

# SEX OFFENDER REGISTRATION & RELATED REQUIREMENTS

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## AMERICAN SAMOA

### **Am. Samoa Code Ann. § 46.2801 (2011) Registration of persons convicted of offenses against a victim who is a child.**

(a) Any person convicted of the following offenses, when the act was committed upon a victim who was a minor, or person under the age of 18 years at the time of commission, is required to register their name, identifying information, current residential address, and provide fingerprint, photograph, and any requested body fluids to the Department of Public Safety, corrections division warden:

- 46.3531 Kidnapping
- 46.3532 Felonious restraint
- 46.3533 False imprisonment
- 46.3534 Interference with custody
- 46.3604 Rape
- 46.3610 Sexual Assault
- 46.3611 Sodomy
- 46.3612 Deviate sexual assault
- 46.3615 Sexual abuse in the first degree
- 46.3616 Sexual abuse in the second degree
- 46.3617 Child molesting
- 46.3703 Patronizing Prostitution
- 46.3706 Promoting prostitution in the first degree
- 46.3707 Promoting prostitution in the second degree
- 46.3401 Attempt, when committed with the purpose of attempting the above offenses

(b) Persons convicted of these offenses, when the victim is a minor, or person under 18 years of age, shall for a period of ten (10) years from the date of release from prison, being placed on parole, supervised release, or probation, be required to notify the Department of Public Safety, correction division, of any change of residence within ten (10) days of the change of address. This requirement includes being out of the territory for a period of over six (6) months, or for any period of time where he/she is employed, or is a student.

Any person convicted of the above offenses who fails to register, or who fails to notify the Department of Public Safety, corrections division warden within ten (10) days of any change in residence, including being out of the Territory of American Samoa, is guilty of a crime, and upon convictions may be sentenced as for a class A misdemeanor.

(c) Any person who is required to register under subsection (a) above is also required to notify the Department of Public Safety, corrections division warden, within ten days of the registrant's commencement, termination or current enrollment or employment at any institution of higher learning within the territory. Any person who fails to provide timely

notification in compliance with this subsection is guilty of a crime, and upon conviction may be sentenced as for a class A misdemeanor.

(d) Upon the conviction for any of the offenses set forth in subparagraph (a), the Court shall document through the judgment and sentencing record that prior to release from prison, being placed on parole, supervised release, or probation, that the warden of the Department of Public Safety, corrections division, will inform and explain to the convicted person his/her requirement to register and obtain verification of notification through the signature of the offender.

The corrections division warden is responsible for the maintenance of the registry, which at a minimum, shall contain the following:

(1) notification to the offender of the offender's duty to register, maintaining a copy of this notification, signed by the offender and the Warden of the corrections division, and to obtain the information, fingerprints, photographs, and samples required for such registration;

(2) notification to the offender of the offender's duty to notify the Department of Public Safety, correction division warden of any change in their residential address within ten (10) days of changing addresses;

(3) notification to the offender of the offender's duty to contact the state agency responsible for registering offenders in any other state, territory, or jurisdiction of the United States in which they intend to reside, move or relocate;

(4) The Department of Public Safety, corrections division warden is responsible for maintaining a registry of offenders which include at a minimum the offender's photograph, fingerprints, criminal history, and identifying information, which includes information on current residential address, spouse, and family matai;

(5) The Department of Public Safety, correction division warden shall be responsible for verifying the addresses of each offender in American Samoa through a physical verification of the residential address every three months;

(6) The Department of Public Safety, corrections division warden shall be responsible for maintaining a registry of those offenders' records which are referred from other states or jurisdictions of the United States, including those military or former military personnel and federal employees under federal judgments;

(7) The Department of Public Safety, corrections division warden shall be responsible for transmitting all registry information, including photographs and fingerprints, criminal history, and identifying information to the U.S. Department of Justice, Federal Bureau of Investigation repository, National Sex Offender Registry (NSOR) and Department of Human and Social Services within ten (10)

days of release, placement on parole, supervised release, or probation.

(8) The Department of Public Safety, corrections division warden shall be responsible for maintaining registry records of non-resident offenders who reside in American Samoa for school or employment for more than 14 days or for an aggregate period exceeding 30 days in a calendar year;

(9) The Department of Public Safety, corrections division warden shall be responsible for transmitting all registry information on offenders who change their residence to another state or territory or who work or attend school in other jurisdictions, including photographs, fingerprints, criminal history, and identifying information for those offenders who notify the corrections division of a change of address to another jurisdiction, or upon determining that the offender has moved to another jurisdiction and has failed to notify the corrections division.

**Am. Samoa Code Ann. § 46.2802 (2011). Heightened registration of sexually violent predators; recidivists and aggravated offenders.**

(a) Any person who is convicted for a second time for any of the offenses listed in 46.2801, regardless of when the prior qualifying conviction occurred and regardless of whether the prior conviction for an offense covered by this chapter resulted in registration in the jurisdiction of conviction or who is convicted a first time of any of the following offenses involving a victim of any age:

46.3604(b) Rape, inflicting serious physical injury or utilizing or displaying a deadly weapon in a threatening manner;

46.3610(b) Sexual assault inflicting serious physical injury on any person or while displaying a deadly weapon in a threatening manner;

46.3611(b) Sodomy, inflicting serious physical injury on any person or while displaying a deadly weapon in a threatening manner;

46.3612(b) Deviate sexual assault inflicting serious physical injury on any person or while displaying a deadly weapon in a threatening manner;

46.3616(b) Sexual abuse in the first degree, inflicting serious physical harm or displaying a deadly weapon in a threatening manner; or

46.3618 Child molesting (victim is minor of twelve years or under) is considered a sexually violent predator, and is required for the remainder of their life upon release from prison, being placed on parole, supervised release, or probation, to notify the Department of Public Safety, corrections division warden, of any change of residence within ten (10) days of the change of address. This

requirement includes being out of the Territory for a period of over six (6) months.

Any person convicted of the offenses set forth above who fails to register, or fails to notify the Department of Public Safety, corrections division warden within ten (10) days of any change in residence, including being out of the Territory of American Samoa, is guilty of a crime, and upon conviction may be sentenced as for a class C felony.

(b) Any person who is required to register under subsection (a) above is also required to notify the Department of Public Safety, corrections division warden, within 10 days of the registrant's commencement, termination or current enrollment or employment at any institution of higher learning within the territory. Any person who fails to provide timely notification in compliance with this subsection is guilty of a crime, and upon conviction may be sentenced as for a class A misdemeanor.

(c) The lifetime registration of sexually violent predators shall be administered in accordance with the provisions of 46.2801(c) (1-9), and the registry file shall include any record of psychological treatment.

(d) The High Court may designate and judge any person convicted of any of the offenses in 46.2801 as sexually violent predator or aggravated offender without the necessity of a second offense, and require the offender to register on a lifetime basis in consideration of the offender's criminal history, treatment received, and expert testimony of psychiatric, law enforcement or victim advocacy witnesses.

**Am. Samoa Code Ann. § 46.2803 (2011). Continued registration not required when underlying conviction is reversed, vacated, or set aside.**

When the underlying conviction requiring a person to register under this act is reversed, vacated, or set aside, or if the registrant is pardoned, continuing registration is not required.

**Am. Samoa Code Ann. § 46.2804 (2011) Release of information contained in the registry of 46.2801 by the Department of Public Safety.**

(a) The Commissioner of Public Safety shall release offender registry information as necessary to protect the public of American Samoa. The Commissioner of Public Safety is responsible for developing and implementing a policy on the release of relevant offender information to the public of American Samoa, with the following limitations:

(1) All relevant registry information shall be released to the Department of Human and Social Services and, upon written request, to legitimate law enforcement agencies, Courts, prosecutors and defense counsel, and health care

treatment officials which have been approved by the High Court of American Samoa;

(2) All relevant registry information, excluding the identity and location of any victims involved in the registry offenses, to members of the public who provide a written request demonstrating a need to examine offender registry files that is necessary for the protection of themselves and/or their families; and

(3) All relevant registry information, excluding the identity and location of victims involved in the registry offenses, to prospective employers and employers who provide a written request demonstrating need to examine offender registry files in any field that has contact with minors, including but not limited to schools, child care agencies, counseling and social services groups or agencies, churches, and the hotel industry.

### **Am. Samoa Code Ann. § 46.2805 (2011) Resident offenders convicted in other states or territories.**

The provisions and standards of this act pertaining to registration and the penalties for failure to comply with registration requirements apply to residents of the Territory who are convicted in other states or territories of any of the covered offenses against victims who are minors or of sexually violent offenses upon their return to this Territory.

### **Am. Samoa Code Ann. § 46.2806 (2011). Adoption of administrative rules.**

To further the implementation of this act, the Commissioner of Public Safety may promulgate rules and regulations in accordance with Administrative Procedures Act, A.S.C.A., Section 4.1001, et seq., but not inconsistent with this act.

## **GUAM**

### **Guam Code Ann. tit. 9, § 89.01 (2013). 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;

(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.

(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 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 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;
- (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
- (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).

(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.

(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 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 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 messaging.

(aa) DNA. *DNA* means deoxyribonucleic acid.

## **Guam Code Ann. tit. 9, § 89.02 (2013). 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.

(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;
- (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;
- (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);

(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 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).

**Guam Code Ann. tit. 9, § 89.03 (2013). 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 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 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;

(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;

(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 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'lahaen 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 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;

(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 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 (90th) 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 (180th) 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 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 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.

#### **Guam Code Ann. tit. 9, § 89.04 (2009). 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.

(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 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.

**GUAM CODE ANN. tit. 9, § 89.05 (2013). 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 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.



**Guam Code Ann. tit. 9, § 89.06 (2013). 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 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.

**Guam Code Ann. tit. 9, § 89.07 (2013). 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;
- (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.

**Guam Code Ann. tit. 9, § 89.08 (2013). 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.

### **Guam Code Ann. tit. 9, § 89.09 (2013). Duties of the Judiciary of Guam**

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

**Guam Code Ann. tit. 9, § 89.10 (2009). 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 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 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.

## **Guam Code Ann. tit. 9, § 89.11 (2009). 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:

- (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 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 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.

### **Guam Code Ann. tit. 9, § 89.12 (2013). 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.

### **Guam Code Ann. tit. 9, § 89.13 (2013). 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 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.

### **Guam Code Ann. tit. 9, § 89.14 (2013). 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.

**Guam Code Ann. tit. 4, § 4203.3 (2013). Prohibition: Sex Offenders Prohibited From Employment in Agencies and Facilities of the Government of Guam.**

(a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry shall work in any agency or instrumentality of the government of Guam.

**Guam Code Ann. tit. 5, § 5253 (2013). Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.**

(a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.

(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

(c) Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or Requests for Proposals shall state all the conditions in § 5253(b).

(d) Any contractor found in violation of § 5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

## **PUERTO RICO**

### **P.R. LAWS ANN. tit. 4, § 536 (2010). Definitions**

The following terms shall have the meaning stated herein below:

(1) Crimes against minors. Are the crimes listed in § 536a of this title when they are committed against a child under eighteen (18) years of age.

(2) Sexual crimes and against minors. Are the crimes listed in § 536a of this title.

(3) United States. Means the states of the United States of North America, the District of Columbia, its territories and possessions.

(4) Registry. Is the register of persons convicted of sexual crimes and child abuse created by §§ 536--536h of this title.

(5) System. Is the Criminal Justice Information System created by §§ 531 et seq. of Title 4.

(6) Sexual predator. Is the person who commits sexual crimes against minors under eighteen (18) years of age.

### **P.R. Laws Ann. tit. 4, § 536a (2010). Creation**

A Registry of Persons Convicted of Sexual Crimes and Child Abuse is hereby created in the Criminal Justice Information System. The following shall be registered therein:

(a) Persons convicted for any of the following crimes or attempts thereto: rape, seduction, sodomy, lascivious or lewd acts; proxenetism, ruffianism or trade in human beings when the victim is a minor of less than eighteen (18) years of age and the offense is aggravated; crimes against the protection of minors, incest, deprivation of freedom when the victim is

less than sixteen (16) years of age and is not the child of the offender, kidnapping when the victim is a minor of less than eighteen (18) years of age and not the child of the offender, child stealing, perversion of minors when admitting or retaining a minor of less than eighteen (18) years of age in a house of prostitution, or sodomy; aggravated abuse of a minor and conjugal sexual aggression, included in Articles 99, 101, 103, 105, 110(a) and (c), and in 111, 115, 122, 131(e), 137-A(a), 160 and 163(e) of Act No. 115 of July 22, 1974, as amended, and in §§ 632(g) and 635 of Title 8, and the crime of child abuse established in §§ 450c and 450d of Title 8, respectively.

(b) Persons who have been or are convicted for crimes similar to those listed in this section by a federal, state or military court who transfer to Puerto Rico to establish their domicile, or that for reason of work or study are living in Puerto Rico, although their intention is not that of establishing their domicile in the Commonwealth.

(c) Persons who, at the time of the approval of this act, are imprisoned or participating in a diversion program of the Corrections Administration for committing any of the crimes listed in this section, and those persons whose parole has been revoked for failure to comply with any condition thereof.

(d) Those persons who, at the time of the approval of this act, had the obligation to register under Act No. 28 of July 1, 1997, shall be registered. Furthermore, those persons who, at the time of the approval of this act, have served the penalty imposed for the commission of any of the crimes listed in this section shall not have the obligation to register.

