

Chapter 29

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

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46.2901 Establishment of registry.

(a) Sex Offender Registry. There is hereby established the American Samoa Sex Offender Registry, which the Attorney General's Office shall maintain and operate pursuant to the provisions of this code, as amended.

(b) Public Sex Offender Registry Website. There is hereby established a public sex offender registry website; It shall be called the American Samoa Public Sex Offender Registry Website, which the Attorney General's Office shall maintain and operate pursuant to the provisions of this code, as amended.

History: 2014, PL 33-18.

Amendments: Chapter 28 (PL 26-7 & PL 28-2) was repealed in its entirety and replaced with PL 33-18, 2014.

46.2902 Definitions.

(a) Convicted. An adult sex offender is "convicted" for the purposes of this chapter if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

(b) A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:

- (1) Prosecuted and found guilty as an adult for a sex offense; or

(2) Adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than Sexual Abuse in the First Degree.

(c) Foreign convictions. A foreign conviction is one obtained outside of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and any American Indian Tribe.

(d) Employee. The term “employee” as used in this chapter includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers are included within the definition of employee for registration purposes.

(e) Immediate. “Immediate” and “immediately” mean within 3 business days.

(f) Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence.

(g) Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this chapter during their period of “house arrest”.

(h) Jurisdiction. The term “jurisdiction” as used in this chapter refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian Tribe that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 Section 127 (42 U.S.C. § 16927).

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

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

(k) Sex offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. § 16911(5) (as amended), the American Samoa Code and those offenses enumerated in A.S.C.A Title 46, Chapter 26. An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense.

(l) Sex offender. A person convicted of a sex offense is a “sex offender”.

(m) Sexual act. The term “sexual act” means:

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

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

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

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

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

(o) Student. A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

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

(q) Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, as maintained by the Attorney General’s Office.

(r) National Sex Offender Registry (NSOR). The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.

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

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

(u) “Tier I Sex Offender”. A “tier I sex offender”, or a “sex offender” designated as “tier I”, is one who has been convicted of a “tier I” sex offense as defined in 46.2904.

(v) “Tier II Sex Offender”. A “tier II sex offender”, or a “sex offender” designated as “tier II”, is one who has been convicted of a “tier II” sex offense as defined in 46.2905.

(w) “Tier III Sex Offender”. A “tier III sex offender”, or a “sex offender” designated as “tier III”, is one who has been convicted of a “tier III” sex offense as defined in 46.2906.

History: 2014, PL 33-18.

46.2903 Registerable offenses.

Individuals who reside within the Territory of American Samoa, are employed within Territory of American Samoa, or who attend school within the Territory of American Samoa, who have been convicted of any of the offenses listed in this section are subject to the requirements of this code. In addition, any individual who is convicted of any of the offenses listed in this code who does not intend to establish residence, employment or school attendance within the Territory of American Samoa are also subject to the requirements of this code until such time they depart the Territory of American Samoa.

(a) American Samoa offenses:

- | | | |
|------|---------|--|
| (1) | 46.3531 | Kidnapping (when the offender is not a parent, and the victim is under 18) |
| (2) | 46.3532 | Felonious restraint (when the offender is not a parent, and victim is under 18) |
| (3) | 46.3533 | False imprisonment (when the offender is not a parent, and the victim is under 18) |
| (4) | 46.3604 | Rape |
| (5) | 46.3610 | Sexual assault |
| (6) | 46.3611 | Sodomy |
| (7) | 46.3612 | Deviate sexual assault |
| (8) | 46.3615 | Sexual abuse in the First degree |
| (9) | 46.3616 | Sexual abuse in the Second degree |
| (10) | 46.3617 | Indecent exposure |
| (11) | 46.3618 | Child molesting |
| (12) | 46.3703 | Patronizing prostitution (victim under 18) |
| (13) | 46.3705 | Promoting prostitution in the First degree (victim under 18) |
| (14) | 46.3706 | Promoting prostitution in the Second degree (victim under 18) |
| (15) | 46.3802 | Incest |

