on the right side." We quickly recognized that this would not be an effective mechanism for Guam's resident's to determine if a sex offender lived near them or near their children's bus stop or school. With federal funds from the Edward Byrne Memorial grant program, a GIS street name and house number application is being developed by the Bureau of Planning and the Superior Court of Guam. As you can imagine, the application being developed will have other uses, such as improving police response time during

emergencies. However, should this bill not be enacted into law, federal funds for this project will cease.

Edward Byrne Memorial federal funds are also being directed toward the creation of the registry and the creation and maintenance of the Web Page containing information on sexual assault offenders. As there does exist a limitation on the number of years federal funds under this grant program can be made available for this purpose, Bill Number 299 does create a mechanism for a fee to be charged to Registrants and the fees are to be split between the Guam Police Department and the Superior Court of Guam. In addition, the Governor designated the Superior Court of Guam as the Guam entity to apply for federal funds under the National Sex Offender Registry Grant Program and to administer the program. The goal of this program is to ensure accurate and complete information about released sex offenders is available to protect the public and prevent recidivism. The federal funds will be used by the Superior Court of Guam to help establish and to upgrade the sex offender registry and establish appropriate interfaces with the FBI's national system. The FBI's interface will permit information on released sexual offenders to be obtained and tracked from one jurisdiction to another.

Lastly, Edward Byrne Memorial federal funds have been made available to the Guam Police Department to establish a DNA Typing capability and data bank. Failure to enact Bill Number 299 will severely limit GPD's ability to use federal funds to develop and expand its DNA typing and analysis capabilities.

As mentioned earlier in my testimony, Guam presently stands to lose ten percent of its fiscal year 2000 grant award and it will continue to lose ten percent of its grant award each fiscal year it does not come into compliance with the federal mandates. If Bill Number 299 is quickly enacted into law, there is a possibility that Guam will not lose fiscal year 2000 federal funds. Presently, Guam is losing ten percent of its Edward Byrne Memorial grant award because it is not in full compliance with another federal mandate. Noncompliance with the Wetterling Act, Megan's Law and Pam Lychner Act mandates will increase the percentage of lost federal funds to twenty percent. The Bureau of Planning anticipates that should Bill Number 299 not be enacted into law, Guam will lose \$147,600 in fiscal year 2000 federal funds. If combined with the ten percent loss in federal funds for failure to comply fully with federal provisions requiring testing for the human immunodeficiency virus (HIV) of offenders convicted of certain sexual offenses, if requested by their victim, Guam will lose a total of \$295,200 in fiscal year 2000 federal funds. More than ever, this is a time when Guam's criminal justice system cannot afford to lose federal funds.

In closing, the Bureau of Planning is in strong support of Bill Number 299 and urges the Twenty-Fifth Guam Legislature to enact the bill in its current form into law.

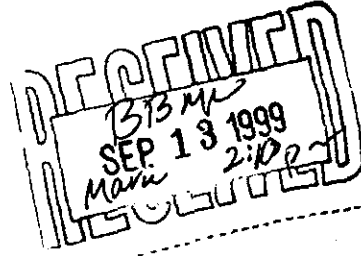


COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

September 13, 1999



MEMORANDUM

To: Director, Bureau of Budget & Management Research

From: Senator John Camacho Salas, Chairman

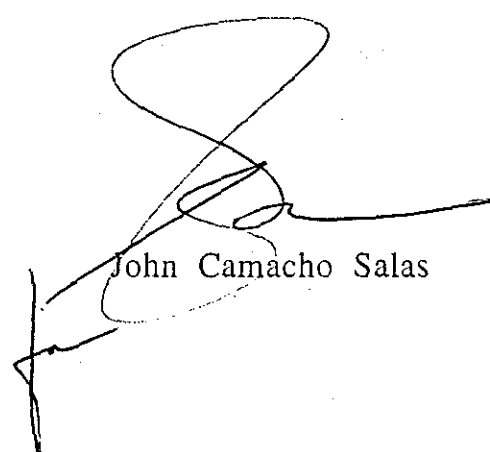
Subject: Request for Fiscal Notes

Please find attached Committee Bills 279 and 299 for which I respectfully request issuance of **Fiscal Notes**.

Bill 279: An Act to add §§2108 and 2109 to Title 2 Guam Code Annotated, relative to establishing a Guam Law Commission; enacting new provisions; and appropriating money.

