

AN ACT

To repeal and reenact Public Law 11-35; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Repealer and Reenactment. Public Law 11-35 is hereby repealed and reenacted as follows:

"Section 1. Findings. The Legislature finds that the Justice Department recently granted states two-year extensions based on good faith efforts to achieve compliance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. This Act is a key element of the Violent Crime Control and Law Enforcement Act of 1994, which provides financial incentives for states to establish effective registration systems for child molesters and other sexually violent offenders. The Legislature further finds that the Justice Department included provisions of the Pam Lychner Act as amendments to the Wetterling Act that created a limited number of new requirements for state registration programs, including a requirement that the perpetrators of particularly serious offenses and recidivists be subject to lifetime registration. States can take advantage of these incentives if they make good faith efforts to be in compliance with these amendments by September 12, 1999, for the Wetterling Act and by October 3, 1999 for the Pam Lychner Act.

Section 2. Definitions.

(a) 'Criminal sex offense against a victim who is a minor' means any criminal offense that consists of the following:

- 1) Kidnapping of a minor, except by a parent;
- 2) Rape;
- 3) Sexual Torture;
- 4) Sexual Abuse;
- 5) Sodomy;

- 6) Enticing a child to enter a vehicle, room, house, office, or other place, for immoral purposes;
- 7) Promoting prostitution;
- 8) Incest when the offender is an adult and the victim is a minor;
- 9) Soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material to a child by computer;
- 10) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs (1) to (9), inclusive; or,
- 11) Any crime committed in another state, territory, or a federal, military, Indian, or a foreign country jurisdiction which, if it had been committed in the CNMI would constitute an offense listed in paragraphs (1) to (9), inclusive.

For purposes of this section, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 15 years of age or younger.

(b) 'Sexually violent offense' means any criminal offense that consists of aggravated sexual abuse or sexual abuse 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.

(c) '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 sexual violent offenses.

(d) 'Commissioner of DPS' means the Commissioner of the Department of Public Safety or designee.

(e) 'Mental Abnormality' means a condition involving a disposition to commit criminal sexual acts of such a degree that it makes the person a menace to others.

(f) 'Predatory' means an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(g) 'Responsible Agency' means a person or government entity whose duty it is to obtain information from a criminal sex offender before release and

to transmit that information to police departments or law enforcement agencies responsible for providing community notification. For a criminal sex offender being released from prison, the responsible agency is the Division of Corrections. For a criminal sex offender being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court. For a criminal sex offender who is being released from a jurisdiction outside the CNMI and who is to reside in the CNMI, the responsible agency is the Department of Public Safety

(h) 'Community Notification Flyer' This notification shall include the following information of the criminal sex offender: Name; actual living address; sex; date of birth; complete physical description, including distinguishing features such as scars, birth marks, or any identifying physical characteristics; and a current photograph. This notification shall also include a statement of the criminal sex offense for which he or she has been convicted, including the age and gender of the victim, the geographic area where the offense occurred, and the date upon which the criminal sex offender will be released. This notification shall also include a statement that the same information is on file at DPS and that the information will be available to the general public for inspection and identification purposes during regular business hours.

Section 3. Registration.

(a) Initiation Registration and Duration. Persons convicted of criminal offenses against victims who are minors or sexually violent offenses as defined under this Act must register a current address for a ten-year minimum period measured from the date the person was released from prison or placed on parole, supervised release, or probation. Initial registration shall occur thirty (30) days before the time of release or placement, and may be required as condition of parole, supervised release, or probation. The registration requirement during the minimum ten-year period may not be terminated unless the underlying offense conviction is reversed, set aside or vacated, or the registrant is pardoned.

(b) Coverage of Offenders. Resident offenders convicted within the CNMI of any of the covered offenses under this Act against victims who are

minors or sexually violent offenses are required to register thirty (30) days prior to release from prison and shall comply with all CNMI sex offender registration provisions or standards. The responsible agency shall require the criminal sex offender to declare in writing the actual living address at which he or she will reside upon release. An intentional failure to provide a timely and accurate written declaration shall be a misdemeanor punishable by up to \$1,000 dollars and one year of imprisonment.

(c) Duty of Commissioner of DPS and the Superior Court. If a person who is required to register under this Section is released from prison, or placed on parole, supervised release, or probation, the Commissioner of DPS, or in the case of probation, the court, or in case of parole, the parole officer, shall:

(1) Inform the criminal sex offender of the duty to register and obtain the information required for such registration or verify that such information has already been obtained;

(2) Inform the criminal sex offender that if he or she changes his or her residence address, the criminal sex offender is required to give the new address to DPS as follows:

If the criminal sex offender changes residence within the CNMI, the criminal sex offender is required by law to register within two (2) days the new address with DPS on the island where he or she resides. If the criminal sex offender moved to a different island within the CNMI, the criminal sex offender shall register with the DPS office on the new island of residence. If the criminal sex offender moves from the CNMI to a different state or territory, the criminal sex offender shall inform DPS of his departure from the CNMI and shall register with the designated law enforcement agency in the new state no later than two (2) days after arriving at his or her new place of residence in the state, if the state has a registration requirement.

