
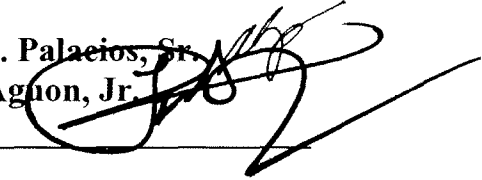


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I MINA'TRENTA NA LIHESLATURAN GUAHAN
2010 (SECOND) Regular Session

Bill No. 428-30 (COR)

Introduced by:

Adolpho B. Palacios, Sr.
Frank B. Agnon, Jr. 

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Guam's Sex Offender Registry statute is in need of changes in order to strengthen its provisions and close certain gaps within the law. *I Liheslatura* further finds that the Supreme Court of the United States has determined that *due process* rights (Connecticut Dept. of Public Safety v. John Doe, et al., 538 U.S. 1 (2003)) and the *ex post facto* clause in the U.S. Constitution (Delbert W. Smith and Bruce M. Botelho v. John Doe I, et al., 538 U.S. 84 (2003)) are not violated by requiring those already convicted of criminal sexual conduct *or* of a crime against a victim who is a minor before the enactment of Sex Offender Registry laws, to register with the Guam Sex Offender Registry. *I Liheslatura* also finds that the crime of criminal sexual conduct and crimes committed against children are serious problems on our island, and persons convicted of these crimes may be a danger to the people of our community. *I Liheslatura* further finds that in order to protect our community, most particularly our children from sex offenses, especially violent sex offenses, the Guam Sex Offender Registry Law must be strengthened.

It is the intent of *I Liheslatura* to update the Guam Sex Offender Registry requirements and notification program and to require *all* those convicted of criminal sexual conduct *or* of a crime against a victim who is a minor, to register with the Guam Sex Offender

1 Registry in order to increase the awareness of our community and our nation about
2 dangerous individuals released into the community. *I Liheslatura* hopes that such
3 awareness will assist in the prevention of future sex offenses and alert the community of
4 such dangers.

5 In an attempt to bring Guam’s Sex Offender Registry and Notification System into
6 substantial compliance with the Federal Mandates of Title I of Public Law 109-248, of the
7 Adam Walsh Act, Sex Offender Registration Notification Act (SORNA), and in light of
8 the review and recommendations provided by the Office of Sex Offender Sentencing,
9 Monitoring, Apprehending, Registering and Tracking in United States Department of
10 Justice (SMART Office) relating to Guam’s SORNA compliance packet concluding that
11 Guam has not yet substantially implemented SORNA, it is the intent of *I Liheslatura*
12 *Guahan* that in order for Guam to substantially implement SORNA these amendments of
13 Guam’s current Sex Offender Registry and Notification System are necessary.

14 **Section 2.** Chapter 89 of Title 9 (as amended by Public Law 29-30) of the Guam
15 Code Annotated (G.C.A.) is hereby *amended* to read as follows:

16
17

18 **“CHAPTER 89**

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

20 **§ 89.01. Definitions.** As used in this Chapter:

- 21 (a) *Minor* means a person below the age of eighteen (18) years.
- 22 (b) *Criminal offense against a victim who is a minor* means any criminal offense
23 that consists of any of the following:
 - 24 (1) felony kidnapping, felonious restraint, felony child stealing, and custodial
25 interference, as defined and punished in Chapter 22 of Title 9 of the G.C.A.,
26 *Kidnapping, and Related Offenses*, when the victim is a minor;

1 (2) promoting prostitution, abetting prostitution, compelling prostitution, as
2 defined and punished in Article 1 of Chapter 28 of Title 9 of the G.C.A.,
3 *Prostitution*, when the individual committing *or* engaging in prostitution is a
4 minor;

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

9 (4) criminal sexual conduct, as defined and punished in Chapter 25 of Title 9 of
10 the G.C.A., *Sexual Offenses*, when the victim of the crime is a minor; or

11 (5) any attempt to commit, solicitation to commit, *or* conspiracy to commit the
12 crimes stated in paragraphs (1) to (4) of this subsection (b), in violation of
13 Chapter 13 of Title 9 of the G.C.A.

14 (c) *Criminal sexual conduct* refers to violations defined and punished under
15 Chapter 25 of Title 9 of the G.C.A., *Sexual Offenses*, and any violations of
16 similar federal laws *or* laws of other states, territories *or* tribes.

17 (d) *Sex Offense*. The term "sex offense" as used in this code includes those
18 offenses contained in 42 United States Code (U.S.C.) §16911(5) and also
19 includes the following offenses:

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

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

25 1. force *or* coercion is used to accomplish the sexual
26 penetration *or* sexual contact; or

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

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

7 1. force *or* coercion is used to accomplish the sexual
8 penetration *or* sexual contact; or

9 2. the actor knows *or* has reason to know that the victim is
10 mentally defective, mentally incapacitated *or* physically
11 helpless.

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

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

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

21 (2) *Guam Offenses.*

22 (A) any convictions under local laws relating to 9 G.C.A. §16.30;

23 (B) any convictions under local laws relating to 9 G.C.A. §22.20,
24 wherein the victim of such crime is a minor;

25 (C) any convictions under local laws relating to 9 G.C.A. §22.30;

- 1 (D) any convictions under local laws relating to 9 G.C.A. §22.40,
2 wherein the victim of such crime is a minor;
- 3 (E) any convictions under local laws relating to 9 G.C.A. §22.50,
4 wherein the victim of such crime is a minor;
- 5 (F) any convictions under local laws relating to 9 G.C.A. §25.15;
- 6 (G) any convictions under local laws relating to 9 G.C.A. §25.20;
- 7 (H) any convictions under local laws relating to 9 G.C.A. §25.25;
- 8 (I) any convictions under local laws relating to 9 G.C.A. §25.30;
- 9 (J) any convictions under local laws relating to 9 G.C.A. §25.35;
- 10 (K) any convictions under local laws relating to 9 G.C.A. §28.20
11 wherein the victim of such crime is a minor
- 12 (L) any convictions under local laws relating to 9 G.C.A. §28.25
13 wherein the victim of such crime is a minor
- 14 (M) any convictions under local laws relating to 9 G.C.A. §28.30;
15 wherein the victim of such crime is a minor
- 16 (N) any convictions under local laws relating to 9 G.C.A. §28.49;
- 17 (O) any convictions under local laws relating to 9 G.C.A. §28.50;
- 18 (P) any convictions under local laws relating to 9 G.C.A. §28.51;
- 19 (Q) any convictions under local laws relating to 9 G.C.A. §28.52,
20 wherein the victim of such crime is a minor;
- 21 (R) any convictions under local laws relating to 9 G.C.A. §28.65;
- 22 (S) any convictions under local laws relating to 9 G.C.A. §28.80,
23 wherein the victim of such crime is a minor;
- 24 (T) any convictions under local laws relating to 9 G.C.A. §31.15;
- 25 (U) any convictions under local laws relating to 9 G.C.A. §70.35;