Bill 299: An Act to add a new Chapter 89 to Title 9 of the Guam Code Annotated, relative to establishing a Sex Offender Registry and to providing a means of notice to the community of those who are registered as sex offenders

Your issuance of this fiscal note will be greatly appreciated. Thank you for your very kind assistance.



John Camacho Salas

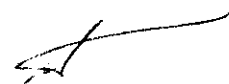
Attachments

SEP 01 1999

**MINA' BENTE SINGKO NA LIHESLATURAN GUÁHAN
TWENTY-FIFTH GUAM LEGISLATURE
1999 (FIRST) Regular Session**

Bill No. 299 (C/R)

Introduced by:

Chairman, 
Committee on Rules, Government Reform
Reorganization and Federal Affairs
at the request of I Maga'láhen Guáhan,
the Governor of Guam, in accordance
with the Organic Act of Guam.

AN ACT TO ADD A NEW CHAPTER 89 TO TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A SEX OFFENDER REGISTRY AND TO
PROVIDING A MEANS OF NOTICE TO THE COMMUNITY
OF THOSE WHO ARE REGISTERED AS SEX OFFENDERS.

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

2 **Section 1. Legislative intent.** The crime of criminal sexual conduct and the
3 various forms of sexual molestation of children is a serious problem on our island
4 and persons convicted of these crimes are a danger to the people of our community,
5 both at the village level and at the entire island level. The purpose and objective of
6 this Act is to protect the people of our community, and most particularly our
7 children, from child molesters and sex offenders, especially violent sex offenders.

8 **Section 2.** A new Chapter 89 is hereby added to Title 9 of the Guam Code
9 Annotated, to read as follows:

10 **"CHAPTER 89**

11 **SEX OFFENDER REGISTRY**

12 **§89.01. Definitions.** For purposes of this Chapter:

13 (a) The term "minor" refers to persons below the age of 18;

1 (b) The term "criminal offense against a victim who is a minor" means any
2 criminal offense that consists of any of the following:

3 (1) kidnapping, felonious restraint, child stealing, and custodial
4 interference, as defined and punished in 9 GCA Chapter 25
5 (Kidnapping and Related Offenses), where the victim is a minor;

6 (2) promoting prostitution, abetting prostitution, compelling
7 prostitution, as defined and punished in 9 GCA Chapter 28, Article
8 1 (Prostitution), where the individual committing or engaging in
9 prostitution is a minor;

10 (3) participation in obscenity, use of one's own child in obscene acts,
11 indecent exposure, photography of minors' sexual acts, as defined
12 and punished in 9 GCA Chapter 28, Article 2 (Obscenity and
13 Related Offenses), where a minor is employed or used;

14 (4) criminal sexual conduct, as defined and punished in 9 GCA
15 Chapter 25 (Sexual Offenses), where the victim of the crime is a
16 minor;

17 (5) attempt to commit, solicitation to commit, and conspiracy to
18 commit the crimes indicated in the above subparagraphs (1)
19 through (4), in violation of 9 GCA Chapter 13.

20 (c) The term "criminal sexual conduct" refers to violations defined and
21 punished under 9 GCA Chapter 25 (Sexual Offenses) and any violations of similar
22 federal laws or laws of other states, territories, or tribes;

23 (d) The term "sexually violent offense" refers to any of the following:

24 (1) criminal sexual conduct involving sexual penetration or sexual
25 contact where the actor causes personal injury to the victim and
26 either of the following circumstances exists: (i) force or coercion
27 is used to accomplish the sexual penetration or contact; or (ii) the

1 actor knows or has reason to know that the victim is mentally
2 defective, mentally incapacitated or physically helpless;

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

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

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

17 (5) criminal sexual conduct involving a victim under 14 years of age;

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

20 (e) The terms "sexual penetration" and "sexual contact" as used in this
21 Chapter having the same meaning as "sexual penetration" and "sexual contact" as
22 used in 9 GCA Chapter 25;

23 (f) The term "sex offender" refers to persons convicted of a criminal sexual
24 conduct offense;

25 (g) The term "conviction" refers to each separate charge to which the
26 offender either voluntarily pleads guilty, whether in a single hearing or in separate
27 hearings, or is found guilty by a trier of fact, whether the charges are contained in

1 one (1) indictment or separate indictments. This term includes please of *nolo*
2 *contendere* and guilty pleas entered pursuant to North Carolina v. Alford, 400 U.S. 25
3 (1970).

