

**SEX OFFENDER REGISTRATION & RELATED REQUIREMENTS  
(UNITED STATES TERRITORIES AND FEDERAL LEGISLATION)**

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# GUAM

## GUAM CODE ANN. tit. 9, § 89.01 (2008) 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) 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) '*Sexually violent offense*' refers to any of the following:

(1) criminal sexual conduct involving sexual penetration or sexual contact when the actor causes personal injury to the victim and either of the following circumstances exists: (A) force or coercion is used to accomplish the sexual penetration or contact; *or* (B) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless;

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

(3) criminal sexual conduct involving sexual penetration or sexual contact where the

actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

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

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

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

(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 criminal sexual conduct offense.

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

(h) The 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 bases or for the purpose of government or educational benefit.

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

(j) "Institution of higher education" means post secondary school.

(k) 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 Authority of Guam Police, the Parole Services Division of the Department of Corrections, the Superior Court of Guam Probation Services Division, the U.S. Probation Office, the U.S. Marshal's Service, the Conservation Office of the Department of Agriculture, the A. B. Won Pat International Airport Guam Police, the Attorney Generals Office's Family and Prosecution Divisions, the Superior Court of Guam and its 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 Institution of Higher Education, the Guam Police Department is the recognized law enforcement agency with jurisdiction over Guam's Institution of Higher Education.

(l) '*Court*' means the Superior Court of Guam.

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

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

(o) 'Change in enrollment or employment status' means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

**GUAM CODE ANN. tit. 9, § 89.02 (2008). Classification of Offenders.**

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

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

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

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

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

**GUAM CODE ANN. tit. 9, § 89.03 (2008) Registration; Duty to Register.**

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

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

- (A) a sexually violent offense;
  - (B) a criminal sexual conduct offense; *or*
  - (C) a criminal offense against a victim who is a minor.
- (2) any person who, since January 1, 1993, has been or is hereafter convicted in any Federal or military court for a violation of any of the following offenses:

- (A) an offense under Title [18 USC §§ 2241](#) or 2242; *or*
  - (B) a criminal offense against a victim who is a minor.
- (3) any person convicted in another state, territory or tribe of any of the following offenses if that person is required to register in the state, territory or tribe wherein that person was convicted of any of the following:

- (A) a criminal sexual conduct offense; *or*
  - (B) a criminal offense against a victim who is a minor.
- (4) any person who is a non-resident who is on Guam for the purpose of work or education and:

(A) who is or has been convicted in another state, territory or tribal jurisdiction of a criminal sexual conduct offense, or a criminal offense against a victim who is a minor and is required to register in the state, territory or tribal jurisdiction wherein that person was convicted; *or*

(B) who, since January 1, 1993, has been or is hereafter convicted in a military court or a court in another state, territory or tribal jurisdiction, of a criminal sexual conduct offense or a criminal offense against a victim who is a minor.

(b) Registration Requirements; Information to be Registered.

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

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

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

(C) anticipated future residence;

(D) current and anticipated employment;

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

(F) documentation of treatment;

(G) fingerprints;

(H) current photograph; and

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

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

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

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

(C) fingerprints;

(D) current photograph; *and*

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

(3) 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), original name, place of offense, date of birth, social security number or prior residence.

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

(c) Biological Samples.

(1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense, or of a criminal offense against a victim who is a minor, shall provide a biological sample to the Guam Police Department for DNA typing *no later than* thirty (30) calendar days after the person's sentencing.

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

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

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

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

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

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

(2) Where a Person Required to Register is Sentenced to Probation. Initial registration information must be provided to the Probation Services Division of the Superior Court of Guam *no later than* the date the person is scheduled to be placed on probation.

Intentional or knowing failure to provide this information by that date shall result in the revocation of the person's probation and shall make that person *ineligible* for probation.

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

(4) Where a Person Required to Register is No Longer Under the Supervision of Either Probation or Parole at the Time of the Passage of This Law. Subject to written notice by certified or registered mail provided by the Superior Court of Guam to a person as described in this Section, initial registration information must be provided to the Guam Police Department *no later than* one (1) year after receipt of written notice by the person. The Guam Police Department shall transmit the information to the Court *no later than*

three (3) business days thereafter for inclusion into the Sex Offender Registry database. Intentional or knowing failure to register pursuant to this Subsection is a felony of the third degree.

