

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
52-35 (COR)	Jose "PEDO" Terlaje Tina Rose Muña Barnes Régine Biscoe Lee Amanda S. Shelton	AN ACT TO AMEND 9 GCA § 25.15 AND \$25.20 AND ADD A NEW SECTION (c) TO 9 GCA § 25.25 TO ADDRESS MANDATORY MINIMUM SENTENCES FOR REPEAT SEXUAL OFFENDERS.	2/21/19 11:34 a.m.						

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

Bill No. 52-35 (WR)

Introduced by:

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2019 FEB 21 AM 11:34

**AN ACT TO AMEND 9 GCA § 25.15 AND §25.20 AND ADD A
NEW SECTION (c) TO 9 GCA § 25.25 TO ADDRESS
MANDATORY MINIMUM SENTENCES FOR REPEAT
SEXUAL OFFENDERS**

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

2 **SECTION 1. Title 9 GCA § 25.15 is hereby *amended* to read:**

3 § 25.15. First Degree Criminal Sexual Conduct.

4 (a) A person is guilty of criminal sexual conduct in the first degree if he or
5 she engages in sexual penetration with the victim and if any of the following
6 circumstances exists:

7 (1) the victim is under fourteen (14) years of age;

8 (2) the victim is at least fourteen (14) but less than sixteen (16) years
9 of age and the actor is a member of the same household as the victim,
10 the actor is related to the victim by blood or affinity to the fourth
11 degree to the victim, or the actor is in a position of authority over the
12 victim and used this authority to coerce the victim to submit;

1 ((3) sexual penetration occurs under circumstances involving the
2 commission of any other felony;

3 (4) the actor is aided or abetted by one or more other persons and
4 either of the following circumstances exists:

5 (A) the actor knows or has reason to know that the victim is
6 mentally defective, mentally incapacitated or physically
7 helpless; or

8 (B) the actor uses force or coercion to accomplish the sexual
9 penetration.

10 (5) the actor is armed with a weapon or any article used or fashioned
11 in a manner to lead the victim to reasonably believe it to be a weapon;

12 (6) the actor causes personal injury to the victim and force or coercion
13 is used to accomplish sexual penetration; and

14 (7) the actor causes personal injury to the victim, and the actor knows
15 or has reason to know that the victim is mentally defective, mentally
16 incapacitated or physically helpless.

17 (b) Criminal sexual conduct in the first degree is a felony in the first degree.

18 Any person convicted of criminal sexual conduct under § 25.15(a) shall be
19 sentenced to a minimum of fifteen (15) years imprisonment, and may be
20 sentenced to a maximum of life imprisonment without the possibility

21 of parole. The term imposed shall not be suspended, as indicated in § 80.60
22 of Article 4, Chapter 80, Title 9 GCA; nor shall work release or educational
23 programs outside the confines of prison be granted; nor shall the provisions

1 under § 80.31 of Article 2, Chapter 80, Title 9 GCA apply. Any such
2 sentence shall include a special parole term of not less than three (3) years in
3 addition to such time of imprisonment.

4 (c) Any person convicted of criminal sexual conduct under § 25.15(a)
5 subsequent to a conviction of criminal sexual conduct under Guam law or a
6 conviction of a sex offense from another jurisdiction that has an element that
7 would constitute sexual contact or sexual penetration as defined in 9 GCA §
8 25.10 ~~under § 25.15(a)~~ shall be sentenced to a minimum of twenty-five (25)
9 years imprisonment, and may be sentenced to life imprisonment without the
10 possibility of parole. Said term shall not be suspended as indicated in §
11 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release
12 or educational programs outside the confines of prison be granted.

13 **Section 2. Title 9 GCA § 25.20 is hereby *amended* to read:**

14 § 25.20. Second Degree Criminal Sexual Conduct.

