UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

HAND-DELIVERED

February 13, 2020

35 GL-20-1542
Speaker Tina Rose Muña Barnes

FEB 13 2020
Time 3:13 ( )AM ( )PM
Received By: Brian

HONORABLE TINA ROSE MUÑA BARNES, Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **Substitute Bill No. 173-35 (COR) – "*An Act to Add a New Chapter 93 to Title 9, Guam Code Annotated, Relative to Establishing a Standardized Risk Assessment and System of Treatment Programs for Criminal Sexual Conduct Offenders, which shall be Known as the 'Criminal Sexual Conduct Assessment and Rehabilitation Act'*"**

2020 FEB 13 PM 3:44

Dear Madame Speaker:

Cooperation and collaboration for the purpose of ensuring a community safe from criminal sexual conduct -- that is what Bill 173, *"An Act to Add a New chapter 93 to Title 9, Guam Code Annotated, Relative to Establishing a Standardized Risk Assessment and System of Treatment Programs for Criminal Sexual Conduct Offenders, which Shall be Known as the 'Criminal Sexual Conduct Assessment and Rehabilitation Act,'"* proposes and what is now ***Public Law No. 35-71*** mandates.

The government of Guam, through the Superior Court, the Parole Board, the Police Department, and the Guam Behavioral Health and Wellness Center will work to develop a standardized procedure for measuring the risk of criminal sexual conduct recidivism and for identifying potential for rehabilitation. Unfortunately, criminal sexual conduct occurs in our community. This law is a step toward confronting and addressing this problem and working to prevent repeat criminal sexual conduct offenses in the future.

Senseremente,

JOSHUA F. TENORIO
Åkto Maga'låhen Guahan
Acting Governor of Guam

Enclosure(s): Substitute Bill No. 173-35 (COR) *nka Public Law No. 35-71*
cc via email: *Maga'hågan Guåhan*
Compiler of Laws

1542

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I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 173-35 (COR), "AN ACT TO *ADD* A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE 'CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT,"** was on the 4th day of February 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 4th day of Feb., 2020, at 4:21 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 2-13-20

Public Law No. 35-71

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 173-35 (COR)
As amended by the Committee on Health,
Tourism, Historic Preservation, Land and Justice;
and substituted and further amended on the Floor.

Introduced by: Therese M. Terlaje
Sabina Flores Perez
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE "CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT".

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 93 is hereby *added* to Title 9, Guam Code Annotated to read:

"CHAPTER 93

CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT

§ 93.10. Short Title.
§ 93.11. Legislative Declaration.
§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure.
§ 93.30. Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders.
§ 93.35. Sentencing of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required.
§ 93.40. Development of Testing Programs.
§ 93.50. Report to the Legislature.

§ 93.10. Short Title.

This Act may be cited as the "Criminal Sexual Conduct Assessment and Rehabilitation Act."

§ 93.11. Legislative Declaration.

The Legislature hereby declares that criminal sexual conduct and repeat offenses are a major problem within the criminal justice system of Guam. The Legislature hereby resolves to curtail the risk of further harm from persons accused or convicted of criminal sexual conduct through the implementation of standardized procedures for the assessment of those individuals for dangerousness and risk for recidivism. The courts should assess the dangerousness and risk of recidivism before release on probation, pre-sentence or parole. Persons convicted of criminal sexual conduct felonies who do not complete treatment and rehabilitation as recommended by a court, the Parole Board, or a Department of Corrections official based on the assessment should not be eligible for early release.

The Legislature finds that psycho-physiological testing is essential in the assessment of sex offenders. Physiologic test results should only be used in

conjunction with a thorough psychiatric evaluation, comprehensive sexual history, and clinical expertise. Because effective control and treatment of deviant sexual behaviors depend on identification and understanding of the underlying dysfunction, assessment techniques that provide insight into the etiology of a behavior are critical to reducing sexual predator crimes. More accurate and reliable assessment techniques may improve treatment outcomes and decrease the rate of sexual victimization and may provide more reliable means.

§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure.

(a) The Superior Court of Guam, the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center (the Assessment Team) *shall* cooperate to develop and implement the following:

(1) A standardized procedure for the assessment of individuals accused or convicted of sexual offenses for dangerousness and risk for recidivism. The assessment may include the use of physiological testing, in conjunction with a thorough psychiatric evaluation, comprehensive sexual history, and clinical expertise or such other test of the offender as deemed appropriate by the Assessment Team. The assessment procedure developed pursuant to this Section *shall* recommend treatment or rehabilitation that is appropriate to the needs of the particular offender and which is aimed at reducing dangerousness and risk of recidivism or *shall* indicate whether no treatment or rehabilitation is known or predictable that will reduce dangerousness or risk of recidivism.