4 (h) The term "employed" and "carries on a vocation" include employment
5 that is full-time or part-time for a period of time exceeding fourteen (14) days or for
6 an aggregate period of time exceeding thirty (30) days during any calendar year,
7 whether financially compensated, volunteer, or for the purpose of government or
8 educational benefit;

9 (i) The term "student" means any person who is enrolled on a full-time or
10 part-time basis, in any public or private educational institution, including any
11 secondary school, trade, or professional institutions, or institution of higher
12 learning;

13 (j) The term "Law Enforcement Agency" in this Chapter refers to the Guam
14 Police Department, Department of Corrections, the Attorney General's Office Family
15 and Prosecution Divisions, the Superior Court, the Air Force Office of Special
16 Investigations, the Naval Criminal Investigation Section, the Coast Guard Criminal
17 Investigation Section, the United States Army Criminal Investigation Division, and
18 Criminal Investigators of the United States Government.

19 (k) The term "The Court" refers to the Superior Court of Guam;

20 (l) The term "community" refers to the entire island of Guam, including
21 Cocos Island;

22 (m) The term "registrant" refers to persons required to register under this
23 Chapter.

24 **§89.02. Classification of Offenders. (a) Level One Offender.** A person
25 convicted of a sexually violent offense.

26 (b) **Level Two Offender.** A person not otherwise classified as a Level One
27 Offender and is convicted of:

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

10 (c) **Level Three Offender.** A person not otherwise classified as either a Level
11 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 **§89.03. Registration; Duty to Register. (a) Persons Required to Register.** The
15 following persons, upon release, release from incarceration, placement or parole, or
16 placement on probation, shall 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
- 19 following offenses:
 - 20 (i) a sexually violent offense;
 - 21 (ii) a criminal sexual conduct offense; or
 - 22 (iii) a criminal offense against a victim who is a minor.
- 23 (2) any person who, since January 1, 1993, has been or is hereafter
- 24 convicted in any federal or military court for a violation of any of
- 25 the following offenses:
 - 26 (i) an offense under Title 18 U.S.C. §§2241 or 2242; or
 - 27 (ii) a criminal offense against a victim who is a minor.

1 (3) any person convicted in another state, territory or tribe of any of
2 the following offense if that person is required to register in the
3 state, territory or tribe wherein he or she was convicted of any of
4 the following:

5 (i) a criminal sexual conduct offense; or

6 (ii) a criminal offense against a victim who is a minor.

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

9 (i) who is or has been convicted in another state, territory or
10 tribe of a criminal sexual offense or a criminal offense
11 against a victim who is a minor and is required to register
12 in the state, territory or tribe wherein he was convicted; or

13 (ii) who, since January 1, 1993, has been or is hereafter
14 convicted in a military court or a court in another state,
15 territory or tribe, of a criminal sexual conduct or a criminal
16 offense against a victim who is a minor.

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

18 **(1) Form A Registration: Level One and Level Two Offenders:**

19 (i) name, aliases, date of birth, social security number, if any,
20 and any other identifying factors;

21 (ii) current physical address and mailing address or, if he or she
22 is incarcerated, the address of the residence where he or she
23 will be residing immediately upon release and the mailing
24 address he or she plans to use immediately upon release;

25 (iii) anticipated future residence;

26 (iv) current/anticipated employment;

- (v) offense history, including the underlying crime which triggered the registration requirements of this Chapter;
- (vi) documentation of treatment;
- (vii) fingerprints; and
- (viii) current photograph.

(2) **Form B Registration:** Level Three Offenders shall provide the following:

- (i) name, aliases, date of birth, social security number, if any, and any other identifying factors;
- (ii) current physical address and mailing address or, if he or she is incarcerated, the address of the residence where he or she will be residing immediately upon release and the mailing address he or she plans to use immediately upon release;
- (iii) fingerprints; and
- (iv) current photograph.

(3) **Federally Protected Witnesses.** Where the person require to register is a federally protected witness, the person shall not be required to provide a photograph, aliases, original name, place of offense, date of birth, social security number, or prior residence;

(4) **Pardoned Convict or Conviction Reversed upon Appeal.** The duty to register under this Chapter shall not be applicable to any sex offender whose conviction was reversed upon appeal or who was pardoned by the Governor.