#### **P.R. Laws Ann. tit. 4, § 536b (2010). Duties before the Registry**

(a) At the time of the sentencing, the court with jurisdiction shall direct the Prosecutor to notify the System of the following information: names, pseudonyms, date of birth, home address, driver's license number, social security number, fingerprints, photograph and other essential data that shall be furnished by persons subjected to the Registry as provided by §§ 536-536h of this title. All information thus compiled shall be registered within fifteen (15) days as of the court order.

(b) The Corrections Administration shall have the duty to notify the official charged with the responsibility of establishing and keeping a system of verification, registration, and issuance of certifications related to the Registry of Persons Convicted of Sex Offenses and Child Abuse of the Puerto Rico Police Department in each region about the release of a registered person for having served his/her sentence, or for being released on probation or parole, or to participate in a diversion, treatment, or rehabilitation program established by the Corrections Administration thirty (30) days prior to such release. In turn, the Administration shall notify the registered person of his/her duty to register in the Police Headquarters of the jurisdiction in which he/she resides within a term of less than three (3) calendar days.

As soon as the pertinent official receives the information from the Corrections Administration, such official must ensure that the sex offender is duly registered in the Registry before being released. The Police Headquarters that receives such information shall immediately provide the same to the other Police Headquarters or jurisdictions where the registration of sex offenders is required, and shall ensure that such information is entered into the System and that the address provided by the registered person is accurate. The Puerto Rico Police Department shall have the responsibility of establishing regulations as necessary for the enforcement of §§ 536-536h of this title.

(c) The Corrections Administration shall also notify the person that he/she has the obligation to report any change in his/her residential address to the Police Headquarters of the jurisdiction where he/she resides at least ten (10) days before it takes place.

(d) The Corrections Administration shall state, in writing, that it informed and explained to the person of his/her obligation to notify any change in residential address in accordance to what is established in subsections (b) and (c) of this section. Said document shall be read and signed by the person with the obligation to register. A copy thereof shall be retained at the Corrections Administration, a copy shall be remitted to the System and another shall be delivered to the convict. If the person fails to comply with the obligation to notify the changes of residential address, he/she shall be subject to the provisions of § 536h of this title. The Corrections Administration shall be responsible for keeping the records up to date by entering the corresponding data, to wit: date of notice, date of release, address and other essential data that must be furnished by the persons subject to the registry, as provided by §§ 536-536h of this title.

(e) The Police, the Department of Justice, the Corrections Administration, the Parole Board and the General Court of Justice shall furnish to the System the corresponding information needed to comply with the purposes of §§ 536-536h of this title.

(f) The sexual offenders in other states shall be evaluated before entering Puerto Rico. Once the Corrections Administration remits the information required in subsection (d) of this section to the System and enters all the necessary data in the System, the information shall be immediately available through computer terminals configured in the telecommunications network of the System for the use of the Police Headquarters of the jurisdiction in which the person is to reside.

The System shall immediately provide to the Federal Bureau of Investigation the information regarding the name, physical and mailing address, fingerprints, photographs and all additional information compiled, as well as the changes of address, if any. The Police Headquarters shall notify and update through the computer terminals configured to the telecommunications network of the System, all the corresponding records in the Registry with the changes in the residential address of the persons registered, as provided by §§ 536-536h of this title. If the registered person moves to the United States, the System shall notify the information to the designated agency of the place, if any, within the following three (3) days of having received the information in order to administer a registry similar to that which is created in this §§ 536-536h of this title.

## **P.R. Laws Ann. tit. 4, § 536c (2010). Obligations of the persons subject to registration**

The person registered as provided in §§ 536-536h of this title, shall notify the Police Headquarters of the jurisdiction in which he/she resides of any change in his/her temporary or permanent address at least ten (10) days before moving or in the case of a person from another country who has been convicted for a sexual crime or child abuse by a federal, military or state court of his/her country who establishes his/her residence in Puerto Rico or that because of work or study is located in Puerto Rico, although his/her intention is not that of establishing residence, and has the obligation to register, shall complete the registration within ten (10) days of his/her arrival to Puerto Rico.

Every person registered for having been convicted of any of the crimes listed in subsection (a) of § 536a of this title shall update the Registry each year, even when there has been no change in the residential address initially furnished, by completing the form provided by the Police Headquarters for such purpose, pursuant to the procedure established through regulations adopted by the System, in coordination with the Puerto Rico Police.

It shall be a condition to enjoy the benefits of probation or parole or to participate in a diversion, treatment or rehabilitation program established by the Corrections Administration, to have met the registration requirements established by §§ 536-536h of this title. Failure to meet any requirement shall be cause to revoke these benefits.

The information of the person convicted for the crimes listed in subsection (a) of § 536a of this title shall be kept in the Registry for a minimum period of ten (10) years counting from the date the sentence imposed was served. Said information can only be eliminated from the Registry after a minimum period of ten (10) years has elapsed, if the conviction that entails the application of §§ 536-536h of this title is revoked by a court or the convict is granted executive pardon or full pardon. The System shall adopt the regulations needed to comply with these provisions.

## **P.R. Laws Ann. tit. 4, § 536d (2010). Declaration of dangerous sexual offender; obligations**

In cases of recidivism by sexual predators and in those thus determined by the court due to the nature of the sexual crime or the violent circumstances in which it was committed, it shall order two professionals specialized in the science of human conduct and sexual problems to examine the convict to determine if said person has an irrepressible tendency to commit sexual crimes as a result of suffering a mental or personality disorder that makes him/her a threat to the community. The examination shall be performed and a report shall be rendered to the court within the thirty (30) days following the ruling or verdict. If the court determines, based on those reports, that the person suffers from a mental or personality disorder that causes him/her to incur this type of conduct, it shall declare him/her a dangerous sexual offender. Once the person is notified of said determination, he/she shall file his/her objections within a term of ten (10) days counting

from the date of notice. The court shall set a hearing and the person may present the pertinent evidence with all guarantees of a due process of law.

The person declared a dangerous sexual offender shall be registered for life, as provided in §§ 536-536h of this title.

The person declared a dangerous sexual offender shall inform his/her address or notify that there has been no change in the same to the Police Headquarter of the jurisdiction in which he/she resides every ninety (90) days, following the procedure established through regulations adopted by the System. Information on the physical traits that identify the person, the date and place of birth, social security number, place of work and criminal background shall also be included in the Registry.

**P.R. Laws Ann. tit. 4, § 536e (2010). Notification to the law enforcement agencies and the community**

The information on a registered person found in the System, as provided in §§ 536-536h of this title, shall be immediately available for law enforcement agencies as well as the state or federal government agencies in the performance of their duties. Said information shall also be provided to every person who requests it in writing, including such persons and private institutions for which this information is of interest due to the nature of their activities, in view of the threat and danger posed to them by the persons who commit any of the crimes listed in §§ 536-536h of this title. This includes, without it being understood as a limitation, the victim and his/her family, schools, institutions and child-care establishment, recreational facilities and institutions for abused children and women. The System shall approve the regulations needed for the information to be available to the public. In these cases, the information registered in the System shall be provided by the Puerto Rico Police. The name of the victim of the crime shall not be revealed.

The information that appears in the Registry shall be transmitted electronically by the National Sex Offender Registry (NSOR) of the Federal Bureau of Investigation.

**P.R. Laws Ann. tit. 4, § 536f (2010). Publication of the Registry through the Internet**

The System is empowered to publish the name, address and other pertinent information through the Internet.

**P.R. Laws Ann. tit. 4, § 536g (2010). Qualified Immunity**

Any person in charge of enforcing the purposes and duties imposed by §§ 536--536h of this title shall be held harmless and immune from civil liability when acting in good faith in the performance of his/her duties.

## **P.R. Laws Ann. tit. 4, § 536h (2010). Penalties**

Any person who violates the provisions of §§ 536--536h of this title shall incur a misdemeanor and upon conviction shall be sanctioned with the penalty of a fine that shall not exceed five thousand (5,000) dollars or the penalty of imprisonment that shall not exceed six (6) months, or both penalties, at the discretion of the court.

## **VIRGIN ISLANDS**

### **V.I. Code Ann. tit. 14, § 1721 (2012). Definitions**

For purposes of this chapter:

- (a) The term ‘minor’ means a person under the age of 18.
- (b) The term ‘sex offense’ as used in this code includes those offenses contained in 42 U.S.C. § 16911(5) and those offenses enumerated in Sections 1721A and 1721B of this chapter or any other covered offense under Virgin Islands law except as limited by subparagraphs 1 or 2:
  - (1) An offense involving consensual sexual conduct is not a sex offense for the purposes of this chapter if the victim:
    - (a) was an adult, unless the adult was under the custodial authority of the offender at the time of the offense; or
    - (b) was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
  - (2) A foreign conviction is not a sex offense for the purposes of this chapter unless it was obtained either:
    - (a) under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country or jurisdiction within the Caribbean, which includes but is not limited to: Jamaica, Haiti, Trinidad & Tobago, St. Lucia, Grenada, St. Vincent & the Grenadines, Antigua & Barbuda, St. Kitts, Nevis, Dominica, the Netherlands Antilles, Belize, the Bahamas, Cuba, Dominican Republic, Guyana and Barbados, or
    - (b) under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country or jurisdiction within the Caribbean, which includes but is not limited to: Jamaica, Haiti, Trinidad & Tobago, St. Lucia, Grenada, St. Vincent & the Grenadines, Antigua & Barbuda, St. Kitts,

Nevis, Dominica, the Netherlands Antilles, Belize, the Bahamas, Cuba, Dominican Republic, Guyana and Barbados, or

(c) The term ‘conviction’ means:

(1) An adult sex offender is ‘convicted’ for the purposes of this chapter if the sex offender has been subjected to penal consequences based on a conviction of one of the sex offenses defined in this chapter however the conviction may be styled.

(2) A juvenile offender is ‘convicted’ for purposes of this chapter if the juvenile offender is either:

(a) Prosecuted and found guilty as an adult for a sex offense: or

(b) Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 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 either subsection (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

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

(d) The term ‘foreign’ means outside of the United States.

(e) The term ‘employee’ as 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 a government agency or organization are included within the definition of employee for registration purposes.

(f) ‘Immediate’ and ‘immediately’ mean within 3 business days.

(g) The term ‘imprisonment’ refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state ‘prison’ as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal ‘jail’. Persons under ‘house arrest’ following conviction of a covered sex offense are required to register pursuant to the provisions of this chapter during their period of ‘house arrest.’

(h) The term ‘confined’ refers to persons who are adjudicated ‘not guilty by reason of insanity’ by a court of this territory and are therefore sentenced to a period of confinement in a mental health facility in the territory or, pursuant to the terms of a contractual agreement, in a facility in the United States.

(i) The term ‘jurisdiction’ as used in this chapter refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the



Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 Section 127

(42 U.S.C. § 16927).

(j) The terms ‘reside’ and ‘resides’ mean, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps for more than 30 days per year. Moreover, all visitors and individuals who are required to register pursuant to this chapter and who will be present in the territory for less than 30 days in any given year, must contact the Department of Justice in order to notify the Department of his or her presence in the territory as well as all arrival and departure information.

(k) The term ‘sex offender’ means a person convicted of a sex offense.

(l) The term ‘sexual act’ means:

(1) contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;

(2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(4) the intentional touching of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(m) The term ‘sexual contact’ means the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass or degrade another person; or with the intent to arouse or gratify the sexual desires of any person.

(n) The phrase ‘intimate parts’ means the primary genital area, anus, groin, inner thigh, buttocks or breasts.

(o) The term ‘student’ means a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education. The term also includes a person who is an intern, extern or apprentice studying in the Territory.

(p) The acronym ‘SORNA’ means the Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L.109-248), 42 U.S.C. § 16911 et seq., as amended.

(q) The term ‘sex offender registry’ means the registry of sex offenders, and a notification program, maintained by the Virgin Islands Department of Justice.

(r) The acronym ‘NSOR’ means the national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C., § 16919.

(s) The ‘SMART Office’ is The Office of sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. § 16945.

(t) The acronym NSOPW means the Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. § 16920.

(u) A ‘tier 1 sex offender’, or a ‘sex offender’ designated as ‘tier 1’, is one who has been convicted of a ‘tier 1’ sex offense as defined in Section 1721B (a).

(v) A ‘tier 2 sex offender’, or a ‘sex offender’ designated as ‘tier 2’, is one who has been either convicted of a ‘tier 2’ sex offense as defined in Section 1721B(b), or who is subject to the recidivist provision of Section 1721B(b)(1).

(w) A ‘tier 3 sex offender’, or a ‘sex offender’ designated as ‘tier 3’, is one who has been either convicted of a ‘tier 3’ sex offense as defined in Section 1721B(c), or who is subject to the recidivist provision of Section 1721B(c)(1).

All individuals who reside within the territory of the United States Virgin Islands, are employed within the Territory of the United States Virgin Islands or who attend school within the Territory of the United States Virgin Islands, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this chapter.

## **V.I. Code Ann. tit. 14, § 1721A (2012). Covered Offenses**

(a) Virgin Islands Offenses.

(1) 14 V.I.C. § 1700

(Aggravated Rape).

(2) 14 V.I.C. § 1700a.

(Aggravated Rape in the Second Degree).

(3) 14 V.I.C. § 1701

(Rape in the First Degree).

(4) 14 V.I.C. § 1702

(Rape in the Second Degree when minor is under 16 but over 13 years of age).

(5) 14 V.I.C. § 1708

(Unlawful Sexual Contact in the First Degree).

(6) 14 V.I.C. § 1709

(Unlawful Sexual Contact in the Second Degree).