1 (V) any convictions under local laws relating to 9 G.C.A.
2 §89.01(b)(1); or

3 (W) any convictions under local laws relating to 9 G.C.A.
4 §89.01(b)(3); and any other offenses under Guam law relating to a
5 criminal offense wherein there is an element involving:

- 6 1. a sexual act or sexual contact with another, regardless
7 of the age of the victim;
- 8 2. non-parental kidnapping of a minor; non-parental false
9 imprisonment of a minor;
- 10 3. solicitation to engage a minor in sexual conduct;
- 11 4. use of a minor in a sexual performance;
- 12 5. solicitation of a minor to practice prostitution;
- 13 6. video voyeurism of a minor;
- 14 7. possession, production, or distribution of child
15 pornography;
- 16 8. criminal sexual conduct involving a minor; or
- 17 9. use of the internet to engage a minor in criminal sexual
18 conduct.

19 (3) *Convictions from Other Jurisdictions.* Any conviction for any sex
20 offense committed in any jurisdiction that is comparable to any sex offense as defined in
21 42 U.S.C. §16911(5) or §89.01(b), (c), or (d) of this code. In addition, any conviction for
22 any sex offense committed in any jurisdiction that involves:

- 23 (A) Any type or degree of genital, oral, or anal penetration;
- 24 (B) Any sexual touching of or sexual contact with a person's body,
25 either directly or through the clothing;
- 26 (C) Kidnapping of a minor;

- 1 (D) False imprisonment of a minor;
- 2 (E) Solicitation to engage a minor in sexual conduct understood
- 3 broadly to include any direction, request, enticement, persuasion,
- 4 or encouragement of a minor to engage in sexual conduct;
- 5 (F) Use of a minor in a sexual performance;
- 6 (G) Solicitation of a minor to practice prostitution;
- 7 (H) Possession, production, or distribution of child pornography;
- 8 (I) Criminal sexual conduct that involves physical contact with a minor
- 9 or the use of the internet to facilitate or attempt such conduct. This
- 10 includes offenses whose elements involve the use of other persons
- 11 in prostitution, such as pandering, procuring, or pimping in cases
- 12 where the victim was a minor at the time of the offense; or
- 13 (J) Any conduct that by its nature is a sex offense against a minor.

14 (4) *Federal Offenses*. A conviction for any of the following, and any other

15 offense hereafter included in the definition of “sex offense” at 42 U.S.C.

16 §16911(5):

- 17 (A) 18 U.S.C. §1591;
- 18 (B) 18 U.S.C. §1801;
- 19 (C) 18 U.S.C. §2241;
- 20 (D) 18 U.S.C. §2242;
- 21 (E) 18 U.S.C. §2243;
- 22 (F) 18 U.S.C. §2244;
- 23 (G) 18 U.S.C. §2245;
- 24 (H) 18 U.S.C. §2251;
- 25 (I) 18 U.S.C. §2251A;
- 26 (J) 18 U.S.C. §2252;

- 1 (K) 18 U.S.C. §2252A;
- 2 (L) 18 U.S.C. §2252B;
- 3 (M) 18 U.S.C. §2252C;
- 4 (N) 18 U.S.C. §2260;
- 5 (O) 18 U.S.C. §2421;
- 6 (P) 18 U.S.C. §2422;
- 7 (Q) 18 U.S.C. §2423;
- 8 (R) 18 U.S.C. §2424; or
- 9 (S) 18 U.S.C. §2425.

10 (5) *Military Offenses*. Any military offense as specified by the Secretary of
11 Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (Title 10
12 U.S.C. §951 note) or listed under 10 U.S.C. §920 that is similar or
13 comparable to any sex offense as defined in §16911(5) or outlined in
14 §89.01(b), (c) or (d) of this code.

15 (6) *Foreign Offenses*. Any foreign convictions wherein the registrant was
16 convicted of any of the sex offenses specified in §89.01(b), (c) or (d) of
17 this code or any other similar laws of any foreign country. A foreign
18 conviction is not a sex offense for the purposes of this code unless it was
19 either: (1) obtained under the laws of Canada, the United Kingdom,
20 Australia, New Zealand; or (2) under the laws of any foreign country
21 when the United States State Department in its Country Reports on
22 Human Rights Practices has concluded that an independent judiciary
23 generally or vigorously enforced the right to a fair trial in that country
24 during the year in which the conviction occurred.

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

1 (8) *Exemptions to Registry Requirements.* An offense involving consensual
2 sexual conduct is not a sex offense for the purpose of this code if the
3 victim was an adult, unless the adult was under the custodial authority of
4 the offender at the time of the offense, or if the victim was at least 13
5 years old and the offender was not more than four (4) years older than
6 the victim.

7 (e) The terms *sexual penetration* and *sexual contact* have the same meaning as
8 *sexual penetration* and *sexual contact* in Chapter 25 of Title 9 of the G.C.A.

9 (f) The term *sex offender* refers to persons convicted of a sex offense as defined in
10 §89.01(d).

11 (g) *Conviction.*

12 (1) Adult Conviction. The term *conviction* refers to each separate charge to
13 which the offender either voluntarily pleads guilty and such guilty plea
14 has been accepted by the Court, whether in a single hearing *or* in
15 separate hearings, *or* is found guilty by a trier of fact, whether the
16 charges are contained in one (1) indictment, *or* separate indictments.
17 This term includes convictions based on pleas of *nolo contendere* and
18 guilty pleas entered pursuant to *North Carolina v. Alford*, 400 U.S. 25
19 (1970). An adult sex offender is “convicted” for the purposes of this
20 code if the sex offender has been subjected to penal consequences based
21 on the conviction, however the conviction may be styled.

