


I MINA'TRENTA NA LIHESLATURÁN GUÅHAN
2009 (FIRST) Regular Session

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Bill No. 259-30 (cor)

Introduced by:

Adolpho B. Palacios, Sr. 

AN ACT TO AMEND SECTION 85.26 OF CHAPTER 85,
TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE
ADOPTION BY THE TERRITORIAL PAROLE BOARD OF
RULES AND PROCEDURES FOR THE CONDUCT OF ITS
BUSINESS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

3 that the purpose of the Guam Territorial Parole Board is to administer the rules

4 and regulations for the consideration and disposition of parole application, and

5 for the revocation thereof. The essence of parole is release from prison, before

6 the completion of incarceration, on the condition that the prisoner abides by the

7 conditions set forth for parole. Under some systems, parole is granted

8 automatically after the service of a certain portion of a prison term. Under

9 Guam's system, parole is granted by the discretionary action of a board, which

10 evaluates an array of information about a prisoner and makes a prediction

11 whether he or she is ready to integrate into society. This process involves the

12 application of expertise by the parole board members in making a prediction as

1 to the ability of the individual to live in a society without committing more
2 crimes. This part of the decision, too, depends on facts, and therefore it is
3 important for the board to know not only that some violations were committed
4 but also to know accurately how many and how serious the violations were. Yet
5 this second step, deciding what to do about the violation once it is identified, is
6 not purely factual but also predictive and discretionary.

7 To this end, *I Liheslaturan Guåhan* finds that a number of concerned and
8 interested members of the public have expressed concerns about the lack of
9 established procedures, rules, and regulations governing the conduct and
10 operations of the Territorial Parole Board. Although certain rules and
11 regulations exist under Title 24 of the Guam Administrative Rules and
12 Regulations concerning the Territorial Parole Board, members of the public have
13 expressed their concerns that either the Board has not followed such rules and
14 regulations in the past or that such regulations lack the detail and specificity
15 required in order to ensure consistency and uniformity in the exercise of
16 discretion whether to grand or deny parole.

17 Accordingly, *I Liheslaturan Guåhan* finds that it is in the best interest of the
18 people of Guam to require the Board to conduct an overall and comprehensive
19 assessments of the need to develop detailed and specific procedural rules and
20 regulations, and in accordance therewith, develop and promulgate such rules

1 and regulations necessary and proper for the Board to carry out its mandates
2 under law equitably, consistently, and properly.

3 It is therefore the intent of *I Liheslaturan Guåhan* to require the Parole
4 Board to adopt rules and regulations for the conduct of its business, by
5 amending section 85.26 to Chapter 85, Title 9, Guam Code Annotated.

6 **Section 2.** §85.26 , “Board. General Powers”, is hereby amended to read:

7 “§85.26 **Board. General Powers.** The Board is authorized to release on
8 parole any person confined in any penal or correctional institution in this
9 Territory and to revoke parole or discharge from parole any parolee as provided
10 in Article 5 (commencing with §80.70) of Chapter 80. The Board ~~may~~ shall adopt
11 such rules and ~~procedures~~ regulations not inconsistent with law ~~as it may deem~~
12 ~~proper or necessary~~ in order to carry out its duties under this chapter.

13 (a) Within one-hundred eighty (180) days of the effective date of this Act,
14 the Board shall file with the Legislative Secretary pursuant to §9303 of Title 5
15 Guam Code Annotated a comprehensive set of rules and regulations necessary
16 for the Board to carry out its duties under this Chapter, including amendments to
17 any existing rules and regulations in force. Such rules and regulations shall
18 include, but not be limited to, detail rules and regulations governing the conduct
19 of parole hearings before the Board including prior formal notice of hearings, the
20 taking of evidence, the right to call, examine, and cross-examine witness, and

1 other matters ensuring that the parole applicant or the paroled prisoner is
2 accorded his or her rights to due process of law.

3 (b) One-hundred twenty (120) days from the enactment of this Act, the
4 Parole Board shall transmit to I Liheslaturan Guåhan a status report of the
5 progress made in the formulation of the rules and regulations required herein.”

6 **Section 3. Official Board Hearing.** One-hundred eighty (180) days after
7 the enactment of this Act, no Parole Board hearing shall be official unless
8 necessary rules and regulations have been adopted for the conduct of such
9 hearing.

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