(c) **Biological Samples.**

- (1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense or of a criminal offense against a victim who is a minor shall provide a biological sample to the

1 Guam Police Department for DNA typing no later than thirty (30)
2 calendar days of his sentencing;

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

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

15 (4) Every person required to register pursuant to §89.03(a) subsections
16 (2), (3), and (4) shall provide a biological sample to the Guam
17 Police Department for DNA typing at the time of that person's
18 initial registration on Guam.

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

22 (d) **Registration Requirements for Persons Required to Register Pursuant to**
23 **§89.03(a)(1); Initial Registration; Penalty.**

24 (1) **Where a Person Required to Register is Sentenced to**
25 **Incarceration.** Initial registration information must be provided
26 to the Parole Services Division of the Department of Corrections
27 no later than two (2) weeks before his anticipated release.

1 Intentional or knowing failure to provide this information shall
2 result in the delay of his release.

3 (2) **Where a Person Required to Register is Sentenced to**
4 **Probation.** Initial registration information must be provided to
5 the Probation Services Division of the Superior Court no later
6 than the date he is scheduled to be released on probation.
7 Intentional or knowing failure to provide this information by that
8 date shall result in the revocation of his probation and shall make
9 him ineligible for probation.

10 (3) **Where a Person identified as a Person Required to Register is on**
11 **Supervised Parole or Probation at the time of the passage of this**
12 **law.** Initial registration information must be provided to the
13 registrant's parole or probation officer no later than six (6) months
14 after the effective date of this law. Intentional or knowing failure
15 to register pursuant to this subsection is a felony of the third
16 degree.

17 (4) **Where a Person Required to Register is no longer under the**
18 **Supervision of either Probation or Parole at the time of the**
19 **passage of this law.** Initial registration information must be
20 provided to the Guam Police Department no later than one (1)
21 year after the effective date of this law. Intentional or knowing
22 failure to register pursuant to this subsection is a felony of the
23 third degree.

24 (e) **Registration Requirements for Persons Required to Register Pursuant to**
25 **§89.03(a), subsections (1), (2), (3), and (4); Initial Registration.**

26 (1) Persons required to register pursuant to §89.03(a)(2) shall provide
27 all the information that must be registered pursuant to §89.03(b) to

1 the Guam Police Department no later than seven (7) calendar days
2 after release from incarceration, release on probation, or arrival on
3 Guam. If the registrant is on probation in another jurisdiction
4 and that registrant's probation is to be transferred to Guam, then
5 the Guam Police Department may obtain the necessary
6 information from the office of probation of the jurisdiction from
7 where registrant came; said registrant is required to verify the
8 registered information as required by this Chapter no later than
9 seven (7) calendar days of his or her arrival on Guam.

10 (2) Persons required to register pursuant to §89.03(a), subsections (3)
11 and (4) shall provide all the information that must be registered
12 pursuant to §89.03(b) to the Guam Police Department no later than
13 seven (7) calendar days after their arrival in Guam. If the
14 registrant is on probation in another jurisdiction and that
15 registrant's probation is to be transferred to Guam, then the Guam
16 Police Department may obtain the necessary information from the
17 office of probation of the jurisdiction from where registrant came;
18 said registrant is required to verify the registered information as
19 required by this Chapter no later than seven (7) calendar days of
20 his arrival on Guam.

21 (f) **Registration Requirements; Verification.** A registrant must verify the
22 following information:

23 (1) **Level One Offender:** The registrant shall verify the following
24 registered information ninety (90) calendar days from the date of
25 his release from incarceration or ninety (90) days from the date of
26 his release on probation if he is placed on probation, and every
27 ninety (90) calendar days thereafter. If the ninetieth day falls on a

1 weekend or holiday, the registrant shall verify the information on
2 the following business day.

- 3 (i) current physical and mailing addresses;
- 4 (ii) recent criminal offenses, if any;
- 5 (iii) documentation of treatment; and
- 6 (iv) a current photograph.

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

- 13 (i) current physical and mailing addresses;
- 14 (ii) recent criminal offenses, if any;
- 15 (iii) documentation of treatment, if any; and
- 16 (iv) a current photograph.

