

**9 GCA CRIMES & CORRECTIONS**  
**CH. 89 CRIMES AGAINST MINORS AND SEX OFFENDER REGISTRY**

**CHAPTER 89**  
**CRIMES AGAINST MINORS AND SEX OFFENDER REGISTRY**

**SOURCE:** This entire Chapter was enacted by P.L. 25-75:2 (11/9/99). Amended by P.L. 28-077:2 (Dec. 5, 2005) and P.L. 29-007:1 (Sept. 7, 2007). Amended in its entirety by P.L. 29-030 (Oct. 25, 2007). Amendments by P.L. 29-007 and repealed by P.L. 29-030 were reenacted by P.L. 29-063:2 (Apr. 4, 2008). Amended in its entirety by P.L. 30-223:2 (Dec. 30, 2010).

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**§ 89.01. Definitions.**

As used in this Chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Guam Offenses.

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

(B) any convictions under local laws relating to Title 9 GCA § 22.30;

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

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

(E) any convictions under local laws relating to Title 9 GCA § 25.15;

(F) any convictions under local laws relating to Title 9 GCA § 25.20;

(G) any convictions under local laws relating to Title 9

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GCA § 25.25;

(H) any convictions under local laws relating to Title 9  
GCA § 25.30;

(I) any convictions under local laws relating to Title 9  
GCA § 25.35;

(J) any convictions under local laws relating to Title 9  
GCA § 28.20, wherein the victim of such crime is a minor

(K) any convictions under local laws relating to Title 9  
GCA § 28.25, wherein the victim of such crime is a minor

(L) any convictions under local laws relating to Title 9  
GCA § 28.30; wherein the victim of such crime is a minor

(M) any convictions under local laws relating to 9  
G.C.A. § 28.49;

(N) any convictions under local laws relating to Title 9  
GCA § 28.50;

(O) any convictions under local laws relating to Title 9  
GCA § 28.51;

(P) any convictions under local laws relating to Title 9  
GCA § 28.52, wherein the victim of such crime is a minor;

(Q) any convictions under local laws relating to Title 9  
GCA § 28.65;

(R) any convictions under local laws relating to Title 9  
GCA § 28.80, wherein the victim of such crime is a minor;

(S) any convictions under local laws relating to Title 9  
GCA § 31.15;

(T) any convictions under local laws relating to Title 9  
GCA § 70.35;

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

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

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involving:

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

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

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

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

(v) solicitation of a minor to practice prostitution;

(vi) video voyeurism of a minor;

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

(viii) criminal sexual conduct involving a minor;  
or

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

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

(A) any type or degree of genital, oral, or anal penetration;

(B) any sexual touching of or sexual contact with a person's body, either directly or through the clothing;

(C) kidnapping of a minor;

(D) false imprisonment of a minor;

(E) solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct;

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- (F) use of a minor in a sexual performance;
- (G) solicitation of a minor to practice prostitution;
- (H) possession, production, or distribution of child pornography;

(I) criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense; or

(J) any conduct that by its nature is a sex offense against a minor.

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

- (A) 18 U.S.C. §1591
- (B) 18 U.S.C. §1801
- (C) 18 U.S.C. §2241
- (D) 18 U.S.C. §2242
- (E) 18 U.S.C. §2243
- (F) 18 U.S.C. §2244
- (G) 18 U.S.C. §2245
- (H) 18 U.S.C. §2251
- (I) 18 U.S.C. §2251A
- (J) 18 U.S.C. §2252
- (K) 18 U.S.C. §2252A
- (L) 18 U.S.C. §2252B
- (M) 18 U.S.C. §2252C
- (N) 18 U.S.C. §2260
- (O) 18 U.S.C. §2421

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(P) 18 U.S.C. §2422

(Q) 18 U.S.C. §2423

(R) 18 U.S.C. §2424; or

(S) 18 U.S.C. §2425.

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

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

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

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

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

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

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(g) *Conviction.*

(1) Adult Conviction. The term *conviction* refers to each separate charge to which the offender either voluntarily pleads guilty and such guilty plea has been accepted by the Court, whether in a single hearing *or* in separate hearings, *or* is found guilty by a trier of fact, whether the charges are contained in one (1) indictment, *or* separate indictments. This term includes convictions based on pleas of *nolo contendere* and guilty pleas entered pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

An adult sex offender is “convicted” for the purposes of this Chapter if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

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

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

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

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

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

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

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

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

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

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

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institutions of higher education.

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

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

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

(q) The term *change in enrollment or employment status* means the commencement *or* termination of enrollment *or* employment *or* a change in location of enrollment *or* employment.

