

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
173-35 (COR)	Therese M. Terlaje	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".	6/26/19 10:21 a.m.						

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

Bill No. 173 -35 (COR)

Introduced by:

Therese M. Terlaje 

**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.

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1 § 93.40. Departments Develop Testing Programs.

2 § 93.50. Samples for Testing of Offenders.

3 § 93.51. Report to the Legislature.

4 **§ 93.10. Short Title.**

5 This Act may be cited as the “Criminal Sexual Conduct Assessment
6 and Rehabilitation Act”.

7 **§ 93.11. Legislative Declaration.**

8 The Legislature hereby declares that Criminal Sexual Conduct and
9 repeat criminal sexual conduct, is a major problem in the criminal justice
10 system of Guam. The Legislature hereby resolves to curtail the risk of
11 further harm from persons accused or convicted of criminal sexual conduct
12 through the implementation of standardized procedures for the assessment of
13 those individuals for dangerousness and risk for recidivism. The Courts
14 should assess the dangerousness and risk of recidivism before release on
15 probation, pretrial, pre-sentence or parole. Persons convicted of criminal
16 sexual conduct felonies who do not complete treatment and rehabilitation as
17 recommended by a court, Parole Board, or Department of Corrections
18 official based on assessment should not be eligible for early release.

19 The Legislature finds that Psycho-physiological testing can play a
20 useful role in the assessment of sex offenders. Physiologic test results should
21 only be used in conjunction with a thorough psychiatric evaluation,
22 comprehensive sexual history, and clinical expertise. Because effective
23 control and treatment of deviant sexual behaviors depends on identification
24 and understanding of the underlying dysfunction, assessment techniques that
25 provide insight into the etiology of a behavior are critical to reducing sexual
26 predator crimes. More accurate and reliable assessment techniques may

1 improve treatment outcomes and decrease the rate of sexual victimization
2 and may provide more reliable means.

3 **§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure.**

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

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

20 (2) A system of programs for treatment and rehabilitation of
21 individuals accused or convicted of sexual offenses which can be
22 utilized by offenders who are placed on probation, incarcerated with
23 the Department of Corrections, placed on parole, or placed in
24 community corrections, or released.

25 (b) The procedures for treatment and rehabilitation required to be
26 developed by subsection (a) of this section shall be implemented only to the
27 extent monies are available, provided that, in all cases, persons referred or

1 ordered to receive treatment or rehabilitation shall do so at their own
2 expense, unless they are indigent.

3 (c) The Superior Court of Guam, the Department of Corrections, the
4 Territorial Parole Board, the Guam Police Department, and the Guam
5 Behavioral Health and Wellness Center shall cooperate to develop a
6 schedule of fees sufficient to cover the costs of assessment, testing, and
7 treatment as required by this section. All persons referred or ordered to
8 receive assessment, testing, or treatment shall be made to pay for such, in
9 accordance with the fee schedule, except in such cases where the person is
10 determined to be indigent.

11 **§ 93.30. Assessment Required for Convicted Felons and Criminal**
12 **Sexual Conduct Offenders.**

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

21 (b) Each person convicted of a criminal sexual conduct misdemeanor
22 committed on or after the effective date of this Act shall be required to
23 submit to an assessment developed pursuant to § 93.20(a)(1). The Court
24 shall order such person to comply with the recommendations of such
25 assessment, at the person's own expense unless such person is indigent. If
26 such person is sentenced to probation, such person shall be ordered to

1 comply with the recommendations as a condition of probation at such
2 person's own expense, unless such person is indigent.

3 (c) The assessment required by subsection (a) of this section or the
4 evaluation required by subsection (b) of this section shall be at the expense
5 of the person assessed or evaluated, unless such person is indigent.

6 **§ 93.35. Sentencing of Felons: Parole of Felons: Treatment and Testing**
7 **Based Upon Assessment Required.**

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

17 (b) Each person placed on parole by the Territorial Parole Board on or
18 after the effective date of this act, shall be required, as a condition of such
19 parole, to undergo periodic testing and treatment which is appropriate to
20 such person based upon the recommendations of the assessment made
21 pursuant to § 93.30 of this Act, or any assessment or subsequent
22 reassessment made regarding such person during his incarceration or any
23 period of parole. Any such testing or treatment shall be at such person's own
24 expense, unless such person is indigent.

25 **§ 93.40. Departments Develop Testing Programs.**

26 (a) The Superior Court of Guam, the Guam Behavioral Health and
27 Wellness Center, the Department of Corrections, and the Territorial Parole

1 Board, shall cooperate to develop programs for the periodic assessment of
2 offenders under the jurisdiction of each agency and programs for the
3 periodic reassessment of appropriate treatment and rehabilitation made in the
4 initial assessment required by § 93.30 of this Act, or any subsequent
5 reassessment.

6 (b) The Department of Corrections shall develop and make public a
7 range of punitive sanctions for those incarcerated offenders who fail to
8 submit to assessment, treatment or to participate in rehabilitation, which
9 sanctions are appropriate to the offenders and will promote fairness and
10 consistency in the treatment of offenders and may include, but shall not be
11 limited to, increases in the level of an offender's supervision, increases in the
12 use of electronic monitoring of an offender, loss of earned time granted
13 pursuant to any appropriate local law or program, and referral of the
14 offender to the court for re-sentencing, or other sanctions designed to
15 prevent further harm from such offender. Any offender who does not
16 cooperate with assessments, complete treatment or rehabilitation program
17 shall not be eligible for parole.

18 (c) The Superior Court shall immediately revoke probation or release
19 due to failure to perform assessments, treatment or rehabilitation made a
20 condition of probation, pretrial release, pre-sentence release or release.

21 (d) The Territorial Parole Board shall immediately revoke parole due
22 to failure to perform assessments, treatment or rehabilitation made a
23 condition of parole.

24 **§ 93.50. Samples for Testing of Offenders.**

25 Any type of sample for the chemical testing of any offender pursuant
26 to this Act may be collected from such offender by his probation officer,

1 parole officer, case manager within the Department of Corrections, or any
2 contract provider of testing services.

3 **§ 93.51. Report to the Legislature.**

4 On or before September 30, 2019, the Superior Court of Guam, the
5 Department of Corrections, the Territorial Parole Board, the Guam Police
6 Department, and the Guam Behavioral Health and Wellness Center shall
7 jointly make a report to the Speaker of the Guam Legislature regarding the
8 implementation of this Act; the standardized procedures developed pursuant
9 to this Act; the results of the programs created by this Act, including
10 expected and actual effectiveness of the assessment, treatment, and
11 rehabilitation in reducing levels of dangerousness or risk of recidivism of
12 offenders while incarcerated and on release.”