17 (3) **Level Three Offender:** The registrant shall verify registered
18 information in the same manner as a Level Two Offender;

19 (4) Notwithstanding subsections (a), (b), and (c) above, a registrant
20 shall register his new physical address within seven (7) calendar
21 days of any change in physical residence. If a registrant anticipates
22 moving from Guam, that registrant shall register his intended
23 place of residence no later than three (3) calendar days before his
24 departure from Guam.

25 (g) **Registration Requirements; Verification; Method of Verification.** A
26 registrant shall verify his registered information as required by §89.03(e) in the
27 following manner:

1 (1) **Parolee.** A parolee shall personally present himself to his parole
2 officer and verify the registered information with the parole
3 officer;

4 (2) **Probationer.** A probationer shall personally present himself to his
5 probation officer and verify the registered information with the
6 probation officer;

7 (3) **Dual Supervision.** A person under dual supervision, that is, he is
8 supervised by both parole and probation, shall personally present
9 himself to his probation officer; and

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

14 (h) **Registration Requirement; Guam residents who are employed, carry on a**
15 **vocation, or are students in another state or territory.** A person who is required to
16 register on Guam and who is employed, carries on a vocation, or is a student of
17 another state or territory shall also register in that other state or territory pursuant to
18 the registration requirements of that state or territory.

19 (i) **Registration Requirement: Persons who move to another state or**
20 **territory.** When a person who is required to register on Guam anticipates moving
21 to another state or territory, that registrant shall report the change of address to the
22 Guam Police Department pursuant to the requirements of this Chapter, and comply
23 with any registration requirement of the new state or territory of residence.

24 **§89.04. Registration.** A registrant shall continue to comply with this Chapter,
25 except during ensuing periods of incarceration, for the following period of time:

26 (a) **Lifetime. Level One and Level Two Offenders.** A Level One and Two
27 Offenders must comply with this Chapter, for the length of that person's life.

1 (b) **Ten (10) Years.** A person deemed a Level Three Offender shall register
2 pursuant to §89.03(b)(2), and subsections (2) and (3) of §89.03(e), for a period of ten
3 (10) years from the date of his release on probation or release on parole.

4 (c) **Where conviction is reversed, vacated or set aside or where registrant is**
5 **pardoned.** Notwithstanding subsections (a) and (b) of this Section, where the
6 underlying conviction is reversed, vacated or set aside, or if the person is pardoned,
7 registration is no longer required.

8 (d) **Tolling of registration requirement.** If a registrant is re-incarcerated, for
9 violations of release conditions imposed in the same crime or for the commission
10 of another crime, or he is civilly committed, then the period of registration is tolled
11 and remains tolled until his subsequent release. Thereafter, the registrant shall re-
12 commence and continue registering for the remaining period of time he or she is
13 required to register.

14 **§89.05. Penalties.** (a) **Initial registration.** Intentional or knowing failure to
15 provide initial registration information shall delay the registrant's release if he is to
16 be released, or make the registrant ineligible for probation if he is to be placed on
17 probation. Intentional or knowing failure to provide initial registration
18 information is a felony of the third degree.

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

23 (c) **Address changes.** A registrant's failure to register his new physical
24 address within seven (7) days of any change of physical address is a misdemeanor. A
25 second or subsequent failure to so register is a felony of the third degree. Failure of a
26 registrant who is a probationer or parolee to so register may result in sanctions
27 pursuant to 8 GCA §80.66 and 9 GCA §80.82, respectively.

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

4 **§89.05. Duties of the Department of Correction's and the Court; Initial**
5 **Registration.** If a registrant is released from incarceration, placed on parole, or
6 placed on probation, the Department of Correction, the Court, or the Office of
7 Probation shall:

8 (a) inform the registrant of the duty to register and obtain the information
9 required for such registration; and

10 (b) inform the registrant that if he changes residence in Guam, he shall
11 provide the new residential address to the Guam Police Department; and

12 (c) inform the registrant that if he moves to another state or territory, he
13 shall report the change of address to the Guam Police Department no later than
14 three (3) calendar days of his leaving Guam, and shall comply with any registration
15 requirement of the new state or territory.