(7) 14 V.I.C. §§ 707 & 1709 (Use of intimidation by reason of the actual or perceived race, religion, color, place of birth, sex or ethnicity or handicap of another individual or group of individuals when engaging in unlawful sexual contact) &

(Unlawful sexual contact in the second degree).

(8) 14 V.I.C. § 1024(b)

(Distribution of child pornography).

(9) 14 V.I.C. § 1025

(Distribution of obscene matter to a minor when the obscene matter depicts a minor engaging in sexual conduct and is distributed for the purpose of enticing the minor into engaging in sexual conduct).

(10) 14 V.I.C. § 1027

(Employment of a Minor to Perform Prohibited Acts).

(11) 14 V.I.C. § 1051 (False Imprisonment and Kidnapping) of a minor,

(except by a parent).

(12) 14 V.I.C. § 1052(b)

(Kidnapping of persons for the purpose of rape).

(13) 14 V.I.C. § 1622(2), (3), (4)

(Prohibition on solicitation and use of minors in Prostitution).

(14) V.I.C. § 1623

(Knowingly Leasing Property to be used for prostitution of minors).

(15) 14 V.I.C. § 1624

(Keeping house of prostitution of minors).

(16) 14 V.I.C. § 1625 (Prohibition on Pandering when pandering involves the use of minors in sexual acts).

(17) 14 V.I.C. § 121 (Abduction)

(Use of invitation or device to prevail upon a person to visit any place for the purpose of prostitution of minors).

(18) 14 V.I.C. § 134(a)(3) (Trafficking of persons for illegal sexual activity based upon convictions under 14 V.I.C. §§ 1622, 1623, 1624 & 1625).

(19) 14 V.I.C. § 505

(Child abuse as defined in 14 V.I.C. § 503(a) which involves the use of a minor for the purpose of exploitation or to engage in sexual conduct).

(20) 14 V.I.C. § 506

(Aggravated child abuse when it involves the use of a minor for the purpose of exploitation or to engage in sexual conduct).

(21) 14 V.I.C., § 489

(Computer Pornography).

(b) 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):

(1) 18 U.S.C., § 1591

(Sex Trafficking of Children),

(2) 18 U.S.C., § 1801

(Video Voyeurism of a Minor),

(3) 18 U.S.C., § 2241

(Aggravated Sexual Abuse),

(4) 18 U.S.C., § 2242

(Sexual Abuse),

(5) 18 U.S.C., § 2243

(Sexual Abuse of a Minor or ward),

(6) 18 U.S.C. § 2244

(Abusive Sexual Contact),

(7) 18 U.S.C., § 2245

(Offenses Resulting in Death),

(8) 18 U.S.C., § 2251

(Sexual Exploitation of Children),

(a) 18 U.S.C., § 2251A

(Selling or Buying of Children),

(b) 18 U.S.C., § 2252

(Material Involving the Sexual Exploitation of a Minor),

(c) 18 U.S.C., § 2252A

(Material Containing Child Pornography),

(d) 18 U.S.C., § 2252B

(Misleading Domain Names on the Internet),

(e) 18 U.S.C., § 2252C

(Misleading Words or Digital Images on the Internet),

(f) 18 U.S.C., § 2260

(Production of Sexually Explicit Depictions of a Minor for Import into the U.S.),

(g) 18 U.S.C., § 2421

(Transportation of a Minor for Illegal Sexual Activity),

(h) 18 U.S.C., § 2422

(Coercion and Enticement of a Minor for Illegal Sexual Activity),

(i) 18 U.S.C., § 2423

(Mann Act),

(j) 18 U.S.C., § 2424

(Failure to File Factual Statement about an Alien Individual),

(k) 18 U.S.C. § 2425

(Transmitting Information about a Minor to further Criminal Sexual Conduct).

(c) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or 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.

(d) Military Offenses. Any military 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).

(e) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this territory of the United States that involves:

- (1) Any type or degree of genital, oral, or anal penetration,
- (2) Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
- (3) Kidnapping of a minor,
- (4) False imprisonment of a minor,
- (5) 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,
- (6) Use of a minor in a sexual performance,
- (7) Solicitation of a minor to practice prostitution,
- (8) Possession, production, or distribution of child pornography,
- (9) 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,
- (10) Any conduct that by its nature is a sex offense against a minor, or
- (11) Any offense similar to those outlined in:
  - (i) 18 U.S.C. § 1591  
(Sex Trafficking by force, fraud, or coercion),
  - (ii) 18 U.S.C. § 1801  
(Video Voyeurism of a minor),
  - (iii) 18 U.S.C. § 2241  
(Aggravated Sexual Abuse),
  - (iv) 18 U.S.C. § 2242  
(Sexual Abuse),
  - (v) 18 U.S.C. § 2244  
(Abusive Sexual Contact),
  - (vi) 18 U.S.C. § 2422(b) (Coercing a Minor to Engage in Prostitution), or

(vii) 18 U.S.C. § 2423(a)

(Transporting a Minor to Engage in Illicit Conduct).

## **V.I. Code Ann. tit. 14, § 1721B (2012). Tiered Offenses**

(a) Tier 1 Offenses.

(1) A ‘Tier 1’ offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a ‘Tier 2’ or ‘Tier 3’ offense.

(2) A ‘Tier 1’ offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 1721A(c) that involves:

- (i) the false imprisonment of a minor,
- (ii) video voyeurism of a minor, or
- (iii) possession or receipt of child pornography.

(3) Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a ‘Tier 1’ sex offense. Local Offenses covered in this Statute include, but may not be limited to:

(i) 14 V.I.C., § 1709, unless enhanced with 14 V.I.C., § 707

(Use of intimidation by reason of the actual or perceived race, religion, color, place of birth, sex or ethnicity or handicap of another individual or group of individuals when engaging in unlawful sexual contact);

(ii) 14 V.I.C., § 121

(use of invitation or device to prevail upon an adult to visit a place for the purpose of prostitution of a minor);

(iii) 14 V.I.C., § 1622(2), (3) & (4)

(Prohibition on solicitation and use of minors in prostitution);

(iv) 14 V.I.C., § 1623 (Knowingly leasing property to be used for prostitution of minors); or

(v) 14 V.I.C. § 1624

(Keeping house of prostitution of minors).

(4) Conviction for any of the following federal offenses shall be considered a conviction for a ‘Tier 1’ offense:

(i) 18 U.S.C., § 1801

(video voyeurism of a minor),

(ii) 18 U.S.C., § 2252

(receipt or possession of child pornography),

(iii) 18 U.S.C., § 2252A

(receipt or possession of child pornography),

(iv) 18 U.S.C., § 2252B

(misleading domain names on the internet),

(v) 18 U.S.C., § 2252C

(misleading words or digital images on the internet),

(vi) 18 U.S.C., § 2422(a)

(coercion to engage in prostitution),

(vii) 18 U.S.C. § 2423 (b)

(travel with the intent to engage in illicit conduct),

(viii) 18 U.S.C., § 2423(c)

(engaging in illicit conduct in foreign places),

(ix) 18 U.S.C., § 2423(d)

(arranging inducing, procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),

(x) 18 U.S.C. § 2424 (failure to file factual statement about an alien individual), or

(xi) 18 U.S.C. § 2425

(transmitting information about a minor to further criminal sexual conduct).

(5) Any military 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) that is similar to those offenses outlined in Section 1721B(a)(3) and (4) shall be considered a ‘Tier 1’ offense.

(b) Tier 2 Offenses.



(1) Unless otherwise covered by Section 1721B(c), any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a ‘Tier 2’ offense.

(2) A ‘Tier 2’ offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:

- (i) the use of minors in prostitution, including solicitations,
- (ii) enticing a minor to engage in criminal sexual activity,
- (iii) sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
- (iv) the use of a minor in a sexual performance,
- (v) the production or distribution of child pornography, or
- (vi) a non-forcible Sexual Act with a minor 16 or 17 years old.

(3) Local Offenses covered under Tier 2 include, but may not be limited to:

(i) 14 V.I.C., § 134(a)(3) (Trafficking of persons for illegal sexual activity based upon convictions under 14 V.I.C., §§ 1622, 1623, 1624 & 1625,

(ii) 14 V.I.C., § 1024(b)

(Distribution of child pornography),

(iii) 14 V.I.C., § 1025

(Distribution of obscene matter to a minor when the obscene matter depicts a minor engaging in sexual conduct and is distributed for the purpose of enticing the minor into engaging in sexual conduct),

(iv) 14 V.I.C., § 1700a

(Aggravated rape in the 2nd degree when the minor is under eighteen but thirteen years or older)

(v) 14 V.I.C., § 1702

(Rape in the Second Degree when minor is under 16 but over 13 years of age)

(vi) 14 V.I. C., § 121

(use of invitation or device to prevail upon a minor to visit a place for the purpose of prostitution)

(vii) 14 V.I.C., § 1027 (Employment of minor to perform prohibited acts),  
or

(viii) 14 V.I.C., § 489

(Computer pornography).

(4) Conviction for any of the following federal offenses shall be considered a conviction for a ‘Tier 2’ offense:

(i) 18 U.S.C., § 1591

(sex trafficking by force, fraud, or coercion),

(ii) 18 U.S.C., § 2244

(abusive sexual contact, where the victim is 13 years of age or older),

(iii) 18 U.S.C., § 2251

(sexual exploitation of children),

(iv) 18 U.S.C., § 2251A

(selling or buying of children),

(v) 18 U.S.C., § 2252

(material involving the sexual exploitation of a minor),

(vi) 18 U.S.C., § 2252A

(production or distribution of material containing child pornography),

(vii) 18 U.S.C., § 2260

(production of sexually explicit depictions of a minor for import into the United States),

(viii) 18 U.S.C., § 2421

(transportation of a minor for illegal sexual activity),

(ix) 18 U.S.C., § 2422(b) (coercing a minor to engage in prostitution),

(x) 18 U.S.C., § 2423(a) (transporting a minor to engage in illicit conduct),

or

(xi) 18 U.S.C., § 2423(d)

(arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain).

(5) Any military 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) that is similar to those offenses outlined in Subsections 1721B(b)(1), (2), (3) or(4) above shall be considered a ‘Tier 2‘ offense.

(c) Tier 3 Offenses.

(1) Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a ‘Tier 3‘ offense.

(2) A ‘Tier 3‘ offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:

(i) non-parental kidnapping of a minor,

(ii) a sexual act with another by force or threat,

(iii) 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

(iv) sexual contact with a minor 12 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.

(3) Local Offenses covered under Tier 3 for which a person has been convicted, or has been convicted of an attempt or conspiracy to commit such an offense, include, but may not be limited to:

(i) 14 V.I.C., § 1051

(non-parental kidnapping of a minor),

(ii) 14 V.I.C., § 1052(b)

(kidnapping of persons for purpose of rape),

(iii) 14 V.I.C., § 1700

(Aggravated rape),

(iv) 14 V.I.C., § 1701

(Rape in the first degree),

(v) 14 V.I.C., § 1700a

(Aggravated rape in the second degree when force is used),

(vi) 14 V.I.C., § 1708

(Unlawful sexual contact in the first degree),

(vii) 14 V.I.C., § 1709 when a person is also convicted of 14 V.I.C., § 707

(Unlawful sexual contact in the second degree when motivated by the victim's race, religion, color, place of birth, sex, ethnicity or handicap),

(viii) 14 V.I.C., § 506

(Aggravated child abuse when it involves the use of a minor for the purpose of exploitation or to engage in sexual conduct),

(ix) 14 V.I.C., § 1625 (Prohibition on pandering when the pandering involves the use of minors in sexual acts), or

(x) 14 V.I.C., § 505

(child abuse of a minor involving sexual exploitation or sexual acts).

(4) Conviction for any of the following federal offenses shall be considered conviction for a 'Tier 3' offense:

(i) 18 U.S.C. § 2241

(aggravated sexual abuse),

(ii) 18 U.S.C. § 2242

(sexual abuse),

(iii) Where the victim is 12 years of age or younger, 18 U.S.C. § 2244 (abusive sexual contact); or

(iv) 18 U.S.C. § 2243

(sexual abuse of a minor or ward).

(5) Any military 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) that is similar to those offenses outlined in Subsections 1721B(c)(1), (2), (3) or (4) above shall be considered a 'Tier 3' offense.

## **V.I. Code Ann. tit. 14, § 1722 (2012). Duty to Register**

(a) A person who is convicted in this Territory or in any state, territory or Indian tribe of the United States, any foreign jurisdiction or in any court of competent jurisdiction of any of the covered offenses included in Section 1721A or a similar offense to the covered offenses in 1721A who moves to or returns to this Territory from another jurisdiction for the purpose of establishing residency, employment, or becoming a student or who did not intend to but who eventually establishes residency, obtains employment or becomes a student within the jurisdiction of this Territory is required to register in this Territory.

(b) A person who is required to register as a sex offender in any state, territory or Indian tribe of the United States, under federal law, under military law, under the law of any foreign jurisdiction or by order of any court of competent jurisdiction who moves to or returns to this Territory from another jurisdiction for the purpose of establishing residency, employment, or becoming a student or who did not intend to but who eventually establishes residency, obtains employment or becomes a student within the jurisdiction of this Territory is required to register in this Territory.

(c) The duty to register as a sex offender under this chapter applies to persons convicted or adjudicated not guilty by reason of insanity, of any of the covered offenses listed in Section 1721A of this Chapter or similar offenses, as determined by:

(1) A court of the Virgin Islands;

(2) A court of any other jurisdiction of the United States, including all 50 states, territories and Indian tribes;

(3) A federal court of the United States;

(4) A military court of the United States; or

(5) A court of a foreign country in which a conviction was obtained in accordance with Section 1721A(c) of this Chapter.

