

9 GCA CRIMES & CORRECTIONS
CH. 89 CRIMES AGAINST MINORS, SEX OFFENDER REGISTRY AND ELECTRONIC
MONITORING OF SEX OFFENDERS

CHAPTER 89
CRIMES AGAINST MINORS, SEX OFFENDER REGISTRY AND
ELECTRONIC MONITORING OF SEX OFFENDERS

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 Amendments by P.L. 29-007 and repealed by P.L. 29-030 were reenacted by P.L. 29-063:2 (Apr. 4, 2008).

COMMENT: References to “*Title 9 GCA: Chapter 25,*” in Title 9 GCA, Chapter 89 changed to “*Title 9 GCA: Chapters 25 and 25.01*” where appropriate pursuant to P.L. 29-063:3 (Apr. 4, 2008).

- § 89.01. Definitions.
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- § 89.03. Registration; Duty to Register.
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- § 89.06. Duties of the Department of Corrections and the Parole Services and Probation Services Division of the Judiciary of Guam; Initial Registration.
- § 89.07. Duties of the Guam Police Department.
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- § 89.10. Notification.
- § 89.11. Immunity for Good Faith Conduct.
- § 89.12. Electronic Monitoring of Sex Offenders.

§ 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 provided that a court of competent jurisdiction determines, from the facts and a

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preponderance of the evidence, that the person convicted of said criminal acts supra this Section, is likely to commit a criminal act defined by 9GCA: Chapters 25 and 25.01 and Chapter 28;

(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 Chapters 25 and 25.01 of Title 9 of the Guam Code Annotated, *Sexual Offenses*, when the victim of the crime is a minor; *or*

(5) 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 Chapters 25 and 25.01 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) *Sexually violent offense* refers to any of the following:

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

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

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

(2) criminal sexual conduct involving sexual penetration *or* sexual contact where the actor is aided *or* abetted by one (1) *or*

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more other persons and either of the following circumstances exists:

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

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

(3) 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;

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

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

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

(7) violation of Title 18 USC §§2251, 2252, and 2252A, *or* any other similar laws of other states, territories *or* tribes;

(8) violation of Title 18 USC §1591 *or* any other similar laws of other states, territories and tribes;

(9) violation of Title 18 USC §2422(b) *or* any other laws of other states, territories and tribes;

(10) violation of Title 18 USC §2423(a) *or* any other laws of other states, territories and tribes; or

(11) violation of Title 18 USC §2244 *or* any other laws of other states, territories and tribes.

(e) The terms *sexual penetration* and *sexual contact* have the same meaning as *sexual penetration* and *sexual contact* in Chapters 25 and 25.01 of Title 9 of the Guam Code Annotated.

(f) The term *sex offender* refers to persons convicted of a criminal

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sexual conduct offense.

(g) The term *conviction* refers to each separate charge to which the offender either voluntarily pleads guilty, 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).

(h) The term *convicted or a variant thereof*, used with respect to a sex offense, also includes *adjudicated delinquent as a juvenile for that offense*, but only *if* the offender is fourteen (14) years of age *or* older at the time of the offense and the offense adjudicated was comparable to *or* more severe than aggravated sexual abuse (as described in §2241 of Title 18 USC), *or* was an attempt *or* conspiracy to commit such an offense.

(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) The term *student* means any person who is enrolled on a full-time *or* part-time basis, in any public *or* private educational institution, including any secondary school, trade, *or* professional institutions, *or* institution of higher learning.

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

(l) 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 Services Division, the U.S. Probation Office, the U.S. Marshal's Service, the Conservation Office of the Department of Agriculture, the A. B. Won Pat International Airport Authority Police, the Attorney General's Office Family and

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Prosecution 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 recognized law enforcement Campus Police in Guam's institution of higher education, the Guam Police Department is the recognized law enforcement agency with jurisdiction over Guam's institution of higher education.

(m) The term *court* means the Superior Court of Guam.

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

(o) The term *registrant* refers to persons required to register under this Chapter.

(p) 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.

(q) The term *parent* means a parent *or* legal guardian having blood ties to the victim.

(r) The term *resides* means, with respect to an individual, the location of the individual's home *or* other place where the individual habitually lives.

(s) *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.