(r) The term *resides* means, with respect to an individual, the location of the individual’s home *or* any other place where the individual habitually lives or sleeps regardless of whether there is no fixed home or address in the jurisdiction, so long as the individual lived in the jurisdiction for at least thirty (30) days.

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

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

- (1) a State;
- (2) the District of Columbia;
- (3) the Commonwealth of Puerto Rico;
- (4) Guam;
- (5) American Samoa;
- (6) the Commonwealth of the Northern Mariana Islands;
- (7) the United States Virgin Islands; and
- (8) to the extent provided and subject to the requirements of

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42 U.S.C. §16927, a federally recognized Indian tribe.

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

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

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

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

(y) *Instant messaging or chat room* means a program that requires a person to register or create an account, a user name, or a password to become a member or registered user of the program and allows members or authorized users to communicate over the internet in real time using typed text or voice, including programs associated with online games, and other online communities. The term *does not* include an electronic mail (e-mail).

(z) *Social networking website/application* means an internet website/application that has a primary purpose of facilitating social interaction between two (2) or more persons for the purposes of friendship, meeting other persons, dating, gaming, or information exchanges, and allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant

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messaging.

**SOURCE:** Subsections (y) and (z) added by P.L. 31-047:1 (May 23, 2011).

**§ 89.02. Classification of Offenders.**

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

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

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

(A) Title 9 GCA § 16.30;

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

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

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

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

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

(G) Title 9 GCA § 25.25;

(H) Title 9 GCA § 28.49;

(I) Title 9 GCA § 28.51;

(J) Title 9 GCA § 31.15; or

(K) Title 9 GCA § 70.35.

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

(A) 18 U.S.C. §2241;

(B) 18 U.S.C. §2242; or

(C) 18 U.S.C. §2244.

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(4) 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(a)(1), (2), (3) or (5).

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

(A) non-parental kidnapping of a minor;

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

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

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

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

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

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

(1) Guam Offenses

(A) Generally. Any conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

(A) 18 U.S.C. §1591;

(B) 18 U.S.C. §2243;

(C) 18 U.S.C. §2244;

(D) 18 U.S.C. §2251;

(E) 18 U.S.C. §2251A;

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

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

(H) 18 U.S.C. §2260;

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- (I) 18 U.S.C. §2421;
- (J) 18 U.S.C. §2422(b); or
- (K) 18 U.S.C. §2423(a).

(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(b)(1), (2), (4).

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

- (A) the use of minors in prostitution, including solicitation;
- (B) enticing a minor to engage in criminal sexual activity;
- (C) sexual contact with a minor fourteen (14) years of age or younger, whether directly or indirectly through the clothing, that involves the intimate parts of the body;
- (D) the use of a minor in a sexual performance;
- (E) the production or distribution of child pornography; or
- (F) is similar or comparable to those offenses outlined in § 89.02(b)(1).

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

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

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

- (A) Title 9 G.C.A. § 22.30;
- (B) Title 9 G.C.A. § 25.15(2);

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(C) Title 9 G.C.A. § 25.20(2);

(D) Title 9 G.C.A. § 25.25;

(E) Title 9 G.C.A. § 25.30;

(F) Title 9 G.C.A. § 25.35;

(G) Title 9 G.C.A. § 28.50;

(H) Title 9 G.C.A. § 28.65;

(I) Title 9 G.C.A. § 89.01(b)(1);

(J) Title 9 G.C.A. § 89.01(b)(3);

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

(L) 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:

(A) 18 U.S.C. §1801;

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

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

(D) 18 U.S.C. §2252B;

(E) 18 U.S.C. §2252C;

(F) 18 U.S.C. §2422(a);

(G) 18 U.S.C. §2423(b);

(H) 18 U.S.C. §2423(c);

(I) 18 U.S.C. §2424; or

(J) 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

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U.S.C. §920 that is similar or comparable to those offenses outlined in § 89.02(c)(1), (2), (4).

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

- (A) false imprisonment of a minor;
- (B) video voyeurism of a minor;
- (C) possession or receipt of child pornography; or
- (D) is similar or comparable to those offenses outlined in § 89.02(c)(1).

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

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

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

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

(b) Registration Requirements; Information to be Registered.

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

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

(3) Sex Offender Registry Management System. There is hereby established a Sex Offender Registry, which the Judiciary of Guam, Probation Division, *shall* maintain and operate pursuant to the

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provisions of this Chapter, as amended. The sex offender registry *shall* be maintained in an electronic database by the Judiciary of Guam, Probation Division, and *shall* be in a form capable of electronic transmission. This sex offender registry may also be maintained in any other form in addition to the electronic database described above.

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

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

(B) Residential and Physical Address.

