

I Mina'Trentai Kuâtro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
203-34 (LS)	Therese M. Terlaje	AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2018.	10/27/17 11:52 a.m.	11/7/17	Committee on Culture and Justice	11/21/17 2:00 p.m.	5/21/18 9:27 a.m. As substituted by the Committee on Culture and Justice	Fiscal Note Request 11/03/17 Fiscal Note 11/21/17	



I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

May 16, 2018

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa
Hagåtña, Guam 96910

VIA: The Honorable Régine Biscoe Lee
Chairperson, Committee on Rules

RBL

RE: Committee Report on Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice

Dear Speaker Cruz:

Transmitted herewith is the **Committee Report on Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice** – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2018.

Committee votes are as follows:

- 4 TO DO PASS
- 0 TO NOT PASS
- 2 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse',

Therese M. Terlaje

RECEIVED
MAY 17 2018
COMMITTEE ON RULES

10:30am

2018 MAY 21 AM 9:27 MS

COMMITTEE REPORT ON

Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice

**“An Act to amend and move
Chapter 18, Title 16, Guam Code
Annotated to Chapter 92, Title 9,
Guam Code Annotated, relative to
the Safe Streets Act of 2018.”**




I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

May 16, 2018

MEMORANDUM

To: All Members
Committee on Culture and Justice

From: Vice Speaker Therese M. Terlaje 
Committee Chairperson

Subject: Committee Report on Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice

Transmitted herewith for your consideration is the Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice - An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2018.

This report includes the following:

- Copy of COR Referral of Bill No. 203-34 (LS)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 203-34 (LS), As Introduced
- Copy of Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice
- Copy of COR Pre-Referral Checklist on Bill No. 203-34 (LS)
- Related News Reports

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telena C. Nelson,
Member



Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR
SIKRITARIAN LIHESLATURAN GUAHAN
I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

November 7, 2017

MEMO

To: **Rennae Meno**
Clerk of the Legislature
Attorney Julian Aguon
Legislative Legal Counsel

From: **Senator Régine Biscoe Lee**
Chairperson, Committee on Rules

Re: **Referral of Bill No. 203-34 (LS)**

Buenas yan Háfa adai.

As per my authority as Chairperson of the Committee on Rules, I am forwarding the referral of **Bill No. 203-34 (LS)**.

Please ensure that the subject bill is referred, in my name, to **Vice Speaker Therese M. Terlaje, Chairperson of the Committee on Culture and Justice**.

I also request that the same be forwarded to the prime sponsor of the subject bill.

Attached, please see the COR pre-referral checklist for your information, which shall be attached as a committee report item to the bill.

If you have any questions or concerns, please feel free to contact Jean Cordero at 472-2461.

Thank you for your attention to this important matter.

Respectfully,


Senator Régine Biscoe Lee
Chairperson, Committee on Rules

I Mina' Trentai Kudatro Na Liheslaturan
BILL STATUS

Bill Number	Author	Description	Effective Date	Committee	Meeting Date	Meeting Time
203-34 (LS)	Theresa M. Terboje	AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 18, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.	11/07/17	Committee on Culture and Justice	10/27/17	11:52 a.m.



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

FIRST NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Nov 13, 2017 at 8:57 AM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Bcc: MiChelle Taitano <chellegu@gmail.com>, DPPCR <sgumataotao@guamcourts.org>, Elizabeth Barrett-Anderson <ebanderson@guamag.org>, "Pauline I. Untalan" <puntalan@guamag.org>, "Senator Dennis Rodriguez, Jr." <senatordrodriguez@gmail.com>

Håfa adai,

Please see pasted below and attached, a public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you.

Jocelyn de Guia

Policy Analyst

November 13, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in Li heslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.

- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.


We look forward to your attendance and participation.

Si Yu'os Ma'åse

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

 **First notice PH 11.21.17.pdf**
326K



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

November 13, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje *TKS*
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board
- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Invitation to Public Hearing on November 21, 2017 at 2:00 pm

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 14, 2017 at 8:21 AM

To: alamorenaiii <alamorenaiii@guamcourts.org>

Cc: DPPCR <sgumataotao@guamcourts.org>, "Cerina Y. Mariano" <cmariano@guamcourts.org>, "Denise R.J. Mendiola" <dmendiola@guamcourts.org>, Bryan Sualog <bsualog@guamcourts.org>

Dear Honorable Presiding Judge Lamorena,

Vice Speaker Terlaje would like to invite you and your staff to provide testimony at the Committee on Culture and Justice Public Hearing on November 21, 2017 at 2:00 pm. The following items are on the agenda:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.

- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

We plan to hear these agenda items in the order provided. We expect to be done with the confirmation of Mrs. Duenas by 2:20 pm and will hear Bills 187 and 203 right after that. Please see the attached public hearing notice and feel free to distribute it widely.

Do not hesitate to call us if you have any questions.

Thank you.

Jocelyn de Guia

Policy Analyst

--

The Office of Vice Speaker Therese M. Terlaje

Committee on Culture and Justice

I Mina'trentai Kuáttro na Liheslaturan Guåhan

34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

 **First notice PH 11.21.17.pdf**
326K



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

SECOND NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Fri, Nov 17, 2017 at 3:44 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>, "Senator Dennis Rodriguez, Jr." <senatordrodriguez@gmail.com>

Håfa adai,

Please see pasted below and attached, a public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you.
Jocelyn de Guia
Policy Analyst

November 17, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse

--
The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*



Virus-free. www.avg.com

Second notice PH 11.21.17.pdf
326K




**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE**
Chairperson of the Committee
On Culture and Justice

*I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature*

November 17, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje 
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board
- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via I Liheslaturan Guåhan's live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse

PHNOTICE Listing

30thguamyouthcongress@gmail.com
action@weareguahan.com
admin2@guamrealtors.com
admin@bbmr.guam.gov
admin@frankaguonjr.com
admin@guamrealtors.com
admin@weareguahan.com
aguon4guam@gmail.com
agusto.afague@gmail.com
ahernandez@guamlegislature.org
alerta.jermaine@gmail.com
alicto.rbi@gmail.com
am800guam@gmail.com
amandakee.shelton@mail.house.gov
amcborja@gmail.com
ann@toduguan.com
assist_editor@glimpsesofguam.com
atalgba@gmail.com
av@guamlegislature.org
avillaverde@guamlegislature.org
avon.guam@gmail.com
barbaraann.senatorsa@gmail.com
berthaduenas@guamlegislature.org
bina@ghra.org
bmkelman@guampdn.com
bshringi@moylans.net
carlaborja.73@yahoo.com
carlo.branch@gmail.com
carlo.branch@senatorbjcruz.com
carlsonc@pstripes.osd.mil
cathy.senatorsa@gmail.com
ccastro@guamchamber.com.gu
ccharfauros@guamag.org
ccsanchez89@gmail.com
cgogue@guampdsc.net
cheerfulcatunao@yahoo.com
christine.quinata@takecareasia.com
chucktanner@toduguan.com
cipo@guamlegislature.org
clerks@guamlegislature.org
committee@frankaguonjr.com
communications@frankaguonjr.com
communications@guam.gov
cor@guamlegislature.org
corguamlegislature@gmail.com
coy@senatorada.org
cridgell@guamcourts.org
cyrus@senatorada.org
dan.senatorsa@gmail.com
danblas49@gmail.com
dcristost@guam.gannett.com
debbler@senatorbjcruz.com
divider_lJimenez@hotmail.com
dmgeorge@guampdn.com
edelynn1130@hotmail.com
editor@postguam.com
editor@sajpantribune.com
elena.garcia@senatorbjcruz.com
emanaloto@guamlegislature.org
emqcho@gmail.com
eo@guamrealtors.com
epocalgue@senatorbjcruz.com
fbtorres671@gmail.com

fbtorres@yahoo.com
fes22744@gmail.com
flores@senatorada.org
francescacc.guamlegislature@gmail.com
gerry@postguam.com
gerrypartido@gmail.com
gktv23@hotmail.com
guam.avon@gmail.com
guam@pstripes.osd.mil
guamnativesun@yahoo.com
hafajapan@gmail.com
hazel.estrellado@guamlegislature.org
hazel.estrellado@guamlegislature.org
hermina.certeza@senatorbjcruz.com
hill.bruce@abc.net.au
hope.senatorsa@gmail.com
ihernandez@guamlegislature.org
info@chinesetimesguam.com
james.servino@guamlegislature.org
jason@kuam.com
jason@senatormorrison.com
jborja@senatorada.org
jennifer.lj.dulla@gmail.com
jessica@ghra.org
joan@kuam.com
joanne.senatorsa@gmail.com
joanne@guamlegislature.org
joe@toduguan.com
joesa@guamlegislature.org
john@postguam.com
johnluces@toduguan.com
johnaconnor@gmail.com
jon.calvo@mail.house.gov
jontalk@gmail.com
joway97@gmail.com
jprmanuel@gmail.com
jstedtaotao@gmail.com
jtenorio@guamcourts.org
julian.c.janssen@gmail.com
juliette@senatorada.org
kaltre97@gmail.com
kcharfauros74@gmail.com
kcn.kelly@gmail.com
keepinginformed.671@gmail.com
kelly.toves@mail.house.gov
kenq@kuam.com
kevin.kerrigan@grmc.gu
khmg@hbcguam.net
kim@senatormorrison.com
koreannews@guam.net
koreatv@kuentos.guam.net
kstokish@gmail.com
kstonews@ite.net
kurtzman.guamlegis@gmail.com
kyle_brian@live.com
law@guamag.org
legislativecounsel@guamlegislature.org
lfe@guampdn.com
ljalcairo@gmail.com
lmatthews@guampdn.com
m.salalla@yahoo.com
mabuhaynews@yahoo.com
mahoquinene@guam.net

malainse@gmail.com
maria.pangelinan@gec.guam.gov
martavictoriapalmtree@gmail.com
marycamachotorres@gmail.com
marycamachotorres@outlook.com
maryfejeran@gmail.com
marym@guamlegislature.org
matthew.santos@senatorbjcruz.com
mcamacho@guamlegislature.org
mcarlson@guamlegislature.org
mcperson.kathryn@abc.net.au
mcruz@hitradio100.com
media@frankaguonjr.com
media@senatorbjcruz.com
menchu@toduguan.com
mls@guamlegislature.org
mlwheeler2000@yahoo.com
mohernandez@guampdn.com
monty.mcdowell@amiguam.com
mspeps4873@gmail.com
mwatanabe@guampdn.com
natasha@toduguan.com
news@guampdn.com
news@spbguan.com
nick@kuam.com
norman.aguilar@guamcc.edu
office@senatorada.org
officeassistant@frankaguonjr.com
oliviampalacios@gmail.com
onlyonguan@acubedink.com
orleen@senatorbjcruz.com
orsini.rikki@gmail.com
oyaol.ngirairiki@gmail.com
pacificjournalist@gmail.com
parroyo@k57.com
pdkprg@gmail.com
peter@senatorada.org
phil@spbguan.com
president@ghra.org
procurement@guamlegislature.org
protocol@guamlegislature.org
publisher@glimpsesofguam.com
rbloffice@googlegroups.com
rennae@guamlegislature.org
responsibleguam@gmail.com
rteeahan@yahoo.com
ricknauta@hitradio100.com
rilmatico@guampdn.com
robert@postguam.com
robertomallan86@gmail.com
rollymanuntag@gmail.com
rose.senatorsa@gmail.com
rowena@senatormorrison.com
rsalas@senatorada.org
rsimlsalas@gmail.com
sabrina@kuam.com
sarah.elmore@senatorbjcruz.com
senator.sa@gmail.com
senator@senatorbjcruz.com
senatorrodriguez@gmail.com
senatorjoessanagustin@gmail.com
senatormary@guamlegislature.org
senatorsannicolas@gmail.com

w/media

PHNOTICE Listing

senatortcnelson@gmail.com
senatortcnelson@guamlegislature.org
senatorterriajeguam@gmail.com
senjvespaldon@gmail.com
sgtarms@guamlegislature.org
sitarose2@yahoo.com
skquintanilla@gmail.com
silmfiaco@guampdn.com
smendiola@guamlegislature.org
sonedera-salas@guamlegislature.org
staff@frankaguonjr.com
stephanlemendiola@gmail.com
tcastro@guam.net
tcruznelson@gmail.com
team5andahalfstar@gmail.com
telo.taltague@visittguam.org
thebigshow@k57.com
tina.alicto@yahoo.com
tjtaltano@cs.com
tom@senatorada.org
tommy@senatormorrison.com
tritten@pstripes.asd.mil
tteriaje@guam.net
xiosormd@gmail.com
xiosormd@yahoo.com
yjee2@guam.gannett.com
yourvoce.guam@gmail.com



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Invitation to Public Hearing on November 21, 2017 at 2:00 pm

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 14, 2017 at 9:33 AM

To: Elizabeth Barrett-Anderson <ebanderson@guamag.org>

Cc: "Joseph B. McDonald" <jmcdonald@guamag.org>, "Pauline I. Untalan" <puntalan@guamag.org>

Dear General Anderson,

Vice Speaker Terlaje would like to invite you and your staff to provide testimony at the Committee on Culture and Justice Public Hearing on November 21, 2017 at 2:00 pm. The following items are on the agenda:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.

- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

We plan to hear these agenda items in the order provided. Please note that we expect to be done with the confirmation of Mrs. Duenas by 2:20 pm and will hear Bills 187 and 203 right after that. Please see the attached public hearing notice and feel free to distribute it widely.

Do not hesitate to call us if you have any questions.

Thank you.