SOURCE: Subsection (s) added as a new subsection (n) by P.L. 29-007:2 (Sep. 7, 2007). Repealed by P.L. 29-030:2 (Oct 25, 2007) and reenacted by P.L. 29-063:2 (Apr. 4, 2008). Renumbered by Compiler.

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§ 89.02. Classification of Offenders.

(a) Level One Offender. A person convicted of a sexually violent offense.

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

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

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

- (1) criminal sexual conduct; *or*
- (2) a criminal offense against a victim who is a minor.

§ 89.03. Registration; Duty to Register.

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

- (1) any person who has been *or* is hereafter convicted in any court of Guam of a violation of any of the following offenses:
 - (A) a sexually violent offense;
 - (B) a criminal sexual conduct offense; or
 - (C) a criminal offense against a victim who is a minor.
- (2) any person who has been *or* is hereafter convicted in any

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Federal *or* military court for a violation of any of the following offenses:

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

(B) an offense under Title 18 USC §§ 2251, 2252, *or* 2252A;

(C) a criminal offense against a victim who is a minor;

(D) an offense under Title 18 USC §1591;

(E) an offense under Title 18 USC §§2422(b) *or* 2423(a); *or*

(F) an offense under Title 18 USC §2244.

(3) any person convicted in another state, territory *or* tribe of any of the following offenses:

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

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

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

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

(B) who has been *or* is hereafter convicted in a military court *or* a court in another state, territory *or* tribal jurisdiction, of a criminal sexual conduct offense *or* a criminal offense against a victim who is a minor.

(b) Registration Requirements; Information to be Registered.

(1) 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. The following information must be registered and updated:

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

(B) current physical address and mailing address, *or* if the person is incarcerated, the address of the residence where the

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person will be residing immediately upon release and the mailing address the person plans to use immediately upon release;

(C) anticipated future residence;

(D) current and/or anticipated employment;

(E) offense history, including all relevant information related to the underlying crime which triggered the registration requirements of this Chapter, and any outstanding arrests warrants;

(F) documentation of treatment;

(G) fingerprints and palm prints;

(H) current photograph;

(I) name and address of the institution of higher education, enrollment *or* employment status, and any changes of enrollment *or* employment status if the person is enrolled, employed *or* carrying on a vocation;

(J) the license plate number and description of any vehicle owned *or* operated;

(K) a photocopy of the person's driver's license *or* identification card and passport, if any; *and*

(L) a photograph of any distinguishing physical characteristics such as scars and tattoos, which will not be released to the community.

(2) 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 Moga'laken Guãhan*.

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(c) Biological Samples.

(1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense, *or* of a criminal offense against a victim who is a minor, *shall* provide a biological sample to the Guam Police Department for DNA typing upon conviction.

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

(3) Every person who was convicted in the Superior Court of Guam of a criminal sexual conduct offense *or* of a criminal offense against a victim who is a minor and is released on parole *or* probation *shall* provide a biological sample for DNA typing 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 Paragraphs (2), (3) *or* (4) of §89.03(a) *shall* provide a biological sample to the Guam Police Department for DNA typing 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.

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

(1) Where a Person Required to Register is Sentenced to Incarceration. Initial registration information must be provided to the Judiciary of Guam, Sex Offender Registry Management Office, prior to release from incarceration and, in any case, *no later than* ninety (90) working days after that person's conviction. Intentional *or* knowing failure to provide this information *shall* result in the delay of that person's release.

(2) Where a Person Required to Register is Sentenced to Probation. Initial registration information must be provided to the

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Judiciary of Guam, Sex Offender Registry Management Office *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.

(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 Has Not Been Registered. Initial registration information must be provided to the Judiciary of Guam, Sex Offender Registry Management Office *no later than* three (3) months after the effective date of this law. Intentional *or* knowing failure to register pursuant to this Subsection is a felony of the third degree.

(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 Has Not Been Registered. Persons required to register pursuant to this Chapter and who fall within this category type *shall* have the absolute duty to report to and register with the Judiciary of Guam, Sex Offender Registry Management Office. Intentional *or* knowing failure to register pursuant to this Subsection is a felony of the third degree.