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

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

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

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

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

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

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

(C) documentation of treatment;

(D) a current photograph; *and*

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

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

the registrant shall verify the following information on the following business day:

- (A) current physical and mailing addresses;
  - (B) recent criminal offenses, *if any*;
  - (C) documentation of treatment, *if any*;
  - (D) a current photograph; *and*
  - (E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.
- (3) Level Three Offender. The registrant shall verify registered information in the same manner as a Level Two Offender.
- (4) Notwithstanding Subsections (a), (b) *and* (c) of this Section, a registrant shall register the registrant's new physical address with the Court within seven (7) calendar days of any change in physical residence. If a registrant anticipates moving from Guam, that registrant shall register his intended place of residence with the Court *no later than* three (3) calendar days before his departure from Guam.

(g) Registration Requirements for Offenders Enrollment and Employment in an Institution of Higher Education. The registrant must update the name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the registrant is enrolled, employed or carrying on a vocation in an institution of higher education within seven (7) days of any changes in employment or enrollment in an institution of higher education with the Guam Police Department.

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

- (1) Parolee. A parolee shall personally present oneself to the parolee's parole officer and verify the registered information with the parole officer;
- (2) Probationer. A probationer shall personally present oneself to the person's probation officer and verify the registered information with the probation officer;
- (3) Dual Supervision. A person under dual supervision, that is, the person is supervised by both parole and probation, shall personally present oneself to that person's probation officer; *and*
- (4) Others. All registrants, including persons who are no longer under supervised parole or probation, shall personally appear at the Guam Police Department, Records Section, and register with the Guam Police Department.

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

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

### **GUAM CODE ANN. tit. 9, § 89.04 (2008) Registration**

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

- (a) Lifetime; Level One and Level Two Offenders. A Level One and Two Offender must comply with this Chapter for the length of that person's life.
- (b) Ten (10) Years. A person deemed a Level Three Offender shall register pursuant to § 89.03(b)(2), and Subsections (2) and (3) of § 89.03(f), for a period of ten (10) years from the date of that person's release on probation or release on parole.
- (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, then the period of registration is tolled and remains tolled until the registrant's subsequent release. 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 (2008) Penalties.**

- (a) Initial Registration. Intentional or knowing failure to provide initial registration information shall delay the registrant's release *if* the registrant is to be released, or make the registrant ineligible for probation if the registrant is to be placed on probation. Intentional or knowing failure to provide initial registration information is a felony of the third degree.
- (b) Verification. The failure to verify registered information is a misdemeanor. A second or subsequent failure to so register is a felony of the third degree. Failure of a probationer or parolee to so register may result in sanctions pursuant to 8 GCA § 80.66 *and* 9 GCA § 80.82, *respectively*.
- (c) Address Changes. A registrant's failure to register the registrant's new physical address within seven (7) calendar days of any change of physical address is a misdemeanor. A second or subsequent failure to so register is a felony of the third degree. Failure of a registrant who is a probationer or parolee to so register may result in sanctions pursuant to 9 GCA § 80.66 *and* 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 Guam Police Department within seven (7) calendar days of any change would constitute a failure to register or keep such registration current is a felony of the third degree.

### **GUAM CODE ANN. tit. 9, § 89.06 (2008) Duties of the Department of Corrections and the Court; Initial Registration.**

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

- (a) inform the registrant of the duty to register and obtain the information required for such registration;
- (b) inform the registrant that *if* the registrant changes residence on Guam, the registrant shall provide the new residential address to the Court;
- (c) inform the registrant that *if* the registrant moves to another state or territory, the registrant shall report the change of address to the Court *no later than* three (3) calendar days of the registrant's leaving Guam, and shall comply with any registration requirement of the new state or territory;
- (d) inform the registrant that *if* the registrant is, or becomes, employed, carries on a vocation, or becomes a student in another state or territory, then the registrant must comply with the registration requirement of that new state or territory;
- (e) obtain all information that must necessarily be gathered for the registrant's initial registration, and inform the registrant that the registrant must provide the registrant's fingerprints, a photograph and a biological sample to the Guam Police Department. The Department of Corrections or the Office of Probation shall facilitate the obtaining of fingerprints, photograph and biological sample. After this information is gathered, the Guam Police Department shall retain the biological sample and transmit the fingerprints and photograph to the Court within three (3) calendar days;
- (f) require the registrant to read and sign a form stating that the registrant's duty to register under this Chapter has been explained; *and*
- (g) forward information described in (f) above to the Court within three (3) calendar days after receipt thereof.
- (h) inform the registrant that if the registrant enrolls at, is employed at, or carries on a vocation at an institution of higher education in Guam the registrant must inform the Guam Police Department, and to notify the Guam Police Department of any change in such enrollment or employment status at the institution of higher education within seven (7) calendar days of any changes.
- (i) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrants at the institution of higher education is promptly