16 (d) inform the registrant that if he is or becomes employed, carries on a
17 vocation, or becomes a student in another state or territory, then he must comply
18 with the registration requirement of that new state or territory;

19 (e) obtain all information that must necessarily be gathered for the
20 registrant's initial registration, and inform the registrant that he must provide his
21 fingerprints, a photograph, and a biological sample to the Guam Police Department.
22 The Department of Corrections or the Office of Probation shall facilitate the
23 obtaining of fingerprints, photograph, and biological sample;

24 (f) require the registrant to read and sign a form stating that his duty to
25 register under this Chapter has been explained; and

26 (g) forward information described above to the Guam Police Department
27 within three (3) calendar days after receipt thereof.

1 **§89.06. Duties of the Department of Correction's and the Court; Verification**
2 **of Registered Information.** (a) The Department of Corrections, Parole Services
3 Division, shall receive and obtain initial registration and registration verification
4 information from registrants who are parolees and shall transmit such information
5 to the Guam Police Department no more than three (3) business days of receipt of
6 such information;

7 (b) The Court, Probation Services Division, shall receive and obtain initial
8 registration and registration verification information from registrants who are
9 probationers and shall transmit such information to the Guam Police Department
10 no more than three (3) business days of receipt of such information.

11 **§89.07. Duties of the Guam Police Department.** Upon receipt of the
12 information that is required to be registered or verified pursuant to this Chapter, the
13 Guam Police Department shall immediately, and no later than three (3) business
14 days of receipt of this information, transmit the information to the Court which
15 shall record this information. The Guam Police Department shall also immediately
16 transmit the registrant's photograph, fingerprints, conviction data, and current
17 residence, to the Federal Bureau of Investigation ("FBI") for inclusion in the FBI
18 database. All registered information shall then be transmitted to the National
19 Database no later than three (3) business days after receipt of such information.

20 (a) **Notification of local law enforcement agencies regarding changes of**
21 **address; moving from Guam.** Upon receipt of information that registrant is
22 anticipated to move from Guam to another state or territory, the Guam Police
23 Department shall immediately notify that state or territory to which the registrant is
24 moving and shall transmit the address of the registrant's anticipated residence to
25 the FBI no later than three (3) business days of receipt of this information.

26 (b) **Notification of FBI regarding changes of address.** Upon receipt of
27 information that registrant is or has changed residence within Guam, or is

1 anticipated to move from Guam to another state or territory, the Guam Police
2 Department shall transmit the new address to the FBI no later than three (3)
3 business days of receipt of this information.

4 **§89.08. Duties of the Court. (a) Repository.** The Court shall be the central
5 repository for the registered information. The court shall record and maintain the
6 records of all the information registered pursuant to this Chapter.

7 (b) **Fees.** The Court is authorized to collect reasonable registration fees from
8 registrants. Such fees shall be used for the maintenance and support of the sex
9 offender registration and notification program. Fifty percent (50%) of the fee paid by
10 the registrant shall be given to the Court and the remaining fifty percent (50%) shall
11 go to the Guam Police Department.

12 **§89.09. Notification. (a) Release of information.** The Court shall release the
13 following information to the community:

14 (1) **Level One Offender:** All registered information, the age of the
15 victim(s) in the underlying case, and the state or territory in which
16 the crime occurred;

17 (2) **Level Two Offender:** Name, physical address, photograph,
18 criminal history, the age of the victim in the underlying case, and
19 the state or territory in which the crime occurred;

20 (3) **Level Three Offender, Felony Conviction:** Name, photograph,
21 criminal sexual conduct offense or 'the criminal offense against a
22 victim who is a minor' of which the person was convicted.

23 (4) **Level Three Offender, Misdemeanor Conviction:** No notification.

24 (b) **Victims.** The identity of the victim or victims shall not be released.

25 (c) **Method of release of information.** The Court shall maintain an internet
26 web-page dedicated to persons required to register which shall contain the
27 information that is required to be released. The released information shall be

1 updated during the first week of every month. The community shall have access to
2 the Sex Offender Registry Web Page. The Court shall transmit released information
3 concerning Level One and Level Two Offenders to all schools, day care centers,
4 victim shelters, and victim advocates on the first week of every month. The Court
5 may transmit information concerning Level One and Level Two Offenders directly
6 to the media for disbursement.

7 **§89.10. Immunity from good faith conduct.** Law enforcement agencies, their
8 employees, and government of Guam officials shall be immune from any civil or
9 criminal liability for good faith conduct under this Act, unless it is shown that the
10 agency, employee, government official, or board member acted with gross
11 negligence or in bad faith."