(d) A person who fails to register as required under this section shall be guilty of a crime.

### **V.I. Code Ann. tit. 14, § 1723 (2010). Court determination; territorial board**

(a) Upon conviction of or the acceptance of a plea to any of the offenses set forth in this Chapter, the sentencing court shall certify that the person is a sex offender and in which tier the person will be placed. The sentencing court shall consider a report from the Sex Offender Registry Board, if any, prior to or during such certification and classification. The classification of a sex offender will be based upon the guidelines set forth in this Chapter. The court may include the certification in the order of commitment, if any, and judgment of conviction. The court may also advise the sex offender of his or her duties under this Chapter. Failure to include the certification in the order of commitment or the judgment of conviction shall not relieve a sex offender of the obligations imposed by this Chapter.

(b) A territorial board composed of experts in the field of the behavior and treatment of sexual offenders is hereby established. The board shall consist of five (5) members, including (1) a psychiatrist, psychologist or a M.S.W. social worker; (2) a child therapist; (3) an expert in sex offenders; (4) a victim's rights advocate, and (5) a law enforcement

representative, all of whom shall be appointed by the Governor of the Virgin Islands for a term of four years.

(c) The Governor shall designate one of the members of the territorial board as chairman. The chairman shall be the executive and administrative head of the board and shall have the authority and responsibility for directing assignments of the members of the board.

Each member of the board, including the member designated as the chairman, shall serve until the member's term of office expires and a successor is designated in accordance with law, whichever first occurs. However, any member of the Board may be removed for cause. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he is to succeed. As long as there are three sitting members, a vacancy shall not impair the right of the remaining members to exercise the powers of the board.

The Attorney General or a designee shall notify and advise the Board of its opportunity to file a report when a conviction or the acceptance of a plea occurs for any of the offenses covered in this chapter. The Attorney General or a designee shall also notify the Board of the time frame within which a pre-sentence report must be submitted to the court. Upon the Board's determination that a report will be submitted, the report shall be submitted to the Office of Probation and Parole prior to sentencing for inclusion with the pre sentencing report.

(d) The territorial board shall meet at least four (4) times per year and whenever the need arises. The board shall have the following powers and duties:

- (1) to provide reports to the sentencing court regarding convicted sex offenders;
- (2) to assist the Attorney General in promulgating guidelines for the registering, monitoring, and tracking of sex offenders;
- (3) to review and report to the Attorney General on the types of treatment available to a sex offender while he or she is incarcerated in the territory;
- (4) upon the request of a tier 1 sex offender for a reduction in the required registration period, to make recommendations to the Attorney General regarding such request which includes a determination on the risk of re-offense and the degree of dangerousness a sex offender poses to the community;
- (5) to make assessments and recommendations to the parole board, prior to release on parole, regarding the risk of re-offense and the degree of dangerousness a sex offender poses to the community;
- (6) Consider the following factors when making a determination on (3) and (4) above:

(A) criminal history factors indicative of a high risk of re-offense and degree of dangerousness posed to the public, including:

- (i) whether the sex offender has a mental abnormality;
- (ii) whether the sex offender's conduct is characterized by repetitive and compulsive behavior;
- (iii) whether the sex offender was an adult who committed a sex offense on a child;
- (iv) the age of the sex offender at the time of the commission of the first sex offense;
- (v) whether the sex offender has been adjudicated to be a sexually dangerous person or is a person released from civil commitment; and
- (vi) whether the sex offender served the maximum term of incarceration;

(B) other criminal history factors to be considered in determining risk and degree of dangerousness, including:

- (i) the relationship between the sex offender and the victim;
- (ii) whether the offense involved the use of a weapon, violence or infliction of bodily injury; and
- (iii) the number, date and nature of prior offenses.

(C) physical conditions that minimize risk of re-offense including, but not limited to, debilitating illness;

(D) whether the sex offender was a juvenile when he committed the offense, his response to treatment and subsequent criminal history;

(E) whether psychological or psychiatric profiles indicate a risk of recidivism;

(F) the sex offender's history of alcohol or substance abuse;

(G) recent threats against persons or expressions of intent to commit additional offenses;

(H) review of any victim impact statement;

(I) review of any materials submitted by the sex offender, his attorney or others on behalf of such offender;

(J) conditions of release that minimize risk of re-offense and degree of dangerousness posed to the public, including whether the sex offender will be under probation or parole supervision, whether such sex offender is receiving counseling, therapy or treatment and whether such sex offender will be residing in a home situation that provides guidance and supervision, including sex offender-specific treatment in a community-based residential program;

(K) the sex offender's participation in sex offender treatment and counseling while incarcerated and his response to such treatment or counseling; and

(L) recent behavior, including behavior while incarcerated or while supervised on probation or parole.

(7) to assist the Attorney General in developing a plan to locate and verify the current addresses of sex offenders;

(8) to assist the Attorney General with disseminating sex offender registry information and educating the community about sex offenders;

(9) to gather up-to-date information and report to the Attorney General concerning any new requirements and trends regarding the registration, tracking and monitoring of sex offenders; and

(10) to provide advice to the Attorney General regarding policies and procedures for the registration, tracking and monitoring of sex offenders

## **V.I. Code Ann. tit. 14, § 1724 (2012). Registration requirements**

(a) A sex offender required to register in this territory of the United States Virgin Islands under this chapter shall appear in person, unless otherwise required, in accordance with the policies and procedures of the Department of Justice, to register with the Department of Justice on forms provided by the Attorney General of the United States Virgin Islands and shall do so in the following time frame:

(1) A person required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar program shall register within three (3) business days of being placed under supervision.

(2) A person convicted by the courts of this territory for a covered sex offense and incarcerated or confined in a correctional or juvenile facility or a psychiatric



facility within or outside of this territory must register before being released from incarceration or detention.

(3) A person convicted by the courts of this territory for a covered sex offense but is not incarcerated, under supervision or confined must register within three (3) business days of sentencing.

(4) A person who is convicted in any state, territory or Indian tribe of the United States, any foreign jurisdiction or in any federal or military court of one of the covered offenses or an offense similar to one of the covered offenses who moves to or returns to the United States Virgin Islands from another jurisdiction for the purpose of establishing residency, employment, or becoming a student or who did not intend to but who eventually establishes residency, obtains employment or becomes a student within the jurisdiction of this territory shall register within three (3) business days of moving to or returning to the Territory.

(b) All sex offenders required to register in this jurisdiction shall immediately appear in person at the Department of Justice to report the following changes within the prescribed time period and in accordance with the following:

(1) Except as indicated in 1724(b)(4) below, all sex offenders required to register in this jurisdiction shall appear in person at the Department of Justice within three (3) business days after a change is made to update any change to their name, residence (including termination of residency), temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, all sex offenders required to register in this jurisdiction shall within three (3) business days inform the Department of Justice, in person, of any changes to their temporary lodging information and both the sex offender and the Department of Justice shall notify within three (3) business days the jurisdiction in which the sex offender will be temporarily staying.

(2) Any sex offender who is a student in any capacity including, but not limited to, an intern or apprentice within the jurisdiction of the territory of the United States Virgin Islands, regardless of location, that changes their school, or otherwise terminates their schooling, or resumes their schooling shall within three (3) business days appear in person at the Department of Justice to update that information. The Department of Justice shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are notified within three (3) business days of the change.

(3) Any sex offender who is employed in the territory of the United States Virgin Islands in any capacity, including, but not limited to the Government of the Virgin Islands or a private employer or is otherwise employed within the territory of the United States Virgin Islands, regardless of location, that changes their employment, or otherwise terminates their employment, shall appear within three

(3) business days in person at the Department of Justice to update that information. The Department of Justice shall ensure that each jurisdiction in which the sex offender is required to register prior to the updated information being given, are notified within three (3) business days of the change.

(4) All sex offenders required to register in this jurisdiction shall appear in person at the Department of Justice at least twenty one (21) calendar days prior to any intended travel outside of the United States and provide information about their intended travel as may be required by the Attorney General; provided, however that the Attorney General may at his discretion reduce this twenty-one (21) day notice requirement if a sex offender requests such a reduction and provides information in support of the request.

(c) Before moving from the United States Virgin Islands to another jurisdiction within the United States, a person required to register shall register his new address, temporary or permanent, with the Department of Justice before he leaves the territory. Upon arriving in the new state, territory or Indian tribe, a person required to register shall report said arrival to the Department of Justice and register with the agency responsible for registering sex offenders in the new state, territory or Indian tribe of residency within three (3) days of his arrival. The registration information of that person will be removed from the Virgin Islands registry when proof is provided showing that he is registered in the new state, territory or Indian tribe. If a person required to register moves to a foreign country, he must register his new address with the Department of Justice before he leaves the territory and register in the foreign country if there is a registration requirement in that country.

(d) A sex offender who is required to register shall, at a minimum, appear in person at the Department of Justice for the purposes of verification and keeping their registration current in accordance with the following time frames:

(1) For 'Tier 1' offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(2) For a 'Tier 2' offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(3) For 'Tier 3' offenders, once every 90 days for the rest of their lives.

(4) For sex offenders classified in Tier 1, Tier 2 or Tier 3 who are homeless, once every week for the period of years prescribed above based upon his or her tier classification until he or she declares a permanent residence after which the

frequency of registration shall be as prescribed above according to his or her tier classification.

(e) A sex offender may have their period of registration reduced as follows:

(1) A 'Tier 1' sex offender may have his or her period of registration reduced to 10 years only after he or she has maintained a clean record for 10 consecutive years and the Sex Offender Registry Board has made a favorable determination regarding the risk of re-offense and the degree of dangerousness the sex offender poses to the community.

(2) A 'Tier 3' sex offender may have his or her period of registration reduced to 25 years only if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years and the Sex Offender Registry Board has made a favorable determination regarding the risk of re-offense and the degree of dangerousness the sex offender poses to the community.

(f) For the purposes of this chapter, a sex offender has a clean record which would allow for the reduction of his or her period of registration if:

(1) The sex offender has not been convicted of any offense, for which imprisonment for more than 1 year may be imposed;

(2) The sex offender has not been convicted of any sex offense;

(3) The sex offender has successfully completed, without revocation, any period of supervised release, probation, or parole; and

(4) The sex offender has successfully completed an appropriate certified sex offender treatment program.

(g) All in person appearances to register or to keep registration current must be in accordance with the following:

(1) At each in person verification, the sex offender shall permit the Department of Justice to take a photograph of the offender.

(2) At each in person verification, the sex offender shall review existing information maintained by the Department of Justice for accuracy.

(3) If any new information or change in information is obtained at an in person verification, the Department of Justice shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

(4) The sex offender shall provide any additional information required by the Attorney General.

(5) If any new information or change in information is obtained at an inperson verification, the Department of Justice shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

### **V.I. Code Ann. tit. 14, § 1724A Where registration is required**

(a) Jurisdiction of Conviction. A sex offender must initially register with the Department of Justice if the sex offender was convicted by a court of the Territory of a covered sex offense regardless of the sex offender's actual or intended residency.

(b) Jurisdiction of Incarceration. A sex offender must register with the Department of Justice if the sex offender is incarcerated in this Territory while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

(c) Jurisdiction of Residence. A sex offender must register with the Department of Justice if the sex offender resides within the jurisdiction of the territory of the United States Virgin Islands.

(d) Jurisdiction of Employment. A sex offender must register with the Department of Justice if he or she is employed by the Government of the Virgin Islands, in any capacity, by a private employer or is otherwise employed within the jurisdiction of the territory of the United States Virgin Islands.

(e) Jurisdiction of School Attendance. A sex offender must register with the Department of Justice if the sex offender is a student in any capacity within the jurisdiction of this territory of the United States Virgin Islands.

### **V.I. Code Ann. tit. 14, § 1725 (2012). Notice of obligation to register**

Notice of the obligation to register shall be provided as follows:

(a) A court imposing a sentence, disposition or order of commitment following acquittal by reason of insanity shall notify the defendant of his obligation to register pursuant to this chapter.

(b) The Bureau of Corrections, the Division of Probation, the Division of Parole, the Department of Human Services, and the Division of Mental Health shall (1) comply with procedures established by the Attorney General for notifying persons under their supervision of the obligation to register pursuant to this chapter, and (2) comply with

procedures established by the Attorney General for notifying persons who are under supervision in the community on probation, parole, furlough, work release or similar program outside the facility, and persons who are released from the facility in which they are confined without supervision.

(c) The Motor Vehicles Bureau shall provide written notice of the obligation to register pursuant to this chapter in connection with each application for a license to operate a motor vehicle.

(d) The Virgin Islands Water and Power Authority shall provide written notice of the obligation to register pursuant to this chapter in connection with each new application for service.

(e) The Virgin Islands Departments of Labor and Personnel shall provide written notice of the obligation to register pursuant to this chapter in connection with each application for employment.

(f) The Attorney General shall cause notice of the obligation to register to be published at least annually in a manner reasonably calculated to reach the general public.

### **V.I. Code Ann. tit. 14, § 1726 (2012). Registration forms; contents; transmission of form**

(a) The Attorney General shall ensure that the registration forms for sex offenders registering in the United States Virgin Islands meets the requirements of this chapter.