(3) Obtain fingerprints, a current photograph of the criminal sex offender, date of birth, social security number, criminal history, place of employment, and vehicle registration if these have not already been obtained; and

(4) Require the criminal sex offender to read and sign a form stating that the duty of the person to register under this section has been explained.

(d) Transmission of Registration Information. Registration information shall be transmitted by the Department of Public Safety to a law enforcement agency having jurisdiction where the criminal sex offender expects to reside whether within or without the CNMI and the information entered into appropriate state records or data system to ensure the information will be available to both local and state law enforcement agencies.

The Commissioner of DPS shall promptly transmit conviction data and fingerprints of registrants to the FBI, if DPS has not already sent the information to the FBI, at the time of conviction.

(e) Change of Address Procedures. Criminal sex offenders are to report address changes in the manner prescribed in (c)2 above. The Commissioner of DPS shall within five (5) days transmit the updated address information to law enforcement agencies with jurisdiction where the criminal sex offender will reside and shall also within five (5) days enter the information into the appropriate CNMI records and data system.

(f) In every case when a criminal sex offender is released, he or she must reside for a minimum of thirty (30) days at the address stated in his or her declaration of intent unless he or she obtains written approval from the Commissioner of DPS before changing his or her place of residence.

(g) If a criminal sex offender transfers his or her residence to a different location after the minimum thirty (30) day period or earlier with prior written approval from the Commissioner of DPS, all other provisions for reporting the move shall apply.

(h) Registration of Federal and Military Criminal Sex Offenders. Registration requirements, as set forth in this Act, shall apply to criminal sex offenders, who reside in the CNMI, convicted of federal offenses or sentenced by military court martial, where the federal conviction or court martial sentence was for a criminal offense against a minor or a sexually violent offense, as set forth in this Act.

(i) These registration requirements apply to criminal sex offenders convicted within the CNMI of violations of CNMI law, and to criminal sex offenders convicted in other jurisdictions of offenses for which the criminal sex offender would be or is required to register in the jurisdiction where the conviction occurred or if the conviction is an offense for which registration would be required in the CNMI had the offense been committed within the CNMI.

Section 4. Notification. Thirty days prior to the release of a criminal sex offender for any criminal sex offense conviction from prison, the following shall apply:

(a) If the criminal sex offender declares his or her intent to reside within the CNMI, the Commissioner of DPS shall within five (5) days of the written declaration notify the community, all public and private schools, and licensed day care centers of the criminal sex offender's declared residence. Such information shall include, but not limited to, a current photograph, criminal history, each sex offense history or presentence investigation of the sex offense, and, vehicle registration. A community notification flyer shall be made by regular mail or hand delivered to all legal residences residing within 1500 feet of the declared residence of the released criminal sex offender. In addition, any other method reasonably expected to provide notification may be utilized, including but not limited to, posting a copy of the notice in a prominent place closest to the declared residence of the released criminal sex offender, publicizing the notice in a local newspaper, or posting electronically, including the Internet, or other means available.

(b) If the criminal sex offender declares his or her intent to reside outside of the CNMI, the Commissioner of DPS within five (5) days of the written declaration shall notify the Director of the Department of Public Safety, Attorney General or the designated state law enforcement agency of the state to which the criminal sex offender has declared his or her intent to move. The notification shall include all information available which would be necessary to identify and trace the criminal sex offender including, but not limited to, each sex offense history or presentence investigation of the sex offense, fingerprints, and a current photograph of the criminal sex offender.

(c) In the best interest of the community, notification shall include mail, personal notification and or use of the print and electronic media.

(d) The Office of the Attorney General shall investigate a responsible agency that fails to comply with the notification procedures set forth in this section. Conviction for failure to notify under this section shall be punishable by a fine of not more than \$1,000 or by imprisonment not to exceed sixty (60) days or both.

Section 5. Location Verification.

(a) Sixty (60) days after a criminal sex offender's most current release and, except during ensuing periods of incarceration, thereafter, the Commissioner of Public Safety shall mail a non-forwardable verification form to the criminal sex offender or develop any other method reasonably expected such as direct observation to verify the validity of the criminal sex offenders registration address.

(b) Within five (5) days of the receipt of the verification form, the criminal sex offender shall personally report to DPS to be fingerprinted and photographed and to return a completed verification form. The verification form shall be signed by the criminal sex offender and shall state that the criminal sex offender still resides at that address and that the criminal sex offender is in compliance with residence restrictions established in this Act.