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

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

(iii) physical address and mailing address of any anticipated future residence or any residence of temporary

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lodging, wherein the offender leaves the current residence for seven (7) days or more, including any land line telephone numbers of the anticipated future residence or temporary lodging, pagers or cellular/mobile numbers that the offender has access to or anticipates in having access to;

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

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

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

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

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

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

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

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

(K) Professional Licensing Information. Professional Licensing Information, to include all licensing in which the registrant has obtained or had previously obtained which authorizes the registrant to engage in an occupation or carry out a trade or business. This includes any information as to the name, place of employment and contact information as required in this Section, as well as any organization or business wherein the professional license was obtained and to which the registrant is affiliated or has some financial stake in;

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

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

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

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

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

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

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

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

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

(G) Fingerprints and Palm Prints. Fingerprints and palm prints;

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

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

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

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offender registry; and

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

(6) Exemptions.

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

(B) 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 *I Maga'lahen Guåhan*, or who has been pardoned by the designated agency or individual of any jurisdiction as defined in this code.

(c) Biological Samples.

(1) Every person convicted in court 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 Guam Police Department for DNA profile information typing upon conviction.

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

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

(4) Every person required to register pursuant to § 89.03(a) *shall* provide a biological sample to the Guam Police Department for DNA

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profile information at the time of that person's initial registration on Guam or within thirty (30) working days upon conviction.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Conviction Jurisdiction. Any person who has been or is convicted on Guam that is required to register under this Chapter, but does *not* plan to reside in Guam, be employed on Guam, or register or enroll in a school on Guam, and upon release will reside in another jurisdiction, be employed or will be registering or enrolling in a school in another jurisdiction, *shall* still be required to register initially in Guam, and upon relocating to the other jurisdiction, the registrant *shall* be required to make an in-person registration appearance within three (3) working days of commencing residence or employment in that jurisdiction.

(6) Incarceration Jurisdiction. Any person who has been convicted in another jurisdiction, other than in Guam, but the person will be released from custody of the conviction jurisdiction and

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released to the custody of Guam and incarcerated on Guam, such registrant, prior to the registrant being released from incarceration on Guam, *shall* be required to initially register in-person on Guam.

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

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

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

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

(2) Level One Offender. A person who is a Level One Offender *shall* verify the following registered information ninety (90) calendar days from the date of initial registration; and *shall* appear in person once every ninety (90) calendar days thereafter to verify and update their registration information for the rest of their lives. *If* the ninetieth (90<sup>th</sup>) day falls on a weekend *or* holiday, the registrant *shall* appear on the following working day.

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

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

(5) If any new information or change in information is obtained

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at an in-person verification, the Judiciary of Guam, Probation Division, *shall* immediately notify:

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

(B) the Guam Police Department; and

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

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

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

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

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

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

(B) the Guam Police Department; and

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

(g) Registration Requirement; Guam Residents Who are Employed, Carry on a Vocation, or are Students in Another Jurisdiction. A person who is required to register on Guam and who is employed, carries on a

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vocation, *or* is a student in another jurisdiction *shall* also register in that other jurisdiction pursuant to the registration requirements of that jurisdiction.

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

(i) Persons required to register under this Section *shall not* access, or create or maintain a personal web page, profile, account, password, or user name for: a social networking website; or an instant messaging or chat room program, that permits persons under the age of eighteen (18) years to become a member or to create or maintain a personal web page, *unless* such social networking website, or an instant messaging or chat room, limits the ability of adult members to add persons under the age of eighteen (18) years as friends, buddies or associates. All computers or devices capable of accessing the internet that are on the registrant's person, vehicle or home are subject to unannounced searches by law enforcement personnel acting within the scope of their duties while performing a lawful investigation.

**SOURCE:** Subsection (i) added by P.L. 31-047:2 (May 23, 2011).

**§ 89.04. Duration of Registration.**

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

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

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

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

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

**§ 89.05. Penalties.**

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

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

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

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

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

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third degree.

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

(g) Any person who violates § 89.03(i) of this Chapter commits a misdemeanor.

(h) Any person who violates § 89.03(i) of this Chapter and intentionally adds person(s) under the age of eighteen (18) years as friends, buddies or associates commits a third degree felony.

(i) Any person who misrepresents his or her age and/or uses a pseudonym to gain membership in a social networking website, or an instant messaging or chat room, accessible to persons who are under eighteen (18) years of age and/or to add as friends, buddies or associates who are under eighteen (18) years of age commits a third degree felony.

**SOURCE:** Subsections (g), (h) and (i) added by P.L. 31-047:3 (May 23, 2011).

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

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

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

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

(2) *If* the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the other jurisdiction or the federal authorities *shall* be informed that the

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sex offender failed to appear and register.