(b) A sex offender who is required to register with this territory pursuant to this chapter shall provide the following information to the Department of Justice in a form provided by the Department of Justice:

(1) Information related to the sex offender's criminal history, which includes:

- (i) date of all arrests,
- (ii) date of all convictions,
- (iii) status of parole, probation, or supervised release,
- (iv) registration status, and
- (v) any outstanding arrest warrants.

(2) Information related to the sex offender's date of birth, which includes:

- (i) actual date of birth, and

- (ii) any other date of birth used by the sex offender.
- (3) If the sex offender is not already included in the Combined DNA Index System (CODIS), the sex offender shall provide a sample of his or her DNA which shall be forwarded to an appropriate lab for analysis and the resulting DNA profile entered into CODIS.
- (4) An original of the following documents of which the Department of Justice shall make a copy:
- (i) all of the sex offender's valid driver's licenses issued by any jurisdiction,
  - (ii) any and all government issued identification card issued by any jurisdiction,
  - (iii) any passports used by the sex offender, and
  - (iv) any and all immigration documents.
- (5) The following information related to the sex offender's employment at which the sex offender is considered an employee as defined in this chapter and includes all places where the sex offender is employed in any means including volunteer and unpaid positions:
- (i) the name of the sex offender's employer,
  - (ii) the address of the sex offender's employer, and
  - (iii) similar information related to any transient or day labor employment.
- (6) Finger and palm prints in a digitized format.
- (7) Information related to the sex offender's internet related activity, which includes:
- (i) Any and all email addresses used by the sex offender,
  - (ii) any and all Instant Message addresses and identifiers,
  - (iii) any and all other designations or monikers used for self-identification in internet communications or postings, and
  - (iv) any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings

including, but not limited to social network identifications, twitter accounts, video posting site identifications such as YouTube etc.

(8) Information related to the sex offender's name, which includes:

- (i) full primary given name,
- (ii) any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
- (iii) any and all ethnic or tribal names by which the sex offender is commonly known excluding any religious or sacred names not otherwise commonly known.

(9) Information related to the sex offender's telephone numbers, which includes:

- (i) any and all land line telephone numbers,
- (ii) any and all cellular telephone numbers, and
- (iii) any and all Voice over IP (VOIP) telephone numbers.

(10) A current digitized photograph of the sex offender which must be updated according to the following, unless the appearance of a sex offender has not changed significantly:

- (i) every 90 days for 'Tier 3' sex offenders,
- (ii) every 180 days for 'Tier 2' sex offenders, and
- (iii) every year for 'Tier 1' sex offenders.

(11) An accurate description of the sex offender which includes:

- (i) a physical description,
- (ii) a general description of the sex offender's physical appearance or characteristics, and
- (iii) any identifying marks, such as, but not limited to, scars, moles birthmarks or tattoos.

(12) All licenses issued to the sex offender which authorizes the sex offender to engage in an occupation or carry out a trade or business.

(13) Information related to the sex offender's residence, which includes:

(i) the address of each residence at which the sex offender resides or will reside pursuant to the definition of 'reside' or 'resides' provided in this chapter, and

(ii) any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to permanent residence or location otherwise identifiable by a street or address.

(14) Information related to a sex offender's school, which includes:

(i) the address of each school where the sex offender is or will be a student, and

(ii) [sic] the name of each school the sex offender is or will be a student as defined in this chapter.

(15) A valid social security number for the sex offender and all social security numbers used by the sex offender in the past, valid or otherwise.

(16) Within twenty-one (21) days prior to travel for 7 days or more, the sex offender shall provide the following information; provided, however, that the Attorney General may at his discretion reduce this twenty-one (21) [sic] day notice requirement if a sex offender requests such a reduction and provides information in support of the request.

(i) identifying information of the temporary lodging locations including addresses and names, and

(ii) the dates the sex offender will be staying at each temporary lodging location.

(iii) The Attorney General at his discretion may require other information in lieu of the above information upon the request of a sex offender.

(17) The text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

(18) Information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft and watercraft, which includes:

(i) license plate numbers;

(ii) registration numbers or identifiers;



(iii) [sic] general description of the vehicle to include color, make, model, and year; and

(iv) any permanent or frequent location where any covered vehicle is kept.

(19) Except when a shorter period for notice is authorized by the Attorney General, within twenty-one (21) days, prior to traveling outside of the United States the sex offender shall provide information at the Attorney General's discretion.

(20) Any other information required by the Attorney General.

(c) The Department of Justice shall establish policies and procedures to ensure the following:

(1) That any sex offender confined, incarcerated or sentenced by the courts of this Territory of the United States Virgin Islands for a covered sex offense completes their initial registration with the Department of Justice;

(2) That the sex offender reads, or has read to them, and signs an acknowledgement form stating that the duty to register has been explained to them by the Department of Justice and that the sex offender understands the registration requirement;

(3) That the Department of Justice's personnel registering the sex offender signs and dates the acknowledgement form;

(4) That the information contained in the acknowledgement form is immediately uploaded unto the Department of Justice's sexual registry, and

(5) That the information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(d) Whenever a sex offender registers or updates his or her information with the Department of Justice, the Attorney General shall:

(1) Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status;

(2) Immediately update the information on NSOR;

(3) Immediately enter the information about the sex offender on the National Criminal Information Center ('NCIC') website;

(4) Immediately notify any agency, department, or program within the Territory that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including, but not limited to, police, whether BIA, Territorial or FBI, Territorial prosecutors, and as appropriate, the Territorial and/or the Federal Office of Probation and Parole;

(5) Immediately notify any and all other registration jurisdictions where the sex offender is registered or is required to register due to the sex offender's residency, school attendance, or employment;

(6) Immediately notify any and all other registration jurisdictions where the sex offender intends to reside, work or attend school;

(7) Immediately notify the U.S. Marshals Service when the sex offender provides information or there is information to believe that the sex offender intends to commence residence, school, or employment outside of the United States in a jurisdiction where the sex offender is either registered or is required to register;

(8) Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates his or her registration;

(9) Immediately enter or update the public Sex offender registry website; and

(10) Ensure that the public sex offender registry has a function that enables the general public to request an email notice that will notify them when a sex offender commences residence, employment, or school attendance in the territory, 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.

(e) The Attorney General shall verify the address of each person registered under this chapter within five (5) working days of that person's registration or re-registration.

#### **V.I. Code Ann. tit. 14, § 1727 (2012). Records; access**

(a) Records maintained pursuant to this chapter shall be open to any law enforcement agency for law enforcement purposes, and to government agencies conducting confidential background checks.

(b) When the release of information regarding a specific sex offender who is required to register under this chapter is necessary for public protection, the Attorney General and law enforcement shall release to the public relevant and necessary information regarding the sex offender including, but not limited to, the provision of notification via email;

except that the identity of any victim of the offense(s) for which the sex offender is required to register under this chapter shall not be released.

(c) Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public exposed to danger of any persons who pose a danger under circumstances that are not enumerated in this chapter.

(d) Whenever a person who is required to register under this chapter lives within a one-mile radius of a child-care facility, a public school, a private school or a parochial school in the Territory, the Attorney General shall notify the owner or operator of that child-care facility, private school, parochial school, or the Department of Education.

(e) The Attorney General shall use and maintain a public sex offender registry website. The sex offender registry website shall:

- (1) include links to sex offender safety and education resources;
- (2) include instructions on how a person can seek correction of information that the individual contends is erroneous;
- (3) include a warning that the information contained on the website 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 addresses and that any such action could result in civil or criminal contempt penalties;
- (4) have the capability of conducting searches by (1) name; (2) city, town or district; and (3) zip code and/or geographic radius;
- (5) include 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 (NSOPW) of the United States; and
- (6) include the following information:
  - (i) notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  - (ii) the tier in which the sex offender has been classified,
  - (iii) all sex offenses for which the sex offender has been convicted,
  - (iv) the sex offense(s) for which the offender is currently registered,
  - (v) the address of the sex offender's employer
  - (s),

- (vi) the name of the sex offender including all aliases,
- (vii) a current photograph of the sex offender,
- (viii) a physical description of the sex offender,
- (ix) the residential address and, if relevant, a description of a habitual residence of the sex offender,
- (x) all addresses of schools attended by the sex offender, and
- (xi) the sex offender's vehicle license plate number along with a description of the vehicle.

(7) shall allow for a community notification system to send electronic notification via email to a website user who registers to receive notification when a sex offender registers an address near the address of the website user.

(f) The public sex offender registry website shall not include the following information:

- (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;
- (5) internet identifiers (as defined in 42 U.S.C. § 16911); or
- (6) the original identity of a sex offender who is under a witness protection program if the Attorney General honors the request of the United States Marshals Service or other agency responsible for witness protection to exclude such identity of the sex offender.

**V.I. Code Ann. tit. 14, § 1728 (2012). Immunity for good-faith conduct from civil and criminal liability for providing or failing to provide relevant information**

(a) Nothing under this chapter shall be construed as a waiver of sovereign immunity for the United States Virgin Islands, its departments and agencies.

(b) Notwithstanding any other provisions of law to the contrary, any person acting under good faith pursuant to the requirements of this Chapter shall be immune from any civil or criminal liability arising out of such actions.

## **V.I. Code Ann. tit. 14, § 1729 (2012). Duties of employers**

- (a) All owners, employers and operators of child-care or child-residential treatment facilities shall apply for a Virgin Islands Sex Offender Background Check through the Department of Justice of all prospective employees and volunteers. The child-care facility owner, employer or operator must collect from the prospective employee or volunteer verification of his or her identity in the form of a government issued photo identification card and social security card and retain a copy of these documents for its files.
- (b) The Department of Licensing and Consumer Affairs shall require each individual applicant for a business license to operate a child-care or child-residential treatment facility to provide verification from the Department of Justice that a Virgin Islands Sex Offender Background Check was conducted of the applicant and that the applicant is not listed in the Virgin Islands Sex Offender Registry and is therefore not required to register pursuant to the requirements of this chapter.
- (c) A child-care or child-residential facility licensed in the United States Virgin Islands shall not hire or retain for employment or as a volunteer a person listed in the Virgin Islands Sex Offender Registry or in any sex offender registry who is required to register pursuant to this chapter.
- (d) The Department of Licensing and Consumer Affairs shall not issue a business license to: (1) an applicant for a license to operate a child care or child residential treatment facility who is listed in the Virgin Islands Sex Offender Registry or any sex offender registry and required to register pursuant to this chapter; or (2) an applicant for a license to operate a child care or child residential treatment facility whose employee or prospective employee is listed in the Virgin Islands Sex Offender Registry or any sex offender registry and is required to register pursuant to this chapter.
- (e) For purposes of this chapter, child-care facility means any program for children, including but not limited to day-care centers, schools, after-school programs, summer programs and camps.
- (f) The Department of Human Services shall not authorize as a 'foster home' or 'adoptive home' any home in which a person who is listed in the Virgin Islands Sex Offender Registry or in any sex offender registry and required to register pursuant to the requirements of this chapter resides.
- (g) The Department of Education and operators of all private and parochial schools in the Virgin Islands shall apply for a Virgin Islands Sex Offender Background Check through the Department of Justice of all prospective employees and volunteers who will be in direct contact with children. The prospective employee or volunteer must provide verification of his or her identity in the form of government issued photo identification and social security card. The Department of Education and operators of all private and parochial schools in the Virgin Islands shall not hire or retain for employment or as a

volunteer a person listed in the Virgin Islands Sex Offender Registry or in any sex offender registry and is required to register pursuant to this chapter.

### **V.I. Code Ann. tit. 14, § 1730 (2012). Penalty**

(a) Any person required to register under this chapter who knowingly fails to so register and keep such registration current shall be fined not less than \$3,000 or more than \$5,000, or imprisoned for not less than three months or more than two years, or both.

(b) Any person, business, agency, or department that fails to comply with section 1729 of this chapter shall be fined not more than \$2,000 for a first conviction; not more than \$5,000 for a second conviction for the same offense; and not more than \$10,000 for a third conviction for the same offense. In addition, the subject child-care facility shall be closed for not less than seven (7) or more than twenty-one (21) working days after the second conviction, and not less than ninety (90) days after the third conviction.

(c) Any person who discourages, hinders or obstructs in any way the registration of a sex offender in the territory shall be fined not less than \$1,000 or more than \$2,000, or imprisoned for not more than six months. A person is guilty of hindering or obstructing the registration of a sex offender if he or she:

(1) knowingly comforts, harbors or assists or knowingly attempts to comfort, harbor or assist another person in harboring or attempting to harbor or otherwise aids or abets a sex offender in violation of this chapter;

(2) knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this chapter; or

(3) provides information to a law enforcement agency regarding a sex offender which the person knows to be false.

### **V.I. Code Ann. tit. 14, § 1731 (2012). General Provisions**

(a) Upon October 31, 1997, the Department of Justice shall assume responsibility for registering persons and ensuring compliance with the registration requirements.

(b) The Attorney General shall forward a copy of this act to the registering agency or chief law enforcement officer in each state immediately after its enactment.

(c) This act shall become effective upon enactment.

### **V.I. Code Ann. tit. 14, § 1732 (2012). Retroactive registration**

(a) The following three categories of persons who were previously convicted and who were not previously required to register, shall be required to register and the Department of Justice shall establish policies and procedures to ensure that they are subject to the registration and updating requirements of this chapter:

(1) Sex offenders who are presently incarcerated in the Territory or under the supervision of the Office of Probation and Parole of the Territory, whether for a covered sex offense or other crime,

(2) Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Territory's laws, and

(3) Sex offenders re-entering the Territory's justice system due to conviction for any crime.