(e) Registration Requirements for Persons Required to Register Pursuant to §89.03(a), Paragraphs (2), (3) or (4); Initial Registration with the Judiciary of Guam, Sex Offender Registry Management Office.

(1) Persons required to register pursuant to §89.03(a)(2) *shall* provide *all* the information that must be registered pursuant to §89.03(b) to the Judiciary of Guam, Sex Offender Registry Management Office *no later than* seven (7) calendar days after release from incarceration, release on probation *or* arrival on Guam. *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, Sex Offender Registry Management Office may obtain the necessary information from the office of probation of the jurisdiction from where registrant came; said registrant is required to verify the registered information as required by this Chapter *no later than* seven (7) calendar days after the person's arrival on Guam.

(2) Persons required to register pursuant to Paragraphs (3) *or* (4)

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of §89.03(a) *shall* provide all the information that must be registered pursuant to §89.03(b) to the Judiciary of Guam, Sex Offender Registry Management Office *no later than seven (7) calendar days* after their arrival on Guam. *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, Sex Offender Registry Management Office may obtain the necessary information from the office of probation 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 seven (7) calendar days* after the registrant's arrival on Guam.

(f) Registration Requirements; Verification. A registrant must verify the following information with the Judiciary of Guam, Sex Offender Registry Management Office:

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

(A) current physical and mailing address(es);

(B) recent criminal offenses, *if any*;

(C) documentation of treatment;

(D) a current photograph;

(E) name and address of the institution of higher education, enrollment *or* employment status, and any changes of enrollment *or* employment status if the person is enrolled, employed *or* carrying on a vocation;

(F) the license plate number and the year, make, model and color of any vehicle owned *or* operated by the person; *and*

(G) a photocopy of the person's driver's license or identification card.

(2) Level Two Offender. The registrant *shall* verify the following

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registered information exactly six (6) months from the date of the registrant's release from incarceration *or* the date of the registrant's release on probation *if* the registrant is placed on probation, and exactly six (6) months thereafter. *If* the date the registrant is to verify falls on a weekend *or* holiday, the registrant *shall* verify the following information on the following business day:

(A) current physical and mailing address(es);

(B) recent criminal offenses, *if any*;

(C) documentation of treatment;

(D) a current photograph;

(E) name and address of the institution of higher education, enrollment *or* employment status, and any changes of enrollment *or* employment status if the person is enrolled, employed *or* carrying on a vocation;

(F) the license plate number and the year, make, model and color of any vehicle owned *or* operated by the person; and

(G) a photocopy of the person's driver's license *or* identification card.

(3) Level Three Offender. The registrant *shall* verify the following registered information exactly one (1) year from the date of the registrant's release from incarceration *or* the date of the registrant's release on probation *if* the registrant is placed on probation, and exactly every year thereafter. *If* the date the registrant is to verify falls on a weekend *or* holiday, the registrant *shall* verify the following information on the following business day:

(A) current physical and mailing address(es);

(B) recent criminal offenses, *if any*;

(C) documentation of treatment;

(D) a current photograph;

(E) name and address of the institution of higher education, enrollment *or* employment status, and any changes of enrollment *or* employment status if the person is enrolled, employed *or*

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carrying on a vocation;

(F) the license plate number and description of any vehicle owned *or* operated by the person; and

(G) a photocopy of the person's driver's license_ *or* identification card.

(4) Notwithstanding Subsections (a), (b) *and* (c) of this Section, a registrant *shall* register the registrant's new physical address with the Judiciary of Guam, Sex Offender Registry Management Office within seven (7) calendar days of any change in physical residence. *If* a registrant anticipates moving from Guam, that registrant *shall* register his intended place of residence with the Judiciary of Guam, Sex Offender Registry Management Office *no later than* three (3) calendar days before his departure from Guam.

(g) Registration Requirements for Offender Enrollment in an Institution of Higher Education and Employment. The registrant must update the name and address of the institution of higher education, enrollment *or* employment status, and any changes of enrollment *or* employment status if the registrant is enrolled, employed *or* carrying on a vocation in an institution of higher education within seven (7) calendar days of any changes in employment *or* enrollment in an institution of higher education with the Judiciary of Guam, Sex Offender Registry Management Office. The Judiciary of Guam, Sex Offender Registry Management Office *shall* then notify the Guam Police Department of the update immediately.