Jocelyn de Guia

Policy Analyst

--

The Office of Vice Speaker Therese M. Terlaje

Committee on Culture and Justice

I Mina'trentai Kuáttro na Lihelaturan Guåhan


34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

 **First notice PH 11.21.17.pdf**
326K

PHNOTICE Listing

30thguamyouthcongress@gmail.com
 action@weareguahan.com
 admin2@guamrealtors.com
 admin@bbmr.guam.gov
 admin@frankaguonjr.com
 admin@guamrealtors.com
 admin@weareguahan.com
 aguon4guam@gmail.com
 agusto.afilague@gmail.com
 ahernandez@guamlegislature.org
 alerta.jermaine@gmail.com
 alberto.rbi@gmail.com
 am800guam@gmail.com
 amandalee.shelton@mail.house.gov
 amcborja@gmail.com
 ann@toduguan.com
 assist_editor@impsofguam.com
 atalgba@gmail.com
 av@guamlegislature.org
 avilaverde@guamlegislature.org
 avon.guam@gmail.com
 barbaraann.senatorsa@gmail.com
 berthaduenas@guamlegislature.org
 bina@ghra.org
 bmkaifman@guampdn.com
 bshringl@moylans.net
 carlaborja.73@yahoo.com
 carlo.branch@gmail.com
 carlo.branch@senatorbjcruz.com
 carlsonc@pstripes.ood.mil
 cathy.senatorsa@gmail.com
 ocastro@guamchamber.com.gu
 charfauros@guamag.org
 ccaschavez89@gmail.com
 cogue@guampdc.net
 cheerfulcatunao@yahoo.com
 christino.quinata@bakercarasa.com
 chucktanner@toduguan.com
 cipo@guamlegislature.org
 clerks@guamlegislature.org
 committee@frankaguonjr.com
 communications@frankaguonjr.com
 communications@guam.gov
 cor@guamlegislature.org
 congumlegislature@gmail.com
 coy@senatorada.org
 cridgell@guamcourts.org
 cyrus@senatorada.org
 dan.senatorsa@gmail.com
 danblas49@gmail.com
 dcristoet@guam.gannett.com
 debbler@senatorbjcruz.com
 divider_jlimenez@hotmail.com
 dmgeorge@guampdn.com
 edelynn1190@hotmail.com
 editor@postguam.com
 editor@sajpantribune.com
 elena.garcia@senatorbjcruz.com
 emanaloto@guamlegislature.org
 emqcho@gmail.com
 eo@guamrealtors.com
 epocague@senatorbjcruz.com
 fitorres671@gmail.com

fitorres@yahoo.com
 fes22744@gmail.com
 flores@senatorada.org
 francescacc.guamlegislature@gmail.com
 gerry@postguam.com
 gerrypartido@gmail.com
 gktv23@hotmail.com
 guam.avon@gmail.com
 guam@pstripes.ood.mil
 guamnative.sun@yahoo.com
 hafaJapan@gmail.com
 hazel.estrellado@guamlegislature.org
 hazel.estrellado@guamlegislature.org
 hermina.cortez@senatorbjcruz.com
 huli.bruce@abc.net.au
 hope.senatorsa@gmail.com
 hermandez@guamlegislature.org
 info@chinesetimesguam.com
 james.servino@guamlegislature.org
 jason@kuam.com
 jason@senatormorrison.com
 jborja@senatorsa.org
 jennifer.lj.duila@gmail.com
 jessica@ghra.org
 joan@kuam.com
 joanne.senatorsa@gmail.com
 joanne@guamlegislature.org
 joe@toduguan.com
 joesa@guamlegislature.org
 john@postguam.com
 johnluces@toduguan.com
 johnoconnor@gmail.com
 jon.cahvo@mail.house.gov
 jontalk@gmail.com
 joway97@gmail.com
 jpmenual@gmail.com
 jstadtaobao@gmail.com
 jtenorio@guamcourts.org
 julian.c.janssen@gmail.com
 julietta@senatorada.org
 kaitre97@gmail.com
 kcharfauros74@gmail.com
 kcn.kelly@gmail.com
 keepinginformed.671@gmail.com
 kelly.toves@mail.house.gov
 kenq@kuam.com
 kevin.kerrigan@grmc.gu
 kdmg@bbcgum.net
 kdm@senatormorrison.com
 koreannews@guam.net
 korsetv@kuantos.guam.net
 kstokish@gmail.com
 kstone@re.nat
 kurtzman.guamlegis@gmail.com
 kyle_brian@live.com
 law@guamag.org
 legislativecounsel@guamlegislature.org
 life@guampdn.com
 ljcaitro@gmail.com
 limathews@guampdn.com
 m.salala@yahoo.com
 mabuhaynews@yahoo.com
 mahokuivane@guam.net

malainse@gmail.com
 merla.pangalanan@gec.guam.gov
 martavictoriapalmerlee@gmail.com
 marycamachotorres@gmail.com
 marycamachotorres@outlook.com
 maryfejeran@gmail.com
 marym@guamlegislature.org
 matthew.santos@senatorbjcruz.com
 mcamacho@guamlegislature.org
 mcarlson@guamlegislature.org
 mcpherson.kathryn@abc.net.au
 mcruz@hitrado100.com
 media@frankaguonjr.com
 media@senatorbjcruz.com
 menchu@toduguan.com
 mis@guamlegislature.org
 mwheeler2000@yahoo.com
 mohemanda@guampdn.com
 monty.modowall@amiguam.com
 mapepe4673@gmail.com
 mwanabe@guampdn.com
 natalasha@toduguan.com
 news@guampdn.com
 news@spbgum.com
 nick@kuam.com
 norman.aguiler@guamcc.edu
 office@senatorada.org
 officeassistant@frankaguonjr.com
 olivampalacios@gmail.com
 onlyonguam@acubedink.com
 orleen@senatorbjcruz.com
 orsin.Likki@gmail.com
 oyoalrgrartrtd@gmail.com
 pacificjournalist@gmail.com
 parroyo@k57.com
 pdkipng@gmail.com
 peter@senatorada.org
 phill@spbgum.com
 president@ghra.org
 procurement@guamlegislature.org
 protocol@guamlegislature.org
 publisher@impsofguam.com
 rbioffice@googlegroups.com
 renee@guamlegislature.org
 responsibleguam@gmail.com
 rtaehan@yahoo.com
 rickeute@hitrado100.com
 rlmrtaco@guampdn.com
 robert@postguam.com
 robertomallen86@gmail.com
 rolymarvuntag@gmail.com
 rose.senatorsa@gmail.com
 rowena@senatormorrison.com
 rsalas@senatorada.org
 rsalinas@gmail.com
 sabrina@kuam.com
 sarah.almore@senatorbjcruz.com
 senator.sa@gmail.com
 senator@senatorbjcruz.com
 senator@rodriguez@gmail.com
 senatorjoesanagustin@gmail.com
 senatormary@guamlegislature.org
 senatorsanicolas@gmail.com

w/media

PHNOTICE Listing



senatorrcnelson@gmail.com
senatorrcnelson@guamlegislature.org
senatorterriajeguam@gmail.com
senjvespaldon@gmail.com
sgtamms@guamlegislature.org
sltarose2@yahoo.com
slxquintanilla@gmail.com
slmllaco@guampdn.com
smendiola@guamlegislature.org
sonedera-salas@guamlegislature.org
staff@frankaguonjr.com
stephanlemendiola@gmail.com
tcastro@guam.net
tcruznelson@gmail.com
teamSandahalfstar@gmail.com
teko.talague@visitguam.org
thebigahow@k57.com
tina.alicto@yahoo.com
tjtaltano@cs.com
tom@senatorada.org
tommy@senatormorrison.com
tritten@pstripes.sad.mil
tterriaje@gum.net
xiosormd@gmail.com
xiosormd@yahoo.com
yiae2@guam.gannett.com
yourvoice.guam@gmail.com



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: info@guambar.org

Tue, Nov 14, 2017 at 10:01 AM

Håfa adai, President Terlaje

Please see pasted below and attached, a public hearing notice from Vice Speaker Therese M. Terlaje. Please distribute to the member of the Guam Bar Association.

Should you have any questions, please contact our office.

Thank you.
Jocelyn de Guia
Policy Analyst

November 13, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.

- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan*'s live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.




Si Yu'os Ma'åse

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com


Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

4 attachments

-  **First notice PH 11.21.17.pdf**
326K
-  **Bill No. 187-34 (COR).pdf**
212K
-  **Bill No. 203-34 (LS).pdf**
2287K

11/14/2017

Gmail - NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

 **Bill No. 196-34 (COR).pdf**
308K



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 14, 2017 at 10:27 AM

Bcc: Stephen Hattori <shattori@guampdsc.net>, joseph.i.cruz@gpd.guam.gov, anamariag@guamapd.org

Håfa adai,

Please see pasted below and attached, a public hearing notice from Vice Speaker Therese M. Terlaje. We invite you to provide written or oral testimony for any of the agenda items that will be heard at the public hearing. Links to the bills have been provided below.

Should you have any questions, please contact our office.

Thank you.
Jocelyn de Guia
Policy Analyst

November 13, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.

- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.


We look forward to your attendance and participation.

Si Yu'os Ma'åse

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

 **First notice PH 11.21.17.pdf**
326K



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

NOTICE of Public Hearing - Tuesday, November 21, 2017 at 2:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 14, 2017 at 11:06 AM

Bcc: alberto.lamorena@doc.guam.gov, rey.vega@gbhwc.guam.gov

Håfa adai Directors,

Please see pasted below and attached, a public hearing notice from Vice Speaker Therese M. Terlaje. We invite you to provide written or oral testimony for any of the agenda items that will be heard at the public hearing. Links to the bills have been provided below.

Should you have any questions, please contact our office.

Thank you.
Jocelyn de Guia
Policy Analyst

November 13, 2017

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Tuesday, November 21, 2017 at 2:00 p.m.

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Tuesday, November 21, 2017, beginning at 2:00 PM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

On the agenda are the following items:

- **Confirmation Hearing for Concepcion B. Duenas** as a Member to the Guam Parole Board

- **Bill No. 187-34 (COR)** – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- **Bill No. 203-34 (LS)** – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- **Bill No. 196-34 (COR)** – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan*'s live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.


We look forward to your attendance and participation.

Si Yu'os Ma'åse

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com

Electronic Privacy Notice: *This e-mail and any attachment(s), contains information that is, or may be, covered by electronic communications privacy laws and legal privileges, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing the information in this e-mail or any attachment in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.*

 **First notice PH 11.21.17.pdf**
326K

Wheelchair drug smuggler released to third-party custodians

By Andrew Roberto
andrew@postguam.com

While awaiting sentencing for his role in bringing nearly a quarter of a million dollars worth of meth to Guam, a man who hid the drug in his wheelchair will be released to a third-party custodian.

Erik Vincent Motta Benavente during the job interview. There to testify in support of the bill

Flight 197 from Narita on Oct. 15. In the arrivals section of the A.B. Won Pat International Airport, officers with the Guam Customs and Quarantine Agency discovered 455 grams of meth concealed inside the cushion of Benavente's wheelchair, following a secondary inspection.

According to court documents, Benavente admitted to paying Lasia Casil, founder of ISA LGBT

Discrimination statistics

in Oregon and planned to sell it on Guam.

U.S. Drug Enforcement Administration officials have said the going rate for 1 gram of ice is approximately \$500, making Benavente's drugs worth about \$227,500.

During an interview with the DEA, Benavente admitted the suspected methamphetamine was his court and the desire to avoid shame. She acknowledged the many in the LGBT

Last week, Benavente pleaded guilty to intent to distribute more than 50 grams of methamphetamine.

Release, status hearing Yesterday, the court ordered that Benavente could be released to the custody of Andrew and Janice Benavente.

A status hearing in the sentencing has been scheduled for Feb. 8, 2018.

Committee On Culture and Justice
Vice Speaker THERESA M. TERLAGE
I Minahetral Khatro na Lhelestarat Guåhan
34th Guam Legislature

Public Hearing
Tuesday, November 21, 2017 at 2:00 p.m.
Guam Legislature Public Hearing Room, Guam Congress Building, Hagåtña

- Confirmation Hearing for Conception B. Duenas as a Member to the Guam Parole Board
- Bill No. 187-34 (COR) - T.M. Terlage / T.C. Nelson / J.V. Espalton - An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2107(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- Bill No. 203-34 (L.S.) - T.M. Terlage - An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- Bill No. 198-34 (COR) - D.G. Rodriguez, Jr. / J.S. San Agustin - An Act to add a new Article 4 to Chapter 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.

If you require any special accommodations, auxiliary aids, or other special services, or for further information, please call the Office of Public Speaker, Theresa M. Terlage at 472-5886. For copies of any of the bills listed on this agenda, you may request the Guam Legislature's website at www.guamlegis.gov. Testimonies may be submitted directly to our office at the Guam Congress Building or to 33 Ocean Street, 3rd floor, Hagåtña, Guam. For more information, please call Enrique Agustin, Executive Manager at 472-5886, or via email at enrique.agustin@postguam.com. This ad is paid for with government funds.

GUAM REGIONAL TRANSIT AUTHORITY (Government of Guam)
Edite B. Celso, Governor
Raymond S. Tenorio, Lt. Governor
Enrique Agustin, Executive Manager
P.O. Box 2896
Hagåtña, GU 96932
Phone: (671) 475-4886 or 4603
Fax: (671) 475-4600
GRTA

PUBLIC ANNOUNCEMENT

Board of Directors Meeting

The Guam Regional Transit Authority (GRTA) announces that there will be a regular board meeting, which has been rescheduled for **3:00PM, Tuesday, November 21, 2017**. The meeting will be held at the GRTA Office located at Department of Public Works Compound, Marine Corps Drive, Tanning, Guam.

Paratransit riders please make your reservation at least one (1) day to two (2) days prior to your scheduled pick up time. For more information call Koppenburg Enterprises, Inc. at 647-7433/8435.

Individuals requiring special accommodations, auxiliary aids or services may contact Mark Christosomo at 300-7255 Monday through Friday, 8AM - 5PM. Closed on weekends and GovGuam Holidays.

For more information, please call Enrique Agustin, Executive Manager at 475-4616/4686.

(This advertisement is paid for by Government of Guam Funds)

MEETINGS

ing 9 a.m. Nov. 20 in the Legislature Public Hearing Room at the Guam Congress Building. Would interested parties require assistance or special ac-

commodations contact Carlo J. Branch at the Office of the Speaker at 477-2520 or email carlo.branch@senatorbj-cruz.com.

» The Guam Academy Charter Schools Council will conduct a special meeting at 9:30 a.m. on Nov. 20 in the Department of Parks and Recreation Confer-

ence Room, Paseo Stadium, Hagåtña, Guam. Individuals requiring special accommodations are asked to contact Amanda Blas at 687-6219.

» The Kumisión i Fino' Chamoru yan i Fina'ná'guen i Historia yan i Lina'la' Taotao Tãno' (Commission on Chamoru Language and the Teaching of History and Culture of the Indigenous People of Guam) will conduct a Work Session from 1 to 4 p.m. Nov. 20 at the Senator Antonio M. Palomo Guam Museum Chamoru Educational Facility Board Conference Room in Hagåtña. For more info. call 483-0097 or 727-5522.

» The Consolidated Commission on Utilities will hold a work session for Guam Waterworks Authority at 4 p.m. Nov. 20 at the CCU Conference Room, 3rd Floor, Gloria B. Nelson Public Service Bldg., Rte. 15, Mangilao. Individuals requiring special accommodations, auxiliary aids or services, may contact Lou Sablan at 648-3002.