22 (2) Juvenile Conviction. A juvenile offender is “convicted” for the
23 purposes of this code if the juvenile offender is either:

24 (A) Prosecuted and found guilty as an adult for any sex offense,
25 including those juveniles convicted through the certification
26 process in 19 G.C.A. §5106; or

1 (B) Is adjudicated delinquent as a juvenile for a sex offense, but only
2 if the juvenile is at least 14 years of age or older at the time of the
3 offense, and the sex offense adjudicated was one that is
4 comparable to or more severe than the federal crime of
5 “*aggravated sexual abuse*” (as described in either (a) and (b) of
6 section 2241 of Title 18 of the U.S.C.), or was an attempt or
7 conspiracy to commit such an offense, which is noted in 9 G.C.A.
8 § 25.15 subsections (a) (4) (i) or (ii), (a)(5), (a)(6), and (a)(7); and
9 9 G.C.A. § 25.20 (a)(4) (i) or (ii), (a)(5), (a)(6), and (a)(7).

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

12 (h) *Intimate Parts*. For purposes of this code, the term “intimate parts” is defined to
13 include the primary genital area, groin, inner thigh, buttock or breast of a human
14 being.

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

20 (j) *Employee*. The term “employee” when used in this code includes, but is not
21 limited to, an individual who is self-employed or works for any other entity,
22 regardless of compensation. Volunteers of any agency or organization are
23 included with the definition of employee for registration purposes.

24 (k) The term “*student*” when used in this code, and when referring to any sex
25 offender who is required to register under this act, who is enrolled in or attends
26 either a private or public education institution, including a secondary school,

1 trade or professional school, or an institution of higher education, including
2 those who are currently enrolled in the school or institution, but are performing
3 internship, externships or apprentices at an agency or organization under the
4 supervision of a school program.

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

6 (m) The term *law enforcement agency* means any so designated agency on Guam,
7 including, but *not limited to*, the Guam Police Department, the Jose D. Leon
8 Guerrero Commercial Port Police, the Parole Services Division of the
9 Department of Corrections, the Judiciary of Guam, Probation Division, the U.S.
10 Probation Office, the U.S. Marshal's Service, the Conservation Office of the
11 Department of Agriculture, the A. B. Won Pat International Airport Authority
12 Police, the Office of the Attorney General – Prosecution and Family Divisions,
13 the Judiciary of Guam Marshals Division, the Air Force Office of Special
14 Investigations, the Naval Criminal Investigation Section, the Coast Guard
15 Criminal Investigation Section, the United States Army Criminal Investigation
16 Division, and other criminal investigators of the United States Government. As
17 Guam does not have recognized law enforcement Campus Police in Guam’s
18 institution of higher education, the Guam Police Department is the recognized
19 law enforcement agency with jurisdiction over Guam’s institution of higher
20 education.

21 (n) The term *court* means the Superior Court of Guam, Judiciary of Guam, District
22 Court of Guam, or Island Court of Guam.

23 (o) The term *community* refers to the entire territorial boundaries of Guam.

24 (p) The term *registrant* refers to persons required to register under this code and is
25 used interchangeably throughout this code with the word “sex offender”.

- 1 (q) The term *change in enrollment or employment status* means the commencement
2 *or* termination of enrollment *or* employment *or* a change in location of
3 enrollment *or* employment.
- 4 (r) The term *resides* means, with respect to an individual, the location of the
5 individual's home *or* any other place where the individual habitually lives or
6 sleeps regardless of whether there is no fixed home or address in the
7 jurisdiction, so long as the individual lived in the jurisdiction for at least 30
8 days.
- 9 (s) For the purposes of this code, a "resident" includes any individual who either
10 resides within Guam or who otherwise owns any real property within Guam in
11 fee or trust regardless of its location on Guam, who is employed within Guam
12 or employed by a corporation or organization whose primary business address is
13 on Guam, or who is a student or attends an educational program within Guam,
14 or who files their yearly income taxes on Guam.
- 15 (t) The term *jurisdiction* refers to any of the following:
- 16 (1) A State
 - 17 (2) The District of Columbia
 - 18 (3) The Commonwealth of Puerto Rico
 - 19 (4) Guam
 - 20 (5) American Samoa
 - 21 (6) The Northern Mariana Islands
 - 22 (7) The United States Virgin Islands
 - 23 (8) To the extent provided and subject to the requirements of 42 U.S.C.
24 §16927, a federally recognized Indian tribe.
- 25 (u) *Immediate*. The term *immediate* or *immediately* when used in this code means
26 within three (3) working days.

1 (v) *Imprisonment*. The term *imprisonment* or *imprisoned* refers to incarceration
2 pursuant to a conviction regardless of the nature of the institution in which the
3 offender serves the sentence. Sex Offenders under “house arrest” following any
4 conviction for any offense are required to register pursuant to the provisions of
5 this code during the period of “house arrest”.

6 (w) *This Code*. The term *this code* refers to the sex offender registration and
7 community notification system established in Chapter 89 of the G.C.A.

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

10 **§ 89.02. Classification of Offenders.**

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

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

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

17 i. 9 G.C.A. §16.30;

18 ii. 9 G.C.A. §22.20, wherein the victim of such crime is a minor;

19 iii. 9 G.C.A. §22.40, wherein the victim of such crime is a minor;

20 iv. 9 G.C.A. §22.50, wherein the victim of such crime is a minor;

21 v. 9 G.C.A. §25.15, except for a conviction under §25.15(2);

22 vi. 9 G.C.A. §25.20, except for a conviction under §25.20(2);

23 vii. 9 G.C.A. §25.25;

24 viii. 9 G.C.A. §28.49;

25 ix. 9 G.C.A. §28.51;

26 x. 9 G.C.A. §31.15; or

1 xi. 9 G.C.A. §70.35.

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

4 i. 18 U.S.C. §2241;

5 ii. 18 U.S.C. §2242; or

6 iii. 18 U.S.C. §2244.

7 (4) *Military Offenses*. Any offense specified by the Secretary of Defense
8 under section 115(a)(8)(c)(i) of Public Law 105-119 (codified at 10
9 U.S.C. §951 note) or any other conviction of an offense under 10 U.S.C.
10 §920 that is similar or comparable to those offenses outlined in
11 §89.02(a)(1), (2), (3) or (5).

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

14 i. non-parental kidnapping of a minor;

15 ii. a sexual act with another by force or threats;

16 iii. a sexual act with another who has been rendered unconscious or
17 involuntarily drugged, or who is otherwise incapable of appraising
18 the nature of the conduct or declining to participate; or

19 iv. sexual contact with a minor under 14 years of age or younger,
20 including offenses that cover sexual touching of or contact with
21 the intimate parts of the body, either directly or through the
22 clothing; or

23 v. is similar or comparable to those offenses outlined in §89.02(a)(1)
24 or (2).

