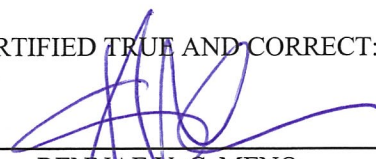


I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session
LEGISLATIVE SESSION VOTING RECORD

Bill No. 172-35 (COR) As amended by the Committee on Health, Tourism, Historic Preservation, Land, and Justice.		Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building November 18, 2019				
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator William M. CASTRO	✓					
Senator Régine Biscoe LEE	✓					
Senator Kelly G. MARSH (TAITANO), PhD	✓					
Senator James C. MOYLAN	✓					
Senator Louise B. MUÑA	✓					
Speaker Tina Rose MUÑA BARNES	✓					
Vice Speaker Telen Cruz NELSON					✓	✓
Senator Sabina Flores PEREZ	✓					
Senator Clynton E. RIDGELL	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Amanda L. SHELTON	✓					
Senator Telo T. TAITAGUE	✓					
Senator Jose “Pedo” TERLAJE	✓					
Senator Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES					✓	✓

TOTAL:	13	2	2
	Aye	Nay	Not Voting/ Abstained
			Out During Roll Call
			Absent
			Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. C. MENO
 Clerk of the Legislature

I = Pass

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

Bill No. 172-35 (COR)

As amended by the Committee on Health,
Tourism, Historic Preservation, Land
and Justice.

*

Introduced by:

Therese M. Terlaje

**AN ACT TO *AMEND* § 80.14 OF ARTICLE 1, AND §§
80.76 AND 80.78 OF ARTICLE 5, ALL OF CHAPTER 80,
TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO
ENSURING PRE-SENTENCE REPORTS AND
ASSESSMENTS ARE UTILIZED BY THE GUAM
PAROLE BOARD PRIOR TO THE RELEASE OF ANY
OFFENDER ON PAROLE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan intends to eliminate any barrier to the Guam Parole Board's review of any and all pre-trial, pre-sentence and incarceration reports and assessments prior to release on parole of any offender.

Section 2. § 80.14 of Article 1, Chapter 80, Title 9, Guam Code Annotated, is hereby *amended* to read:

“§ 80.14. Presentence Report: Use Regulated.

(a)(1) The presentence report shall not be a public record.

(2) It may be made available only

(A) to the sentencing court,

(B) to any reviewing court where relevant to an issue on

which an appeal has been taken,

1 (C) to any examining facility, correctional institution,
2 probation or parole department or board for use in the treatment
3 or supervision of the offender and to the parties as provided in
4 this Section.

5 (b) At least two (2) days before imposing sentence the court shall
6 furnish the offender, or his counsel if he is so represented, a copy of the report
7 of the presentence investigation exclusive of any recommendations as to
8 sentence, unless in the opinion of the court the report contains diagnostic
9 opinion which might seriously disrupt a program of rehabilitation, sources of
10 information obtained upon a promise of confidentiality, or any other
11 information which, if disclosed, might result in harm, physical or otherwise,
12 to the defendant or other persons; and the court shall afford the offender or his
13 counsel an opportunity to comment thereon.

14 (c) If the court is of the view that there is information in the
15 presentence report which should not be disclosed under Subsection (b), the
16 court in lieu of making the report or part thereof available shall state in writing
17 a summary of the factual information contained therein to be relied on in
18 determining sentence, and shall give the offender or his counsel an
19 opportunity to comment thereon. The statement may be made to the parties in
20 camera but shall be included as part of the permanent record and subject to
21 disclosure to the Parole Board.

22 (d) Any material disclosed to the offender or his counsel shall at the
23 same time be disclosed to the attorney for the Government.

24 (e) (1) Any copies of the presentence investigation report made
25 available to the offender or his counsel and the attorney for the Government
26 shall be returned to the court immediately following the imposition of
27 sentence.

1 (2) Copies of the presentence investigation report shall not be
2 made by the offender, his counsel or the attorney for the Government.”

3 **Section 3.** § 80.76 of Article 5, Chapter 80, Title 9, Guam Code Annotated,
4 is hereby *amended* to read:

5 **“§ 80.76. Standards Governing Release on Parole.**

6 (a) Whenever the board considers the release of a prisoner for
7 parole, the board shall order his release, if it is of the opinion after review of
8 the records mandated in 9 GCA § 80.78, that:

9 (1) his release is compatible with public safety and security
10 and will not put victims’ safety or security in danger based on an
11 assessment of the risk of prisoner to re-offend;

12 (2) there is substantial likelihood that he will abide by law and
13 conform to the conditions of parole;

14 (3) his release at that time would not depreciate the
15 seriousness of his crime nor promote disrespect for law;

16 (4) his release would not have a substantially adverse effect
17 on institutional discipline; and

18 (5) he is of sufficient capacity and deemed likely to lead a law-
19 abiding life when released and his continued correctional treatment,
20 medical care, or vocational or other training in the institution will not
21 substantially enhance his capacity to lead a law-abiding life when
22 released at a later date.

23 (b) In making its determination regarding a prisoner’s release on
24 parole, the board may consider, to the extent relevant, the following factors:

25 (1) the prisoner’s personality, including his age and maturity,
26 stability, sense of responsibility and any apparent development in his
27 personality which may promote or hinder his conformity to law;

- (2) the prisoner's parole plan;
- (3) the prisoner's ability and readiness to assume obligations and undertake responsibilities;
- (4) the prisoner's family status and whether he has relatives who display interest in him or whether he has other close and constructive associations in the community;
- (5) the prisoner's employment history, his occupational skills and training, and the stability of his past employment;
- (6) the type of home environment in which the prisoner plans to live;
- (7) the prisoner's past use of narcotics or other harmful drugs, or past habitual and excessive use of alcohol;
- (8) the prisoner's mental and physical make-up, including any disability or handicap which may affect his conformity to law;
- (9) the prisoner's prior criminal record, including the nature and circumstances, recentness and frequency of previous offense;
- (10) the prisoner's attitude toward law and authority;
- (11) the prisoner's conduct in the institution, including whether he has taken advantage of the opportunities for self-improvement afforded by the institutional program;
- (12) the prisoner's conduct and attitude during any previous experience of probation or parole and the recentness of such experience."

Section 4. § 80.78 of Article 5, Chapter 80, Title 9, Guam Code Annotated, is hereby *amended* to read:

"§ 80.78. Records to Be Made Available to Board.

1 Before making a determination regarding a prisoner's release on parole,
2 the board shall cause to be brought before it, and it shall be the responsibility
3 of the Department of Corrections or administrative head of the institution in
4 which an offender is held and the Clerk of Court of the Superior Court of
5 Guam to furnish such of the following records and information regarding the
6 prisoner as may be available:

7 (a) a report prepared by the institutional parole staff, relating
8 to his personality, social history and adjustment to authority, and
9 including any recommendations which the institutional staff may make;

10 (b) all official reports of his prior criminal record, including
11 reports and records of earlier probation and parole experiences;

12 (c) any pre-sentence investigation report of the sentencing
13 court;

14 (d) any recommendations regarding his parole made at the
15 time of sentencing by the sentencing judge or the prosecutor;

16 (e) the reports of any physical and mental examinations of
17 the prisoner;

18 (f) any and all pre-trial, pre-sentence, or incarceration
19 assessment reports;

20 (g) any relevant information which may be submitted by the
21 prisoner, the victim of his crime, or by other persons;

22 (h) the prisoner's parole plan;

23 (i) the record of his conduct while imprisoned;

24 (j) such other relevant information concerning the prisoner as
25 may be reasonably available."