(16) 46.3811 Abuse of a child (when the offense is of a sexual nature)

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

- (1) 18 U.S.C. §1591 (sex trafficking of children),
- (2) 18 U.S.C. §1801 (video voyeurism of a minor),
- (3) 18 U.S.C. §2241 (aggravated sexual abuse),
- (4) 18 U.S.C. §2242 (sexual abuse),
- (5) 18 U.S.C. §2243 (sexual abuse of a minor or ward),
- (6) 18 U.S.C. §2244 (abusive sexual contact),
- (7) 18 U.S.C. §2245 (offenses resulting in death),
- (8) 18 U.S.C. §2251 (sexual exploitation of children),
- (9) 18 U.S.C. §2251A (selling or buying of children),
- (10) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
- (11) 18 U.S.C. §2252A (material containing child pornography),
- (12) 18 U.S.C. §2252B (misleading domain names on the internet),
- (13) 18 U.S.C. §2252C (misleading words or digital images on the internet),
- (14) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
- (15) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
- (16) 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
- (17) 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places),
- (18) 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
- (19) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

(c) Foreign offenses. Any conviction for a sex offense involving any conduct listed in 46.2903(a) that was obtained under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

(d) Military offenses. Any military conviction for a sex offense. This includes sex offenses under the Uniform Code of Military Justice, as specified by the U.S. Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

(e) Juvenile offenses or adjudications. Any sex offense, attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241(a) and (b)), and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering the victim unconscious or involuntarily drugging the victim.

(f) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including American Samoa, that involves:

- (1) Any conduct that by its nature is a sex offense against a minor,
- (2) Any type or degree of genital, oral, or anal penetration,
- (3) Any sexual touching of or sexual contact with a person’s body, either directly or through the clothing,

- (4) Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
- (5) False imprisonment of a minor,
- (6) Kidnapping of a minor,
- (7) Possession, production, or distribution of child pornography,
- (8) Solicitation of a minor to practice prostitution,
- (9) Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
- (10) Use of a minor in a sexual performance.
- (g) Any offense similar to those outlined in:
 - (1) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - (2) 18 U.S.C. §1801 (video voyeurism of a minor),
 - (3) 18 U.S.C. §2241 (aggravated sexual abuse),
 - (4) 18 U.S.C. §2242 (sexual abuse),
 - (5) 18 U.S.C. §2244 (abusive sexual contact),
 - (6) 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or
 - (7) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

History: 2014, PL 33-18.

46.2904 Tier I offenses.

(a) Sex offenses. A “Tier I” offense includes any sex offense, for which a person has been convicted that is not a “Tier II” or “Tier III” offense.

(b) Generally. A “Tier I” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to 46.2903 that involves the false imprisonment of a minor, video voyeurism of a minor, possession or receipt of child pornography, is punishable by a maximum term of imprisonment of one year or less.

(c) American Samoa offenses:

- (1) 46.3533 False imprisonment (when the offender is not a parent, and the victim is under 18)
- (2) 46.3615 Sexual abuse in the First degree (when the victim is 18 or older)
- (3) 46.3616 Sexual abuse in the Second degree

(d) Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier I” offense:

- (1) 18 U.S.C. §1801 (video voyeurism of a minor),
- (2) 18 U.S.C. §2252 (receipt or possession of child pornography),
- (3) 18 U.S.C. §2252A (receipt or possession of child pornography),
- (4) 18 U.S.C. §2252B (misleading domain names on the internet),
- (5) 18 U.S.C. §2252C (misleading words or digital images on the internet),
- (6) 18 U.S.C. §2422(a) (coercion to engage in prostitution),
- (7) 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
- (8) 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),

- (9) 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),
- (10) 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
- (11) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- (e) Certain military offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in 46.2904 (b), (c), or (d) shall be considered a “Tier 1” offense.

History: 2014, PL 33-18.

46.2905 Tier II offenses.

(a) Recidivism and felonies. Unless otherwise covered by 46.2906, any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a “Tier II” offense.