15 (a) A person is guilty of criminal sexual conduct in the second degree if the
16 person engages in sexual contact with another person and if any of the
17 following circumstances exists:

18 (1) that other person is under fourteen (14) years of age;

19 (2) that other person is at least fourteen (14) but less than sixteen (16)
20 years of age and the actor is a member of the same household as the
21 victim, or is related by blood or affinity to the fourth degree to the
22 victim, or is in a position of authority over the victim and the actor
23 used this authority to coerce the victim to submit;

1 (3) sexual contact occurs under circumstances involving the
2 commission of any other felony;

3 (4) the actor is aided or abetted by one or more other persons and
4 either of the following circumstances exists:

5 (A) the actor knows or has reason to know that the victim is
6 mentally defective, mentally incapacitated or physically helpless;

7 (B) the actor uses force or coercion to accomplish the sexual
8 contact.

9 (5) the actor is armed with a weapon or any article used or fashioned
10 in a manner to lead a person to reasonably believe it to be a weapon;

11 (6) the actor causes personal injury to the victim and force or coercion
12 is used to accomplish the sexual contact; and

13 (7) the actor causes personal injury to the victim and the actor knows
14 or has reason to know that the victim is mentally defective, mentally
15 incapacitated or physically helpless.

16 (b) Criminal sexual conduct in the second degree is a felony in the first
17 degree, but a person convicted of criminal sexual conduct in the second
18 degree who receives a sentence of imprisonment shall not be eligible for
19 work release or educational programs outside the confines of prison. The
20 term imposed shall not be suspended, as indicated in § 80.60 of Article 4,
21 Chapter 80, Title 9 GCA; nor probation be imposed in lieu of said minimum
22 term; nor shall parole be granted. Any such sentence shall include a special
23 parole term of not less than three (3) years, in addition to such time of
24 imprisonment.

1 (c) Any person previously convicted of criminal sexual conduct under Guam
2 law or a conviction of a sex offense from another jurisdiction that has an
3 element that would constitute sexual contact or sexual penetration as defined
4 in 9 GCA § 25.10 ~~under § 25.20(a) subsequent to a first conviction of~~
5 ~~eriminal sexual conduct under § 25.15(a), which involves sexual penetration,~~
6 shall be sentenced to a minimum of ~~twenty five (25)~~ fifteen (15) years
7 imprisonment, and may be sentenced to life imprisonment without the
8 possibility of parole. Said term shall not be suspended; nor probation be
9 imposed in lieu of said term, as indicated in § 80.60 of Article 4, Chapter 80,
10 Title 9 GCA; nor shall parole, work release or educational programs outside
11 the confines of prison be granted.

12 **Section 3. A new 9 GCA § 25.25(c) is hereby *added* to read:**

13 § 25.25. Third Degree Criminal Sexual Conduct.

14 (a) A person is guilty of criminal sexual conduct in the third degree if the
15 person engages in sexual penetration with another person and if any of the
16 following circumstances exists:

17 (1) that other person is at least fourteen (14) years of age and under sixteen
18 (16) years of age;

19 (2) force or coercion is used to accomplish the sexual penetration; and

20 (3) the actor knows or has reason to know that the victim is mentally
21 defective, mentally incapacitated or physically helpless.

22 (b) Criminal sexual conduct in the third degree is a felony of the second
23 degree.

1 (c) Any person previously convicted of criminal sexual conduct under
2 Guam law or a conviction of a sex offense from another jurisdiction that has
3 an element that would constitute sexual contact or sexual penetration as
4 defined in 9 GCA § 25.10 shall be sentenced to a minimum of ten (10) years
5 imprisonment without the possibility of parole. Said term shall not be
6 suspended; nor probation be imposed in lieu of said term, as indicated in §
7 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release
8 or educational programs outside the confines of prison be granted.

9 **Section 4. Date of Enactment.** This Act shall become effective upon
10 enactment.

11 **Section 5. Severability.** If any provision of this Act or its application
12 to any person or circumstance is found to be invalid or contrary to law, such
13 invalidity *shall not* affect other provisions or applications of this Act that can
14 be given effect without the invalid provision or application, and to this end
15 the provisions of this Act are severable.