» CockPit License Board meeting will be held at 4:30 p.m. Nov. 20 at 1240 Army Drive Route 16 Barrigada, Department of Revenue and Taxation Director's Conference Room.

Tomorrow

» The Committee on Education, Finance, and Taxation will be conducting its third Tax Commission meeting 9 a.m. Nov. 21 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña). For special accommodations, please call 989-5445 or email senator-joessanagustin@gmail.com.

» The Committee on Culture and Justice will convene a public hearing beginning at 2 p.m. Nov. 21 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña).

AM BLACK FRIDAY SALES EVENT

FINANCING WAS **1.49%** APR

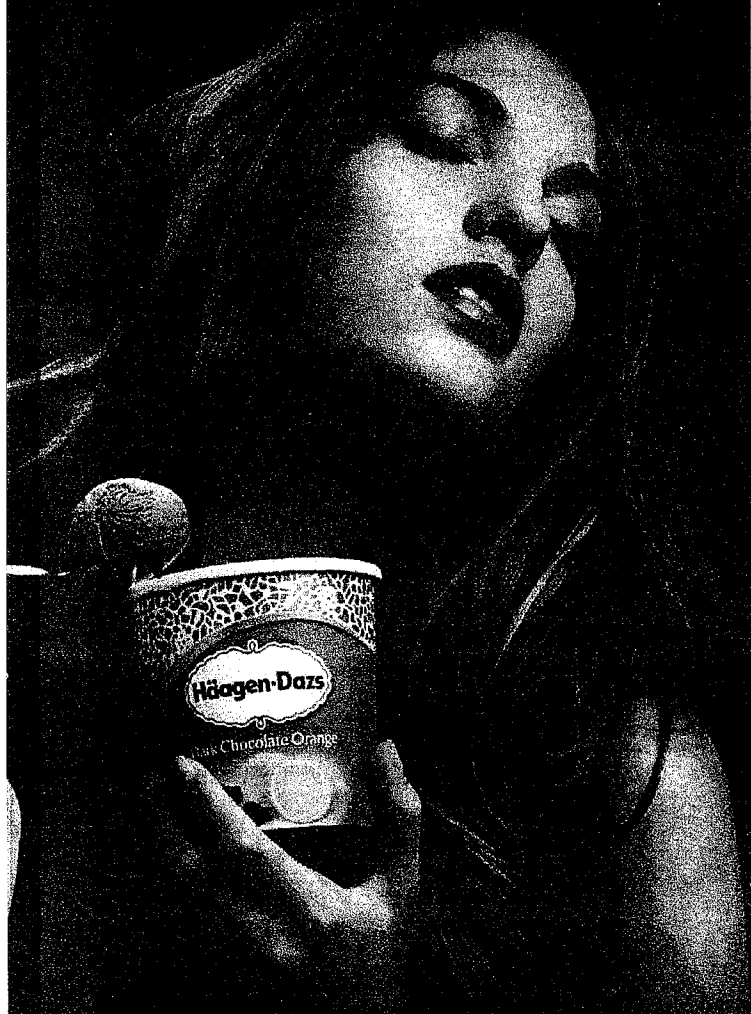
CONSUMER GUIDE BEST BUY AWARD FIVE YEARS IN A ROW

10,000! ON A NEW RAM TRUCK!

5YR-60K MILE POWERTRAIN WARRANTY

Indulge
yourself.

Now Open at GPO
and Fiesta Resort.



GOVERNMENT MEETINGS

New listing

» The Department of Chamorro Affairs (DCA) Board of Trustees will hold its Regular Board Meeting at 4 p.m. Dec. 12 at the Terlaje Professional Building, first floor, DCA/HRRA conference room. Those requiring special accommodations should please contact Patti Hernandez at 475-4278.

Today

» The Committee on Education, Finance, and Taxation will be conducting its third Tax Commission meeting 9 a.m. Nov. 21 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña). For special accommodations, please call 989-5445 or email senatorjoessanagustin@gmail.com.

» The Committee on Culture and Justice will convene a public hearing beginning at 2 p.m. Nov. 21 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña).

» The Guam Regional Transit Authority announces there will be a regular board meeting scheduled for 3 p.m. Nov. 21. The meeting will be held at the GRTA Office located at Department of Public Works Compound, Marine Corps Drive, Tamuning, Guam.

» The Consolidated Commission on Utilities will hold a work session for Guam Power Authority at 4 p.m. Nov. 21 at the CCU Conference Room, 3rd Floor, Gloria B. Nelson Public Service Bldg., Rte. 15, Mangilao. Individuals requiring special accommodations, auxiliary aids or services, may contact Lou Sablan at 648-3002.

» Guam Public Library System Regular Board Meeting 4 p.m. Nov. 21 at the Guam Public Library System's Hagåtña Library Conference Room. Those with disabilities requiring special accommodations, auxiliary aid or services, call 475-4753/4.

» The Committee on Education, Finance, and Taxation will convene a Public Hearing beginning at 5 p.m. Nov. 21 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, Hagåtña). Should you or in-

laturan Guåhan, will conduct a COR meeting at 2 p.m. Nov. 22 in the Public Hearing Room of the Guam Congress Building.

» The Consolidated Commission on Utilities will hold their regular monthly meeting at 5:30 p.m. Nov. 22 in the CCU Conference Room, 3rd Floor, Gloria B. Nelson Public Service Bldg., Rte. 15, Mangilao.

» The Alcoholic Beverage Control Board meeting will be held at 5 p.m. on Nov. 22 at 1240 Army Drive Route 16 Barrigada, Department of Revenue and Taxation Director's Conference Room. For further information, please Contact: 635-1806.

Nov. 28

» The Port Authority of Guam Board of Directs will hold its regular Board meeting 11:45 a.m. Nov. 28 at the Board conference room, Port Authority of Guam, Cabras Island, Piti. Individuals with disabilities contact Simeon Delos Santos, ADA Coordinator at 477-5931-4, ext. 430.

» The Hagåtña Restoration & Redevelopment Authority Board of Commissioners will hold its Regular Board Meeting 4 p.m. Nov. 28 in the HRRA Conference Room, 194 Hernan Cortez Avenue, 1st Floor Terlaje Professional Building, Hagåtña. Any special accommodation required please contact 475-4281.

Nov. 30

» Guam Parole Board regular schedule meeting 9 a.m. Nov. 30 at #1 Paseo De Susana (Paseo Stadium) Hagatna. For more information or those with special accommodations, please call the Parole Office at 735-4133/34.

» Guam Pardon Review Board regular schedule meeting 3 p.m. Nov. 30 at #1 Paseo De Susana (Paseo Stadium) Hagatna. For more information or those with special accommodations, please call the Parole Office at 735-4133/34.

December

» The Mayor's Council of Guam will hold its regular monthly meeting at 10 a.m. Dec. 6, in the Mayor's Council of Guam Conference Room at the J&G Commercial Center, Suite



**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice**

*I Mina'trentai Kuáttro na Liheslaturan Guåhan
34th Guam Legislature*

Public Hearing

**Tuesday, November 21, 2017
2:00 P.M.**

AGENDA

Confirmation:

- Concepcion B. Dueñas – Member, Guam Parole Board

Bills:

- Bill No. 187-34 (COR) – Introduced by: T.M. Terlaje / T.C. Nelson / J.V. Espaldon – An Act to establish the Guam Adult Reentry Court Program at the Judiciary of Guam by adding § 2101(d) of Chapter 2, Title 7, Guam Code Annotated and adding § 80.70(f) and § 80.82(c), both of Article 5, Chapter 80, Title 9, Guam Code Annotated.
- Bill No. 203-34 (LS) – Introduced by: T.M. Terlaje – An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.
- Bill No. 196-34 (COR) – Introduced by: D.G. Rodriguez, Jr. / J.S. San Agustin – An Act to add a new Article 4 to Ch. 23 of Title 7 of the Guam Code Annotated, relative to halting recalcitrant judgment debtors from avoiding to pay their Guam Court judgments.



I Mina'trentai Kuáttro na Liheslaturan Guåhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje

Committee On Culture and Justice

Date: ~~Thursday, September 28, 2017~~
 Tuesday, November 21, 2017

Time: ~~5:30 p.m. - 7:30 p.m.~~ 2PM

Bill No. 203-34 (LS): An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

	NAME	AGENCY	CONTACT NO.	E-MAIL	POSITION		TYPE OF		
					SUPPORT	OPPOSE	WRITTEN	ORAL	
1	Ray Trumper	JPLA	300 3202			<input checked="" type="checkbox"/>			
2	Cecilia Jaquen	DRW-DHS	647-4343			<input checked="" type="checkbox"/>			
3	Ann Senato	DRW-DHS	647-3216			<input checked="" type="checkbox"/>			
4	Jano Almandres	DRW-DHS	647-3215			<input checked="" type="checkbox"/>			
5	Annamaria Syle	APD	4753224			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
6	XXXXXXXXXX	XXXX	XXXXXXXXXX			<input checked="" type="checkbox"/>			
7	Erin Smith-Anderson	OAG	475-3324	ebanderson@gumgov.gu		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	D. Mendosa	JOG	800-8279			<input checked="" type="checkbox"/>			
9	NOBrewers	JOS	4753127	nobrewers@gumgov.gu		<input checked="" type="checkbox"/>			
10	Trish Sordis	JOK	475-3305						



I Mina'trentai Kuáttro na Liheslaturan Guåhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje

Committee On Culture and Justice

Date: ~~Thursday, September 28, 2017~~
 Tues, November 21, 2017

Time: 5:30 p.m. - 7:30 p.m.

2pm

Bill No. 203-34 (LS): An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2017.

	NAME	AGENCY	CONTACT NO.	E-MAIL	POSITION		TYPE OF	
					SUPPORT	OPPOSE	WRITTEN	ORAL
1	Bonita Blas	Judiciary of Guam	475-3386	blas@guamcourts.org	✓			
2	Rogis Reyes	Judiciary of Guam	475-5446	rreyes@guamcourts.org	✓			
3	Albato Limeron III	Trellickery			✓			✓
4	Richard Link	Public Defender	475-3100	rlink@guamjds.net	✓			
5	CHRISTINA TORRES	SOC						
6	MICKIE P. BULHAN	Judge	735-0323		✓			
7								
8								
9								
10								



JUDICIARY OF GUAM

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3544 • Fax: (671) 477-3184



HON. KATHERINE A. MARAMAN
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA III
PRESIDING JUDGE

JOHN Q. LIZAMA
ADMINISTRATOR OF THE COURTS

November 20, 2017

The Honorable Therese M. Terlaje
Vice Speaker, 34th Guam Legislature
Chairperson, Committee on Culture and Justice
163 Chalan Santo Papa
Hagåtña, Guam 96932

Re: Testimony on Bill No. 203-34 (LS)

Dear Vice Speaker Terlaje:

On behalf of the Judiciary of Guam (the "Judiciary"), thank you for providing me with the opportunity to submit written testimony regarding Bill No. 203-34 (LS), AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017, which you sponsored. The Judiciary is in support of the general intent of Bill No. 203-34 (LS), which would allow for the establishment of a Driving While Impaired (DWI) Treatment Court at the Judiciary of Guam. This measure is a culmination of joint efforts with the Attorney General's Office, Public Defender's Office, Alternate Public Defender's Office, Guam Police Department, Guam Behavioral Health and Wellness Center, and Department of Public Works Office of Highway Safety, which met regularly as the DWI Treatment Court Executive Committee.

Bill 203-34 (LS) will amend Guam's DWI statutes in several respects, including:

- Addressing not just driving while under the influence of alcohol, but also of any controlled substance that can impact the physical and mental abilities to operate a motor vehicle;
- Modernizing the statutory definition of impaired driving to include the results of new technologies to measure impairment; and
- Giving more judicial discretion to take away driving privileges, and impose fines and incarceration.

The most significant aspect of this bill, however, is that it allows for the establishment of a DWI Treatment Court, which is funded by a grant of approximately \$350,000.00 awarded to the Judiciary of Guam, from the Bureau of Justice Affairs. The new DWI Treatment Court program is modeled after the Judiciary's BJA-funded Adult Drug Court Program and will provide treatment based on assessment, such as that determined by the American Society of Addiction Medicine, and utilizes the Matrix Model for group therapy.

The DWI Treatment Court will address the ever-increasing caseload of DWI cases, which averages 450 cases per year. Data collected by the Judiciary reveals a total of 2,704 DWI cases filed over a six-year period from 2010 to 2015. Of these cases, 370 were criminal felony cases, and 2,334 were criminal misdemeanor cases. The proposed legislation will support the Judiciary's efforts to reduce recidivism for medium and high risk offenders, and to address their risks, needs, and responsivity, through the implementation of evidence-based practices and rehabilitation.

The program will accept 40 adult male and female participants each program year. Participants become eligible after being identified as medium/high risk for criminogenic behaviors and high need alcohol-dependent offenders, who may have co-occurring disorders; are repeat DWI violators or first-time violators with a BAC at 0.15 and higher. In further response to the disproportionate population of Chuukese male violators, interpreting services by a Language Assistance Specialist will promote successful treatment. While data clearly indicates a larger population may be served, the Judiciary will pilot a manageable number of participants, based on past experience initiating other therapeutic courts.

The Judiciary has believed that specialized courts are the best response to the increase of drug and alcohol-abuse offenders in Guam's criminal justice system and to help reduce the level of recidivism. We have seen past success with our treatment courts, and welcome their positive effect on alleviating caseload pressures, and their therapeutic jurisprudence model.

I would like to expressly state, however, that I am not taking a position on the provisions of the draft legislation which address implied consent; specifically proposed Article 2 of Chapter 92, Title 9 Guam Code Annotated. The DWI Court Executive Committee did not address these provisions, as they are policy determinations to be addressed by members of *Liheslaturan Guahån*.

Thank you also for giving me the opportunity to provide written testimony on Bill No. 203-34 (LS), which will help to modernize our existing DWI statutes and provide treatment and rehabilitation options for these offenders, and promote increased protection for all in our community.

Senseramente,



ALBERTO C. LAMORENA III
Presiding Judge, Superior Court of Guam

Judiciary of Guam's Responses to questions regarding Bill No. 203-34 (LS) Safe Streets Act of 2017

1. Is this legislation going to require an additional judge for the Court? How will a judge be assigned to the DWI court?

No. Under the Administrative Rule for the assignment of cases, all cases with a charge of Driving While Intoxicated or Driving Under the Influence are assigned to the DWI Court. Currently, all cases in the DWI Court are assigned to one Superior Court judge.