(b) Offenses involving minors. A “Tier II” offense includes any sex offense against a minor for which a person has been convicted that involves:

- (1) The use of minors in prostitution, including solicitations;
- (2) Enticing a minor to engage in criminal sexual activity;
- (3) A non-forcible sexual act with a minor 16 or 17 years old;
- (4) Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body;
- (5) The use of a minor in a sexual performance; or
- (6) The production or distribution of child pornography.

(c) American Samoa offenses:

- (1) 46.3615 Sexual abuse in the First degree (victim 13-17)
- (2) 46.3703 Patronizing prostitution (victim under 18)
- (3) 46.3705 Promoting prostitution in the First degree (victim under 18)
- (4) 46.3706 Promoting prostitution in the Second degree (victim under 18)
- (5) 46.3802 Incest (victim 16 or 17)
- (6) 46.3811 Abuse of a child (when the offense is of a sexual nature)

(c) Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier II” offense:

- (1) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
- (2) 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),
- (3) 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
- (4) 18 U.S.C. §2251 (sexual exploitation of children),
- (5) 18 U.S.C. §2251A (selling or buying of children),
- (6) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
- (7) 18 U.S.C. §2252A (production or distribution of material containing child pornography),
- (8) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
- (9) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
- (10) 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution),
- (11) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(d) Certain military offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in 46.2905 (a), (b) or (c) shall be considered a “Tier II” offense.

History: 2014, PL 33-18.

46.2906 Tier III offenses.

(a) Recidivism and felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or has previously become a Tier II sex offender, is a “Tier III” offense.

(b) General offenses. A “Tier III” offense includes any sex offense, for which a person has been convicted that involves:

- (1) Non-parental kidnapping of a minor;
- (2) A sexual act with another by force or threat;
- (3) A sexual act with another who has been rendered unconscious, is involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate; or
- (4) Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of, or contact with the intimate parts of the body, either directly or through the clothing.

(c) American Samoa offenses:

- (1) 46.3531 Kidnapping (when the offender is not a parent, and the victim is under 18)
- (2) 46.3532 Felonious restraint (when the offender is not a parent, and victim is under 18)
- (3) 46.3604 Rape
- (4) 46.3610 Sexual assault
- (5) 46.3611 Sodomy
- (6) 46.3612 Deviate sexual assault
- (7) 46.3615 Sexual abuse in the First degree (victim under 13)
- (8) 46.3618 Child molesting
- (9) 46.3802 Incest (victim under 16).

(d) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier III” offense:

- (1) 18 U.S.C. §2241(aggravated sexual abuse),
- (2) 18 U.S.C. §2242 (sexual abuse),
- (3) 18 U.S.C. §2243 (sexual abuse of a minor or ward),
- (4) Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

(d) Certain military offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in 46.2906 (b), (c) or (d) shall be considered a “Tier III” offense.

History: 2014, PL 33-18.

46.2907 General requirements.

(a) Duties. A sex offender covered by this code who is required to register pursuant to 46.2903 shall provide all of the information detailed in this chapter to the Attorney General’s Office. The Attorney General’s Office shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register in accordance with this code, and shall implement any necessary policies and procedures.

(b) Digitization. All information obtained under this code shall be, at a minimum, maintained by the Attorney General's Office in a digitized format.

(c) Electronic database. A sex offender registry shall be maintained in an electronic database by the Attorney General's Office, and shall be in a form capable of electronic transmission.

History: 2014, PL 33-18.

46.2908 Required information.

(a) Criminal history. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

- (1) The date of all arrests;
- (2) The date of all convictions;
- (3) The sex offender's status of parole, probation, or supervised release;
- (4) The sex offender's registration status; and
- (5) Any outstanding arrest warrants.

(b) Date of birth. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

- (1) The sex offender's actual date of birth; and
- (2) Any other date of birth used by the sex offender.

(c) DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Attorney General's Office or designee a sample of his DNA. Any DNA sample obtained from the sex offender shall be submitted directly to the FBI for submission in CODIS.