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

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

(B) notify the U.S. Marshals;

(C) *if* all legal requirements are met to obtain a federal warrant of arrest, then the U.S. Marshals Service or the Federal Bureau of Investigations may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest;

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

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

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

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

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

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

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

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

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

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

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

The Guam Police Department *shall*:

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

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

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

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

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

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

(a) Repository. The Judiciary of Guam *shall* be the central repository

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for all registration information gathered pursuant to this Chapter, in addition to all criminal history records information.

(b) Sole Source of Submission of Information to the Federal Bureau of Investigation (FBI) and the National Crime Information Center (NCIC). The Judiciary of Guam, Probation Division, shall enter all registration information into the NCIC system and National Sex Offender Registry (NSOR) *no later than* three (3) working days after receipt of such information. The Judiciary of Guam, Probation Division, shall forward the fingerprints and palm prints to the FBI for inclusion in the appropriate databases.

(c) Notification of Local Law Enforcement Agencies Regarding Changes of Address; Relocation from Guam. Upon receipt of information that the registrant is anticipated to relocate from Guam to another jurisdiction, the Judiciary of Guam, Probation Division, *shall* immediately notify the jurisdiction to which the registrant is relocating and *shall* transmit the address of the registrant's anticipated residence to the FBI *no later than* three (3) working days of receipt of such information.

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

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

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

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

The Judiciary of Guam *shall*:

(a) supervise, upkeep, and maintain the Crimes Against Minors

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and Sex Offender Registry;

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

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

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

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

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

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

(1) the provision requiring the duty to register;

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

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

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

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

(h) Local Appropriations to Fund Sex Offender Registry. *I Liheslaturan Guahan* shall hereby appropriate a reasonable amount from the General Fund as part of the budget of the respective agency who is

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assigned to implement, maintain, and operate the Sex Offender Registry. Such budget shall be used by the respective agency for the implementation, maintenance, and support of the Sex Offender Registration and Notification Program.

**§ 89.11. Notification.**

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

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

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

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

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

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

(5) a warning that information on the site should *not* be used to unlawfully injure, harass, *or* commit a crime against any individual named in the registry *or* residing *or* working at any reported address, and such warning *shall* note that any such action could result in civil *or* criminal penalties.

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

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

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(1) notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;

(2) all sex offenses for which the sex offender has been convicted, which should include the text of the registration offense;

(3) the sex offense(s), including the text of the registration offense, for which the sex offender is currently registered;

(4) the address of the sex offender's employer;

(5) the name of the sex offender including all aliases, nicknames, pseudonyms, and tribal or ethnic names;

(6) a current photograph of the sex offender;

(7) a physical description of the sex offender;

(8) the residential address, and if relevant, a description of a habitual residence of the sex offender;

(9) all addresses of schools in which the sex offender attends or is enrolled in; and

(10) the sex offender's vehicle license plate number, along with a description of the vehicle;

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

(1) any arrest that did *not* result in conviction;

(2) the sex offender's social security number;

(3) any travel and immigration documents;

(4) the identity of the victim; and

(5) any Internet Identifiers.

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

(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

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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 Department of Education, the Guam Community College, the University of Guam, the Department of Administration, the Department of Labor & Agency for Human Resources Development, the Department of Public Health & Social Services, the Department of Youth Affairs, the 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 described in §89.10(j), below. The Judiciary of Guam, Probation Division, may transmit any information concerning all sex offenders directly to the media for dissemination.

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

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

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

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

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

(1) that upon a sex offender's registration or update of

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information with Guam, Guam's public sex offender registry website is immediately updated within (3) working days;

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

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

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

**§ 89.12. Immunity for Good Faith Conduct.**

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

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

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

(b) If a sex offender is released on parole from incarceration, the

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Territorial Parole Board *may* require, as a condition of his parole, that the offender wear an *electronic monitoring device* as defined by § 89.01(w) of this Chapter, for any portion of *or* all of the duration of his parole. The offender *shall* pay for the purchase *or* lease of the electronic monitoring device, provided that the Parole Board may direct that the cost or a portion thereof be paid by the Parole Office.

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

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

**§ 89.14. Limitations on the Use of Electronic Mail (e-mail) by Registered Sex Offenders.**

(a) Any person required to register as a sex offender pursuant to the provisions of this Chapter *shall* include identifying information in the “reply to” and/or “sender” and/or “from” field(s) in any e-mail account established and used by the registered sex offender. For purposes of this Section, identifying information means the user’s first name, middle initial(s) and last name. Any violation of this paragraph is a third degree felony.

(b) Any e-mail address created by a registered sex offender *shall* be submitted, physically or electronically, to the Superior Court within ten (10) days of the creation of such account. A violation of this paragraph is a petty misdemeanor.

**SOURCE:** Added by P.L. 31-048:1 (May 23, 2011).

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