2. Will this impede the judges' ability to keep up with their current calendars?

No. Based on the number of criminal cases assigned to the DWI Court over the past three years, the assigned Superior Court judge has been managing the calendar for the DWI docket and other cases assigned to the judge. The Presiding Judge, in consultation with the Superior Court Clerk of Court, annually review case assignments and when necessary, provide recommendations to the Supreme Court for approval.

3. How is the DWI Court funded and how many staff are dedicated to the DWI Court?

There are two components to the DWI Court; the traditional track and the DWI Treatment Court track. In 2016, the Bureau of Justice Affairs awarded the Judiciary of Guam with a three-year implementation grant for the implementation of a DWI Treatment Court.

The DWI traditional track is locally funded, and the assigned staff include:

Presiding Judge
Probation Officers
Deputy Clerks
Court Interpreters
Alternative Sentencing Officer
Part-time contract treatment provider

The DWI treatment track is partially federally funded, and the assigned staff include:

Presiding Judge
DWI Treatment Court Coordinator/Probation Officer Supervisor (Salary partially grant funded)
DWI Treatment Court Case Manager (Salary partially grant funded)
Probation Officers
Deputy Clerks
Court Interpreters
Alternative Sentencing Officer
Part-time contract treatment providers – three (100% grant funded)

Additional locally funded cost for DWI Treatment Court:

Durg Testing Kits – Approximately \$27,000.00

4. How many existing or new therapists will be dedicated to the DWI Court?

Three part-time contract treatment providers will assist the DWI Treatment Court participants. These providers are a Licensed Individual Therapist, Drug and Alcohol Certified Group Therapist, and Language Assistance Specialist.

Guam Behavioral Health and Wellness Center assists defendants in the DWI traditional track.

5. What type and how many cases are referred to Guam Behavioral Health and Wellness Center?

In 2015, New Beginnings assisted 261 DWI clients and 157 in 2016.

6. What is the estimated cost per participant?

During the three-year grant cycle, the program will service 120 participants (40 each year). The estimated cost per participant is \$2,651.00 for supervision, staffing, and treatment.

7. Will the Judiciary be asking the Legislature for additional funding for this DWI Court program for FY 2018 or subsequent fiscal years?

Yes. In FY 19, additional funding will be needed for the DWI Treatment Court Coordinator, Case Manager, treatment services, and testing kits.

8. Why is this legislation needed if there is currently already a DWI Court program serving 10 participants?

This legislation will establish a DWI Treatment Court. The mission of the DWI Treatment Court is to increase public safety and to improve the quality of life of the participant by providing holistic supervised treatment to reduce recidivism. The treatment court will service offenders identified as medium/high risk for criminogenic behaviors and high need alcohol-dependent offenders. Participants will receive intensive treatment and supervision. The ten participants currently in the DWI Court traditional track are receiving treatment, but not the intensive treatment and supervision required for the treatment court.

Treatment is focused on rehabilitation and recovery as opposed to more punitive measures. The legislation will reduce incarceration and focus on the successful recovery of the participant. Additional incarceration will also cost more money to house the offender at the Department of Corrections (DOC). DOC estimates that the cost per inmate per day is \$130 (24-hour day). Reducing incarceration from 90 days to 60 days is a cost savings measure for the Government of approximately \$3,900 per participant. Over a three-year period, the savings for 120 participants will be \$468,000 – nearly half a million dollars.

Like other therapeutic courts, successful completion of the treatment program results in the dismissal and expungement of the offender's case. This legislation will allow for the same result in DWI cases assigned to the treatment court.

9. What is the rationale behind and/or benefit to the community by lowering the minimum and maximum fines for 1st offender convictions, 2nd offender convictions, etc.?

As stated above, intensive treatment and supervision will result in better outcomes for the offender and the community with a lower risk to re-offend. Medium/high risk, high need offenders, pose a danger to the community if no treatment is provided and only punitive measures are applied. Establishment of a DWI Treatment Court will address the increase of drug and alcohol-abuse offenders in Guam's criminal justice system, help reduce recidivism, and lower the costs for the Government to incarcerate defendants.

(a) Number of first offender convictions, second offender convictions, third convictions.

10. Does this bill change in any way the incarceration for a person who refuses to submit to an analysis of breath or blood for alcohol or a controlled substance?

The Judiciary of Guam is not taking a position on this issue.



Office of the Attorney General of Guam

590 S. Marine Corps Dr., Ste. 901, Tamuning, Guam 96913



Elizabeth Barrett-Anderson

Attorney General

Phone: (671) 475-3324

ext. 5015/ 5030

Fax: 477-4703

law@guamag.org

Jacqueline Z. Cruz

Chief of Staff

Administration

ext. 5010

jjcruz@guamag.org

Phillip J. Tydingco

Chief Prosecutor

Prosecution

ext. 2410

ptydingco@guamag.org

Karl P. Espaldon

Deputy AG

Solicitors

ext. 3115

kespaldon@guamag.org

Kenneth D. Orcutt

Deputy AG

Litigation

ext. 3225

korcutt@guamag.org

Fred S. Nishihira

Deputy AG

Consumer Protection

ext. 3250

fnishihira@guamag.org

Rebecca M. Perez

Deputy AG

Child Support

ext. 1610

rebecca.perez@guamcse.net

Carol M. Hinkle-Sanchez

Deputy AG

Juvenile

ext. 4040

csanchez@guamag.org

Pauline Untalan

Administrator

Victim Service Center &

Notary Unit

ext. 5030

puntalan@guamag.org

November 21, 2017

Honorable Therese M. Terlaje
Vice-Speaker, *I Mina'trentai Kuattro Na Liheslaturan Guahan*
Committee on Culture & Justice
Guam Congress Building
163 Chalan Santo Papa
Hagatna, GU 96910

Re: Bill 203-34 **2017 Safe Streets Act**

Hafa Adai Senator and Members of the Committee:

Thank you for this opportunity to provide supportive testimony on the enactment of Bill 203-34, an Act to repeal and reenact the Guam Safe Streets Act (16 GCA 18101 et.seq.), and to move the Act to a new Chapter 92, Title 9, Criminal & Corrections Code.

Work began in 2010 by the Judiciary of Guam, DWI Executive Committee, during my tenure as the DWI Court Judge, to modernize the 1996 Safe Streets Act (1996 SSA), or more common known as Guam's drunk driving statute. The 1996 SSA has not been amended for over twenty (20) years. The Committee completed its work in 2012, however, no action was taken by the Guam Legislature to move the draft legislation forward.

In 2016, under the leadership of Presiding Judge Alberto C. Lamorena III, DWI Court Judge, and all the members of the DWI Executive Committee, the 2012 draft was revisited, and a new and stronger version emerged. (Attachment "A")

The Act modernizes Guam's Safe Streets Act in line with therapeutic principles of problem solving courts. It is integral to criminal justice professionals and treatment providers working in DWI Court, and furthers efforts to reduce drunk and drugged driving on Guam. It is important that those who violate the law by getting behind the wheel of a car drunk or drugged are held accountable for their actions not merely by paying a fine, or serving time in incarceration, but through successful participation in court mandated treatment programs that specifically address the risks of impaired driving.

Some of the Act's highlights include:

- Moves the Safe Streets Act from the Vehicle Code to the Criminal Corrections Code. In 2013, the Guam Legislature reduced traffic infractions to civil violations under the Vehicle Code. Transferring the drunk and drugged driving statute to the Criminal Code is appropriate.
- Fines are now provided for in ranges. This is found in most states. It permits the DWI Treatment Court Judge to impose a fine based on the level of impairment and facts of the case.
- It specifically makes it a crime to drive impaired while under the influence of a controlled substance at any level.
- It incorporates therapeutic programs of the DWI Treatment Court to help reduce a sentence. It further incorporates the use of the breath alcohol ignition device to assist a defendant whose driver's license has been suspended.
- It simplifies the process for suspension or revocation of the driver's license of a person who has been convicted of DWI.
- It permits the DWI Treatment Court Judge greater discretion in the treatment and sentencing of offenders in line with therapeutic principles of justice and fairness.

Drunk driving arrests on Guam has declined by 69% since the establishment of the DWI Court treatment programs in 2010, and specific criminal justice initiatives by the Guam Police Department such as "Book-n-Confine" of offenders, increase traffic enforcement, and training of officers in drug recognition. Also impacting the reduction is the Legislature's enactment of the statute closing alcohol establishments at 2:00 a.m., and the increase in Guam's drinking age to twenty-one (21) (See attachment "B").

Bill 203-34 is a comprehensive modernization of the Safe Streets Act. Its enactment will continue the Legislature's strong effort towards reducing drunk and drugged driving.

Our Office would like to, however, raise the concern that Bill 203-34 appears significantly different from the version forwarded by our Office on behalf of the DWI Executive Committee. One of the more significant concerns with the Bill is the format for moving Article 2, entitled the "Implied Consent and Suspension or Revocation of Driving Privileges and License" to the Criminal & Corrections Code. It is the DWI Executive Committee's intent *not* to make any changes to the content of Article 2. Implied consent statutes are presently being litigated in various court jurisdictions throughout the nation, and therefore, it is premature at this time to make any changes to Guam's implied consent statute.

Two questions were asked by the Chairperson that I would like to address herein:

Questions #1: On page 7, line 1, under section 92101(m), does (m) include as a prior conviction those who have been convicted for "driving under the influence" prior to the potential enactment date of this new Bill? All prior convictions were for "driving under the influence" as opposed to the new language "driving while impaired".

Response: The intent of Subsection (m) is to incorporate convictions under soon-to-be prior Chapter 18, Title 16. Alternative the Committee can change Subsection (m) to read as follows:

(m) *Prior conviction for driving while impaired*, means a conviction of an offense in violation of any Section of this Chapter, or an offense based on ~~the driving while impaired laws~~ a violation of Chapter 18 of Title 16 in effect prior to the enactment of this Chapter, or under driving while impaired laws of any other jurisdiction in the world if the offense upon which the conviction is based would, if committed on Guam, be a violation of this Chapter.

Question #2: On pages 8 through 10, under section 92102 (a), (b), and (e), is this language under these parts too broad? Does this now expand the determination of "Driving While Impaired" to include those who have less than 0.08 percent alcohol concentrate or traces of controlled substances?

Response: Driving under any amount of alcohol or controlled substance is a violation of our current statutes. This is carried over into Bill 203-34. The .08 level of a person's breath or blood analysis is a legal presumption for impaired driving that favors the People's burden of proof. It is a rebuttable presumption. A person whose breath or blood analysis shows a level below the legal presumption is still considered driving while impaired, but requires more evidence such as the Field Sobriety Test (FST) to secure a beyond a reasonable doubt conviction.

We note that Section 18214.1 has not been addressed in Bill 203-34. This is the only remaining section of Chapter 18, Title 16 that will remain unless moved. In our draft version (attached), at Section 4, we recommend moving Section 18124.1 to Chapter 3, Article 3 "Rules of the Road", Title 16. This is needed in dealing with suspension of a driver's license not resulting from impaired driving, but related to other violations such as speed, or reckless driving.

Finally, our Office recommends adding a definition for the term "negligence." This term is used for charging vehicular negligence involving bodily injury, and for vehicular homicide. We recommend the following definition be added to "92101" to read:

“(j) **Negligence** as used in this Chapter has the same meaning for criminal negligence as defined under 9 G.C.A. §4.30(d).

We anticipate that when Bill 203-34 is reported out, it will resemble the original work of the DWI Executive Committee as attached. However, because the legislation is a comprehensive repeal and reenactment of the Safe Streets Act, we encourage the Committee to convene a Roundtable hearing for further section-by-section analysis and discussion, and/or a Mark-Up Session to conduct a line by line review of the Bill before it is reported out.

On behalf of the work of all the members, past and present, of the DWI Executive Committee over the past eight (8) years, we thank this Committee for the opportunity to provide supportive testimony on the passage of Bill 203-34.

Sincerely,



ELIZABETH BARRETT-ANDERSON
Attorney General

Attachment: A) Draft version of Bill submitted by DWI Executive Committee
 B) Drunk and Drugged Driving Arrests

cc: Chief Justice, Supreme Court of Guam
 Presiding Judge, Superior Court of Guam
 Governor of Guam
 Chief of Police, Guam Police Department

Members of the DWI Executive Committee
Deputy Attorney General, Chief Prosecutor

I MINA' TRENTAI KUATTRO LIHESLATURAN GUAHAN
2017 (FIRST) REGULAR SESSION

Bill No. _____

Introduced by: _____

AN ACT TO REPEALING AND REENACTING
THE SAFE STREETS ACT RELATIVE TO
DRIVING WHILE IMPAIRED

BE IT ENACTED BY THE PEOPLE OF GUAM:

SECTION 1. Legislative Intent. It is the intent of *I Liheslaturan* to amend the 1996 enactment of Guam's drunk and drugged driving statute, known as the Safe Streets Act, to improve Guam's enforcement of those laws, and to further improve the criminal justice response to arrests and prosecution in line with theories of therapeutic jurisprudence, rehabilitation of persons addicted to alcohol and drugs, and immediate accountability. The Legislature supports the efforts of the Judiciary of Guam in the continued operation of therapeutic courts such as Adult Drug Court, Juvenile Drug Court, Family Violence Court, Mental Health Court, Veterans Court, and the Driving While Impaired Treatment Court.

SECTION 2. A new subsection (d) is added to Title 7 G.C.A. §2101 to read as follows:

“(d) **DWI Treatment Court.** The Supreme Court of Guam may establish a Driving While Impaired Treatment Court (DWI Treatment Court). Participation in the Driving While Impaired Treatment Court shall be limited to those defendants who meet the legal and clinical requirements in accordance with orders as promulgated by the Supreme Court of Guam.”