(d) Driver's license. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction, and the Attorney General's Office or designee shall make a photocopy of any such licenses.

(e) Identification cards, passports and travel documents. A covered sex offender shall provide and the Attorney General's Office or designee shall make a photocopy of the following:

- (1) Any and all identification documents issued by any jurisdiction;
- (2) Any and all passports and/or travel documents used by the sex offender; and
- (3) Any and all immigration documents used by the sex offender.

(f) Employment. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment; to include any and all places where the sex offender is employed through any means, including volunteer and unpaid positions:

- (1) The name of the sex offender's employer;
- (2) The address or location of the sex offender's employer; and
- (3) Similar information related to any transient or day labor employment.

(g) Finger and palm prints. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints. The Attorney General's Office or designee shall submit the offender's finger prints to the FBI's Integrated Automated Fingerprint Identification System (IAFIS) database, and shall submit the offender's palm prints to the FBI's palm print database.

(h) Internet identifiers. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:

- (1) Any and all email addresses used by the sex offender;

(2) Any and all Instant Message addresses and identifiers;
(3) Any and all other designations or monikers used for self-identification in internet communications or postings; and

(4) Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

(i) Name. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

(1) The sex offender's full primary given name as reflected on any official birth certificate;
(2) Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used.

(j) Phone numbers. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications including but not limited to:

(1) Any and all cellular telephone numbers;
(2) Any and all land line telephone numbers;
(3) Any and all voice over IP (VOIP) telephone numbers.

(k) Photograph. A covered sex offender shall permit his photograph to be taken by the Attorney General's Office or designee:

(1) Every 90 days for Tier III sex offenders;
(2) Every 180 days for Tier II sex offenders; and
(3) Every year for Tier I sex offenders.

(l) Physical description. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

(1) A physical description;
(2) A general description of the sex offender's physical appearance or characteristics; and
(3) Any identifying marks, such as, but not limited to scars, moles, birthmarks, or tattoos.

(m) Professional licenses. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(n) Address. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

(1) The address of each residence at which the sex offender resides or will reside;
(2) The address of each residence where the sex offender has resided in the past 5 years; and
(3) Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

(o) School location. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

(1) The name and address of each school where the sex offender is or will be a student; and
(2) The names and addresses of the schools where the sex offender was a student, this includes any and all high schools and colleges/universities or vocational schools the sex offender has attended.

(p) Social security number. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information:

(1) A valid social security number for the sex offender; and

(2) Any social security number the sex offender has used in the past; valid or otherwise.

(q) Lodging information. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for seven days or more:

(1) Identifying information of the temporary lodging locations including addresses and names;

(2) The dates the sex offender will be staying at each temporary lodging location; and

(3) The registered sex offender shall provide the information in (1) and (2) above no later than 7 days before his scheduled travel. The information shall be provided in person.

(r) Travel abroad. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be travelling outside of the territory of American Samoa:

(1) Identifying information of the intended destination, itinerary information, and any other relevant travel information;

(2) The dates the sex offender will be at the intended destination;

(3) The registered sex offender shall provide the information in 46.2908 no later than 21 days before his scheduled travel. The information shall be provided in person;

(4) The Attorney General's Office or designee shall immediately notify the U.S. Marshals Service and any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information.

(s) Offense information. The Attorney General's Office or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

(t) Detailed information. The Attorney General's Office or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use; including land vehicles, aircrafts, and watercrafts:

(1) License plate numbers;

(2) Registration numbers or identifiers;

(3) General description of the vehicle to include color, make, model, and year; and

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

(u) Sex offender acknowledgement form. The sex offender shall read or have read to them, and sign a form stating that the duty to register has been explained to them by the Attorney General's Office, and that the sex offender understands the registration requirement.

(1) The form shall be signed and dated by the Attorney General's Office personnel registering the sex offender;

(2) The Attorney General's Office shall immediately upload the acknowledgement form into the Attorney General's Office sex offender registry.

History: 2014, PL 33-18.