(2) A system of programs for treatment and rehabilitation of individuals convicted of criminal sexual conduct offenses which can be

utilized by offenders who are placed on probation, incarcerated at the Department of Corrections, placed on parole, or placed in community corrections, or released on probation or parole, or discharged from prison.

(b) The procedures for treatment and rehabilitation required to be developed by Subsection (a) of this Section shall be implemented only to the extent monies are available; provided that, in all cases, persons referred or ordered to receive treatment or rehabilitation *shall* do so at their own expense, unless such person is determined to be indigent.

(c) The Superior Court of Guam, the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center *shall* cooperate to develop a schedule of fees sufficient to cover the costs of assessment, testing, and treatment as required by this Section. All persons referred or ordered to receive assessment, testing, or treatment *shall* be made to pay for such, in accordance with the fee schedule, except in such cases where the person is determined to be indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

§ 93.30. Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders.

(a) A person convicted of a criminal sexual conduct felony committed on or after the effective date of this Act who is to be considered for probation, pre-sentence release, sentencing, or parole shall be required, as part of the pre-sentence or probation investigation, to submit to an assessment developed pursuant to § 93.20(a)(1). The court *shall* order such person to comply with the recommendations of such assessment as a condition of probation, pre-sentence release, or parole, and as part of the sentence, at the person's own expense, unless such person is indigent,

at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct misdemeanor committed on or after the effective date of this Act *shall* be required to submit to an assessment developed pursuant to § 93.20(a)(1). The court *shall* order such person to comply with the recommendations of such assessment at the person's own expense, unless such person is indigent. If such person is sentenced to probation, such person *shall* be ordered to comply with the recommendations as a condition of probation at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(c) The assessment required by Subsection (a) of this Section or the assessment required by Subsection (b) of this Section *shall* be at the expense of the person assessed, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

§ 93.35. Sentencing and Parole of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required.

(a) Each person sentenced by the court for a criminal sexual conduct felony committed on or after the effective date of this Act *shall* be required, as part of any sentence, to undergo periodic assessment, treatment, and rehabilitation which is appropriate to such person based upon the recommendations of the assessment made pursuant to § 93.30 of this Chapter, or based upon any subsequent recommendations by the Department of Corrections, the Probation Office, the Parole Board or the Superior Court of Guam, whichever is appropriate. Any such testing or treatment *shall* be at such person's own expense, unless such person is indigent, at which point

the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct felony who is placed on parole by the Guam Parole Board on or after the effective date of this Act, *shall* be required, as a condition of such parole, to undergo periodic testing and treatment that is appropriate to such person based upon the recommendations of the assessment made pursuant to § 93.30 of this Chapter, or any assessment or subsequent reassessment made regarding such person during his or her incarceration or any period of parole. Any such testing or treatment *shall* be at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

§ 93.40. Development of Testing Programs.

(a) The Superior Court of Guam, the Guam Behavioral Health and Wellness Center, the Department of Corrections, and the Guam Parole Board *shall* cooperate to develop programs for the periodic assessment of criminal sexual conduct offenders under the jurisdiction of each agency, and programs for the periodic reassessment of appropriate treatment and rehabilitation made in the initial assessment required by § 93.30 of this Chapter, or any subsequent reassessment.

(b) The Department of Corrections *shall* promulgate Disciplinary Rules and Regulations for those incarcerated criminal sexual conduct offenders who fail to submit to the assessment, treatment or rehabilitation recommendations. Disciplinary Rules and Regulations *shall* promote fairness and consistency in the treatment of offenders and may include, but *shall* not be limited to, an increased level of supervision, the use of electronic monitoring, loss of work credit time granted pursuant to 9 GCA § 81.10, and referral of the offender to the court to update the

sentence to reflect such loss of work credit, or other sanctions designed to prevent further harm from such offender. Any offender who does not cooperate with assessments and complete the treatment or rehabilitation program *shall not* be eligible for parole.

(c) The Superior Court *shall* immediately revoke probation or release due to failure to submit to an assessment, treatment or rehabilitation made a condition of probation, pre-sentence release or release.

(d) The Guam Parole Board *shall* immediately revoke parole due to failure to submit to an assessment, treatment or rehabilitation made a condition of parole.

§ 93.50. Report to the Legislature.

Upon enactment of this Act, the Superior Court of Guam, the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center *shall* jointly make and transmit an annual report to the Speaker of the Guam Legislature regarding the implementation of this Act; the standardized procedures developed pursuant to this Act; and the results of the programs created by this Act, including expected and actual effectiveness of the assessment, treatment, and rehabilitation in reducing levels of dangerousness or risk of recidivism of criminal sexual conduct offenders while incarcerated and on release."