SECTION 3. Title 16 GCA Chapter 18, Sections 18101 through 18124 are repealed in their entirety. A new Chapter is added to Title 9, Criminal Corrections Code, entitled “2017 Safe Streets Act” as follows, the Compiler of Laws to codify accordingly:

“Section 101. Definitions. As used in this Chapter:

- (a) ***Alcohol*** means a colorless, volatile, flammable liquid synthesized or obtained by fermentation of sugars and starches and widely used, either pure or denatured, as a solvent and in drugs; an intoxicating beverage with the same characteristics.
- (b) ***Bodily Injury*** carries the same meaning for bodily injury as defined in 9 GCA §16.10(b).
- (c) ***Breath Alcohol Ignition Interlock Device (BAIID)*** means a device that attaches to a vehicle and prevents its starting unless a breath alcohol test is passed.
- (d) ***Bus*** means a vehicle chartered for transportation of persons for hire. It shall not mean a school bus, open vehicles resembling trolleys, or a vehicle operated pursuant to a public or private franchise operating over a regularly scheduled route.
- (e) ***Controlled Substance*** is as defined in Chapter 67 of the Uniform Controlled Substance Act.
- (f) ***Driving While Impaired, or While Driving Impaired (“DWI”)*** means any person driving a motor vehicle under the influence of alcohol, or the ingestion or administration of any controlled substance, or any combination of these, when as a result, his physical or mental abilities are impaired to such a degree that he no longer has the ability to drive a motor vehicle with the characteristics of a sober person of ordinary prudence under the same or similar circumstances.
- (g) ***Electronic Alcohol Monitoring Device*** means a portable device capable of automatically and periodically testing and recording alcohol consumption levels and automatically and periodically transmitting such information and tamper attempts regarding such device, regardless of the location of the person being monitored.

- (h) **Oral Fluid (Saliva) Test** means a method used to collect a saliva sample from a test subject and analyze it for the presence of hormones, drugs, antibodies or other molecules.
- (i) **Limousine** means a chauffeur-driven motor vehicle, other than a bus or taxicab, designed and used for transportation of persons for compensation.
- (j) **Officer**, means an officer of the Guam Police Department, or a law enforcement officer of the Guam Airport Authority or Guam Port Authority, but only while such law enforcement officer is carrying out his duties within the confines of the property under the control and jurisdiction of the Authority by which the law enforcement officer is employed.
- (k) **Percent of alcohol by weight** shall be based upon grams of alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.
- (l) **Physical control of a vehicle** means being physically present in the driver's seat of a motor vehicle while the engine is turned on, whether moving or stationary on a public highway, a shoulder adjacent to a public highway, or parked in any public area.
- (m) **Prior conviction for driving while impaired**, means a conviction of an offense in violation of any Section of this Chapter, or an offense based on the driving while impaired laws in effect prior to the enactment of this Chapter, or under driving while impaired laws of any other jurisdiction in the world if the offense upon which the conviction is based would, if committed on Guam, be a violation of this Chapter.
- (n) **Public highway** means any primary or secondary roadway, street or alley used by the general public, including a public easement.

(o) ***Serious Bodily Injury*** carries the same meaning for serious bodily injury as defined in 9 GCA §16.10(c).

(p) ***Suspended driver's license*** means an operator's license, chauffeur's license, or driving privilege that has been suspended by the Court, or by administrative action, or seized by an officer pursuant to law.

Section 102. Driving While Impaired.

It is unlawful for a person to drive, operate, or be in physical control of any motor vehicle within the territory:

- a) While under the influence of alcohol;
- b) While under the influence of a controlled substance;
- c) Having an alcohol concentrate of 0.08 percent, or more, by weight, of alcohol in his blood, as shown by a chemical analysis of such person's breath or blood administered as authorized by this Chapter;
- d) Having an alcohol concentrate of 0.04 percent, or more, by weight, of alcohol in the blood of a person under the age of twenty-one (21), as shown by a chemical analysis of such person's breath or blood administered as authorized by this Chapter;
- e) Having any level of a controlled substance in his or her blood or urine,
- f) Having inhaled, ingested, applied or otherwise used any chemical, poison or organic solvent, or any compound, or combination of any of these, when as a result, his physical or mental abilities are impaired to such a degree that he no longer has the ability to drive a motor vehicle with the characteristics of a sober person of ordinary prudence under the same or similar circumstances;

g) While under the influence of any combination of subsections (a) through (g).

Section 103. Reckless Driving While Impaired.

- (a) Any person who, in reckless disregard for the safety of persons or property, operates a motor vehicle while driving impaired shall be guilty of a petty misdemeanor, and shall not be considered a prior conviction under Section 102.
- (b) If the People agree to a plea of guilty or *nolo contendere* to a charge of a violation of this Section in satisfaction of, or as a substitute for, an original charge of a violation of Section 102, the People shall state for the record a factual basis for the satisfaction or substitution, including whether or not the defendant was driving while impaired in connection with the offense.
- (c) The court shall notify the Department of Revenue and Taxation of each conviction of this Section.
- (d) A defendant placed on probation for a conviction under this Section shall enroll in an alcohol or drug education program at the expense of the participant, and complete the same as a condition of probation.

Section 104. First Offender Conviction: Punishment. A person convicted of a first violation of driving while impaired is guilty of a misdemeanor, and shall be sentence as follows:

- (a) A term of incarceration not less than a mandatory forty-eight (48) hours, nor more than one (1) year.
- (b) A mandatory minimum fine of not less than Three Hundred Fifty Dollars (\$350.00), and not more than One Thousand Dollars (\$1,000.00).

- (c) The Court shall order the person to be placed on probation for not more than one (1) year.
- (d) Suspension of a person's driving privilege for six (6) months, with occupational driving privileges. The Court may modify this suspension prior to the end of six (6) months suspension provided the person can show proof that he or she has successfully completed a drug and alcohol treatment program acceptable to the Court.
- (e) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 105. Second Offender Conviction: Punishment. A person convicted of a second violation of driving while impaired, and the offense occurred within five (5) years of a prior conviction for such an offense, is guilty of a misdemeanor and shall be sentenced as follows:

- (a) A term of incarceration of not less than a mandatory seven (7) days, nor more than one (1) year;
- (b) A mandatory minimum fine of not less than One Thousand Dollars (\$1,000.00), and not more than Five Thousand Dollars (\$5,000.00).
- (c) The Court shall order the person to be placed on probation for not more than three (3) years.
- (d) Suspension of a person's driving privilege for one (1) year, with no occupational driving privileges, which time period may be reduced in the discretion of the Court **provided on motion by the defendant he has:**
 - 1) completed Court approved treatment; 2) paid all fines and fees; 3) has not

been charged with a subsequent criminal offense; and 4) the Probation officer recommends reduction based on satisfactory performance. The Court may further reduce the period of suspension by no more than fifty percent (50%) provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the Court, or an electronic alcohol monitoring device approved by the Court.

- (e) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 106. Third Offender Conviction: Felony Punishment. A person convicted of a third violation of driving while impaired, and the offense occurred within five (5) years of two (2) separate prior convictions for such an offense, is guilty of a felony of the third degree and, notwithstanding any other provision of law, shall be sentenced as follows:

- (a) A term of incarceration of not less than a mandatory of ninety (90) days, nor more than five (5) years; provided, however, if the defendant agrees to voluntarily participate in, and successfully complete all terms and conditions of the DWI Court Treatment Program, the Court may reduce the mandatory incarceration time from ninety (90) days to no less than thirty (30) days, otherwise the defendant shall serve the full ninety (90) days.
- (b) A mandatory fine of not less than Two Thousand Dollars Five Hundred Dollars (\$2,500.00), and not more than Five Thousand Dollars (\$5,000.00).
- (f) Revocation of a person's driving privilege for not less than two (2) years, which time period may be reduced in the discretion of the Court provided on motion by the defendant he has 1) completed Court approved treatment; 2)

paid all fines and fees; 3) has not been charged with a subsequent criminal offense; and 4) the Probation officer recommends reduction based on satisfactory performance. The Court may further reduce the period of suspension by no more than fifty percent (50%) provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the Court, or an electronic alcohol monitoring device approved by the Court.

- (c) The Court shall order the person to be placed on probation for not less than three (3) years, and not more than five (5) years.
- (d) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 107. Fourth Offender Conviction: Felony Punishment. A person convicted of a fourth violation of driving while impaired, and the offense occurred within seven (7) years of three (3) separate prior convictions for driving while under the influence, is guilty of a felony of the third degree, and notwithstanding any other provision of law, shall be sentenced as follows:

- (a) A term of incarceration of not less than a minimum mandatory one (1) year, nor more than six (6) years. A mandatory minimum fine of not less than three thousand (\$3,000.00) dollars, and not more than seven thousand (\$7,000.00) dollars.
- (g) Revocation of a person's driving privilege for not less than three (3) years, which time period may be reduced in the discretion of the Court provided on motion by the defendant he has 1) completed Court approved treatment; 2)

paid all fines and fees; 3) has not been charged with a subsequent criminal offense; and 4) the Probation officer recommends reduction based on satisfactory performance. The Court may further reduce the period of suspension by no more than fifty percent (50%) provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the Court, or an electronic alcohol monitoring device approved by the Court.

(b) The Court shall order the person to be placed on probation for not less than four (4) years, and not more than six (6) years. The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

(c) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 108. Vehicular Negligence: Bodily Injuries.

(a) It is unlawful for any person to operate or be in physical control of a motor vehicle while driving impaired and, when doing so, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, or who negligently drives a vehicle, which act or neglect or negligence proximately causes bodily injury to any person other than the driver.

(b) It is unlawful for any person to operate or be in physical control of a motor vehicle while having 0.08 percent or more, by weight, of alcohol in his or her blood and, when doing so, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, or who negligently drives a vehicle, which act or

neglect or negligence proximately causes bodily injury to any person other than the driver.

(c) It is unlawful for any person under the age of twenty-one (21) years to operate or be in physical control of a motor vehicle if such person is found to have 0.04 percent or more, by weight, of alcohol in his or her breath or blood, when doing so, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, or who negligently drives a vehicle, which act or neglect or negligence proximately causes bodily injury to any person other than the driver.

(d) Any violation of subsection (a), (b) or (c) shall be punished as a felony of the third degree, and notwithstanding any other provision of law, shall be sentenced as follows:

1. A term of incarceration of up to three (3) years for a first conviction under this Chapter, and up to five (5) years in the event of a prior conviction of driving while impaired.
2. A mandatory fine of not less than two thousand five hundred (\$2,500.) dollars, and not more than five thousand (\$5,000.) dollars.
3. The Court shall order the person to be placed on probation for not more than five (5) years.
4. Suspension of a person's driving privilege for not more than five (5) years, which time period may be reduced in the discretion of the Court provided on motion by the defendant he has 1) completed Court approved treatment; 2) paid all fines and fees; 3) has not been charged with a subsequent criminal offense; and 4) the Probation

officer recommends reduction based on satisfactory performance. The Court may further reduce the period of suspension by no more than fifty percent (50%) provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the Court, or an electronic alcohol monitoring device approved by the Court.

5. The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

(e) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.

Section 109. Driving While Impaired With Child On Board: Felony

Punishment. A person convicted of violation of driving while impaired is guilty of a felony of the third degree if at the time of arrest, he or she was operating a motor vehicle in which a child under the age of sixteen (16) was a passenger, or if a child under the age of sixteen (16) was injured as a result of an accident in which the motor vehicle operated by the person was involved, and notwithstanding any other provision of law, shall be sentenced as follows:

- (a) A term of incarceration of not more than five (5) years.
- (b) A mandatory fine of Two Thousand Five Hundred Dollars (\$2,500), and not more than Five Thousand Dollars (\$5,000.00).
- (c) Suspension of a person's driving privilege for not less than one (1) year without occupational driving privileges, which time period may be reduced in the discretion of the Court provided on motion by the defendant

he has: 1) completed Court approved treatment; 2) paid all fines and fees; 3) has not been charged with a subsequent criminal offense; and 4) the Probation officer recommends reduction based on satisfactory performance. The Court may further reduce the period of suspension by no more than fifty percent (50%) provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the Court, or an electronic alcohol monitoring device approved by the Court.

(d) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 110. Vehicular Homicide: Felony Punishment. A person is guilty of vehicular homicide if he or she does any act forbidden by law in operating or driving of the vehicle, or if he or she negligently operates or drives a vehicle, which act or negligence proximately causes death to any person other than himself or herself. Vehicular homicide while driving a vehicle is a felony of the second degree, and notwithstanding any other provision of law, shall be punishable as follows:

- a) A term of incarceration not to exceed eight (8) years,
- b) A fine of not to exceed ten thousand dollars (\$10,000.00), and
- c) Revocation of the privilege to drive for five (5) years without occupational driving privileges.
- d) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 111. Vehicular Homicide While Driving Impaired: Felony Punishment. A person is guilty of vehicular homicide while driving impaired, if he or she does any act forbidden by law in driving while impaired, or if he or she negligently operates or drives a vehicle while impaired, which act or negligence proximately causes death to any person other than himself or herself. Vehicular homicide while driving impaired is a felony of the second degree, and notwithstanding any other provision of law, shall be punishable as follows:

- a) A term of incarceration of not less than a mandatory eight (8) years, and not more than fifteen (15) years,
- b) A fine of not more than ten thousand dollars (\$10,000.00), and
- c) Revocation of driving privileges for eight (8) years without occupational driving privileges.
- d) The Court shall notify the Department of Revenue and Taxation of each conviction of this Section.

Section 112. Drinking While Driving a Motor Vehicle: Petty Misdemeanor: Punishment. It is unlawful for any person to drink alcoholic while driving a motor vehicle within this territory. Any person convicted of violating this Section shall be guilty of a petty misdemeanor.

Section 113. Drinking While Riding in a Motor Vehicle: Petty Misdemeanor: Punishment. It is unlawful for any person to drink alcoholic while riding in a motor vehicle within this territory. Any person convicted of violating this Section shall be guilty of a petty misdemeanor.

Section 114. Opened Container of Alcohol: Petty Misdemeanor:

Punishment.

- (a) It is unlawful for any person to transport or possess alcoholic in a container in which the original cap or seal of the container has been opened, broken, or the contents of which have been partially removed when the vehicle is upon a public highway. Any person convicted of violating this Section shall be guilty of a petty misdemeanor.
- (b) It is unlawful for the registered owner of a vehicle, when the registered owner is not then present in the vehicle, to knowingly permit another person to store in the registered owner's motor vehicle alcoholic in a container in which the original cap or seal of the container has been opened, broken, or the contents of which have been partially removed when the vehicle is upon a public highway. Any person convicted of violating this Section shall be guilty of a petty misdemeanor.
- (c) Subsection (a) does not prohibit the transport, possession or storage of alcoholic in which the original cap or seal of the container has been opened, broken, or the contents of which have been partially removed if the container is secured in a rear compartment or trunk of the vehicle not normally occupied by the driver or a passenger, or a rear compartment which is not immediately accessible to the driver or any other passenger, while the vehicle is upon a public highway. A front passenger glove or utility compartment is not acceptable for purposes of this exemption.
- (d) This Section does not apply to living quarters of a motor home or camper, a bus, or a limousine provided the operator is enclosed within a compartment not accessible to

passengers, clients or customers where alcohol is present while the vehicle is upon a public highway.