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

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

8 (1) *Guam Offenses*

9 i. Generally. Any conviction for:

- 10 1. criminal sexual conduct involving two (2) *or* more
11 victims;
- 12 2. two (2) *or* more separate criminal sexual conduct
13 offenses;
- 14 3. a criminal offense against a victim who is a minor,
15 involving two (2) *or* more minors;
- 16 4. two (2) *or* more separate criminal offenses against a
17 victim who is a minor; or
- 18 5. one (1) *or* more separate criminal sexual conduct
19 offense and one (1) *or* more separate criminal offense
20 against a victim who is a minor.

21 ii. Specific Offenses: Any conviction under the following
22 statutes and all of their subsections:

- 23 1. 9 G.C.A. §28.20, wherein the victim of such crime is a
24 minor;
- 25 2. 9 G.C.A. §28.25, wherein the victim of such crime is a
26 minor;

- 1 3. 9 G.C.A. §28.30, wherein the victim of such crime is a
- 2 minor;
- 3 4. 9 G.C.A. §28.52, wherein the victim of such crime is a
- 4 minor; or
- 5 5. 9 G.C.A. §28.80, wherein the victim of such crime is a
- 6 minor.

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

- 9 i. 18 U.S.C. §1591;
- 10 ii. 18 U.S.C. §2243;
- 11 iii. 18 U.S.C. §2244;
- 12 iv. 18 U.S.C. §2251;
- 13 v. 18 U.S.C. §2251A;
- 14 vi. 18 U.S.C. §2252 (production or distribution of child
- 15 pornography);
- 16 vii. 18 U.S.C. §2252A (production or distribution of child
- 17 pornography);
- 18 viii. 18 U.S.C. §2260;
- 19 ix. 18 U.S.C. §2421;
- 20 x. 18 U.S.C. §2422(b); or
- 21 xi. 18 U.S.C. §2423(a).

22 (3) *Military Offenses:* Any offense specified by the Secretary of
23 Defense under section 115(a)(8)(c)(i) of Public Law 105-119 (codified
24 at 10 U.S.C. §951 note) or any other conviction of an offense under 10
25 U.S.C. §920 that is similar or comparable to those offenses outlined in
26 §89.02(b)(1), (2), (4).

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

- 3 i. the use of minors in prostitution, including solicitation;
- 4 ii. enticing a minor to engage in criminal sexual activity;
- 5 iii. sexual contact with a minor 14 years of age or older, whether
6 directly or indirectly through the clothing, that involves the
7 intimate parts of the body;
- 8 iv. The use of a minor in a sexual performance;
- 9 v. The production or distribution of child pornography; or
- 10 vi. is similar or comparable to those offenses outlined in
11 §89.02(b)(1).

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

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

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

- 21 i. 9 G.C.A. §22.30;
- 22 ii. 9 G.C.A. §25.15(2);
- 23 iii. 9 G.C.A. §25.20(2);
- 24 iv. 9 G.C.A. §25.25;
- 25 v. 9 G.C.A. §25.30;
- 26 vi. 9 G.C.A. §25.35;

- vii. 9 G.C.A. §28.50;
- viii. 9 G.C.A. §28.65;
- ix. 9 G.C.A. §89.01(b)(1);
- x. 9 G.C.A. §89.01(b)(3);
- xi. Any criminal sexual conduct offense not otherwise listed in §89.02 (a), (b) or (c); or
- xii. Any criminal offense against a victim who is a minor not otherwise listed in §89.02 (a), (b) or (c).

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

- i. 18 U.S.C. §1801;
- ii. 18 U.S.C. §2252 (receipt or possession of child pornography);
- iii. 18 U.S.C. §2252A (receipt or possession of child pornography);
- iv. 18 U.S.C. §2252B;
- v. 18 U.S.C. §2252C;
- vi. 18 U.S.C. §2422(a);
- vii. 18 U.S.C. §2423(b);
- viii. 18 U.S.C. §2423(c);
- ix. 18 U.S.C. §2424; or
- x. 18 U.S.C. §2425;

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

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

- 3 i. false imprisonment of a minor;
- 4 ii. video voyeurism of a minor;
- 5 iii. possession or receipt of child pornography; or
- 6 iv. is similar or comparable to those offenses outlined in
7 §89.02(c)(1).

8 **§ 89.03. Registration; Duty to Register.**

9 (a) *Persons Required to Register on Guam.* The following persons shall have
10 the absolute duty to register on Guam at the Judiciary of Guam, Probation
11 Division, register pursuant to this code:

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

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

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

18 (1) *Registrants required to provide information.* All persons required
19 to register shall provide all of the information detailed in this section
20 to the Judiciary of Guam, Probation Division, and the Judiciary of
21 Guam, Probation Division, shall obtain all of the information detailed
22 in this section from any person required to register with Guam in
23 accordance with this code and shall implement any relevant policies
24 and procedures necessary to effectuate the intent of this code.

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

4 (3) *Sex Offender Registry Management System.* There is hereby
5 established a Sex Offender Registry, which the Judiciary of Guam,
6 Probation Division, shall maintain and operate pursuant to the
7 provisions of this code, as amended. The sex offender registry shall
8 be maintained in an electronic database by the Judiciary of Guam,
9 Probation Division, and shall be in a form capable of electronic
10 transmission. This sex offender registry may also be maintained in
11 any other form in addition to the electronic database described above.

12 (4) *Provided by the Offender.* The following information must be
13 registered and updated by any sex offender required to register under
14 this code at the Judiciary of Guam, Probation Division, or at the
15 designated agency assigned to manage the Sex Offender Registry
16 Management System:

17 a. *Name, Date of Birth, Social Security Number.* All primary and
18 given names, alias(es), nicknames, and pseudonyms to include
19 ethnic and tribal names (regardless of the context in which
20 they are used, actual date of birth and any purported dates of
21 birth, and actual social security number and any purported
22 social security numbers used, if any, and any other identifying
23 factors;

24 b. *Residential and Physical Address.*

1 i. Current physical address and mailing address, or if the
2 person is incarcerated, the address of the residence
3 where the person will be residing immediately upon
4 release and the mailing address the person plans to use
5 immediately upon release;

6 ii. If a registrant does not have a fixed or definite address,
7 then a specific name, description and the location of the
8 place or places where the registrant habitually lives to
9 include, but not limited to, information of a certain part
10 of the city or village that is the registrant's habitual
11 locale, a park or spot on the street where the registrant
12 stations himself/herself during the day or sleeps at
13 night, any shelters or temporary homeless shelters
14 which the registrant circulates, or places of public
15 buildings, restaurants, libraries, or other establishments
16 that the registrant frequents;

