

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
172-35 (COR)	Therese M. Terlaje	AN ACT TO AMEND § 80.14 OF ARTICLE 1 OF CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED AND § 80.76 AND § 80.78, BOTH OF ARTICLE 5 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.	6/26/19 10:21 a.m.						

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

Bill No. 172-35 (COR)

Introduced by:

Therese M. Terlaje *TMT*

**AN ACT TO AMEND § 80.14 OF ARTICLE 1 OF
CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED
AND § 80.76 AND § 80.78, BOTH OF ARTICLE 5 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 to 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,

2019 JUN 26 AM 10:21



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

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

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

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

25 (e) (1) Any copies of the presentence investigation report made
26 available to the offender or his counsel and the attorney for the

1 Government shall be returned to the court immediately following the
2 imposition of sentence.

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

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

7 **“§ 80.76. Standards Governing Release on Parole.**

8 (a) Whenever the board considers the release of a prisoner for
9 parole, the board shall order his release, if it ~~is of the opinion~~ finds in
10 the records mandated in 9 GCA 80.78 that:

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

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

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

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

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

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

1 (1) the prisoner's personality, including his age and
2 maturity, stability, sense of responsibility and any apparent
3 development in his personality which may promote or hinder
4 his conformity to law;

5 (2) the prisoner's parole plan;

6 (3) the prisoner's ability and readiness to assume
7 obligations and undertake responsibilities;

8 (4) the prisoner's family status and whether he has
9 relatives who display interest in him or whether he has other
10 close and constructive associations in the community;

11 (5) the prisoner's employment history, his occupational
12 skills and training, and the stability of his past employment;

13 (6) the type of home environment in which the prisoner
14 plans to live;

15 (7) the prisoner's past use of narcotics or other harmful
16 drugs, or past habitual and excessive use of alcohol;

17 (8) the prisoner's mental and physical make-up,
18 including any disability or handicap which may affect his
19 conformity to law;

20 (9) the prisoner's prior criminal record, including the
21 nature and circumstances, recentness and frequency of previous
22 offense;

23 (10) the prisoner's attitude toward law and authority;

24 (11) the prisoner's conduct in the institution, including
25 whether he has taken advantage of the opportunities for self-
26 improvement afforded by the institutional program;

1 (12) the prisoner's conduct and attitude during any
2 previous experience of probation or parole and the recentness of
3 such experience."

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

6 **"§ 80.78. Records to Be Made Available to Board.**

7 Before making a determination regarding a prisoner's release on
8 parole, the board shall cause to be brought before it, and it shall be the
9 responsibility of the department of corrections or administrative head
10 of the institution in which an offender is held and the Clerk of Court
11 of the Superior Court of Guam to furnish such of the following
12 records and information regarding the prisoner as may be available:

13 (a) a report prepared by the institutional parole staff, relating to
14 his personality, social history and adjustment to authority, and
15 including any recommendations which the institutional staff may
16 make;

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

19 (c) any pre-sentence investigation report of the sentencing
20 court;

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

23 (e) the reports of any physical and mental examinations of
24 the prisoner;

25 (f) any and all pre-trial, pre-sentence, incarceration assessment
26 reports

1 ~~(f)~~ (g) any relevant information which may be submitted by the
2 prisoner, the victim of his crime, or by other persons;
3 ~~(g)~~ (h) the prisoner's parole plan;
4 ~~(h)~~ (i) the record of his conduct while imprisoned;
5 ~~(i)~~ (j) such other relevant information concerning the prisoner
6 as may be reasonably available.”