Section 115. Marijuana Use While Driving a Motor Vehicle: Petty

Misdemeanor: Punishment. It is unlawful for any person, whether a driver or passenger, to consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway. Any person convicted of violating this Section shall be guilty of a petty misdemeanor.

Section 116. Exceptions for Alcohol Use in Tour Buses and Limousines.

Alcoholic beverages may be sold, offered for sale, and consumed only by passengers, not to include the operator, within the premises of a bus or limousine only by a business authorized and issued a license as prescribed by the Alcoholic Beverage Control Board permitting the sell of alcoholic beverages within the premises for a bus or limousine, and only during authorized hours as permitted by the license, and which license is prominently display within the bus or limousine. This exemption does not apply in the event any passenger is under the age of twenty-one (21) years of age, unless accompanied by a parent or legal guardian. It is the duty of the operator of the bus or limousine to verify the ages of every passenger to whom alcoholic beverages is intended to be sold or consumed. Any person or company found in violation this Subsection shall be guilty of a misdemeanor.

Section. 117. Occupational Driving Permit: First Offender Only. An

Occupational Driving Permit may be issued to a person convicted of a first offender violation under Section 104 by the Court authorizing the person to drive for employment purposes, and as permitted by the Court for therapeutic rehabilitation. The person whose

privilege to drive is suspended shall immediately surrender to the Court his or her driver's license, and if valid, may be granted an Occupational Driving Permit for six (6) months. The Court may establish by rule and procedure the manner of issuance of an Occupational Driving Permit, and must notify the Department of Revenue & Taxation promptly regarding the person's restriction on his or her driving privileges. The Court is authorized to charge a reasonable fee for issuance of the Occupational Driving Permit which must be fully paid before the permit can be issued. The cost of the permit shall be borne by the person whose privilege to operate a motor vehicle has been restricted by the Court. In the event a person does not possess a valid driver's license at the time of conviction, the person's privilege to apply for a driver's license shall be prohibited for the full period of the suspension.

Section. 118. Suspension or Revocation of Driver's License: Process.

(a) The driver's license of a person whose privilege to operate a motor vehicle has been suspended or revoked under this Chapter shall be mutilated with a hole punched on the lower right-hand corner of the license so as to identify it is a restricted license.

(b) A license that has been revoked shall be permanently seized from a defendant by the Court and promptly transmitted to the Department of Revenue and Taxation with a copy of the abstract of judgment. The Court is authorized to maintain custody of a driver's license which is suspended without occupational driving privileges until reinstatement.

(c) The Department of Revenue & Taxation shall immediately suspend or revoke the privilege of any person to operate a motor vehicle for the time period

required by the judgment, and in accordance with this Chapter, upon receipt of an abstract of judgment from the Clerk of Court showing that the person has been convicted of a violation of this Act. The Department shall reinstate a person's driving privileges upon receipt of an order of the court granting such reinstatement in accordance with this Chapter, or upon expiration of the time restriction.

(d) The Court may establish by rule and procedure the process for suspension or revocation of a person's privilege to driver, not inconsistent with the provisions herein.

Section 119. Driving While License Suspended or Revoked For Driving While Impaired.

(a) It is unlawful for a person to drive a motor vehicle in this territory knowing, or having reason to know, that his or her driver's license is suspended or revoked under this Chapter. Any person convicted of violating this Section shall be guilty of a misdemeanor.

(b) In any prosecution under this Section, competent evidence that the defendant's driver license was surrendered to an officer, or was suspended or revoked under this Chapter by an order of the Court, shall be prima facie evidence of the defendant's knowledge of the suspension or revocation.

Section 120. Participation in the Driving While Impaired Treatment Court.
The Court may remove or reduce any restriction on a person's privilege to drive and/or reduce any fine imposed resulting from a conviction of any offense in this Chapter upon that person's participation in the Driving While Impaired Treatment Court and the

completion of any terms and conditions imposed therefrom, provided that the person has also demonstrated full compliance with probationary conditions.

Section 121. Dismissal for Completion of Driving While Impaired

Treatment Court; Permitted. Upon satisfactory completion of all conditions of probation and treatment in DWI Treatment Court the Judge shall order the case dismissed and expunged.

Section 122. No Conditional Discharge and Dismissal Permitted for

Offenses Involving Serious Injuries. The provisions of Sections 120 and 121 shall not apply in the case of a violation defined as third degree felony in this Chapter, and that involves bodily injury to any person other than the driver.

Section 123. Probation Allowed. Any person convicted under this Chapter may

be granted probation at the discretion of the Court, which may include, but is not limited to, prohibition from consuming alcohol or controlled substance(s), payment of restitution, mandatory alcohol and drug testing, obey all laws, perform community service, agree to use an alcohol electronic device or BAID, random searches of home, vehicle and person, regular reporting to Probation, and any other condition the Court deems reasonable.

Section 124. The Safe Streets Act Fund of 2017. All fines collected by the

Superior Court of Guam for violation of this Act shall be placed in a special fund maintained and managed by the Judiciary of Guam, and used to support, in co-equal proportions, the DWI Treatment Court, the Department of Corrections, and the Guam Territorial Law Library.

Section 127. Electronic Alcohol Monitoring Device, Rules and Regulations.

The Judicial Council may promulgate rules, regulations, and proposed fees relative to the use of electronic alcohol monitoring devices by defendants convicted under this Chapter.

Section 128. Presumptions Affecting the Burden of Proof: Defenses.

(a) The amount of alcohol in the person's blood as shown by an analysis of that person's blood or breath shall give rise to the following presumptions affecting the burden of proof:

1. If there was at that time less than 0.08 percent by weight of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was driving while under the influence of alcoholic at the time of the alleged offense.
2. If there was at that time 0.08 percent or more by weight of alcohol in the person's blood, or 0.04 percent or more by weight of alcohol in a person's blood who is under the age of twenty-one (21), it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(b) Before such presumptions are made in cases involving a breath test, the People must show the following by a preponderance of the evidence:

1. That the instrument used for the breath test was properly checked and in proper working order at the time of conducting of the breath test;

2. That the person had nothing in his mouth at the time of the breath test and that he had taken no food or drink within fifteen (15) minutes prior to taking the breath test;
 3. That the breath test was given by a qualified operator and the proper manner;
 4. The provisions of this Subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested alcoholic, or was driving while impaired at the time of the alleged offense.
- (c) It is a rebuttable presumption that a person was under the influence of alcohol if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a blood or breath test within three (3) hours after driving.
- (d) It is a rebuttable presumption that a person under the age of twenty-one (21) was under the influence of alcohol if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a blood or breath test within three (3) hours after driving.
- (e) As allowed under Title 9 GCA §4.45, proving that the person did any act forbidden by law, it shall not be necessary to prove that the person possessed a culpable mental state.
- (f) The fact that any person, charged in violation of this Chapter, is or has been entitled to use a controlled substance shall not constitute a defense.

SECTION 4. Title 16 GCA, Chapter 18, Article 1, Section 18124.1 is transferred to Article 3 “Rules of the Road”, and numbered accordingly by the Compiler of Laws. Section 18125 is repealed in its entirety.

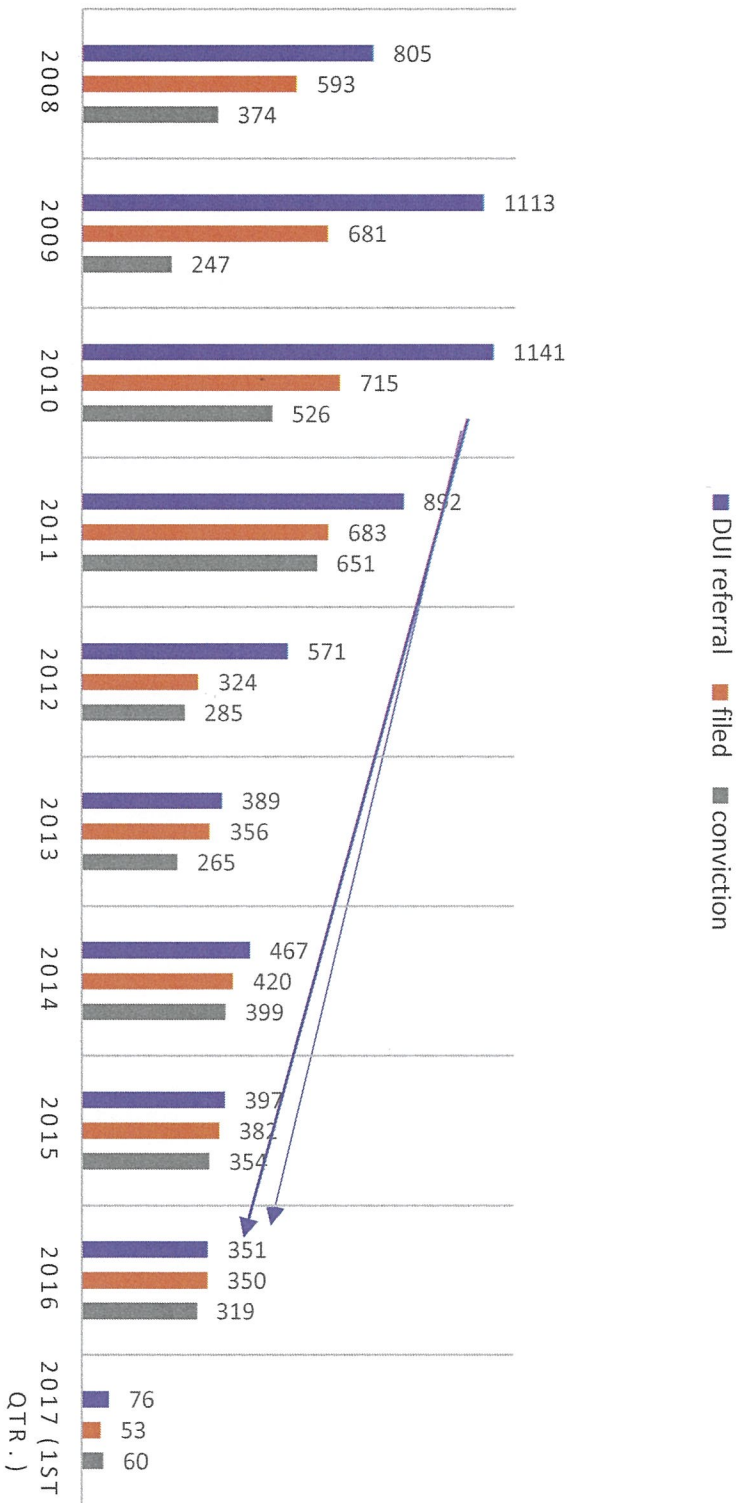
SECTION 5. Title 16 GCA, Chapter 18, Article 2, Sections 18201 through 18206, the “Implied Consent Law” are transferred to the Criminal Corrections Code, Title 9, and renumbered accordingly by the Compiler of Laws.

SECTION 6. Title 16 GCA, Chapter 18, Article 3, Sections 18301, 18302 and 18303, are repealed in their entirety.

SECTION 7. Title 16 GCA, Chapter 18, Article 4, Sections 18401 and 18402, are transferred to the Criminal Corrections Code, Title 9, and renumbered accordingly by the Compiler of Laws.

SECTION 8. This Act shall take effect upon signature of the Governor.

A. Guam DWI Summary Statistics: 2008 – 2017¹





Senator Therese Terlaje <senatorterlajeguam@gmail.com>

2017 Safe Streets Bill

Elizabeth Barrett-Anderson <ebanderson@guamag.org>

Mon, Jan 8, 2018 at 9:23 AM

To: "Joseph I. Cruz" <joseph.i.cruz@gpd.guam.gov>

Cc: Jonathan Quan <jquan@guamag.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, alamorenaiii <alamorenaiii@guamcourts.org>, "Karl P. Espaldon" <kespaldon@guamag.org>, "Joseph B. McDonald" <jmcdonald@guamag.org>

Good Morning Chief,

Happy New Year! I have asked Assistant Attorney General Jonathan Quan to meet with you to discuss Bill 203-34, An Act to Repeal and Reenact the 1996 Safe Streets Act. Your agency has been a major stakeholder in the development of the draft legislation through the DWI Executive Committee, chaired by Presiding Judge Lamorena.

Bill 203-34 was introduced by Vice Speaker Therese Terlaje, and was heard in public hearing on November 21, 2017. It is critically important to future of the DWI Court, and to the territory's continued efforts to curb drunk and drugged driving in the 21st Century through statutes that support therapeutic programs, and more balanced laws dealing with 2nd and 3rd offenders.

We are not informed of whether your agency has forwarded supportive testimony for the Bill. Please note that Bill 203-34 does not impact a change to the implied consent statutes at the present time. No change is made in the Bill due to concerns raised by members of the DWI Executive Committee relative to the United States Supreme Court's 2016 decision in a case called *Birchfield v. North Dakota*. There have been discussion between the Guam Highway Patrol and our Office to amend the implied consent statute. While I agree that we should amend Guam's implied consent statute based on current BAC refusals, it needs to be accomplished through separate legislation so that those issues do not weight down the DWI Court's efforts to amend the Safe Streets Act.

We have a proposed draft bill regarding the implied consent statute, and are ready to have further discussion on the Bill at your convenience. For now, may I urgently ask that you forward your position to the Vice Speaker on Bill 203-34 so that upon its report out of Committee the position of your agency will be on record.

Thank you for your consideration and time.

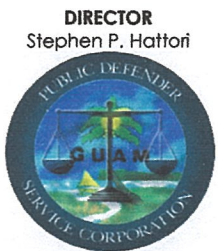
Sincerely,

Elizabeth Barrett-Anderson

General Elizabeth Barrett-Anderson

Office of the Attorney General of Guam

Tel. (671) 475-3324 ext. 5015



DIRECTOR
Stephen P. Hattori

DEPUTY DIRECTOR
Richard S. Dirks
ADMINISTRATIVE DIRECTOR
Cathyann C. Gogue

PUBLIC DEFENDER SERVICE CORPORATION
(Kotperasion Setbision Defensot Pubbleku)

GOVERNMENT OF GUAM
779 Route 4
Sinajana, Guam 96910
Tel: (671) 475-3100 ♦ Fax: (671) 477-5844

STAFF ATTORNEYS
Jocelyn M. Roden
Peter J. Sablan
Ali N. Nusbaum
William B. Jones
Kristine B. Borja
William C. Bischoff
Alisha L. Molyneux
Rocky P. Kingree
Zachary C. Taimanglo
Eric R. Overton
Kristin D. Smith
Earl Anthony V. Espiritu

October 25, 2017

Honorable Therese M. Terlaje
Vice-Speaker and Chairwoman
Committee on Culture and Justice
I Mina Trentai Kwarto Na Liheslaturan Guahan
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

Vice Speaker Therese M. Terlaje

OCT 26 2017

Time: 11:47am

Received by: [Signature]

RE: 2017 Safe Streets Act Proposed Legislation

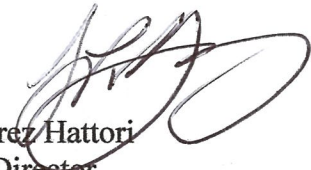
Dear Madame Vice-Speaker:

On July 14, 2017, after months of discussion and input from the DWI Treatment Team, a draft bill seeking to repeal and reenact portions of the Safe Streets Act was submitted to your committee by Attorney General Elizabeth Barrett-Anderson. This draft legislation was the product of a DWI Treatment Court Team and draws support from its myriad committee members. I write to you today to join in the request to have the proposed legislation introduced before the 34th Guam Legislature and scheduled for a public hearing.

