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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE

155 Hesler Place, Hagåtña, Guam 96910

May 4, 2015

The Honorable Edward J.B. Calvo
I Maga'lahren Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill Nos. 32-33(COR), 56-33(COR), 58-33(LS), 59-33(COR), 60-33(COR) and 62-33(LS); and Substitute Bill Nos. 14-33(COR), 52-33(COR) and 66-33(COR), which were passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on May 1, 2015.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (9)

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 14-33 (COR), "AN ACT TO ADD NEW §§ 80.39, 80.39.1, 80.39.2 and 80.39.3 TO ARTICLE 2, CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO EMPOWERING THE COURTS OF GUAM TO DEPART FROM APPLICABLE MANDATORY MINIMUM SENTENCES UNDER SPECIFIC CONDITIONS, TO BE KNOWN AS "THE JUSTICE SAFETY VALVE ACT OF 2013"; AND TO REQUIRE REPORTING OF DEPARTURES TO THE JUDICIAL COUNCIL AND ON THE WORLD WIDE WEB," was on the 1st day of May 2015, duly and regularly passed.



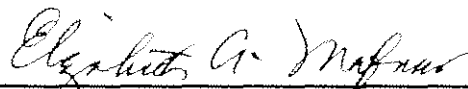
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 4th day of May,
2015, at 4:15 o'clock P.M.



Elizabeth A. Mafnas
Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 14-33 (COR)

As substituted by the Committee on the Guam U.S. Military Relocation,
Public Safety, and Judiciary; and amended on the Floor.

Introduced by:

T. R. Muña Barnes
Mary Camacho Torres
Michael F.Q. San Nicolas
T. C. Ada
V. Anthony Ada
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
B. J.F. Cruz
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
R. J. Respicio
Dennis G. Rodriguez, Jr.
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW §§ 80.39, 80.39.1, 80.39.2 AND 80.39.3 TO ARTICLE 2, CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO EMPOWERING THE COURTS OF GUAM TO DEPART FROM APPLICABLE MANDATORY MINIMUM SENTENCES UNDER SPECIFIC CONDITIONS, TO BE KNOWN AS “THE JUSTICE SAFETY VALVE ACT OF 2013”; AND TO REQUIRE REPORTING OF DEPARTURES TO THE JUDICIAL COUNCIL AND ON THE WORLD WIDE WEB.

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

2 **Section 1. Legislative Findings and Intent.** Taking a cue from recent
3 U.S. Congressional efforts to save taxpayer dollars by reserving scarce prison beds

1 for the most dangerous offenders, efforts culminating in the introduction in both
2 houses of the U.S. Congress of the “The Justice Safety Valve Act of 2013” (S. 619;
3 HR 1695), *I Liheslaturan Guåhan* seeks a similar “safety valve” at the territorial
4 level, thereby allowing Guam courts to likewise impose sentences below the
5 mandatory minimum sentence under specific conditions. The federal act marks a
6 national embrace of similar sentencing safety valves that have been enacted by
7 legislatures in some eight (8) states and counting. Like its state counterparts, the
8 federal legislation is a sound way to reduce prison populations and save money,
9 while at the same time protecting public safety. The federal act seeks only to
10 codify what has been described as a “common-sense” understanding that while
11 mandatory minimum sentences may be appropriate in many cases, they are
12 certainly not so in every case, especially those cases involving nonviolent
13 offenders.

14 *I Liheslaturan Guåhan* finds that giving courts more flexibility in sentencing
15 will only improve upon our justice system, as scarce prison beds will be reserved
16 first and foremost to keep the public safe from truly violent offenders. *I*
17 *Liheslaturan Guåhan* further finds that legislative bodies across the United States
18 have too often moved in the mistaken policy direction of imposing new mandatory
19 minimum sentences, unsupported by evidence, while failing to re-authorize and
20 adequately fund crucial alternative programs designed to, among other things,
21 rehabilitate prisoners so that they may be released to rejoin their communities as
22 contributing members thereof. As Senator Patrick Leahy said upon the introduction
23 of the federal “Justice Safety Valve Act of 2013,” “[o]ur reliance on mandatory
24 minimums has been a great mistake. It is time for us to let judges go back to acting
25 as judges and making decisions based on the individual facts before them. A one-
26 size-fits-all approach to sentencing does not make us safer.” In other words, *I*
27 *Liheslaturan Guåhan* intends not to require Guam judges to impose shorter

1 sentences, but rather only to authorize them to depart below a statutory mandatory
2 minimum sentence after finding, among other things, that providing a particular
3 defendant a shorter sentence will not jeopardize public safety. Put plainly, in cases
4 where the mandatory minimum sentence does not account for the offender's
5 limited role in a crime, or other relevant factors, judges would be allowed to
6 consider those factors and narrowly tailor more appropriate sentences in such
7 cases.

8 **Section 2.** New §§ 80.39, 80.39.1, 80.39.2 and 80.39.3 are hereby *added*
9 to Article 2, Chapter 80, Title 9, Guam Code Annotated, to read as follows:

10 **“§ 80.39. Title.** This Section *shall* be known and may be cited as
11 “the Justice Safety Valve Act of 2013.”

12 **§ 80.39.1. Sentencing.**

13 Notwithstanding any other provision of law, the court may depart
14 from the applicable mandatory minimum sentence if the court finds
15 substantial and compelling reasons on the record that, in giving due regard to
16 the nature of the crime, the history and character of the defendant, and his or
17 her chances of successful rehabilitation, that:

- 18 (a) imposition of the mandatory minimum sentence would
- 19 result in substantial injustice to the defendant; and
- 20 (b) the mandatory minimum sentence is *not* necessary for the
- 21 protection of the public.

22 **§ 80.39.2. Exceptions.** § 80.39.1 of this Article *shall not* apply if
23 the court finds that:

- 24 (a) the individual has a conviction for the same offense
- 25 during the ten (10)-year period prior to the commission of the offense;
- 26 (b) the individual intentionally uses a firearm in a manner
- 27 that causes physical injury during the commission of the offense; or

1 (c) the individual was the leader, manager, or supervisor of
2 others in a continuing criminal enterprise.

3 **§ 80.39.3. Reporting.** Upon departing from mandatory minimum
4 sentences, judges *shall* report to the Judicial Council which *shall*, one (1)
5 year following the enactment of this statute and annually thereafter, make
6 available in electronic form and on the world wide web, a report as to the
7 number of departures from mandatory minimum sentences made by each
8 judge of the Superior Court of Guam.”

9 **Section 3. Severability.** The provisions outlined in this Act are declared
10 to be separate and severable. The invalidity of any clause, sentence, paragraph,
11 subdivision, section or portion of this Act, or the invalidity of the application
12 thereof to any person or circumstance *shall not* affect the validity of the remainder
13 of this Act, or the validity of its application to other persons or circumstances.