17 iii. physical address and mailing address of any anticipated
18 future residence or any residence of temporary lodging,
19 wherein the offender leaves the current residence for
20 seven days or more, including any land line telephone
21 numbers of the anticipated future residence or
22 temporary lodging, pagers or cellular/mobile numbers
23 that the offender has access to or anticipates in having
24 access to;

25 c. *Employment Information.* Employer name, employer's
26 telephone numbers, physical address and mailing address of

1 current and/or anticipated employment, and if applicable,
2 transient/day labor information. If the employment requires
3 registrant to travel to different locales, then the registrant shall
4 provide the specific names and addresses of the other locales;

5 d. *Photograph.* current photograph (paper records);

6 e. *School Information.* Name and address of any place where the
7 sex offender is a student or will be a student, including the
8 name and address of any secondary school, institution of
9 higher education, trade school or professional school (public
10 or privately owned), and enrollment status;

11 f. *Phone Numbers.* Any land line telephone numbers, pagers,
12 cellular/mobile numbers, or any other designations used by the
13 offender for purposes of routing or self-identification in
14 telephonic communications, that the offender has access to or
15 anticipates having access to;

16 g. *Vehicle Information.* The license plate number and description
17 of any vehicle, which includes all land vehicles, aircrafts, or
18 watercrafts, whether owned or operated for work or personal
19 use, to include a description of the vehicle, its permanent or
20 frequent location;

21 h. *Internet Identifiers.* Internet identifiers and all designations
22 used by sex offenders for purposes of routing or self-
23 identification in Internet communications or postings,
24 including email addresses, instant messaging addresses or any
25 other designation used in internet communication;

- 1 i. *Driver's License and Identification Card.* A photocopy of all
2 valid driver's licenses or identification cards, if any, issued to
3 the offender by any and all jurisdictions;
- 4 j. *Passport and Immigration Documents.* A photocopy of all
5 passport and immigrations documents, if any, issued to the
6 offender by any and all countries and jurisdictions;
- 7 k. *Professional Licensing Information.* Professional Licensing
8 Information, to include all licensing in which the registrant has
9 obtained or had previously obtained which authorizes the
10 registrant to engage in an occupation or carry out a trade or
11 business. This includes any information as to the name, place
12 of employment and contact information as required in this
13 section, as well as any organization or business wherein the
14 professional license was obtained and to which the registrant
15 is affiliated or has some financial stake in;
- 16 l. *International Travel.* Any intended travel plans or
17 arrangements that the sex offender has, whether such travel is
18 to an international jurisdiction or within the United States or
19 its territories. The Offender shall provide such travel plans or
20 arrangements at least 21 days in advance of such travel.
21 Information provided by the sex offender shall include the
22 destination and any other information requested by the
23 Judiciary of Guam, Probation Office or the designated Guam
24 agency in charge of managing the Sex Offender Registry; and
- 25 m. *Miscellaneous.* Any other information as may be deemed
26 appropriate by the Judiciary of Guam, Probation Office or the

1 designated Guam agency in charge of managing the Sex
2 Offender Registry.

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

8 a. *Physical Description.* a physical description of the offender,
9 to include a written general physical description of the
10 offender and any distinguishing physical characteristics or
11 marks such as birthmarks, scars, moles, and tattoos, and its
12 location on the offender. A photograph of any such
13 distinguishing physical characteristics or marks should be
14 included if possible, but is not required;

15 b. *Photograph.* current photograph of the offender (digitized
16 form);

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

20 d. *Passport and Immigration Documents.* A photocopy of all
21 passport and immigration documents, if any, issued to the
22 offender by any and all countries and jurisdictions (digitized
23 form);

24 e. *Criminal History.* Criminal history, including the date of all
25 arrests and convictions, the status of parole, probation, or

1 supervised release, registration status, all relevant information
2 related to the underlying crime which triggered the registration
3 requirements of this code, any sex offender registration status,
4 and any outstanding arrest warrants;

5 f. *Treatment Documentation.* Documentation of any treatment,
6 that the sex offender has completed, is currently undergoing,
7 or wherein the sex offender has been ordered to attend and
8 complete by any court on Guam, as defined under §89.01(n);

9 g. *Fingerprints and Palm Prints.* Fingerprints and palm prints;

10 h. *DNA Sample.* DNA sample of the offender;

11 i. *Text of Registration of Offense.* The text of the provision of
12 law defining the criminal offense for which the sex offender is
13 registered;

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

24 k. *Miscellaneous.* Any other information as may be deemed
25 appropriate by the Judiciary of Guam, Probation Division, or

1 the designated Guam agency in charge of managing the Sex
2 Offender Registry.

3 (6) *Exemptions.*

4 a. *Federally Protected Witnesses.* Where the person required to
5 register is a Federally protected witness, the person shall not
6 be required to provide a photograph, alias(es), and original
7 name, place of offense, date of birth, social security number or
8 prior residence.

9 b. *Pardoned Convict or Conviction Reversed Upon Appeal.* The
10 duty to register under this code shall not be applicable to any
11 sex offender whose conviction was reversed upon appeal, or
12 who was pardoned by I Maga'láhen Guåhan or who has been
13 pardoned by the designated agency or individual of any
14 jurisdiction as defined in this code.

15 (c) *Biological Samples.*

16 (1) Every person convicted in court of a criminal sexual conduct
17 offense, or of a criminal offense against a victim who is a minor, shall
18 provide a biological sample to the Guam Police Department for DNA
19 profile information typing upon conviction.

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

1 (3) Every person who was convicted in court of a criminal sexual
2 conduct offense or of a criminal offense against a victim who is a
3 minor and is released on parole or probation shall provide a
4 biological sample for DNA profile information to the Guam Police
5 Department at the time of that person's initial registration or within
6 thirty (30) working days of initial registration.

7 (4) Every person required to register pursuant to §89.03 (i) and (ii)
8 shall provide a biological sample to the Guam Police Department for
9 DNA profile information at the time of that person's initial
10 registration on Guam or within thirty (30) working days upon
11 conviction.

12 (5) Intentional or knowing failure to provide a biological sample shall
13 have the same penalty as a failure to provide initial registration
14 information, which is a felony of the third degree as noted under
15 §89.05(f).

16 (6) All biological samples for DNA profile information typing that is
17 provided to the Guam Police Department pursuant to this subsection
18 shall be submitted for analysis and entry of the resulting DNA profile
19 into the Combined DNA Index System (CODIS).