made available to the Guam Police Department.

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

**GUAM CODE ANN. tit. 9, § 89.07 (2008) Duties of the Department of Corrections and the Court, Verification of Registered Information.**

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

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

**GUAM CODE ANN. tit. 9, § 89.08 (2008) Duties of the Guam Police Department.**

(a) Upon receipt of the information that is required to be registered or verified pursuant to this Chapter, the Guam Police Department shall *immediately*, and *no later than* three (3) business days of receipt of this information, transmit the information to the Court which shall record this information in the Sex Offender Registry database. The Guam Police Department shall also immediately transmit the registrant's photograph, fingerprints, conviction data and current residence to the Court. In addition to sex offender data, the Guam Police Department shall also immediately transmit all felony fingerprints to the Court. The Court shall forward these fingerprints to the Federal Bureau of Investigation's Automated Fingerprint Identification System ('AFIS') for assignment of a fingerprint identification number.

(b) inform the registrant that if the registrant enrolls at, is employed at, or carries on a vocation at an institution of higher education in Guam the registrant must inform Guam Police Department, and to notify the Guam Police Department of any change in such enrollment or employment status at the institution of higher education within seven (7) calendar days.

(c) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrant at the institution of higher education is promptly made available to the Guam Police Department.

(d) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrant at the institution of higher education is provided to

the Superior Court of Guam *no later than* three (3) business days of receipt of the information to be entered into Guam's Sex Offender Registry.

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

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

(g) Notification of FBI Regarding Changes of Address.

Upon receipt of information that registrant is or has changed residence within Guam, or is anticipated to move from Guam to another state, territory or tribe, the Guam Police Department shall transmit the new address to the Federal Bureau of Investigation *no later than* three (3) business days after receipt of this information.

### **GUAM CODE ANN. tit. 9, § 89.09 (2008) Duties of the Court.**

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

(b) Fees. The Court 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. Fifty percent (50%) of the fee paid by the registrant shall be given to the Court and the remaining fifty percent (50%) shall go to the Guam Police Department.

### **GUAM CODE ANN. tit. 9, § 89.10 (2008) Notification.**

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

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

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

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

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

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

(c) Method of Release of Information. The Court shall maintain an Internet web-page dedicated to persons required to register, which shall contain the information that is required to be released. The released information shall be updated during the first week of every month. The community shall have access to the Sex Offender Registry Web Page. The Court shall transmit released information concerning Level One and Level Two Offenders to the Guam Public School System, the Guam Community College, the University of Guam, all public and private schools, day care centers, victim shelters and victim advocates on the first week of every month. The Court may transmit information concerning Level One and Level Two Offenders directly to the media for dissemination.

### **GUAM CODE ANN. tit. 9, § 89.11 (2008) Immunity for Good Faith Conduct.**

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

### **GUAM CODE ANN. tit. 4, § 4203.3 (2008) 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 (2008) 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 (2006) Definitions**

The following terms shall have the meaning stated hereinbelow:

(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 (2006) 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:

National Center for Prosecution of Child Abuse  
National District Attorneys Association

