

I MINA'TRENTAI UNO NA LIHESLATURÁN GUÅHAN
2011 (FIRST) Regular Session

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Bill No. 14-31(cor)

Introduced by:

Adolpho B. Palacios, Sr. 

**AN ACT TO AMEND §§85.10, 85.14 AND 85.26 OF CHAPTER 85,
TITLE 9, GCA, RELATIVE TO THE COMPOSITION AND
POWERS OF THE TERRITORIAL PAROLE BOARD.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that Public
3 Law 7-49 created the Territorial Parole Board consisting of five (5) members appointed by *I*
4 *Maga'lahi* and with the advice and consent of *I Liheslatura*. Moreover, *I Liheslatura* finds that
5 Public Law 27-104, which amended Public Law 7-49, provides that any person holding an
6 elected office *shall not* be eligible to serve on the Territorial Parole Board. In a span of forty-one
7 (41) years, the only change to the composition of the Territorial Parole Board is the language
8 cited above.

9 Much has evolved in the philosophy, treatment and rehabilitation of offenders through
10 programs supervised and managed by social workers and other professionals involving parole,
11 probation and penal custody. *I Liheslatura* finds that for inmates eligible for parole, parole is
12 granted by the discretionary action of the Territorial Parole Board. The Board evaluates an array
13 of information about an inmate and determines whether he or she is ready to be re-integrated into
14 society. While an inmate is incarcerated, government officials are charged in preparing and
15 rehabilitating the inmate with the full hope of parole. This process requires a holistic approach to
16 evaluate if an inmate is capable to live as a productive member of society. This is ultimately a
17 reflection of the change in penal philosophy from penitentiary to correctional rehabilitation. The
18 members of the Territorial Parole Board should reflect this penal philosophy and should be
19 progressively qualified in certain academic disciplines or have a diverse occupational
20 background to best articulate their informed decision about when it is appropriate to grant, deny
21 or revoke parole.

1 *I Liheslaturan Guåhan* finds that the current law provides merely for a five (5) member
2 Parole Board, but does not mandate a level of experience in relevant fields. The current
3 Territorial Parole Board has three (3) retired law enforcement officers – two (2) from the Guam
4 Police Department and one (1) from the Department of Corrections. A majority of members
5 have been indoctrinated into a profession that may shape their criminal justice values toward the
6 philosophy of penitentiary rather than rehabilitation. The *de facto* structure of the Parole Board
7 reflects a philosophy which fundamentally conflicts with the rehabilitative mind-set. Under this
8 condition, it may be difficult for an inmate to have a fair and impartial review of his or her parole
9 application.

10 Therefore, it is the intent of *I Liheslaturan Guåhan* to harmonize the composition of the
11 Parole Board with the rehabilitative ethos which the Department of Corrections is intended to
12 engender by amending §§85.10 and 85.14, of Chapter 85, Title 9 of the Guam Code Annotated.

13 **Section 2.** §85.10 of Chapter 85 of Title 9, Guam Code Annotated, is hereby *amended* to
14 read:

15 **§85.10. Territorial Parole Board Created.**

16 There is in the Executive Branch of the government of Guam, a Territorial Parole Board,
17 hereinafter referred to as the Board, consisting of ~~five (5)~~ seven (7) members appointed by *I*
18 *Maga'lahi* [the Governor], by and with the advice and consent of *I Liheslatura* [the Legislature].
19 Only persons, who by their knowledge and experience are prepared to perform efficiently the
20 duties of the Board as hereinafter provided, *shall* be eligible for such appointment. Any person
21 holding an elected office *shall not* be eligible to serve on the Territorial Parole Board.

22 (a) The composition of the Board members shall be comprised of the following minimum
23 background and experience:

24 (1) at least two (2) Board members shall have at least ten (10) years in law enforcement
25 work, or a baccalaureate degree in criminal justice or juvenile justice or professional
26 experience in these areas of study;

27 (2) at least two (2) Board members shall have at least a baccalaureate degree or higher
28 from an accredited U.S. institution of higher education in social work, sociology or
29 psychology or a medical degree from an accredited U.S. institution; and

1 (3) the three (3) remaining Board members shall have at least ten (10) years of
2 experience in human resources development, or legal background or professional
3 experience in these areas of study, or any person of good moral character.

4 **Section 3.** §85.14. of Chapter 85 of Title 9, Guam Code Annotated, is hereby *amended* to
5 read:

6 **§85.14. Chairman ~~Appointed~~ Elected: Meetings at Least Monthly.**

7 ~~The Governor~~ The Board shall appoint one (1) of the members of the Board as chairman.
8 elect a Chairman from among its members. The chairman shall be elected by its members every
9 two (2) years. The Board shall meet regularly at least once a month. Special meetings may be
10 called by the chairman. Not less than four (4) voting members present shall constitute a quorum
11 for the transaction of business, and the affirmative vote of four (4) members present shall be
12 required to make any action of the Board valid. No action shall be taken by the Board at any
13 meetings or hearings, unless a quorum is present. The election for chairman from among its
14 members shall follow upon enactment of this Act.

15 **Section 4.** §85.26 of Chapter 85 of Title 9, Guam Code Annotated, is hereby *amended* to
16 read:

17 **§85.26. Board: General Powers.** The Board is authorized to release on parole any
18 person confined in any penal *or* correctional institution of Guam, and to revoke parole *or*
19 discharge from parole any parolee as provided in Article 5 (commencing with §80.70) of Chapter
20 80. The Board ~~may~~ shall adopt such rules and procedures *not* inconsistent with law as it may
21 deem proper *or* necessary to carry out its duties, and shall be in accordance with the Open
22 Government Law.

23 Such rules and procedures shall include but not be limited to the following:

24 (a) Rights and restrictions of an inmate during a parole application or revocation hearing;

25 (b) Presence of legal counsel or a lay representative on behalf of an inmate during a
26 hearing;

27 (c) The right of an inmate to receive, in writing, a specific reason or reasons for denial of
28 parole, to include deficiencies to be addressed in preparation for a future parole
29 application;

30 (d) Rules for the recusal of a member due to a conflict; and

31 (e) Any other rules in furtherance of the mandates of the Board.

1 **Section 5. Severability.** *If* any provision of this law or its application to any person or
2 circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other
3 provisions or applications of this law which can be given effect without the invalid provisions of
4 applications, and to this end the provisions of this law are severable.