The Safe Streets Act needs to be modified to permit the creation of a DWI Treatment Court. This bill will enable the Courts to develop evidence based treatment approaches to rehabilitate our fellow citizens coping with alcohol addiction. I hope that this bill, after review by your Legislative Team warrants introduction and passage into law.

I humbly request that the aforementioned Bill be Introduced and scheduled for a public hearing.

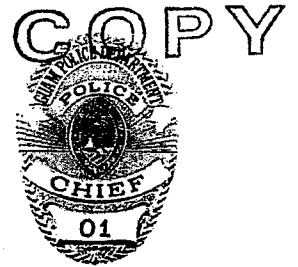
Sincerely,


Stephen Perez Hattori
Executive Director



GUAM POLICE DEPARTMENT

DIPATTAMENTON POLISIAN GUAHAN
Government of Guam



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Bldg. 13-16A Mariner Avenue, Tiyan
Barrigada, Guam 96913
P.O. Box 23909 Barrigada, Guam 96921
Telephone: (671) 475-8473 (Switchboard); (671) 475-8508 / 8509 / 8512
Fax: (671) 475-3222

JOSEPH I. CRUZ
Chief of Police

February 7, 2018

The Honorable Therese M. Terlaje
Vice Speaker
Chairperson, Committee on Culture and Justice
34th Guam Legislature
163 Chalan Santo Papa
Hågatña, Guam 96910

Subject: **Written Testimony**
Re: **Bill 203-34**

Dear Senator Terlaje:

Buenas yan Hafa Adai! I would like to thank you for introducing Bill 203-34 - *An Act to Repeal and Reenact the Safe Streets Act Relative to Driving While Impaired.* An update of this law and related laws are overdue. On behalf of the Guam Police Department, we look forward to your continued efforts in this area.

I am in general (but not total) support of this Bill. I applaud the work that has gone into the current draft. It should be noted that the Guam Police Department worked closely with other agencies and the Superior Court of Guam during the formative stages of this bill. We did not, however, receive the proposed final version for review until fairly recently. The sections we have issues with were never discussed with us prior to the final draft being presented.

After extensive review by the Highway Patrol Division and the Office of Professional Standards of the Guam Police Department, the Guam Police Department has issues with the following provisions of Bill 203-34.

(PROPOSED) SECTION 102(e)

Section 102(e) states:

"It is unlawful for a person to drive, operate, or be in physical control of any motor vehicle within the territory... (e) Having any level of a controlled substance in his or her blood or urine."

The Honorable Therese M. Terlaje
Vice Speaker and Chairperson, Committee on Culture and Justice
34th Guam Legislature
Subject: Written Testimony
Re: Bill 203-34
February 7, 2018
Page 2 of 3

It is our consensus that this provision appears to be overbroad and would be extremely difficult and problematic to enforce. Let us be clear, as currently written, ANY LEVEL of a controlled substance in a person's blood stream (or urine) and subsequent driving would be a misdemeanor, even if the individual is not debilitated (or colloquially "impaired") in any way. This would mean cancer patients, recent surgery patients, chronic pain sufferers or anyone taking prescription (schedule I, II, III, etc...) medication and who drive, even if not debilitated in any way, would be guilty of a misdemeanor.

To further expound on this, let's assume "Controlled Substance A" was prescribed and is known to remain in the blood stream (or urine) for up to 30 days after consumption. The debilitating effects of "Controlled Substance A" only last for 24 hours after consumption. If the individual drives his vehicle 72 hours after consumption (no longer suffering any debilitating effects, but still having the substance in his blood stream or urine), he would be guilty of (proposed) Section 102 (e).

Although we recognize and absolutely respect the authority of *I Liheslaturan Guåhan* to make these decisions, we would strongly suggest that Section 102(e) be deleted from the final version of the Bill.

"DOWNGRADING" OF CRIMINAL ACTS

After completion of our review, it has come to our attention that the proposed Bill 203-34 "downgrades" certain criminal conduct. More specifically, in the current Safe Streets Act, the following crimes are Misdemeanors:

1. 16 G.C.A. §18119 (Drinking While Driving a Motor Vehicle Upon Any Highway),
2. 16 G.C.A. §18120 (Drinking in a Motor Vehicle Upon a Highway),
3. 16 G.C.A. §18121 (Possession of Opened Container in a Motor Vehicle).

Bill 203-34 downgrades these current Misdemeanor crimes to Petty Misdemeanors. Specifically:

"Section 112. Drinking While Driving a Motor Vehicle: Petty Misdemeanor:"

"Section 113. Drinking While Riding in a Motor Vehicle: Petty Misdemeanor:"

"Section 114. Opened Container of Alcohol: Petty Misdemeanor:"

The Guam Police Department humbly requests that proposed Bill 203-34 be revised to maintain the same level of criminal classification that exists in the current Safe Streets Act for the aforementioned criminal conduct as well as any others.


The Honorable Therese M. Terlaje
Vice Speaker and Chairperson, Committee on Culture and Justice
34th Guam Legislature
Subject: Written Testimony
Re: Bill 203-34
February 7, 2018
Page 3 of 3

As one of my senior staff stated to me: "By downgrading the level of these crimes, it seems we are making the Safe Streets Act less safe." I tend to agree with his statement.

In closing, we absolutely respect the authority of *I Liheslaturan Guåhan* to make these decisions, we are humbly requesting that you consider the foregoing points and revise Bill 203-34 accordingly.

Thank you for the opportunity to provide comments on this proposed Bill. *Dangkulo na si Yu'os ma'ase!*

Senseramente,



JOSEPH I. CRUZ
Chief of Police

JIC:JRQ/scr



I Mina'trentai Kuåttro na Liheslaturan Guåhan
 34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
 Chairperson of the Committee
 On Culture and Justice

COMMITTEE VOTE SHEET

Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice - An Act to amend and move Chapter 18, Title 16, Guam Code Annotated to Chapter 92, Title 9, Guam Code Annotated, relative to the Safe Streets Act of 2018.

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Vice Speaker Therese M. Terlaje Chairperson	5/14/18	✓				
Senator Telena Cruz Nelson Vice Chairperson	5/17/18	✓				
Speaker B.J.F. Cruz Member		✓				
Senator FRANK B. AGUON, JR. Member	5/17/18			✓		
Senator Joe S. San Agustin Member						
Senator Louise B. Muña Member	 5/16/18			✓		
Senator Fernando Esteves Member	F.B.E. 5/17/18	✓				



I Mina'trentai Kuáttro na Liheslaturan Guåhan
34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 203-34 (LS), As Substituted by Committee on Culture and Justice – Introduced by: T.M. Terlaje – An Act to Amend and Move Chapter 18, Title 16, Guam Code Annotated, relative to the Safe Streets Act of 2017.

The Committee on Culture and Justice convened a public hearing on Bill No. 203-34 (LS) on November 21, 2017 at 2:04 PM in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices for this public hearing were disseminated via email to all senators and all main media broadcasting outlets on November 13, 2017 and again on November 17, 2017. The notice was also published in the Guam Daily Post on November 14, 2017 and in the Pacific Daily News on November 20th and 21st, 2017.

Senators Present

Vice Speaker Therese M. Terlaje, Chairperson
Senator William M. Castro
Senator Joe S. San Agustin
Senator Mary Camacho Torres

Appearing Before the Committee

Presiding Judge Alberto Lamorena III of Superior Court of Guam
Attorney General Elizabeth Barrett-Anderson
Attorney Ana Gayle, Managing Attorney of the Alternate Public Defender's Office
Attorney Richard Dirkx, Public Defender Service Corporation

Submitted Written Testimony

Presiding Judge Alberto Lamorena III of Superior Court of Guam
Attorney General Elizabeth Barrett-Anderson
Police Chief Joseph I. Cruz

Attorney Stephen Perez Hattori, Executive Director of Public Defender Service Corporation

II. SUMMARY OF TESTIMONY & DISCUSSION

Vice Speaker Therese Terlaje, Chairperson of the Committee on Culture and Justice called the public hearing to order at 2:04 PM. The Chairperson presented the four agenda items that would be heard during the hearing. Bill No. 203-34 (LS) was the third item on the agenda. Chairperson Terlaje provided introductory remarks on Bill No. 203-34 (LS).

Chairperson Therese Terlaje: We are going to proceed with the hearing on Bill No. 203-34 (LS). If I could ask again for the Presiding Judge, the Attorney General, for the Alternate Public Defender Attorney Ana Maria Gayle, and anyone else who wishes to testify. Richard Dirkx from the Public Defender Office on Bill No. 203.

Bill No. 203-34 (LS) would amend the Safe Streets Act and move it from Title 16 (Vehicles) of the Guam Code Annotated to Title 9 (Crimes and Corrections). The bill would also give the Guam Supreme Court the option to establish a Driving While Impaired (DWI) treatment court to impose graduated sanctions, provide therapeutic interventions and promote public safety. The legislation was drafted in close consultation with the Judiciary of Guam's DWI Treatment Court Executive Committee, Office of the Attorney General, Guam Public Defender Service Corporation, Alternative Public Defender, Office of Highway Safety Department of Public Works, Guam Police Department Guam Highway Patrol, Compiler of Laws, Department of Revenue and Taxation, and Department of Corrections.

Some of the proposed changes to the Safe Streets Act include changing the terminology used from "Driving Under the Influence or (DUI)" to "Driving While Impaired" or (DWI).

The bill maintains the current regulations which make it unlawful to drive with a blood alcohol content of .08 percent for adults over the age of 21 years old and .04 percent for adults under the age of 21 years old. It also maintains that it is unlawful to drive under the influence of a controlled substance.

The jail time for first offender convictions remains the same and is a mandatory 48 hours but no more than 1 year. The bill proposes to reduce the mandatory minimum fine for first offender convictions from \$1000 to \$350 and the maximum fine from \$5000 to \$1000 for first offenders. The bill also calls for a 6-month suspension of driving privileges, with the occupational driving privileges allowable.

The jail time for a second violation of driving while impaired remains the same and is a mandatory minimum of 7 days but no more than 1 year. The maximum is currently 2 years. The bill proposes to reduce the mandatory minimum fine for second convictions from \$2000 to \$1000 and the maximum fine remains at \$5000 for second offenses. The bill also calls for a 1-year suspension of driving privileges, with no occupational driving privileges allowed.

The jail time for third offender convictions of driving while impaired remains the same and is a mandatory minimum 90 days and maximum of 5 years. The bill proposes to reduce the mandatory minimum fine for third convictions from \$3000 to \$2500 and the maximum fine remains at \$5000 for third offenses. The bill also calls for a 2-year suspension of driving privileges, with no occupational driving privileges allowed.

The jail time for fourth offender convictions of driving while impaired remains the same and is a mandatory minimum of 1 year and maximum of 6 years. The bill proposes to reduce the mandatory minimum fine for third convictions from \$4000 to \$3000 and the maximum fine remains at \$7000. The bill also calls for a 3-year suspension of driving privileges, with no occupational driving privileges allowed.

Vehicular Negligence that causes bodily injury to any person other than the driver is punished with jail time for a mandatory minimum of 3 years for a first conviction and up to 5 years for a prior conviction of driving while impaired. A mandatory minimum fine of \$2500 is required and the maximum amount is \$5000. The suspension of a person's driving privileges cannot be for more than 5 years. These mandates are clarifications stated in the current statute. The mandates for vehicular homicide and vehicular homicide while driving impaired are also clearly listed in the proposed legislation. Another major change proposed in the new Safe Streets Act is allowing the DWI Treatment Court and this is really the center of this bill is to allow the DWI Treatment Court to remove or reduce any restriction on a person's privilege to drive or reduce any fine imposed upon the person's successful participation in the DWI Treatment Court and completion of any terms or conditions imposed. This allows the DWI Treatment Court to provide incentives and interventions to encourage successful outcomes and reduce recidivism.

Upon completion of the DWI Court Program, the judge may order the case to be dismissed and expunged. No conditional discharge or dismissals will be permitted for offenses involving serious injuries.

Lastly Article 2 which is regarding Implied Consent and Suspension or Revocation of Driving Privileges and License, and Article 3 which is regarding Probation and General Consideration of Probation were renumbered and moved from Title 16 to Title 9 but the content and language remained unchanged. Now, we can proceed with your Honor

Judge Lamorena. Thank you.

Presiding Judge Alberto C. Lamorena III:

Thank you Madame Vice Speaker Terlaje for introducing this piece of legislation and for allowing me to provide testimony. *Please see attached testimony.*

Chairperson Therese Terlaje: Thank you very much your Honor. Attorney General Elizabeth Barrett-Anderson?

Attorney General Elizabeth Barrett-Anderson:

Thank you Madame Chair. My testimony is a little lengthy but since this is a very comprehensive piece of legislation, please allow me to read my comments and I will be open to questions. *Please see attached testimony.*

Chairperson Therese Terlaje: Thank you very much. Attorney Dirx?

Attorney Richard Dirx:

Thank you. Good afternoon and thank you for this chance to comment. I only have a couple of comments. First of all, I would like to echo what the Attorney General said about the Implied Consent Law. I'm not sure it needs to be moved at all. I think it is a policy decision. It might be fine staying in Title 16 for now but I do want to emphasize it should not be altered. Right now, it's a good law on Guam. The whole concept is being litigated all across the country. My personal suggestion is to leave it in Title 16 and not make it a part of this bill. We're not changing it. I don't think it needs to be moved at this point. And I think the Attorney General is exactly correct. If there comes a time when we need to revisit the Implied Consent Law, the stakeholders should all sit down together and work with the Legislature and draft an appropriate bill. To see that part of it tinkered while we are working on the really substantive legislation I think it would be a mistake and might have potential effects that we can't really predict right now. My suggestion is to just leave Article 2 in Title 16.