(a) Persons who are convicted for any of the following crimes or the attempt thereof: rape, seduction, sodomy, lewd or lascivious acts, procuring, ruffianism, or trade of persons when the victim is under eighteen (18) years of age and the offense is aggravated; crimes against the protection of children, incest, restraint of freedom when the victim is under sixteen (16) years and not his/her child, kidnapping when the victim is under eighteen (18) years of age and is not his/her child; child theft, child perversion when a child under eighteen (18) years of age is admitted or held in a house of prostitution or sodomy; aggravated abuse against a child and conjugal sexual aggression comprised in Articles 99, 101, 103, 105 110(a) and (c) and 111, 115 122, 131(c), 137A(a), 160 and 163(c) of Act No. 115 of July 22, 1974, as amended, and in 632(g) and 635 of Title 8, and in the crime of child abuse established in 477u and 447v 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 (2006) 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) Before the person registered is freed for having served his/her sentence, probation, parole or for participating in a diversion, treatment or rehabilitation program established by the Corrections Administration, said Administration shall notify the person that he/she must inform the same to the Police Headquarters of the jurisdiction in which he/she resides within a term of less than ten (10) calendar days.

(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 (2006) 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 (2006) 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 (2006) 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 (2006) 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 (2006) 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 (2006) 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 (2009). Definitions**

For purposes of this chapter:

(a) The term "minor" means a person under the age of 18.

(b) The term "criminal offense against a minor" means any criminal offense that consists of--

(1) kidnapping or false imprisonment of a minor, except by a parent, as described in sections 1051 and 1052 of Title 14;

(2) any sexual offense against a minor as described in sections 1700, 1701, 1702 and 1708 of Title 14;

(3) solicitation of a minor to engage in sexual conduct or practice prostitution as described in sections 1622 and 1625 of Title 14;

(4) use of a minor in a sexual performance; and

(5) an offense similar to any offense enumerated in items (1)-(4) proscribed under the laws of the United States or any other state, territory or country.

(6) For purposes of this subsection, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 17 years of age or younger.

(c) The term "sexually violent offense" means aggravated rape, rape in the first degree, unlawful sexual contact in the first degree, and kidnapping with intent to commit rape as described in sections 1052(b), 1700, 1701 and 1708 of Title 14; or an offense similar to any of the foregoing offenses proscribed under the laws of the United States or any other state, territory or country.

(d) The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(e) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(f) The term "predatory" means an act directed at a stranger, family member, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

### **V.I. CODE ANN. tit. 14, § 1722 (2009). Duty to Register**

(a) A person convicted or found not guilty by reason of insanity on or after July 1, 1994 of a criminal offense against a minor or of a sexually violent offense shall register as provided in section 1724 of this chapter.

(b) A person who has been determined to be a sexually violent predator by a court of competent jurisdiction shall register as provided in section 1724 of this chapter.

(c) A person who has been convicted on or after the effective date of this subsection, of the criminal offense relating to the possession or distribution of child pornography shall register as provided in section 1724 of this chapter.

(d) For purposes of this section, a person convicted or found not guilty by reason of insanity in a federal, military or foreign court shall have the same duty to register as any

other person under this section.

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

**V.I. CODE ANN. tit. 14, § 1723 (2009). Court determination; territorial board**

(a) A determination that a person is a sexually violent predator shall be made by the sentencing court after receiving a report from the territorial board described in subsection (b) of this section.

(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 United States Virgin Islands for a term of four years.

**V.I. CODE ANN. tit. 14, § 1724 (2009). Registration requirements**

(a) A person required to register under the provisions of this chapter shall do so on forms to be provided by the Attorney General of the United States Virgin Islands as follows:

(1) A person who is required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar program shall register within five working days of being placed under supervision, or no later than 120 days after October 31, 1997;

(2) A person confined in a correctional or juvenile facility or involuntarily committed who is required to register shall register prior to release in accordance with procedures established by the Attorney General;

(3) A person required to register who is not confined or under supervision on October 31, 1997 shall register within 120 days of October 31, 1997;

(4) A person moving to or returning to the United States Virgin Islands from another jurisdiction shall register with the Department of Justice within 120 days of October 31, 1997 or within five (5) days of first residing in or returning to the United States Virgin Islands, whichever is later.

(b) Upon a change of address within the United States Virgin Islands, a person required to register shall notify the Department of Justice in writing and must re-register with that department no more than three days after he moves to his new address.

(c) Upon a change of address outside the United States Virgin Islands, a person required to register shall register his new address with the Department of Justice before he leaves and also register in the new state not later than ten (10) days after establishing residence there if the new state has a registration requirement.