46.2909 Frequency and duration of registration.

(a) Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Attorney General's Office for purposes of verification and keeping their registration current in accordance with the following time frames:

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

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

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

(b) Reduction of registration periods. A sex offender may have their period of registration reduced as follows:

(1) A Tier I offender may have his or her period of registration reduced to 10 years, if he or she has maintained a clean record for 10 consecutive years;

(2) A Tier III offender may have his or her period of registration reduced to 25 years if he or she was adjudicated a delinquent of an offense as a juvenile that required Tier III registration, and he or she has maintained a clean record for 25 consecutive years.

(c) Clean record. For purposes of this chapter, a person has a clean record if:

(1) He or she has not been convicted of any offense, for which there was a maximum term of imprisonment of more than one year;

(2) He or she has not been convicted of any sex offense;

(3) He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and

(4) He or she has successfully completed an appropriate sex offender treatment program certified by the Attorney General’s Office, a tribe, another jurisdiction, or by the Attorney General of the United States.

History: 2014, PL 33-18; 2017, PL 35-4.

46.2910 Requirements for in-person appearances.

(a) Photographs. At each in person verification, the sex offender shall permit the Attorney General’s Office to take a photograph of the offender.

(b) Review of information. At each in person verification the sex offender shall review existing information for accuracy.

(c) Notification. If any new information or change in information is obtained at an in person verification, the Attorney General’s Office shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

(d) If any new information or change in information is obtained at an in person verification, the Attorney General’s Office shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

History: 2014, PL 33-18.

46.2911 Where registration is required.

(a) Jurisdiction of conviction. A sex offender must initially register with the Attorney General’s Office if the sex offender was convicted by a court in American Samoa of a covered sex offense, regardless of the sex offender’s actual or intended residency.

(b) Jurisdiction of incarceration. A sex offender must register with the Attorney General’s Office if the sex offender is incarcerated within American Samoa while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

(c) Jurisdiction of residence. A sex offender must register with the Attorney General’s Office if the sex offender resides within American Samoa.

(d) Jurisdiction of employment. A sex offender must register with the Attorney General's Office if he or she is employed within American Samoa.

(e) Jurisdiction of school attendance. A sex offender must register with the Attorney General's Office if the sex offender is a student in any capacity within American Samoa.

History: 2014, PL 33-18.

46.2912 Timing of registration.

(a) Timing. A sex offender required to register with American Samoa under this code shall do so in the following timeframe:

(1) If convicted by a court in American Samoa for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;

(2) If convicted by a court in American Samoa for a covered sex offenses but not incarcerated, within 3 business days of sentencing for the registration offense; and

(3) Within 3 business days of establishing a residence, commencing employment, or becoming a student in American Samoa, a sex offender must appear in person to register with Attorney General's Office.

(b) Duties of Attorney General's Office. The Attorney General's Office shall have policies and procedures in place to ensure the following:

(1) That any sex offender incarcerated or sentenced by a court in American Samoa for a covered sex offense completes their initial registration;

(2) That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement;

(3) That the sex offender is registered, and immediately added to the public website if applicable;

(4) That upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status; and

(5) That all information is entered and updated in NCIC/NSOR.

History: 2014, PL 33-18.

46.2913 Retroactive registration.

(a) Retroactive registration. The Attorney General's Office shall have in place policies and procedures to ensure the following three categories of sex offenders are subjected to the registration and updating requirements of this code:

(1) Sex offenders incarcerated or under the supervision of American Samoa, whether for a covered sex offense or other crime;

(2) Sex offenders already registered or subject to a pre-existing sex offender registration requirement; and

(3) Sex offenders reentering the justice system due to conviction for any crime.

(b) Timing of recapture. The Attorney General's Office shall ensure recapture of the sex offenders mentioned in this section within the following timeframe to be calculated from the date of passage of this code:

(1) For Tier I sex offenders, 1 year;

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

- (3) For Tier III sex offenders, 90 days.

History: 2014, PL 33-18.