(c) Failure to present in person a completed verification form to the Commissioner of DPS within five (5) days or to fail to permit law enforcement personnel to obtain fingerprints or a photograph are violations of this Act punishable by a fine of not more than \$1,000 or by imprisonment not to exceed ninety (90) days or both for each offense.

(d) The Commissioner of DPS shall immediately report any violations of this section to the Attorney General.

Section 6. Release of Information. Information collected by the Commissioner of DPS under the registration program shall be treated as private, except for the following:

(a) Such information will be disclosed to law enforcement agencies for law enforcement purposes;

(b) Such information will be disclosed to government agencies conducting confidential background checks; and

(c) DPS will release information that is necessary to protect the public concerning a specific person required to register under this section.

Section 7. Lifetime Registration. Under the Pam Lychner Act amendments, lifetime registration is required, and may not be terminated under Commonwealth procedures or standards, for two categories of persons:

(a) A registrant with a prior conviction for an offense for which registration is required under this Act such as a 'recidivist'; and

(b) A registrant who has been convicted of an 'aggravated offense'.

Section 8. Registration Requirements for a Sexually Violent Predator (SVP).

(a) Determination of a SVP. The determination for a SVP is to 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) Registration Requirements for SVPs. The initial registration information from a SVP shall include, but not limited to, the following:

(1) 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. In determining whether offenders have received treatment, the law enforcement officers responsible for obtaining the initial registration information may rely on information that is readily available to them, either from existing records or the offender, and may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment;

(2) The Commissioner of DPS shall make address verification for sexually violent predators as prescribed in Section 5 of this Act; and,

(3) Lifetime registration is required for all SVPs. However, if the underlying conviction for a SVP is reversed, vacated, or set aside, or if the registrant is pardoned for that offense, registration (or continued registration) as a SVP is not required.

Section 9. Registration of Nonresident Workers and Students.

(a) The CNMI shall accept in its registration program registration information from nonresidents who have come into the CNMI to work or attend school where the person would be required to register in his or her state of residence under the Wetterling Act's standards.

(1) Workers from whom registration information must be accepted include those who have any sort of full-time or part-time employment in the CNMI, with or without compensation, for more than fourteen (14) days, or for an aggregate period exceeding thirty (30) days in a calendar year.

(2) Students from whom registration information must be accepted include those who enroll in any type of school in the CNMI on a full-time or part-time basis.

(b) At a minimum, the 'registration information' the Commissioner of DPS must accept from such a registration to comply with the Act is information concerning the registrant's place of employment or the school attended in the CNMI and his or her address in his or her state of residence.

(c) The Commissioner of DPS shall inform the registrant in the initial registration process that he or she must register in any state where he or she is employed, or carries on a vocation, or is a student.

Section 10. Criminal Sex Offenders Convicted in Other States. Criminal Sex Offenders convicted in other states or territories of any of the covered offenses against victims who are minors or sexually violent offenses shall promptly register within two (2) days a current address when establishing residence in the CNMI, and thereafter shall be subject to all CNMI sex offender registration and notification provisions or standards.

Section 11. Participation in the National Sex Offender Registry. The CNMI shall participate in the national database, the National Sex Offender Registry (NSOR), in accordance with guidelines issued by the Attorney General of the United States, including transmission of current address information and other information on registrants to the extent provided by the guidelines.

Section 12. Criminal Sex Offenders on Parole or Probation prior to this Act. In the case of any criminal sex offender, who on August 31, 1999 or upon the enactment

of this Act, is on parole or probation, the Parole Board and the Chief Probation Officer shall notify the Commissioner of DPS of the name and aliases of such criminal sex offender, the address at which he or she resided, the amount of time to be served on parole or probation, the nature of the criminal sex offense for which a conviction was obtained, and a summary of his or her criminal record. For purposes of this section, a criminal sex offender on probation or parole includes a person convicted in another state, or a federal, military Indian, or foreign country jurisdiction of any crime which would have been punishable as a criminal sex offense if committed in the CNMI and who is serving a term of probation or parole on or after August 31, 1999 or upon the enactment of this Act, and who resides in or enters the CNMI. The Parole Board and the Chief Probation Officer shall direct each criminal sex offender on probation or parole to report to the Commissioner of DPS for fingerprinting and photographing.

Section 13. Limited Liability. Except as provided in Section 4(d) of this Act, no CNMI official or employee under an affirmative duty to act, pursuant to this Act, may be held personally liable for gross negligence in the performance of his or her duties in excess of \$10,000."

Section 2. Severability. If any provision of this Act or the application of any such provision to any person or circumstances should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 3. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 4. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
SPEAKER
HOUSE OF REPRESENTATIVES

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
HOUSE CLERK

Approved this 1st day of October, 1999

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
GOVERNOR
Commonwealth of the Northern Mariana Islands