(b) The Department of Justice shall ensure recapture of the sex offenders mentioned in this Section within the following timeframe to be calculated from the date of passage of this chapter:

(1) For Tier 1 sex offenders, 1 year

(2) For Tier 2 sex offenders, 180 days, and

(3) For Tier 3 sex offenders, 90 days

(c) To ensure the recapture of these sex offenders within the above timeframe, the Virgin Islands Bureau of Corrections and the Office of Probation and Parole shall work with the Department of Justice.

### **V.I. Code Ann. tit. 14, § 1733 (2012). Failure to appear for registration and absconding**

(a) In the event a sex offender fails to register with the territory of the United States Virgin Islands as required by this chapter, the Attorney General or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the territory that the sex offender failed to appear for registration.

(b) If the Attorney General or designee receives information that a sex offender has absconded, the Attorney General or designee shall make an effort to determine if the sex offender has actually absconded.

(c) In the event no determination can be made that a sex offender has absconded, the Attorney General or designee shall ensure that the Virgin Islands Police Department and any other appropriate law enforcement agency are notified.

(d) If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, these entities shall be informed that the sex offender has failed to appear and register.

(e) If an absconded sex offender cannot be located, the Attorney General or designee shall take the following steps:

(i) Update the registry to reflect that the sex offender has absconded or is otherwise not capable of being located;

(ii) Notify the U.S. Marshals Service;

(iii) Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or Federal Bureau of Investigations ('FBI') may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest;

(iv) Update the NCIC/NSOR to reflect that the sex offender has absconded, or is otherwise not capable of being located; and

(v) Enter the sex offender into the National Crime Information Center Wanted Person File.

(f) In the event a sex offender who is required to register due to their residence, employment or school attendance status fails to do so or otherwise violates a registration requirement of this chapter, the Attorney General or designee shall take all appropriate follow-up measures including those outlined in this section. The Attorney General or designee shall first make an effort to determine if the sex offender is actually residing, employed or attending school within the jurisdiction of this territory of the United States Virgin Islands.

## **UNITED STATES – FEDERAL LEGISLATION**

### **42 USCS § 16901 (2012). Declaration of purpose**

In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators against the victims listed below, Congress in this Act establishes a comprehensive national system for the registration of those offenders:



- (1) Jacob Wetterling, who was 11 years old, was abducted in 1989 in Minnesota, and remains missing.
- (2) Megan Nicole Kanka, who was 7 years old, was abducted, sexually assaulted, and murdered in 1994, in New Jersey.
- (3) Pam Lychner, who was 31 years old, was attacked by a career offender in Houston, Texas.
- (4) Jetseta Gage, who was 10 years old, was kidnapped, sexually assaulted, and murdered in 2005, in Cedar Rapids, Iowa.
- (5) Dru Sjodin, who was 22 years old, was sexually assaulted and murdered in 2003, in North Dakota.
- (6) Jessica Lunsford, who was 9 years old, was abducted, sexually assaulted, buried alive, and murdered in 2005, in Homosassa, Florida.
- (7) Sarah Lunde, who was 13 years old, was strangled and murdered in 2005, in Ruskin, Florida.
- (8) Amie Zyla, who was 8 years old, was sexually assaulted in 1996 by a juvenile offender in Waukesha, Wisconsin, and has become an advocate for child victims and protection of children from juvenile sex offenders.
- (9) Christy Ann Fornoff, who was 13 years old, was abducted, sexually assaulted, and murdered in 1984, in Tempe, Arizona.
- (10) Alexandra Nicole Zapp, who was 30 years old, was brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Bridgewater, Massachusetts.
- (11) Polly Klaas, who was 12 years old, was abducted, sexually assaulted, and murdered in 1993 by a career offender in California.
- (12) Jimmy Ryce, who was 9 years old, was kidnapped and murdered in Florida on September 11, 1995.
- (13) Carlie Brucia, who was 11 years old, was abducted and murdered in Florida in February, 2004.
- (14) Amanda Brown, who was 7 years old, was abducted and murdered in Florida in 1998.
- (15) Elizabeth Smart, who was 14 years old, was abducted in Salt Lake City, Utah in June 2002.

(16) Molly Bish, who was 16 years old, was abducted in 2000 while working as a lifeguard in Warren, Massachusetts, where her remains were found 3 years later.

(17) Samantha Runnion, who was 5 years old, was abducted, sexually assaulted, and murdered in California on July 15, 2002.

## **42 U.S.C.S. § 16911 (2012). Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators**

In this subchapter the following definitions apply:

### **(1) Sex offender**

The term “sex offender” means an individual who was convicted of a sex offense.

### **(2) Tier I sex offender**

The term “tier I sex offender” means a sex offender other than a tier II or tier III sex offender.

### **(3) Tier II sex offender**

The term “tier II sex offender” means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and--

**(A)** is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

**(i)** sex trafficking (as described in section 1591 of Title 18);

**(ii)** coercion and enticement (as described in section 2422(b) of Title 18);

**(iii)** transportation with intent to engage in criminal sexual activity (as described in section 2423(a) of Title 18);

**(iv)** abusive sexual contact (as described in section 2244 of Title 18);

**(B)** involves--

**(i)** use of a minor in a sexual performance;

**(ii)** solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography; or

(C) occurs after the offender becomes a tier I sex offender.

(4) Tier III sex offender

The term “tier III sex offender” means a sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

(i) aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of Title 18); or

(ii) abusive sexual contact (as described in section 2244 of Title 18) against a minor who has not attained the age of 13 years;

(B) involves kidnapping of a minor (unless committed by a parent or guardian); or

(C) occurs after the offender becomes a tier II sex offender.

(5) Amie Zyla expansion of sex offense definition

(A) Generally

Except as limited by subparagraph (B) or (C), the term “ sex offense” means--

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18;

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) Foreign convictions

A foreign conviction is not a sex offense for the purposes of this subchapter if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 16912 of this title.

(C) Offenses involving consensual sexual conduct

An offense involving consensual sexual conduct is not a sex offense for the purposes of this subchapter 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 13 years old and the offender was not more than 4 years older than the victim.

(6) Criminal offense

The term “criminal offense” means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note)) or other criminal offense.

(7) Expansion of definition of “specified offense against a minor” to include all offenses by child predators

The term “ specified offense against a minor” means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of Title 18.

(G) Possession, production, or distribution of child pornography.

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

(8) Convicted as including certain juvenile adjudications

The term “convicted” or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 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 section 2241 of Title 18), or was an attempt or conspiracy to commit such an offense.

(9) Sex offender registry

The term “sex offender registry” means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) Jurisdiction

The term “jurisdiction” means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 16927 of this title, a federally recognized Indian tribe.

(11) Student

The term “student” means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) Employee

The term “employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) Resides

The term “resides” means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

(14) Minor

The term “minor” means an individual who has not attained the age of 18 years.

**42 U.S.C.S. § 16912 (2012). Registry requirements for jurisdictions**

(a) Jurisdiction to maintain a registry. Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this title.

(b) Guidelines and regulations. The Attorney General shall issue guidelines and regulations to interpret and implement this title.

**42 U.S.C.S. § 16913 (2012). Registry requirement for sex offenders**

(a) In general. A sex offender shall 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. For initial registration purposes only, a sex offender shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence.

(b) Initial registration. The sex offender shall initially register--

(1) before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or

(2) not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.

(c) Keeping the registration current. A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

(d) Initial registration of sex offenders unable to comply with subsection (b). The Attorney General shall have the authority to specify the applicability of the requirements of this title to sex offenders convicted before the enactment of this Act [enacted July 27, 2006] or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with subsection (b).

(e) State penalty for failure to comply. Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of this title.

## **42 U.S.C.S. § 16914 (2012). Information required in registration**

(a) Provided by the offender

The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

- (1) The name of the sex offender (including any alias used by the individual).
- (2) The Social Security number of the sex offender.
- (3) The address of each residence at which the sex offender resides or will reside.
- (4) The name and address of any place where the sex offender is an employee or will be an employee.
- (5) The name and address of any place where the sex offender is a student or will be a student.
- (6) The license plate number and a description of any vehicle owned or operated by the sex offender.
- (7) Any other information required by the Attorney General.

(b) Provided by the jurisdiction

The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender:

- (1) A physical description of the sex offender.
- (2) The text of the provision of law defining the criminal offense for which the sex offender is registered.
- (3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.
- (4) A current photograph of the sex offender.
- (5) A set of fingerprints and palm prints of the sex offender.

(6) A DNA sample of the sex offender.

(7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.

(8) Any other information required by the Attorney General.

## **42 U.S.C.S. § 16915 (2012). Duration of registration requirement**

### **(a) Full registration period**

A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b) of this section. The full registration period is--

(1) 15 years, if the offender is a tier I sex offender;

(2) 25 years, if the offender is a tier II sex offender; and

(3) the life of the offender, if the offender is a tier III sex offender.

### **(b) Reduced period for clean record**

#### **(1) Clean record**

The full registration period shall be reduced as described in paragraph (3) for a sex offender who maintains a clean record for the period described in paragraph (2) by--

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

(B) not being convicted of any sex offense;

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

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

#### **(2) Period**

In the case of--



(A) a tier I sex offender, the period during which the clean record shall be maintained is 10 years; and

(B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this subchapter, the period during which the clean record shall be maintained is 25 years.

(3) Reduction

In the case of--

(A) a tier I sex offender, the reduction is 5 years;

(B) a tier III sex offender adjudicated delinquent, the reduction is from life to that period for which the clean record under paragraph (2) is maintained

**42 U.S.C.S. § 16915a (2012). Direction to the Attorney General**

(a) Requirement that sex offenders provide certain Internet related information to sex offender registries

The Attorney General, using the authority provided in section 114(a)(7) of the Sex Offender Registration and Notification Act [42 U.S.C.A. § 16914(a)(7)], shall require that each sex offender provide to the sex offender registry those Internet identifiers the sex offender uses or will use of any type that the Attorney General determines to be appropriate under that Act [42 U.S.C.A. § 16901 et seq.]. These records of Internet identifiers shall be subject to the Privacy Act (5 U.S.C. 552a) to the same extent as the other records in the National Sex Offender Registry.

(b) Timeliness of reporting of information

The Attorney General, using the authority provided in section 112(b) of the Sex Offender Registration and Notification Act [42 U.S.C.A. § 16912(b)], shall specify the time and manner for keeping current information required to be provided under this section.

(c) Nondisclosure to general public

The Attorney General, using the authority provided in section 118(b)(4) of the Sex Offender Registration and Notification Act [42 U.S.C.A. § 16918(b)(4)], shall exempt from disclosure all information provided by a sex offender under subsection (a).

(d) Notice to sex offenders of new requirements

The Attorney General shall ensure that procedures are in place to notify each sex offender of changes in requirements that apply to that sex offender as a result of the implementation of this section.

(e) Definitions

(1) Of “social networking website”

As used in this Act, the term “ social networking website”--

(A) means an Internet website--

(i) that allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available to the public or to other users; and

(ii) that offers a mechanism for communication with other users where such users are likely to include a substantial number of minors; and

(iii) whose primary purpose is to facilitate online social interactions; and

(B) includes any contractors or agents used by the website to act on behalf of the website in carrying out the purposes of this Act.

(2) Of “Internet identifiers”

As used in this Act, the term “ Internet identifiers” means electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting.

(3) Other terms

A term defined for the purposes of the Sex Offender Registration and Notification Act [42 U.S.C.A. § 16901 et seq.] has the same meaning in this Act.

**42 U.S.C.S. § 16915b (2012). Checking system for social networking websites**

(a) In general

(1) Secure system for comparisons

The Attorney General shall establish and maintain a secure system that permits social networking websites to compare the information contained in the National Sex Offender Registry with the Internet identifiers of users of the social networking websites, and view only those Internet identifiers that match. The system--

(A) shall not require or permit any social networking website to transmit Internet identifiers of its users to the operator of the system, and

(B) shall use secure procedures that preserve the secrecy of the information made available by the Attorney General, including protection measures that render the Internet identifiers and other data elements indecipherable.

(2) Provision of information relating to identity

Upon receiving a matched Internet identifier, the social networking website may make a request of the Attorney General for, and the Attorney General shall provide promptly, information related to the identity of the individual that has registered the matched Internet identifier. This information is limited to the name, sex, resident address, photograph, and physical description.

(b) Qualification for use of system

A social networking website seeking to use the system shall submit an application to the Attorney General which provides--

- (1) the name and legal status of the website;
- (2) the contact information for the website;
- (3) a description of the nature and operations of the website;
- (4) a statement explaining why the website seeks to use the system;
- (5) a description of policies and procedures to ensure that--

(A) any individual who is denied access to that website on the basis of information obtained through the system is promptly notified of the basis for the denial and has the ability to challenge the denial of access; and

(B) if the social networking website finds that information is inaccurate, incomplete, or cannot be verified, the site immediately notifies the appropriate State registry and the Department of Justice, so that they may delete or correct that information in the respective State and national databases;

- (6) the identity and address of, and contact information for, any contractor that will be used by the social networking website to use the system; and

(7) such other information or attestations as the Attorney General may require to ensure that the website will use the system--

(A) to protect the safety of the users of such website; and

(B) for the limited purpose of making the automated comparison described in subsection (a).

(c) Searches against the system

(1) Frequency of use of the system

A social networking website approved by the Attorney General to use the system may conduct searches under the system as frequently as the Attorney General may allow.