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

22 (1) *Registry Requirements for Sex Offenders, In General.* All
23 persons required to register must register, and keep the registration
24 current, in each jurisdiction where the offender resides, where the
25 offender is an employee, and where the offender is a student.

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

- 3 a. Before completing a sentence of imprisonment with respect to
4 the offense giving rise to the registration requirements, if the
5 person is so incarcerated on or after the date of the enactment
6 of this statute. Intentional or knowing failure to provide this
7 information shall result in the delay of that person's release;
- 8 b. Not later than three (3) working days after being sentenced for
9 that offense, if the sex offender is not sentenced to a term of
10 imprisonment, if the person is sentenced on or after the date of
11 the enactment of this statute;
- 12 c. Not later than the date the person is scheduled to be placed on
13 probation. Intentional or knowing failure to provide this
14 information by that date shall result in the revocation of the
15 person's probation and shall make that person ineligible for
16 probation;
- 17 d. Not later than three (3) working days after arrival on Guam;
- 18 e. If the registrant is on probation in another jurisdiction and that
19 registrant's probation is to be transferred to Guam, then the
20 Judiciary of Guam, Probation Division, may obtain the
21 necessary information from the office of probation or parole of
22 the jurisdiction from where the registrant came; said registrant
23 is required to verify the registered information as required by
24 this code *no later than* three (3) calendar days after the
25 person's arrival on Guam.

1 (3) *Where a Person Identified as a Person Required to Register is on*
2 *Supervised Parole or Probation at the Time of the Passage of This*
3 *Law and Is Not Currently Registered.* Initial registration information
4 must be provided to the Judiciary of Guam, Probation Division, Sex
5 Offender Registry Management Office no later than ninety (90)
6 calendar days after the effective date of this law. Intentional or
7 knowing failure to register pursuant to this Subsection is a felony of
8 the third degree, as noted under §89.05(a).

9 (4) *Where a Person Required to Register is No Longer Under the*
10 *Supervision of Either Probation or Parole at the Time of the Passage*
11 *of This Law and Is Not Currently Registered.* Sex offenders required
12 to register pursuant to this code who fall within this category type
13 shall have the absolute duty to report to and register with the
14 Judiciary of Guam, Probation Division, Sex Offender Registry
15 Management Office. Intentional or knowing failure to register
16 pursuant to this subsection is a felony of the third degree, as noted
17 under §89.05(a).

18 (5) *Conviction Jurisdiction.* Any person who has been or is convicted
19 on Guam that is required to register under this code, but does not plan
20 to reside in Guam, be employed on Guam, or register or enroll in a
21 school on Guam, and upon release will reside in another jurisdiction,
22 be employed or will be registering or enrolling in a school in another
23 jurisdiction, shall still be required to register initially in Guam, and
24 upon relocating to the other jurisdiction, the registrant shall be
25 required to make an in-person registration appearance within three (3)

1 working days of commencing residence or employment in that
2 jurisdiction.

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

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

10 (1) A registrant must verify their registration in person with the
11 Judiciary of Guam, Probation Division, in the manner specified in
12 this section. At each in-person verification the sex offender shall:

- 13 a. permit the Judiciary of Guam, Probation Division, to take a
14 photograph of the offender, and
15 b. review existing information for accuracy and update, as
16 necessary, any changes to existing registration information.

17 (2) *Level One Offender.* A person who is a level one offender *shall*
18 verify the following registered information ninety (90) calendar days
19 from the date of initial registration; and shall appear in person once
20 every ninety (90) calendar days thereafter to verify and update their
21 registration information for the rest of their lives. *If* the ninetieth
22 (90th) day falls on a weekend *or* holiday, the registrant *shall* appear
23 on the following working day.

24 (3) *Level Two Offender.* A person who is a level two offender *shall*
25 verify the following registered information one hundred eighty (180)

1 calendar days from the date of initial registration; and shall appear in
2 person once every one hundred eighty (180) calendar days thereafter
3 to verify and update their registration information for the rest of their
4 lives. *If* the one hundred eightieth (180th) day falls on a weekend *or*
5 holiday, the registrant *shall* appear on the following working day.

6 (4) *Level Three Offender.* A person who is a level three offender
7 *shall* verify the following registered information one (1) year from
8 the date of the registrant's initial registration; and shall appear in
9 person once every year thereafter to verify and update their
10 registration information for fifteen (15) years. *If* the date the
11 registrant is to verify falls on a weekend *or* holiday, the registrant
12 *shall* appear on the following working day.

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

- 16 a. All other jurisdictions in which the sex offender is required to
17 register of the information or change in information; and
- 18 b. The Guam Police Department;
- 19 c. Any other appropriate governmental agency as determined by
20 the Judiciary of Guam, Probation Division.

21 (f) *Keeping The Registration Current.* A sex offender who is a resident of
22 Guam shall:

- 23 (1) not later than three (3) working days after each change of name,
24 residence, employment, student status, or termination of residence,
25 appear in person at the Judiciary of Guam, Probation Division, and

1 inform the Judiciary of Guam, Probation Division of all changes in
2 the information required for that sex offender in the sex offender
3 registry. *If* a registrant anticipates moving from Guam, that registrant
4 *shall* register in person his intended place of residence with the
5 Judiciary of Guam, Probation Division, *no later than* three (3)
6 calendar days before his departure from Guam; and

7 (2) not later than three (3) working days after each change in
8 temporary lodging information, vehicle information, internet
9 identifiers, or telephone numbers, immediately notify the Judiciary of
10 Guam, Probation Division, and inform the Judiciary of Guam,
11 Probation Division, of all changes in the information required for
12 that sex offender in the sex offender registry.

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

- 15 a. All other jurisdictions in which the sex offender is required to
16 register;
- 17 b. The Guam Police Department; and
- 18 c. Any other appropriate governmental agency as determined by
19 the Judiciary of Guam, Probation Division.

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

1 (h) *Registration Requirement; Sex offenders Who Move to Another Jurisdiction.*

2 When a sex offender who is required to register on Guam anticipates
3 moving to another jurisdiction, that registrant *shall* report the change of
4 address to the Judiciary of Guam, Probation Division, pursuant to the
5 requirements of this code, *and* comply with any registration requirement of
6 the new jurisdiction.