46.2914 Keeping the registration current.

(a) All sex offenders required to register in American Samoa shall immediately appear in person at the Attorney General's Office to update any changes to their:

- (1) Name;
- (2) residence (including termination of residency);
- (3) employment;
- (4) school attendance;
- (5) temporary lodging; or
- (6) international travel.

(b) All sex offenders required to register in American Samoa shall immediately notify Attorney General's Office to update any changes to their:

- (1) vehicle information;
- (2) internet identifiers;
- (3) or telephone numbers.

History: 2014, PL 33-18.

46.2915 Failure to appear for registration.

(a) In the event a sex offender fails to register as required by this code, the Attorney General's Office or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residence, employment, or school attendance in American Samoa that the sex offender failed to appear for registration.

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

(1) In the event no determination can be made, the Attorney General's Office or designee shall ensure the Office of the Attorney General and any other appropriate law enforcement agency is notified.

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

(3) If an absconded sex offender cannot be located, then the local police shall take the following steps:

(A) Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located;

(B) Notify the U.S. Marshals Service, National Sex Offender Targeting Center;

(C) Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest, where appropriate;

(D) Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and

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

History: 2014, PL 33-18.

46.2916 Public sex offender registry website.

(a) Website. The Attorney General's Office shall use and maintain a public sex offender registry website.

(b) Links. The Attorney General's Office's public sex offender registry website shall include links to sex offender safety and education resources.

(c) Instructions. The Attorney General's Office's public sex offender registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

(d) Warnings. The Attorney General's Office's public sex offender registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses, and that any such action could result in civil or criminal penalties.

(e) Search capabilities. The Attorney General's Office's public sex offender registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and (3) zip code and/or geographic radius.

(f) Dru Sjodin National Sex Offender Public Website. The Attorney General's Office shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

History: 2014, PL 33-18.

46.2917 Required and prohibited information.

(a) Required information. The following information shall be made available to the public on the sex offender registry website:

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

(2) All sex offenses for which the sex offender has been convicted;

(3) The sex offense(s) for which the offender is currently registered;

(4) The name of the sex offender's employer(s);

(5) The name of the sex offender including all aliases;

(6) A current photograph of the sex offender;

(7) A physical description of the sex offender;

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

(9) All names of schools attended by the sex offender; and

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

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

(1) Any arrest that did not result in conviction;

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

(3) Any travel and immigration documents;

(4) The identity of the victim; and

(5) Internet identifiers.

History: 2014, PL 33-18.

46.2918 Community notifications.

(a) Law enforcement notification. Whenever a sex offender registers or updates his or her information, the Attorney General's Office shall:

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

(2) Immediately update NCIC/NSOR;

(3) Immediately notify any agency, department, or program within the territory that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions;

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

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

(6) Immediately enter or update information posted on the public website.

(b) Community notification. The Attorney General's Office shall ensure there is an automated community notification process in place that ensures the following:

(1) Upon a sex offender's registration or update of information, the public sex offender registry website is immediately updated;

(2) The public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Attorney General's Office, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

History: 2014, PL 33-18.

46.2919 Immunity.

(a) No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Attorney General's Office, its departments, agencies, employees, or agents.

(b) Good faith. Any person acting under good faith of this territory shall be immune from any civil liability arising out of such actions.

History: 2014, PL 33-18.

46.2920 Failure to register as a sex offender and related offenses.

(a) Failure to register as a sex offender.

(1) A sex offender commits the crime of failure to register as a sex offender if he:

(A) Fails to register as a sex offender as required by this code;

(B) Fails to appear for his periodic verification requirement; or

(C) Fails to keep his registration current.

(2) Failure to register as a sex offender is a class D felony.

(b) Hindrance of sex offender registration.

(1) A person commits the crime of hindrance of sex offender registration if they:

(A) Knowingly harbors, knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Title;

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

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

(2) Hindrance of Sex Offender Registration is a class A misdemeanor.

History: 2014, PL 33-18.

46.2921 Severability.

The provisions of this act are severable. If any part of this act is declared invalid or found unconstitutional, that shall not affect the remainder of this act.

History: 2014, PL 33-18.