(d) A person required to register under section 1722(a) of this chapter shall verify his address with the Department of Justice annually on the anniversary of his initial registration date in a manner prescribed by the Attorney General. A person required to register under section 1722(b) of this chapter shall verify his address with the Department of Justice every ninety (90) days after the date of his initial release or commencement of parole in a manner prescribed by the Attorney General.

(e) A person required to register under this chapter shall continue to comply with this chapter until fifteen (15) years have elapsed since his initial registration date, if not imprisoned during that period. A person required to register under this chapter who is imprisoned during the initial fifteen-year period, shall continue to comply with this chapter for a period of fifteen years after his last release from prison, regardless of the crime for which he was imprisoned.

(f) A person shall be registered for life, if that person:

(1) has 2 or more convictions or has been found not guilty by reason of insanity of a criminal offense against a minor; or

(2) has been convicted of or found not guilty by reason of insanity for a sexually violent offense or as a sexually violent predator.

#### **V.I. CODE ANN. tit. 14, § 1725 (2009). 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 in the Police Department 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 in a manner reasonably calculated to reach the general public within thirty (30) days of October 31, 1997.

**V.I. CODE ANN. tit. 14, § 1726 (2009) Registration forms; contents; transmission of form**

(a) Within sixty (60) days of October 31, 1997, the Attorney General shall prepare the form of registration statement as required in section 1724 of this chapter and shall provide such forms to the Police Department, the Bureau of Corrections, the Division of Probation, the Division of Parole, the Department of Human Services, and the Division of Mental Health.

(b) The form of registration required by this chapter shall include:

(1) A statement in writing signed by the person required to register acknowledging that the person has been advised of the duty to register and re-register imposed by this chapter and including the person's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, address of any current temporary residence and anticipated future residence, date and place of employment;

(2) Date and place of each conviction or acquittal by reason of insanity, indictment number, fingerprints, photograph and a brief description of the crime or crimes for which registration is required; and

(3) Any other information that the Attorney General deems necessary to assess risk of future commission of a crime, including criminal and corrections records, nonprivileged personnel records, records of treatment received for mental abnormality and/or personality disorder, abuse registry records, and evidentiary genetic markers when available.

(c) Within three days of receipt of a registration pursuant to section 1724 of this chapter, the registering agency shall forward the statement and any other required information to the Attorney General. If the registrant will reside in a different state or territory, the Attorney General shall transmit the registration form to the appropriate law enforcement agency in the new state or territory if the new place has a registration requirement.

(d) The Attorney General shall install and maintain a computer system compatible with that of the National Criminal Information Center ("NCIC"), and upon receipt of the registration forms of persons required to register pursuant to this chapter, shall immediately enter the information into a central registry maintained on the computer system. The Attorney General shall promptly transmit all required registration information to the Federal Bureau of Investigation.

(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 (2009). 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) The Attorney General shall release to the public relevant and necessary information regarding a specific person required to register under this chapter when the release of the information is necessary for public protection; except that the identity of a victim of an offense whose perpetrator 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) The Attorney General shall notify the owner of a child-care facility whenever a person who is required to register under this chapter lives within a one-mile radius of that child-care facility.

#### **V.I. CODE ANN. tit. 14, § 1728 (2009) Immunity for good-faith conduct from civil and criminal liability for providing or failing to provide relevant information**

Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information relevant to the procedures set forth in this chapter shall not be liable in any civil or criminal action. Nothing herein shall be deemed to grant any such immunity to any person for his willful or wanton act of commission or omission.

#### **V.I. CODE ANN. tit. 14, § 1729 (2009) Duties of employers**

(a) All owners, employers and/or prospective employers who operate child-care facilities shall apply for a NCIC check through the Department of Justice before hiring an employee to work in that facility or within thirty (30) days after October 31, 1997. A photo identification of the person being investigated must be presented to verify his

identity.

(b) The Department of Licensing and Consumer Affairs shall advise each applicant for a business license to operate a child-care facility of the requirements of this section and shall require each applicant to sign a statement acknowledging that that applicant has been so advised.

(c) A person listed in the NCIC and required to register pursuant to this chapter shall not be eligible for employment in a child-care facility licensed in the United States Virgin Islands.