(2) Authority of Attorney General to suspend use

The Attorney General may deny, suspend, or terminate use of the system by a social networking website that--

(A) provides false information in its application for use of the system;

(B) may be using or seeks to use the system for any unlawful or improper purpose;

(C) fails to comply with the procedures required under subsection (b)(5);  
or

(D) uses information obtained from the system in any way that is inconsistent with the purposes of this Act.

(3) Limitation on release of Internet identifiers

(A) No public release

Neither the Attorney General nor a social networking website approved to use the system may release to the public any list of the Internet identifiers of sex offenders contained in the system.

(B) Additional limitations

The Attorney General shall limit the release of information obtained through the use of the system established under subsection (a) by social networking websites approved to use such system.

(C) Strict adherence to limitation

The use of the system established under subsection (a) by a social networking website shall be conditioned on the website's agreement to observe the limitations required under this paragraph.

(D) Rule of construction

This subsection shall not be construed to limit the authority of the Attorney General under any other provision of law to conduct or to allow searches or checks against sex offender registration information.

(4) Payment of fee

A social networking website approved to use the system shall pay any fee established by the Attorney General for use of the system.

(5) Limitation on liability

(A) In general

A civil claim against a social networking website, including any director, officer, employee, parent, contractor, or agent of that social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.

(B) Intentional, reckless, or other misconduct

Subparagraph (A) does not apply to a claim if the social networking website, or a director, officer, employee, parent, contractor, or agent of that social networking website--

(i) engaged in intentional misconduct; or

(ii) acted, or failed to act--

(I) with actual malice;

(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

(III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).

(C) Minimizing access

A social networking website shall minimize the number of employees that are provided access to the Internet identifiers for which a match has been found through the system.

(6) Rule of construction

Nothing in this section shall be construed to require any Internet website, including a social networking website, to use the system, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to do so.

**42 U.S.C.S. § 16916 (2012). Periodic in person verification**

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than—

- (1) each year, if the offender is a tier I sex offender;
- (2) every 6 months, if the offender is a tier II sex offender; and
- (3) every 3 months, if the offender is a tier III sex offender.

**42 U.S.C.S. § 16917 (2012). Duty to notify sex offenders of registration requirements and to register**

(a) In general. An appropriate official shall, shortly before release of the sex offender from custody, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register--

- (1) inform the sex offender of the duties of a sex offender under this title and explain those duties;
- (2) require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement; and
- (3) ensure that the sex offender is registered.

(b) Notification of sex offenders who cannot comply with subsection (a). The Attorney General shall prescribe rules for the notification of sex offenders who cannot be registered in accordance with subsection (a).

## **42 U.S.C.S. § 16918 (2012). Public access to sex offender information through the Internet**

### **(a) In general**

Except as provided in this section, each jurisdiction shall make available on the Internet, in a manner that is readily accessible to all jurisdictions and to the public, all information about each sex offender in the registry. The jurisdiction shall maintain the Internet site in a manner that will permit the public to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user. The jurisdiction shall also include in the design of its Internet site 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.

### **(b) Mandatory exemptions**

A jurisdiction shall exempt from disclosure--

- (1)** the identity of any victim of a sex offense;
- (2)** the Social Security number of the sex offender;
- (3)** any reference to arrests of the sex offender that did not result in conviction; and
- (4)** any other information exempted from disclosure by the Attorney General.

### **(c) Optional exemptions**

A jurisdiction may exempt from disclosure--

- (1)** any information about a tier I sex offender convicted of an offense other than a specified offense against a minor;
- (2)** the name of an employer of the sex offender;
- (3)** the name of an educational institution where the sex offender is a student; and
- (4)** any other information exempted from disclosure by the Attorney General.

### **(d) Links**

The site shall include, to the extent practicable, links to sex offender safety and education resources.

### **(e) Correction of errors**

The site shall include instructions on how to seek correction of information that an individual contends is erroneous.

(f) Warning

The site shall include 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. The warning shall note that any such action could result in civil or criminal penalties.

**42 U.S.C.S. § 16919 (2012). National Sex Offender Registry**

(a) Internet. The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and any other person required to register in a jurisdiction's sex offender registry. The database shall be known as the National Sex Offender Registry.

(b) Electronic forwarding. The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions.

**42 U.S.C.S. § 16920 (2010). Dru Sjodin National Sex Offender Public Website**

(a) Establishment. There is established the Dru Sjodin National Sex Offender Public Website (hereinafter in this section referred to as the "Website"), which the Attorney General shall maintain.

(b) Information to be provided. The Website shall include relevant information for each sex offender and other person listed on a jurisdiction's Internet site. The Website shall allow the public to obtain relevant information for each sex offender by a single query for any given zip code or geographical radius set by the user in a form and with such limitations as may be established by the Attorney General and shall have such other field search capabilities as the Attorney General may provide.

**42 U.S.C.S. § 16921 (2012). Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program**

(a) Establishment of Program. There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program (hereinafter in this section referred to as the "Program").

(b) Program notification. Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:



- (1) The Attorney General, who shall include that information in the National Sex Offender Registry or other appropriate databases.
  - (2) Appropriate law enforcement agencies (including probation agencies, if appropriate), and each school and public housing agency, in each area in which the individual resides, is an employee or is a student.
  - (3) Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.
  - (4) Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).
  - (5) Social service entities responsible for protecting minors in the child welfare system.
  - (6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur.
  - (7) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction.
- (c) Frequency. Notwithstanding subsection (b), an organization or individual described in subsection (b)(6) or (b)(7) may opt to receive the notification described in that subsection no less frequently than once every five business days.

**42 U.S.C.S. § 16922 (2012). Actions to be taken when sex offender fails to comply**

An appropriate official shall notify the Attorney General and appropriate law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry and revise the jurisdiction's registry to reflect the nature of that failure. The appropriate official, the Attorney General, and each such law enforcement agency shall take any appropriate action to ensure compliance.

**42 U.S.C.S. § 16923 (2012). Development and availability of registry management and website software**

(a) Duty to develop and support

The Attorney General shall, in consultation with the jurisdictions, develop and support software to enable jurisdictions to establish and operate uniform sex offender registries and Internet sites.

(b) Criteria

The software should facilitate--

- (1) immediate exchange of information among jurisdictions;
- (2) public access over the Internet to appropriate information, including the number of registered sex offenders in each jurisdiction on a current basis;
- (3) full compliance with the requirements of this subchapter; and
- (4) communication of information to community notification program participants as required under section 16921 of this title.

(c) Deadline

The Attorney General shall make the first complete edition of this software available to jurisdictions within 2 years of July 27, 2006.

**42 U.S.C.S. § 16924 (2012). Period for implementation by jurisdictions**

(a) Deadline. Each jurisdiction shall implement this title before the later of--

- (1) 3 years after the date of the enactment of this Act [enacted July 27, 2006]; and
- (2) 1 year after the date on which the software described in section 123 [42 USCS § 16923] is available.

(b) Extensions. The Attorney General may authorize up to two 1-year extensions of the deadline.

**42 U.S.C.S. § 16925 (2012). Failure of jurisdiction to comply**

(a) In general

For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this subchapter shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under part A of subchapter V of chapter 46 of this title.

(b) State constitutionality

(1) In general

When evaluating whether a jurisdiction has substantially implemented this subchapter, the Attorney General shall consider whether the jurisdiction is unable to substantially implement this subchapter because of a demonstrated inability to implement certain

provisions that would place the jurisdiction in violation of its constitution, as determined by a ruling of the jurisdiction's highest court.

(2) Efforts

If the circumstances arise under paragraph (1), then the Attorney General and the jurisdiction shall make good faith efforts to accomplish substantial implementation of this subchapter and to reconcile any conflicts between this subchapter and the jurisdiction's constitution. In considering whether compliance with the requirements of this subchapter would likely violate the jurisdiction's constitution or an interpretation thereof by the jurisdiction's highest court, the Attorney General shall consult with the chief executive and chief legal officer of the jurisdiction concerning the jurisdiction's interpretation of the jurisdiction's constitution and rulings thereon by the jurisdiction's highest court.

(3) Alternative procedures

If the jurisdiction is unable to substantially implement this subchapter because of a limitation imposed by the jurisdiction's constitution, the Attorney General may determine that the jurisdiction is in compliance with this chapter if the jurisdiction has made, or is in the process of implementing reasonable alternative procedures or accommodations, which are consistent with the purposes of this chapter.

(4) Funding reduction

If a jurisdiction does not comply with paragraph (3), then the jurisdiction shall be subject to a funding reduction as specified in subsection (a) of this section.

(c) Reallocation

Amounts not allocated under a program referred to in this section to a jurisdiction for failure to substantially implement this subchapter shall be reallocated under that program to jurisdictions that have not failed to substantially implement this subchapter or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this subchapter.

(d) Rule of construction

The provisions of this subchapter that are cast as directions to jurisdictions or their officials constitute, in relation to States, only conditions required to avoid the reduction of Federal funding under this section.

**42 U.S.C.S. § 16926 (2012). Sex Offender Management Assistance (SOMA) program**

(a) In general

The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this subchapter referred to as the “SOMA program”), under which the Attorney General may award a grant to a jurisdiction to offset the costs of implementing this subchapter.

(b) Application

The chief executive of a jurisdiction desiring a grant under this section shall, on an annual basis, submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(c) Bonus payments for prompt compliance

A jurisdiction that, as determined by the Attorney General, has substantially implemented this subchapter not later than 2 years after July 27, 2006 is eligible for a bonus payment. The Attorney General may make such a payment under the SOMA program for the first fiscal year beginning after that determination. The amount of the payment shall be--

(1) 10 percent of the total received by the jurisdiction under the SOMA program for the preceding fiscal year, if that implementation is not later than 1 year after July 27, 2006; and

(2) 5 percent of such total, if not later than 2 years after July 27, 2006.

(d) Authorization of appropriations

In addition to any amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to the Attorney General, to be available only for the SOMA program, for fiscal years 2007 through 2009.

## **42 U.S.C.S. § 16927 (2012). Election by Indian tribes**

(a) Election

(1) In general

A federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body--

(A) elect to carry out this part as a jurisdiction subject to its provisions; or

(B) elect to delegate its functions under this part to another jurisdiction or jurisdictions within which the territory of the tribe is located and to provide access to its territory and such other cooperation and assistance as

may be needed to enable such other jurisdiction or jurisdictions to carry out and enforce the requirements of this part.

(2) Imputed election in certain cases

A tribe shall be treated as if it had made the election described in paragraph (1)(B) if--

(A) it is a tribe subject to the law enforcement jurisdiction of a State under section 1162 of Title 18;

(B) the tribe does not make an election under paragraph (1) within 1 year of July 27, 2006 or rescinds an election under paragraph (1)(A); or

(C) the Attorney General determines that the tribe has not substantially implemented the requirements of this part and is not likely to become capable of doing so within a reasonable amount of time.

(b) Cooperation between tribal authorities and other jurisdictions

(1) Nonduplication

A tribe subject to this part is not required to duplicate functions under this part which are fully carried out by another jurisdiction or jurisdictions within which the territory of the tribe is located.

(2) Cooperative agreements

A tribe may, through cooperative agreements with such a jurisdiction or jurisdictions--

(A) arrange for the tribe to carry out any function of such a jurisdiction under this part with respect to sex offenders subject to the tribe's jurisdiction; and

(B) arrange for such a jurisdiction to carry out any function of the tribe under this part with respect to sex offenders subject to the tribe's jurisdiction.

**42 U.S.C.S. § 16928 (2012). Registration of sex offenders entering the United States**

The Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish and maintain a system for informing the relevant jurisdictions about persons entering the United States who are required to register under this title. The Secretary of State and the Secretary of Homeland Security shall provide

such information and carry out such functions as the Attorney General may direct in the operation of the system.

#### **42 U.S.C.S. § 16929 (2012). Immunity for good faith conduct**

The Federal Government, jurisdictions, political subdivisions of jurisdictions, and their agencies, officers, employees, and agents shall be immune from liability for good faith conduct under this title.

#### **42 U.S.C.S. § 16941 (2012). Federal assistance with respect to violation of registration requirements**

(a) In general. The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. For the purposes of section 566(e)(1)(B) of title 28, United States Code [28 USCS § 566(e)(1)(B)], a sex offender who violates a sex offender registration requirement shall be deemed a fugitive.

(b) Authorization of appropriations. There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to implement this section.

#### **42 U.S.C.S. § 16942 (2012). Project Safe Childhood**

(a) Establishment of program

Not later than 6 months after July 27, 2006, the Attorney General shall create and maintain a Project Safe Childhood program in accordance with this section.

(b) Initial implementation

Except as authorized under subsection (c) of this section, funds authorized under this section may only be used for the following 5 purposes:

(1) Integrated Federal, State, and local efforts to investigate and prosecute child exploitation cases, including--

(A) the partnership by each United States Attorney with each Internet Crimes Against Children Task Force that is a part of the Internet Crimes Against Children Task Force Program authorized and funded under subchapter IV of chapter 72 of this title (referred to in this section as the “ICAC Task Force Program”) that exists within the district of such attorney;

(B) the partnership by each United States Attorney with other Federal, State, and local law enforcement partners working in the district of such

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attorney to implement the program described in subsection (a) of this section;

(C) the development by each United States Attorney of a district-specific strategic plan to coordinate the investigation and prosecution of child exploitation crimes;

(D) efforts to identify and rescue victims of child exploitation crimes; and

(E) local training, educational, and awareness programs of such crimes.