7 **§ 89.04. Duration of Registration**

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

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

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

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

22 (d) *Tolling of Registration Requirement.* *If* a registrant is re-
23 incarcerated for violations of release conditions imposed in the same
24 crime, *or* for the commission of another crime, *or* the registrant is
25 civilly committed, *or* if the registrant leaves to a foreign country and

1 informs the Judiciary of Guam, Probation Division, then the period of
2 registration is tolled and remains tolled until the registrant's
3 subsequent release *or* arrival in another jurisdiction. Thereafter, the
4 registrant *shall* recommence and continue registering for the
5 remaining period of time the registrant is required to register.

6 § 89.05. Penalties.

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

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

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

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

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

7 (f) *Failure to Provide Biological Sample.* Intentional *or* knowing failure to
8 provide biological samples for DNA profile information to the Guam Police
9 Department pursuant to this code is a felony of the third degree.

10 **§ 89.06. Failure to Appear for Registration, Absconding and Failure to Register**

11
12 (a) *Failure to Appear.* In the event a sex offender fails to register on Guam as required
13 by this code, then the Judiciary of Guam, Probation Division, or designee shall
14 immediately inform the jurisdiction that provided notification that the sex offender
15 was to commence residency, employment, or school enrollment on Guam, and that
16 the sex offender failed to appear for registration.

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

21 i. In the event that no determination can be made, the Judiciary of
22 Guam or designee shall ensure that the Guam Police Department and
23 other local law enforcement agencies are notified so that a proper
24 investigation may be conducted.

25 ii. If the information indicating the possible absconding came through
26 notice from another jurisdiction or federal authorities, the other

1 jurisdiction or the federal authorities shall be informed that the sex
2 offender failed to appear and register.

3 iii. If an absconded sex offender cannot be located by the Guam Police
4 Department after the matter had been forwarded for investigation,
5 then the Guam Police Department shall inform the Judiciary of
6 Guam, Probation Division, and the Judiciary of Guam, Probation
7 Division, shall take the forthcoming steps:

8 1. Update the registry to reflect the sex offender has absconded
9 or is otherwise not capable of being located;

10 2. Notify the U.S. Marshals;

11 3. If all legal requirements are met to obtain a federal warrant of
12 arrest, then the U.S. Marshals Service or the Federal Bureau of
13 Investigations may be contacted in an attempt to obtain a
14 federal warrant for the sex offender's arrest;

15 4. Update the National Sex Offender Registry (NSOR) to reflect
16 the sex offender's status as an absconder, or is otherwise not
17 capable of being located; and

18 5. Enter the sex offender into the National Crime Information
19 Center Wanted Persons File.

20 iv. *Failure to Register.* In the event a sex offender who is required to
21 register due to their employment or school attendance status fails to
22 do so or otherwise violates a registration requirement of this code,
23 then the Judiciary of Guam, Probation Division, shall take all
24 appropriate follow-up measures including those outlined in the above
25 section. The Judiciary of Guam, Probation Division, shall first make

1 an effort to determine if the sex offender is actually employed or
2 attending or enrolled in school within its jurisdiction.

3
4 **§ 89.07. Duties of the Department of Corrections and the Parole Services and**
5 **Probation Division, of the Judiciary of Guam; Initial Registration.**

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

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

10 (b) ensure that the sex offender completes his/her initial registration pursuant to this
11 code;

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

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

16 (e) ensure any registration information is promptly made available to the Judiciary of
17 Guam, Probation Division; and

18 **§ 89.08. Duties of the Guam Police Department.**

19
20 The Guam Police Department *shall:*

21
22 (a) inform all persons required to register under this code of their duty to register;

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

- 1 (c) forward information described in (b) above to the Judiciary of Guam, Probation
2 Division, within three (3) calendar days after receipt thereof;
- 3 (d) collect a biological sample for DNA profile information from the offender as
4 required in this code and submit the sample to the Federal Bureau of Investigation
5 within twenty-four (24) hours of collection and to any local entity that may be
6 Guam's central repository for DNA;
- 7 (e) collect and keep records of fingerprints and palm prints from the registrant and also
8 distribute cards containing such prints to the Judiciary of Guam, Probation
9 Division, to submit such fingerprints and palm prints to the Federal Bureau of
10 Investigation within twenty-four (24) hours of collection and to any local entity that
11 may be Guam's central repository for fingerprints or palm prints.

12 **§ 89.09. Duties of the Judiciary of Guam.**

- 13
- 14 (a) *Repository.* The Judiciary of Guam *shall* be the central repository for all
15 registration information gathered pursuant to this code, in addition to all criminal
16 history records information.
- 17 (b) *Sole Source of Submission of Information to the Federal Bureau of*
18 *Investigation (FBI) and the National Crime Information Center (NCIC).* The
19 Judiciary of Guam, Probation Division, *shall* enter all registration information into
20 the NCIC system and National Sex Offender Registry (NSOR) *no later than* three
21 (3) working days after receipt of such information. The Judiciary of Guam,
22 Probation Division, *shall* forward the fingerprints and palm prints to the FBI for
23 inclusion in the appropriate databases.
- 24 (c) *Notification of Local Law Enforcement Agencies Regarding Changes of Address;*
25 *Relocation from Guam.* Upon receipt of information that the registrant is
26 anticipated to relocate from Guam to another jurisdiction, the Judiciary of Guam,

1 Probation Division, *shall* immediately notify the jurisdiction to which the
2 registrant is relocating and *shall* transmit the address of the registrant's anticipated
3 residence to the FBI *no later than* three (3) working days of receipt of such
4 information.

5 (d) *Notification of FBI Regarding Changes of Address.* Upon receipt of information
6 that the registrant is *or* has changed residence within Guam, *or* is anticipated to
7 relocate from Guam to another state, territory *or* tribe, the Judiciary of Guam,
8 Probation Division, *shall* transmit the new address to the FBI *no later than* three
9 (3) working days after receipt of such information.

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

13 (f) *Fees.* The Judiciary of Guam, Probation Division, is authorized to collect
14 reasonable registration fees from registrants. Such fees *shall* be used for the
15 maintenance and support of the sex offender registration and notification program.
16 One hundred percent (100%) of the fee paid by the registrant *shall* be given to the
17 Judiciary of Guam, Probation Division.