(h) Registration Requirements; Verification, Method of Verification. A registrant *shall* verify the registrant's registered information as required by §89.03(e) by personally presenting him/herself to the Judiciary of Guam, Sex Offender Registry Management Office to verify registrant information as required by law:

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

(j) Registration Requirement; Persons Who Move to Another State *or*

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Territory. When a person who is required to register on Guam anticipates moving to another state *or* territory, that registrant *shall* report the change of address to the Judiciary of Guam, Sex Offender Registry Management Office pursuant to the requirements of this Chapter, *and* comply with any registration requirement of the new state *or* territory of residence.

§ 89.04. 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 and Two Offender must comply with this Chapter for the length of that person's life.

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

(d) Tolling of Registration Requirement. *If* a registrant is re-incarcerated 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 Sex Offender Registry Management Office, then the period of registration is tolled and remains tolled until the registrant's subsequent release *or* arrival on a state, territory, *or* tribe within the jurisdiction of the United States. Thereafter, the registrant *shall* recommence and continue registering for the remaining period of time the registrant is required to register.

(e) Reduced Period for Clean Record.

(1) Clean Record. The full registration period *shall* be reduced as described for a sex offender who maintains a clean record for the period by:

(A) not being convicted of any offense for which imprisonment for *more than one* (1) year may be imposed;

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(B) not being convicted of any sex offense;

(C) successfully completing any periods of supervised release, probation, and parole; *and*

(D) successfully completing an appropriate sex offender treatment program certified by a jurisdiction *or* by the U.S. Attorney General.

(2) Period. In case of:

(A) a Level Three Sex Offender, the period during which the clean record *shall* be maintained is ten (10) years;

(B) a Level One Sex Offender adjudicated delinquent for the offense which required registration in a sex registry under this Chapter, the period during which the clean record *shall* be maintained is twenty-five (25) years.

(3) Reduction. In case of:

(A) a Level Three Sex Offender, the reduction is five (5) years;

(B) a Level One Sex Offender adjudicated delinquent, the reduction is from life to that period for which the clean record under §89.04 (e) (2) (B) is maintained.

§ 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 misdemeanor. A second *or* subsequent failure to so register is a felony of the third 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 seven (7) calendar days of any change of physical and mailing address is a misdemeanor. A second *or*

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subsequent failure to so register is a felony of the third 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, Sex Offender Registry Management Office within seven (7) calendar days of any change would constitute a failure to register *or* keep such registration current and is a felony of the third degree.

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

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

(a) inform the registrant of the duty to register

(b) refer the registrant to the Judiciary of Guam, Sex Offender Registry Management Office for initial registration and verification;

(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, Sex Offender Registry Management Office within three (3) calendar days after receipt thereof;

(e) inform the registrant that *if* the registrant enrolls at, is employed at, *or* carries on a vocation at an institution of higher education in Guam the registrant must inform the Judiciary of Guam, Sex Offender Registry Management Office, who shall then notify the Guam Police Department of any change in such enrollment *or* employment status at the institution of higher education within seven (7) calendar days of any changes;

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(f) ensure the registration information collected on the registrant's enrollment *or* employment status at the institution of higher education, and any change of enrollment *or* employment status of the registrants at the institution of higher education is promptly made available to the Judiciary of Guam, Sex Offender Registry Management Office; and

(g) ensure the registration information collected on the registrant's enrollment *or* employment status at the institution of higher education, and any change of enrollment *or* employment status of the registrants at the institution of higher education is provided to the Judiciary of Guam, Sex Offender Registry Management Office to be entered into Guam's Sex Offender Registry.

§ 89.07. 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) *supra* to the Judiciary of Guam, Sex Offender Registry Management Office within three (3) calendar days after receipt thereof;

(d) collect a biological sample from the registered 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; and

(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, Sex Offender Registry Management Office.

§ 89.08. Duties of the Judiciary of Guam.

(a) Repository. The Judiciary of Guam *shall* be the central repository for the registered information, in addition to all criminal history records information.

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(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 *shall* enter all registered information into the NCIC system *no later than* three (3) business days after receipt of such information. The Judiciary of Guam, Sex Offender Registry Management Office *shall* forward the fingerprints and palm prints to the FBI's Automated Fingerprint Identification System (AFIS) for assignment of a fingerprint identification number.

