


I MINA'TRENTA NA LIHESLATURÁN GUÅHAN
2010 (SECOND) Regular Session

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MUM

Bill No. 418-30(cov)

Introduced by:

Adolpho B. Palacios, Sr. 

AN ACT TO AMEND §§85.10, 85.14, AND 85.26 OF CHAPTER 85, TITLE 9 GUAM CODE ANNOTATED RELATIVE TO THE COMPOSITION OF MEMBERS TO THE TERRITORIAL PAROLE BOARD.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Public Law 7-49 created the Territorial Parole Board consisting of five (5)
4 members appointed by the Governor and with the advice and consent of *I*
5 *Liheslatura*. Moreover, *I Liheslatura* finds that Public Law 27-104 which amended
6 Public Law 7-49 provides that “any person holding an elected office shall not be
7 eligible to serve on the Territorial Parole Board. In a span of forty-one (41) years,
8 the only change to the composition of the Territorial Parole Board is the reference
9 language cited above.

10 Much has evolved in the philosophy, treatment and rehabilitation of
11 offenders through programs supervised and managed by social workers and other
12 professionals involving parole, probation and penal custody. *I Liheslatura* finds
13 that for prisoners eligible for parole, parole is granted by the discretionary action of
14 the Territorial Parole Board. The board evaluates an array of information about an
15 inmate and makes a prediction whether he or she is ready to be re-integrated back

1 into society. While incarcerated, government officials are charged in preparing
2 and rehabilitating the inmate with the full hope of parole. This process requires a
3 holistic approach in evaluating if an inmate is capable to live in society and be a
4 productive member. This is ultimately a reflection of the change in penal
5 philosophy from penitentiary to correctional rehabilitation. The members of the
6 Territorial Parole Board should reflect this penal philosophy and should be
7 progressively qualified in certain academic disciplines or have a diverse
8 occupational background to best articulate their informed decision whether to grant
9 or deny parole.

10 *I Liheslaturan Guåhan* finds that under the current law providing for a five-
11 member Parole Board, three (3) are retired law enforcement officers – two (2)
12 retired from the Guam Police Department and one (1) retired from the Department
13 of Corrections. Three out of five were career law enforcement staff officers whose
14 indoctrination into their respective profession shaped their criminal justice values
15 that embrace the philosophy of “penitentiary” vs. “rehabilitation”. It appears then
16 that the current penal philosophy of the Parole Board is to punish. Under this
17 condition, it becomes very difficult for an inmate to have a fair and balanced
18 review and consideration of his parole application.

19 Therefore, it is the intent of *I Liheslaturan Guåhan* to provide for a balance
20 in the correctional and rehabilitation philosophy of the Territorial Parole Board by
21 amending §§85.10 and 85.14, of Chapter 85, Title 9 of the Guam Code Annotated.

22 **Section 2.** §85.10 of Chapter 85 of 9 GCA, is hereby amended to read:

23 **“§85.10. Territorial Parole Board Created.**

24 There is in the Executive Branch of the government of Guam, a
25 Territorial Parole Board, hereinafter referred to as the Board, consisting of
26 ~~five (5)~~ seven (7) members appointed by *I Maga’Lahi* [the Governor], by
27 and with the advice and consent of *I Liheslatura* [the Legislature]. Only

1 persons, who by their knowledge and experience are prepared to perform
2 efficiently the duties of the Board as hereinafter provided, shall be eligible to
3 such appointment. Any person holding an elected office shall not be eligible
4 to serve on the Territorial Parole Board.

5 (a) The composition of the Board members shall be comprised of the
6 following minimum background and experience:

7 (1) At least two (2) Board members shall have at least ten (10)
8 years in law enforcement work, or a baccalaureate degree in
9 criminal justice or juvenile justice or professional experience
10 in these areas of study;

11 (2) At least two (2) Board members shall have at least a
12 baccalaureate degree or higher from an accredited U.S.
13 institution of higher education in social work, sociology or
14 psychology or a medical degree from an accredited U.S.
15 institution;

16 (3) The three (3) remaining Board members shall have at least ten
17 (10) years of experience in human resources development or
18 legal background or professional experience in these areas of
19 study.”

20 **Section 3.** §85.14. of Chapter 85 of 9 GCA, is hereby amended to read:

21 **“§85.14. Chairman ~~Appointed~~ Elected: Meetings at Least Monthly.**

22 ~~The Governor~~ The Board shall ~~appoint one (1) of the members of the~~
23 ~~Board as chairman.~~ elect the Chairman from among its members. The
24 Chairman shall be elected by its members every two (2) years. The Board
25 shall meet regularly at least once a month. Special meetings may be called
26 by the chairman. Not less than four (4) voting members present shall
27 constitute a quorum for the transaction of business, and the affirmative vote

1 of four (4) members present shall be required to make any action of the
2 Board valid. No action shall be taken by the Board at any meetings or
3 hearings, unless a quorum is present.”

4 **Section 4.** §85.26 of Chapter 85 of 9 GCA, is hereby amended to read:

5 **“§85.26. Board: General Powers.**

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

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