18 **§ 89.10 Duties of the Judiciary of Guam in managing the Sex Offender Registry**

19 The Judiciary of Guam *shall*:

20 (a) supervise, upkeep, and maintain the Crimes Against Minors and Sex Offender
21 Registry;

22 (b) inform the registrant of his/her registration duties under this code;

23 (c) ensure that any person required to register under this code has read and signed a
24 form stating that the registrant's duty to register under this code has been
25 explained;

- 1 (d) receive and obtain initial registration and registration verification information
2 from all persons required to register under this code, and enter such information
3 into the Sex Offender Registry database;
- 4 (e) supervise the release of verified information, as required in this code;
- 5 (f) perform all other duties necessary to ensure the proper maintenance of the Sex
6 Offender Registry and to ensure that all registrants comply with their
7 registration duties as set out in this code; and
- 8 (g) publish, every year, a notification in any publication of general circulation
9 informing all persons required to register pursuant to this code of their duty of
10 register. Such notification *shall* include, but is *not limited to*, the following:
- 11 a. the provision requiring the duty to register;
- 12 b. the provision stating the information that is required to be registered;
- 13 c. the physical address of location in which persons required to register
14 must report to;
- 15 d. the provisions stating the penalties for failure to register; and
- 16 e. the contact information and name of the person from whom persons
17 required to register can receive further information regarding registration
18 requirements.
- 19 (h) *Local Appropriations to Fund Sex Offender Registry.* *I Liheslaturan Guahan*
20 shall hereby appropriate a reasonable amount from the General Fund as part of
21 the budget of the respective agency who is assigned to implement, maintain,
22 and operate the Sex Offender Registry. Such budget shall be used by the
23 respective agency for the implementation, maintenance, and support of the Sex
24 Offender Registration and Notification Program.

1 **§ 89.11 Notification**

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

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

- 7 a. a searchable database of all Sex Offenders that shall have the capability
8 of conducting searches by (a) name, (b) county, city and/or town, and (c)
9 zip code and/or geographic radius;
- 10 b. a mechanism to allow visitors to subscribe, through an electronic mail (e-
11 mail) address, to notification of any updates *or* changes made to the Sex
12 Offender Registry;
- 13 c. links, to the extent practicable, to sex offender safety and education
14 resources;
- 15 d. instructions on how to seek correction of information that an individual
16 contends is erroneous; and
- 17 e. a warning that information on the site should not be used to unlawfully
18 injure, harass, *or* commit a crime against any individual named in the
19 registry *or* residing *or* working at any reported address, and such
20 warning *shall* note that any such action could result in civil *or* criminal
21 penalties.

22 (c) *Dru Sjodin National Sex Offender Public Website.* The Judiciary of Guam,
23 Probation Division, shall include in the design of its website all field search
24 capabilities needed for full participation in the Dru Sjodin National Sex

1 Offender Public Website and shall participate in that website as provided by the
2 Attorney General of the United States.

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

- 6 a. Notice that an offender is in violation of their registration requirements
7 or cannot be located if the sex offender has absconded;
- 8 b. All sex offenses for which the sex offender has been convicted, which
9 should include the text of the registration offense;
- 10 c. The sex offense(s), including the text of the registration offense, for
11 which the sex offender is currently registered;
- 12 d. The address of the sex offender's employer;
- 13 e. The name of the sex offender including all aliases, nicknames,
14 pseudonyms, and tribal or ethnic names;
- 15 f. A current photograph of the sex offender;
- 16 g. A physical description of the sex offender;
- 17 h. The residential address, and if relevant, a description of a habitual
18 residence of the sex offender;
- 19 i. All addresses of schools in which the sex offender attends or is enrolled
20 in; and
- 21 j. The sex offender's vehicle license plate number along with a description
22 of the vehicle;

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

- a. Any arrest that did not result in conviction;
- b. The sex offender's social security number;
- c. Any travel and immigration documents;
- d. The identity of the victim; and
- e. Any Internet Identifiers.

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

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

(h) *Method of Release of Information.* The Judiciary of Guam, Probation Division, *shall* maintain the Public Sex Offender Registry Website and it *shall* be updated immediately after a registrant registers, *or* updates registered information. The community *shall* have access to the Sex Offender Registry Web Page. The Judiciary of Guam, Probation Division, *shall* transmit a notice of any updates to registration information concerning any sex offender to the Guam Public School System, the Guam Community College, the University of Guam, the Department of Administration, the Department of Labor & Agency for Human Resource Development, the Department of Public Health & Social Services, the Department of Youth Affairs, Child Protective Services Agency, the Office of the Attorney General, all public and private schools, day care centers, victim shelters and victim advocates, within three (3) calendar days with the information in which such registration information can be found. The Judiciary of Guam, Probation Division, may transmit such information and fulfill the requirement of this section by use of an email notification system

1 described in §89.10(j), below. The Judiciary of Guam, Probation Division,
2 may transmit any information concerning all sex offenders directly to the media
3 for dissemination.

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

7 a. Immediately notify the FBI or other federal agency as designated by the
8 Attorney General in order that the information may be updated on the
9 National Sex Offender Registry (NSOR) or other relevant database;

10 b. Immediately notify any agency, department, or program with Guam
11 responsible for criminal investigation, prosecution of child welfare, or
12 sex offender supervision functions, which will include the Guam Police
13 Department, Child Protective Services, Office of the Attorney General,
14 and the Judiciary of Guam, Probation Division;

15 c. Immediately notify any and all other registration jurisdictions where the
16 sex offender is registered due to the sex offender's residency, school
17 enrollment or employment;

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

21 a. Upon a sex offender's registration or update of information with Guam,
22 Guam's public sex offender registry website is immediately updated
23 within (3) working days;

24 b. Guam's public sex offender's registry has a function that enables the
25 general public to request email notices that will notify the person

1 requesting such information when a sex offender commences residence,
2 employment or school enrollment on Guam, within a specified zip code,
3 or within a certain geographic radius. This email notice shall include the
4 sex offender's identity so that the public can access the public registry
5 for the new information.

6 (k) *Verification of Names on Sex Offender Registry.* Entities within the government
7 of Guam may request the Judiciary of Guam, Probation Division, to verify the
8 identities of individuals registered on the Sex Offender Registry for the
9 purposes of employment.

10 (l) *Notice of Change.* The Judiciary of Guam, Probation Division, *shall*, upon
11 passage of this code, provide for education to the community through a notice
12 to the public of changes made by this code requiring all convicted sex offenders
13 to register with the Sex Offender Registry. Such education may include,
14 sending of information to local schools, notice in a publication of general
15 circulation, notices to various local media entities, and actively promoting
16 safety through and awareness of the Guam Sex Offender Registry.

17 **§ 89.11 Immunity for Good Faith Conduct.** Law enforcement agencies, their
18 employees and government of Guam officials *shall* be immune from any civil *or* criminal
19 liability for good faith conduct under this code, *unless* it is shown that the agency,
20 employee, government official *or* board member acted with gross negligence *or* in bad
21 faith.