(d) A person listed in the NCIC and required to register pursuant to this chapter shall not be granted a license to operate a child-care or child-residential treatment facility, or be licensed as a foster home or approved as an adoptive home; and an applicant for a business license whose employee or prospective employee is listed in the NCIC and required to register pursuant to this chapter shall not be granted a license to operate a child-care facility.

(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.

#### **V.I. CODE ANN. tit. 14, § 1730 (2009) 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.

#### **V.I. CODE ANN. tit. 14, § 1731 (2009) 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.

## UNITED STATES – FEDERAL LEGISLATION

### **42 USCS § 16901 (2009). 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 § 14071 (2009). Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program**

(a) In general

(1) State guidelines

The Attorney General shall establish guidelines for State programs that require--

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address for the time period specified in subparagraph (A) of subsection (b)(6) of this section; and

(B) a person who is a sexually violent predator to register a current address for the time period specified in subparagraph (B) of subsection (b)(6) of this section.

(2) Determination of sexually violent predator status; waiver; alternative measures

(A) In general

A determination of whether a person is a sexually violent predator for purposes of this section shall be made by a court after considering the recommendation of a board composed of experts in the behavior and treatment of sex offenders, victims' rights advocates, and representatives of law enforcement agencies.

(B) Waiver

The Attorney General may waive the requirements of subparagraph (A) if the Attorney General determines that the State has established alternative procedures or legal standards for designating a person as a sexually violent predator.

(C) Alternative measures

The Attorney General may also approve alternative measures of comparable or greater effectiveness in protecting the public from unusually dangerous or recidivistic sexual offenders in lieu of the specific measures set forth in this section regarding sexually violent predators.

(3) Definitions

For purposes of this section:

(A) The term “criminal offense against a victim who is a minor” means any criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the following range of offenses:

(i) kidnapping of a minor, except by a parent;

- (ii) false imprisonment of a minor, except by a parent;
- (iii) criminal sexual conduct toward a minor;
- (iv) solicitation of a minor to engage in sexual conduct;
- (v) use of a minor in a sexual performance;
- (vi) solicitation of a minor to practice prostitution;
- (vii) any conduct that by its nature is a sexual offense against a minor;
- (viii) production or distribution of child pornography, as described in [section 2251](#), [2252](#), or [2252A of Title 18](#); or
- (ix) an attempt to commit an offense described in any of clauses (i) through (vii), if the State--
  - (I) makes such an attempt a criminal offense; and
  - (II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

For purposes of this subparagraph conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(B) The term “sexually violent offense” means any criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by aggravated sexual abuse or sexual abuse (as described in [sections 2241 and 2242 of Title 18](#) or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of Title 18 or as described in the State criminal code).

(C) The term “sexually violent predator” means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(D) The term “mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(E) The term “predatory” means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(F) The term “employed, carries on a vocation” includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

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

(b) Registration requirement upon release, parole, supervised release, or probation

An approved State registration program established under this section shall contain the following elements:

(1) Duties of responsible officials

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall--

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(iii) inform the person that if the person changes residence to another State, the person shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection (a)(1) of this section, the State prison officer, the court, or another responsible officer or official, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) Transfer of information to State and FBI; participation in National Sex Offender Registry

(A) State reporting

State procedures shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system. State procedures shall also ensure that conviction data and fingerprints for persons required to register are promptly transmitted to the Federal Bureau of Investigation.

(B) National reporting

A State shall participate in the national database established under [section 14072\(b\)](#) of this title in accordance with guidelines issued by the Attorney General, including transmission of current address information and other information on registrants to the extent provided by the guidelines.

(3) Verification

(A) For a person required to register under subparagraph (A) of subsection (a)(1) of this section, State procedures shall provide for verification of address at least annually.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1) of this section, except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) Notification of local law enforcement agencies of changes in address

A change of address by a person required to register under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) Registration for change of address to another State

A person who has been convicted of an offense which requires registration under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

(6) Length of registration

A person required to register under subsection (a)(1) of this section shall continue to comply with this section, except during ensuing periods of incarceration, until--

(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

(B) for the life of that person if that person--

(i) has 1 or more prior convictions for an offense described in subsection (a)(1)(A) of this section; or

(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A) of this section; or

(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2) of this section.

(7) Registration of out-of-State offenders, Federal offenders, persons sentenced by courts martial, and offenders crossing State borders

As provided in guidelines issued by the Attorney General, each State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from--

(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

(B) nonresident offenders who have crossed into another State in order to work or attend school.