(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 state, territory *or* tribe, the Judiciary of Guam *shall* immediately notify the state, territory *or* tribe 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 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 *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, Sex Offender Registry Management Office *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 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, Sex Offender Registry Management Office.

§ 89.09. Duties of the Judiciary of Guam, Sex Offender Registry Management Office.

The Judiciary of Guam, Sex Offender Registry Management Office *shall*:

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

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and Sex Offender Registry of Guam;

(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:

(A) the provision requiring the duty to register;

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

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

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

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

§ 89.10. Notification.

(a) Release of Information. The Judiciary of Guam, Sex Offender

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Registry Management Office *shall* release the following information to the community:

(1) Level One and Level Two Offenders:

(A) all registered information *except* Social Security number, the victim's identity, and any reference to arrests of the sex offender that did not result in conviction;

(B) the age(s) and gender(s) of the victim(s) at the time of the offense(s); *and*

(C) state, territory *or* tribe, inclusive of the village, *if* on Guam, in which the crime occurred.

(2) Level Three Offenders:

(A) All registered information *except* Social Security number, the victim's identity, any reference to arrests of the sex offender that did not result in conviction and criminal history unrelated to the underlying crime which triggered the registered requirements;

(B) the age(s) and gender(s) of the victim(s) at the time of the offense(s); *and*

(C) state, territory *or* tribe, inclusive of the village, *if* on Guam, in which the crime occurred.

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

(c) Re-incarceration and Civil Commitment. In the event that a registrant is re-incarcerated for violation of any Section of this Chapter, for the reason(s) as stated in §89.04(d) of this Chapter, *or* for any other reason, *or* is civilly committed, the information that the registrant is re-incarcerated, and the reason(s) for such re-incarceration, *or* civilly committed *shall* be released to the community.

(d) Method of Release of Information. The Judiciary of Guam, Sex Offender Registry Management Office *shall* maintain an Internet web-page dedicated to persons required to register, which *shall* contain the information that is required to be released. The released information *shall* be updated immediately after a registrant registers, *or* updates registered

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information. The community *shall* have access to the Sex Offender Registry Web Page. The Judiciary of Guam, Sex Offender Registry Management Office *shall* transmit a notice of any updates to released information concerning Level One, Level Two, and Level Three Offenders to the GPSS, 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, all public and private schools, day care centers, victim shelters and victim advocates on the first week of every month with the information in which such released information can be found. The Judiciary of Guam, Sex Offender Registry Management Office may transmit information concerning all Offenders directly to the media for dissemination.

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

(f) Functionality of Sex Offender Registry Web Page. The Judiciary of Guam, Sex Offender Registry Management Office *shall*, within the Sex Offender Registry Web Page, provide for:

(1) a searchable database of all Sex Offenders;

(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.

(g) Notice of Change. The Judiciary of Guam *shall*, upon passage of this Act, provide for education to the community through a notice to the

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public of changes made by this Act 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 the safety through and awareness of the Guam Sex Offender Registry.

§ 89.11. 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 Act, *unless* it is shown that the agency, employee, government official *or* board member acted with gross negligence *or* in bad faith.

§ 89.12. 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 (s) 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 Territorial Parole Board *may* require, as a condition of his parole, that the offender wear an *electronic monitoring device* as defined by § 89.01 (s) 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 items (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(s) 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

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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.

SOURCE: Added by P.L. 29-007:3 (Sep. 7, 2007). Repealed by P.L. 29-030:2 (Oct 25, 2007). Reenacted by P.L. 29-063:2 (Apr. 4, 2008). Subsection (d) added by P.L. 29-077:1 (May 9, 2008).

2008 COMMENT: Reference originally made to “§ 89.01 (n)” changed to “§ 89.01 (s)” where appropriate pursuant to P.L. 29-063:2 (Apr. 4, 2008).

2008 NOTE: P.L. 29-077:2 states:

“ “§89.01(s)” cited in Section 1 of this Act, is the same as “§89.01(n)” enacted by Section 2 of Public Law 29-07, and subsequently re-enacted and codified by Section 2 of Public Law 29-63.”