(2) Major case coordination by the Department of Justice (or other Federal agencies as appropriate), including specific integration or cooperation, as appropriate, of--

(A) the Child Exploitation and Obscenity Section within the Department of Justice;

(B) the Innocent Images Unit of the Federal Bureau of Investigation;

(C) any task forces established in connection with the Project Safe Childhood program set forth under subsection (a) of this section; and

(D) the High Tech Investigative Unit within the Criminal Division of the Department of Justice.

(3) Increased Federal involvement in child pornography and enticement cases by providing additional investigative tools and increased penalties under Federal law.

(4) Training of Federal, State, and local law enforcement through programs facilitated by--

(A) the National Center for Missing and Exploited Children;

(B) the ICAC Task Force Program; and

(C) any other ongoing program regarding the investigation and prosecution of computer-facilitated crimes against children, including training and coordination regarding leads from--

(i) Federal law enforcement operations; and

(ii) the CyberTipline and Child Victim-Identification programs managed and maintained by the National Center for Missing and Exploited Children.

**(5)** Community awareness and educational programs through partnerships to provide national public awareness and educational programs through--

**(A)** the National Center for Missing and Exploited Children;

**(B)** the ICAC Task Force Program; and

**(C)** any other ongoing programs that--

**(i)** raises national awareness about the threat of online sexual predators; or

**(ii)** provides information to parents and children seeking to report possible violations of computer-facilitated crimes against children.

**(c)** Expansion of Project Safe Childhood

Notwithstanding subsection (b) of this section, funds authorized under this section may be also be used for the following purposes:

**(1)** The addition of not less than 8 Assistant United States Attorneys at the Department of Justice dedicated to the prosecution of cases in connection with the Project Safe Childhood program set forth under subsection (a) of this section.

**(2)** The creation, development, training, and deployment of not less than 10 new Internet Crimes Against Children task forces within the ICAC Task Force Program consisting of Federal, State, and local law enforcement personnel dedicated to the Project Safe Childhood program set forth under subsection (a) of this section, and the enhancement of the forensic capacities of existing Internet Crimes Against Children task forces.

**(3)** The development and enhancement by the Federal Bureau of Investigation of the Innocent Images task forces.

**(4)** Such other additional and related purposes as the Attorney General determines appropriate.

**(d)** Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated--

**(1)** for the activities described under subsection (b) of this section--

**(A)** \$18,000,000 for fiscal year 2007; and

**(B)** such sums as may be necessary for each of the 5 succeeding fiscal years; and



(2) for the activities described under subsection (c) of this section--

(A) for fiscal year 2007--

(i) \$15,000,000 for the activities under paragraph (1);

(ii) \$10,000,000 for activities under paragraph (2); and

(iii) \$4,000,000 for activities under paragraph (3); and

(B) such sums as may be necessary for each of the 5 succeeding fiscal years.

**42 U.S.C.S. § 16943 (2012). Federal assistance in identification and location of sex offenders relocated as a result of a major disaster**

The Attorney General shall provide assistance to jurisdictions in the identification and location of a sex offender relocated as a result of a major disaster.

**42 U.S.C.S. § 16944 (2012). Expansion of training and technology efforts**

(a) Training

The Attorney General shall--

(1) expand training efforts with Federal, State, and local law enforcement officers and prosecutors to effectively respond to the threat to children and the public posed by sex offenders who use the Internet and technology to solicit or otherwise exploit children;

(2) facilitate meetings involving corporations that sell computer hardware and software or provide services to the general public related to use of the Internet, to identify problems associated with the use of technology for the purpose of exploiting children;

(3) host national conferences to train Federal, State, and local law enforcement officers, probation and parole officers, and prosecutors regarding pro-active approaches to monitoring sex offender activity on the Internet;

(4) develop and distribute, for personnel listed in paragraph (3), information regarding multidisciplinary approaches to holding offenders accountable to the terms of their probation, parole, and sex offender registration laws; and

(5) partner with other agencies to improve the coordination of joint investigations among agencies to effectively combat online solicitation of children by sex offenders.

(b) Technology

The Attorney General shall--

(1) deploy, to all Internet Crimes Against Children Task Forces and their partner agencies, technology modeled after the Canadian Child Exploitation Tracking System; and

(2) conduct training in the use of that technology.

(c) Report

Not later than July 1, 2007, the Attorney General, shall submit to Congress a report on the activities carried out under this section. The report shall include any recommendations that the Attorney General considers appropriate.

(d) Authorization of appropriations

There are authorized to be appropriated to the Attorney General, for fiscal year 2007--

(1) \$1,000,000 to carry out subsection (a) of this section; and

(2) \$2,000,000 to carry out subsection (b) of this section.

**42 U.S.C.S. § 16945 (2012). Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking**

(a) Establishment

There is established within the Department of Justice, under the general authority of the Attorney General, an Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (hereinafter in this section referred to as the “SMART Office”).

(b) Director

The SMART Office shall be headed by a Director who shall be appointed by the President. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the SMART Office. The Director shall not engage in any employment other than that of serving as the Director,

nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement.

(c) Duties and functions

The SMART Office is authorized to--

- (1) administer the standards for the sex offender registration and notification program set forth in this chapter;
- (2) administer grant programs relating to sex offender registration and notification authorized by this chapter and other grant programs authorized by this chapter as directed by the Attorney General;
- (3) cooperate with and provide technical assistance to States, units of local government, tribal governments, and other public and private entities involved in activities related to sex offender registration or notification or to other measures for the protection of children or other members of the public from sexual abuse or exploitation; and
- (4) perform such other functions as the Attorney General may delegate.

**42 U.S.C.S. § 16961 (2012). Access to national crime information databases**

(a) In general

Notwithstanding any other provision of law, the Attorney General shall ensure access to the national crime information databases (as defined in section 534 of Title 28) by--

- (1) the National Center for Missing and Exploited Children, to be used only within the scope of the Center's duties and responsibilities under Federal law to assist or support law enforcement agencies in administration of criminal justice functions; and
- (2) governmental social service agencies with child protection responsibilities, to be used by such agencies only in investigating or responding to reports of child abuse, neglect, or exploitation.

(b) Conditions of access

The access provided under this section, and associated rules of dissemination, shall be--

- (1) defined by the Attorney General; and

(2) limited to personnel of the Center or such agencies that have met all requirements set by the Attorney General, including training, certification, and background screening.

## **42 U.S.C.S. § 16962 (2012). Schools SAFE Act**

### **(a) Short title**

This section may be cited as the “Schools Safely Acquiring Faculty Excellence Act of 2006”.

### **(b) In general**

The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(f)(3)(A) of Title 28 as redesignated under subsection (e)) pursuant to a request submitted by--

(1) a child welfare agency for the purpose of--

(A) conducting a background check required under section 671(a)(20) of this title on individuals under consideration as prospective foster or adoptive parents; or

(B) an investigation relating to an incident of abuse or neglect of a minor; or

(2) a private or public elementary school, a private or public secondary school, a local educational agency, or State educational agency in that State, on individuals employed by, under consideration for employment by, or otherwise in a position in which the individual would work with or around children in the school or agency.

### **(c) Fingerprint-based check**

Where possible, the check shall include a fingerprint-based check of State criminal history databases.

### **(d) Fees**

The Attorney General and the States may charge any applicable fees for the checks.

### **(e) Protection of information**

An individual having information derived as a result of a check under subsection (b) of this section may release that information only to appropriate officers of child welfare agencies, public or private elementary or secondary schools, or educational agencies or other persons authorized by law to receive that information.

(f) Criminal penalties

An individual who knowingly exceeds the authority in subsection (b) of this section, or knowingly releases information in violation of subsection (e) of this section, shall be imprisoned not more than 10 years or fined under Title 18, or both.

(g) Child welfare agency defined

In this section, the term “child welfare agency” means--

(1) the State or local agency responsible for administering the plan under part B or part E of subchapter IV of chapter 7 of this title; and

(2) any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of subchapter IV of chapter 7 of this title, that is responsible for the licensing or approval of foster or adoptive parents.

(h) Definition of education terms

In this section, the terms “elementary school”, “local educational agency”, “secondary school”, and “State educational agency” have the meanings given to those terms in section 7801 of Title 20.

(i) Omitted

**18 U.S.C.S. § 2250 (2012). Failure to Register**

(a) In general.--Whoever--

(1) is required to register under the Sex Offender Registration and Notification Act;

(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be fined under this title or imprisoned not more than 10 years, or both.

(b) Affirmative defense.--In a prosecution for a violation under subsection (a), it is an affirmative defense that--

(1) uncontrollable circumstances prevented the individual from complying;

(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

(3) the individual complied as soon as such circumstances ceased to exist.

(c) Crime of violence.--

(1) In general.--An individual described in subsection (a) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States shall be imprisoned for not less than 5 years and not more than 30 years.

(2) Additional punishment.--The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a).

## **18 U.S.C.S. § 3563 (2012). Conditions of probation**

(a) **Mandatory conditions.**--The court shall provide, as an explicit condition of a sentence of probation--

(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another Federal, State, or local crime during the term of probation;

(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b);

(3) for a felony, a misdemeanor, or an infraction, that the defendant not unlawfully possess a controlled substance;

(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a public,

private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant; and

(5) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant;

(6) that the defendant--

(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and

(B) pay the assessment imposed in accordance with section 3013;

(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments;

(8) for a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act; and

(9) that the defendant cooperate in the collection of a DNA sample from the defendant if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000.

If the court has imposed and ordered execution of a fine and placed the defendant on probation, payment of the fine or adherence to the court-established installment schedule shall be a condition of the probation.

**(b) Discretionary conditions.**--The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553(a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant--

(1) support his dependents and meet other family responsibilities;

(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));

- (3) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555;
- (4) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip him for suitable employment;
- (5) refrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;
- (6) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons;
- (7) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;
- (8) refrain from possessing a firearm, destructive device, or other dangerous weapon;
- (9) undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose;
- (10) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense, during the first year of the term of probation or supervised release;
- (11) reside at, or participate in the program of, a community corrections facility (including a facility maintained or under contract to the Bureau of Prisons) for all or part of the term of probation;
- (12) work in community service as directed by the court;
- (13) reside in a specified place or area, or refrain from residing in a specified place or area;
- (14) remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;
- (15) report to a probation officer as directed by the court or the probation officer;



(16) permit a probation officer to visit him at his home or elsewhere as specified by the court;

(17) answer inquiries by a probation officer and notify the probation officer promptly of any change in address or employment;

(18) notify the probation officer promptly if arrested or questioned by a law enforcement officer;

(19) remain at his place of residence during nonworking hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration;

(20) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living;

(21) be ordered deported by a United States district court, or United States magistrate judge, pursuant to a stipulation entered into by the defendant and the United States under section 238(d)(5) of the Immigration and Nationality Act, except that, in the absence of a stipulation, the United States district court or a United States magistrate judge, may order deportation as a condition of probation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable;

(22) satisfy such other conditions as the court may impose or;

(23) if required to register under the Sex Offender Registration and Notification Act, submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.

**(c) Modifications of conditions.**--The court may modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the conditions of probation.

**(d) Written statement of conditions.**--The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which

the sentence is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

**(e) Results of drug testing.**--The results of a drug test administered in accordance with subsection (a)(5) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3565(b), when considering any action against a defendant who fails a drug test administered in accordance with subsection (a)(5)

### **18 U.S.C.S. § 3583 (2012). Inclusion of a term of supervised release after imprisonment**

**(a) In general.**--The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment, except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b).

**(b) Authorized terms of supervised release.**--Except as otherwise provided, the authorized terms of supervised release are--

(1) for a Class A or Class B felony, not more than five years;

(2) for a Class C or Class D felony, not more than three years; and

(3) for a Class E felony, or for a misdemeanor (other than a petty offense), not more than one year.

**(c) Factors to be considered in including a term of supervised release.**--The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).

**(d) Conditions of supervised release.**--The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision and that the defendant not unlawfully possess a controlled

substance. The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant. The court shall order, as an explicit condition of supervised release for a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act. The court shall order, as an explicit condition of supervised release, that the defendant cooperate in the collection of a DNA sample from the defendant, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000. The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test. The court may order, as a further condition of supervised release, to the extent that such condition--

(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b) and any other condition it considers to be appropriate, provided, however that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with section 3583(e)(2) and only when facilities are available. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported

and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation. The court may order, as an explicit condition of supervised release for a person who is a felon and required to register under the Sex Offender Registration and Notification Act, that the person submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.

**(e) Modification of conditions or revocation.**--The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)--

(1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice;

(2) extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision;

(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve on any such revocation more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or

(4) order the defendant to remain at his place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.

**(f) Written statement of conditions.**--The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

**(g) Mandatory revocation for possession of controlled substance or firearm or for refusal to comply with drug testing.**--If the defendant--

(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm;

(3) refuses to comply with drug testing imposed as a condition of supervised release; or

(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

**(h) Supervised release following revocation.**--When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment, the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

**(i) Delayed revocation.**--The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

**(j) Supervised release terms for terrorism predicates.**--Notwithstanding subsection (b), the authorized term of supervised release for any offense listed in section 2332b(g)(5)(B) is any term of years or life.

(k) Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a minor victim, and for any offense under section 1591, 2241, 2242, 2243, 2244, 2245, 2250, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term of years not less than 5, or life. If a defendant required to register under the Sex Offender Registration and Notification Act commits any criminal offense under chapter 109A, 110, or 117, or section 1201 or 1591, for which imprisonment for a term longer than 1 year can be imposed, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment under subsection (e)(3) without regard to the exception contained therein. Such term shall be not less than 5 years.