(c) Registration of offender crossing State border

Any person who is required under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student.

(d) Penalty

A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(e) Release of information

(1) The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State.

(2) The State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released. The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public and instructions on the process for correcting information that a person alleges to be erroneous.

(f) Immunity for good faith conduct

Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and State officials shall be immune from liability for good faith conduct under this section.

(g) Compliance

(1) Compliance date

Each State shall have not more than 3 years from September 13, 1994, in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

(2) Ineligibility for funds

(A) A State that fails to implement the program as described in this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under [section 3756](#) of this title.

(B) Reallocation of funds

Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

(h) Fingerprints

Each requirement to register under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under [section 14072\(h\)](#) of this title.

(i) Grants to States for costs of compliance

(1) Program authorized

(A) In general

The Director of the Bureau of Justice Assistance (in this subsection referred to as the “Director”) shall carry out a program, which shall be known as the “Sex Offender Management Assistance Program” (in this subsection referred to as the “SOMA program”), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

(B) Uses of funds

Each grant awarded under this subsection shall be--

- (i) distributed directly to the State for distribution to State and local entities; and
- (ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

(2) Eligibility

(A) Application

To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application (in such form and containing such information as the Director may reasonably require) assuring that--

- (i) the State complies with (or made a good faith effort to comply with) this section; and
- (ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

(B) Regulations

(i) In general

Not later than 90 days after October 30, 1998, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

(ii) Certain training programs

Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of [section 13941](#) of this title. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

(3) Authorization of appropriations

There is authorized to be appropriated for each of the fiscal years 2004 through 2007 such sums as may be necessary to carry out the provisions of [section 3796\(d\)](#)(10) of this title.

(j) Notice of enrollment at or employment by institutions of higher education  
(1) Notice by offenders

(A) In general

In addition to any other requirements of this section, any person who is required to register in a State shall provide notice as required under State law--

(i) of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student; and

(ii) of each change in enrollment or employment status of such person at an institution of higher education in that State.

(B) Change in status

A change in status under subparagraph (A)(ii) shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated information is promptly made available to a law enforcement agency having jurisdiction where such institution is located and entered into the appropriate State records or data system.

(2) State reporting

State procedures shall ensure that the registration information collected under paragraph (1)--

(A) is promptly made available to a law enforcement agency having jurisdiction where such institution is located; and

(B) entered into the appropriate State records or data system.

(3) Request

Nothing in this subsection shall require an educational institution to request such information from any State.

**42 U.S.C.S. § 16912 (2009). 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.

**18 U.S.C.S. § 2250 (2009). 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 [[10 USCS §§ 801](#) et seq.]), 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 [[10 USCS §§ 801](#) et seq.]), 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 (2009). 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 [[18 USCS §§ 3551](#) et seq.], 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) [[18 USCS § 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;

(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 [[18 USCS §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664](#)]; and

(B) pay the assessment imposed in accordance with section 3013 [[18 USCS § 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 [[42 USCS § 14135a](#)].

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) [[18 USCS § 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) [[18 USCS § 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) [[18 USCS § 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 [[18 USCS § 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 [[8 USCS § 1228\(d\)\(5\)](#)], 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) [[18 USCS § 3565](#)], 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 (2009). 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) [[18 USCS § 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) [[18 USCS § 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) [[18 USCS § 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 [[42 USCS § 14135a](#)]. 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) [[18 USCS § 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) [[18 USCS § 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) [[18 USCS § 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) [[18 USCS § 3563\(b\)](#)] and any other condition it considers to be appropriate, provided, however that a condition set forth in subsection 3563(b)(10) [[28 USCS § 3563\(b\)\(10\)](#)] shall be imposed only for a violation of a condition of supervised release in accordance with section 3583(e)(2) [[18 USCS § 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) [[18 USCS § 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 \[18 USCS § 921\]](#), 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) [[18 USCS § 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 [[18 USCS § 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 [[18 USCS § 1591](#), [2241](#), [2242](#), [2244\(a\)\(1\)](#), [2244\(a\)\(2\)](#), [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 [[18 USCS §§ 2241](#) et seq., [2251](#) et seq., [2421](#) et seq., [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.