The other things are rather small. I also agree with the Attorney General about the definition of negligence. It has troubled me for a long time that ordinary negligence if you happened to be impaired is it enough to support conviction for vehicular homicide. So if you are making your way home from the bar going ninety miles an hour with a .08 breathe test and coming in the other direction is a car full of bank robbers also impaired with a running gun fight with G.P.D., they crash into you and you happen to be off on the shoulder for example which is ordinary negligence and one of the bank robbers dies you're guilty to vehicular homicide. I think what we should look at here instead is a definition of criminal negligence so that it is more than ordinary negligence. It's the level of negligence combined with impairment by ingestion of drugs or alcohol that make this into a serious homicide case. I'm in favor of the bill so please don't take my little

suggestions as saying it ought not to go forward. Also in our definition of a prior conviction it references a prior conviction anywhere in the world. I'm not sure that's a good idea. I don't know how we will prove convictions in any jurisdiction across the globe. We do have a requirement that the prior conviction be constitutional. So certainly, in any part of the United States or its territories or possessions will be alright. I suppose some thought we could go into other countries that have similar protections in the law especially around the Pacific Rim; Australia, New Zealand, and Japan. But there are other countries where you get a conviction just because the cop writes you up. I personally would strike the word the words "anywhere in the world" and go with the requirement conviction becomes constitutional.

Finally, and this is only the other change I could think of offhand, for people who participate in the DUI Court and this is going to be a real therapeutic court not just a fast track to be sentenced but a chance once again as we talked about with the Re-entry program a chance for the person who pleads guilty to show what they can do and earn their privileges back from the court. And as I recall the new bill gives the judge authority to suspend I believe up to sixty days of the ninety-day minimum sentence. I would recommend that we just give this sentencing judge the authority to suspend any or all of the sentence. The reason being that a thirty-day minimum sentence is enough to lose your job and if entry into therapeutic court is going to cost someone their job we have already lost an important rung upward on the ladder.

I see periodically laws that ties the judge's hands and force them to impose jail even though most of us who see jail time imposed agree that it's great to warehouse people who can't be fixed but as far as fixing people it doesn't work. My years of experience have shown me if there are soft judges who just suspend time to be nice guys, I've never met one. Judge Lamorena, I'm sure when you see him down here with all his big creative programs he's put together over the years, he's done a great deal to help the people in front of him. But nobody who's been sentenced by him is going to call him a soft judge. He's going to draw the line and make you tell it.

Having the ability to suspend some or all of that last thirty days will make a difference in the person succeeding in keeping their job. There is another way where the judge can deal with the minimum sentence. There are ways that the additional time can be suspended. There are ways that it could be delivered in chunks. The threat of jail in my opinion for most people is more effective than actually imposing the jail time. And I think most judges quite adept at this and I hope the legislature will consider making that change. Thank you once again for this opportunity to put my two cents worth in.

Chairperson Therese Terlaje: Thank you very much Attorney Dirx. Attorney Gayle?

Attorney Ana Maria Gayle:

Good afternoon again Madame Chair. I was on the committee with Judge Barrett-Anderson and Judge Lamorena in 2010 to 2012 and again on the DUI Court committee in 2016 to the present day. I just would like to ask you for your support in this legislation. It's been a long time coming and both former Judge Barrett-Anderson and Presiding Judge Lamorena have put so much effort into this legislation. The DUI Treatment Court needs to be put in effect through legislation. We would ask that you consider supporting the bill. I don't really have that much to add to what both Presiding Judge and Attorney General Barrett-Anderson has raised so if you have any other issues we address them.

Chairperson Therese Terlaje: Thank you very much. Thank you Attorney General for answering the questions we had sent to your office. I appreciate that very much and for everyone's suggestions on improving the bill. Your Honor, if you don't mind I'm going to ask again for the record a couple questions. Is this legislation going to require an additional judge for the Court and how will a judge be assigned to the DWI court?

Presiding Judge Alberto C. Lamorena III: Madame Chairperson it will not since a DWI Court has already been established and it has been assigned to me at this point. There will be no need for an additional judge to do the DWI Treatment Court because people would be in my DWI Court anyway so it doesn't add to my duties and responsibilities as a judge. As you know under the administrative rule for similar cases all cases where they charge driving while intoxicated or driving under the influence are assigned to the DWI Court. Currently all these cases are assigned to the DWI Court and are assigned one Superior Court judge. So it will not cause the necessity of an additional judge to do this.

Chairperson Therese Terlaje: And it won't delay the current court calendars since it's already being implemented.

Presiding Judge Alberto C. Lamorena III: Yes in fact we have added one more participant. We have eleven. I know the Public Defender and the APD have several people that are interested in the program but they are waiting for the success of this legislation to decide whether or not they enter this program. I think we have identified about ten or twenty of these people. So they're holding based on this legislation. So hopefully they will be in once this legislation passes.

Chairperson Therese Terlaje: Will this bill require or will the treatment court require additional treatment personnel to be hired at the court?

Presiding Judge Alberto C. Lamorena III: As you know Madame Chairperson we have already have a funding grant \$350,000.00 as I testified. It's good until fiscal year 2019. After 2019 we will probably ask for additional funds to pay for the Court Coordinator

which is partially federally funded. It's locally funded I think ninety three percent. The Court Manager which is also partially grant funded, that's locally funded so we will be paying the full salary of that. And the Coordinator we will just add seven more percent of what we're paying that person now. And of course the drug kits are locally funded so that will not deter. And the part time contract treatment providers are currently funded 100% by the grant and that will probably be necessary to grant them after 2019. But these are part time counselors. These are not full-time positions. So depending upon how many participants are in the program, it will fluctuate between the numbers of part time counselors needed in this program. All the others we are already locally funded including my position, probation officers, deputy clerks, court interpreters, alternative sentencing officers, and one of our part time contract treatment providers.

Chairperson Therese Terlaje: Thank you. Your Honor, could you explain the incentive and how you will use the incentives in sentencing as a judge particularly that flexibility in reducing fines and sentence length.

Presiding Judge Alberto C. Lamorena III: Okay right now the way we're doing it is we are catching mostly the second offenders. Some third offenders that have recognized they do have a serious problem and some of the first offenders. But we're having a problem, and I think the Attorney General and the defense counsels have mentioned, that some of the requirements are very strict and regardless of whether or not they enter the program these are very strict requirements. Most of our participants right now do work, almost all of them. That's a big difference from our ADC clients. Most of our ADC clients are not employed. Most of our DWI clients are employed. And so like Attorney Dirx mentioned the restrictive incarceration right now is a disincentive to join the program because they have to serve ninety days that's why we are asking discretion a minimum of thirty days to serve. And like what Attorney Dirx said give the judge the discretion on how much a third degree felon should serve. Also the driver's license requirement right now is very strict. Third offenders are two to three years suspended. That's very difficult for a person with a job to try to get a job or to go to work. What we're trying to do is if they entered the treatment program; it's a discretion based on the success of that participant in the program so let's say if a participant is following all the treatment requirements of the program, always testing negative for alcohol or drugs, complies with all the community supervision with the probation and his treatment team; the court will then have the discretion to allow him to drive to and from work give him occupational privilege to drive to and from work as an incentive to reach that goal.

So this bill will provide the discretion for the treatment participant and encourage them to succeed. As you know our main focus here is behavior modification. Many of these people are addicted to drugs I mean alcohol and some even to drugs as you know. So what we are trying to do is behavior modification so they become less addicted and they go to the road to recovery. So that's why this legislation is important to at least the

defense counsels because it's easier to persuade your client that you may have a judge if you do well, you have a chance to drive to work. If you do well, your fines may be reduced. If you do well, you may not get the ninety day incarceration as given by the judge.

Chairperson Therese Terlaje: I appreciate that, where treatment is a possibility for a real rehabilitation. But is there anything in this bill that you think would change the good record that the Attorney General pointed out as to the decrease of DWI on Guam right now.

Attorney General Elizabeth Barrett-Anderson: If I could address that, I think what happened in the first two years of the DWI Court when the Guam Police Department imposed a mandatory going to jail book and confine. I think everyone got the message. And DWI arrest plummeted between 2010 and 2012. We're kind of flat lining now. We used to file between our offices 500 to 600 DWI cases; felonies and misdemeanors a year. It's now leveled off to about 350 so this is where we're at right now. So the arrest has gone down. Our convictions are strong. Back to your question, senator what was that question?

Chairperson Therese Terlaje: It's just regarding the incentive that we're providing here for those who go through treatment. Is there anything in this bill that would lessen the current incentive to not drink and drive?

Attorney General Elizabeth Barrett-Anderson: No. I think everything that the DWI Court is doing creates a better Guam; makes our roads safer because the DWI Court is focused on treatment. I want to also support the Presiding Judge's comments about when you get convicted as a first offender and your license is suspended for one year but we are going to give you an occupational privilege, thank goodness because as he said most drunk drivers do have jobs. But if you come back as a second offender your occupational permit is suspended. You don't get any privileges to drive. I don't know how you are going to get to work, probably bear on your family. But this law permits the DWI Court judge to say go into treatment, finish treatment, we'll give your license back. Get back to working taking care of your family. Senator, seventy five percent of all first offenders if not greater than that maybe eighty percent never come back to DWI Court, that first offender. We have a high charging of first offenders.

Chairperson Therese Terlaje: Those are the people that I'm talking about. Yes, Judge Lamorena?

Presiding Judge Alberto C. Lamorena III: Just to follow what the Attorney General has mentioned the first offenders we are not too worried about. In fact those numbers are already decreasing because through education; the education prevention programs done

by the Department of Public Works through their Highway Safety Division. They have done a good job in educating people not to drink and drive. And so many of these people get the message.

What we're targeting is the medium risk and high risks offenders. These are the people that regardless, the million trillion education programs, the million trillion advice you give them; they will still drink and drive. These people have a criminogenic behavior which we have to modify. And this is what the DWI Treatment Court does. It will modify the criminogenic behavior of these repeat offenders. These are the offenders that we are targeting. These are the offenders that keep coming back. Some of them, and Attorney Dirks and Attorney Gayle know, that when their cases are called they have like so many cases already and they keep coming back. So these are the people we are targeting. These are the people that are very dangerous on the road because they have criminogenic nature that they don't really care that they drive drunk and they don't really care who they hurt. So we have to modify that behavior before they become more dangerous.

The first offenders, eighty percent never come back, maybe ninety percent. All we have to do is give them driving with care education program. They learn their lesson. They won't come back. It's the twenty percent that we are very concerned about because these people have criminogenic behavior. They don't really care who they hurt, who they endanger. They just drink and then they drive. They have any concern about anybody else but their addiction and their behavior. And that's what we're trying to target now. We want to prevent them from harming many members of our community. As you know many of the people have committed the vehicular homicide who have alcohol, many of them are repeat offenders. And they are like ticking time bombs ready to injure and hopefully not you know kill somebody on the streets. These are the people we are targeting. These are the twenty percent that are repeat you know literally repeat offenders. And sometimes I know we have prior conviction of five years then we look at their priors and it's so lengthy that this is their tenth sometimes fifteenth DUI charge and they are still out in the streets. Many of them haven't really given intensive treatment to modify their behavior. And this is the group we are targeting. So yeah DWI is going down but those are amongst the first offenders; those who understand and get the prevention programs that the Public Works is giving out there. We're talking about the twenty percent who don't really care, whose criminogenic behavior just doesn't change and they're willing to just do whatever they want to do.

Attorney General Elizabeth Barrett-Anderson: And Senator we've been able now because the DWI Court has been in existence for about seven years, we can now see the second and third offenders because we weeded out the first and then the program started and we really never kept the statistics. Our office keeps it for DPW. We now see the second offenders and it's starting to increase and the third offenders and that's why

this legislation, the DWI Treatment Court as Judge Lamorena has it set up is critical right now. We need to get to those second and third, I don't think we filed for a fourth offender yet; I'm not aware of one. Okay maybe we have a couple.

Chairperson Therese Terlaje: Thank you. Yes, Attorney Dirx.

Attorney Richard Dirx: I just wanted to add that many of the first offenders are not alcoholics. They are social drinkers. They make their way home. They get caught, the punishment is long and involved. Most ordinary people say I'm never going to make that mistake again on drinking and I'm not going to drive. When you reach the repeat offenders, you're dealing with people who very often have an advanced alcohol problem to the point where besides a criminal disregard for the safety of the rest of us, they also may not appreciate how the impaired they are. They may need two or three beers just to feel okay. And that requires that the court get involved in alcohol education. Now the behavior that the court has to work on is the alcoholism and the pattern of drinking every single day to the point where they may not appreciate that this little buzz is actually dangerous when you put it behind the wheel. And that's where the court will make a real difference.

Chairperson Therese Terlaje: Thank you. Yes so we have great hopes for the DWI treatment for those who you have described and I just want to ask again for assurance that in targeting those people who need this treatment more than most of those seventy five percent of the first offenders would need, are we in any way lessening incentive for people who are out drinking socially to not drink and drive. I guess that is just what I want your assurance on, that we are not lessening the disincentive for those people.

Attorney General Elizabeth Barrett-Anderson: No Senator, my biggest fear is that the Legislature considers opening the bars to 4 a.m. Please don't go back to that because the closing at 2 a.m. has had a significance in reducing drunk driving. So the reverse would happen if we go to that idea. Thank you.

Chairperson Therese Terlaje: Attorney Dirx with the flexibility and sentencing, do you think that will not impact those people?

Attorney Richard Dirx: A third offender looking at a felony is somebody who has had two priors within the last five years. Perhaps we picked them up close together four years and six months ago. His current offense, he was drinking with his friends and on the way home from work he went about a quarter of a mile decided he had too much to drink pulled over to sleep at the Mayor's Office. The police contact him there, they think he's impaired, he cooperates and while they didn't see him drinking he's in direct control of automobile that could be his third offense in five years. I would like the judge to consider letting him keep his job and use the whole ninety days or eighty five of it or

eighty or seventy five, whatever the judge feels appropriate to coerce good behavior out of him. Another felon might have picked up three DUI's in the last three weeks. He may be sitting in jail and he may be thumbing his nose to all of us. He may have crashed into other vehicles. There might be a series of alarming acts recently and close together. That guy may need thirty days or more to sit in jail under professional supervision to quit drinking. But if we have a law that says the judge has to do this in every single case. The judge has to do thirty days for every third offender. Then the first fellow who is very likely to change his behavior and who has done nothing significantly wrong recently is going to be treated the same as the fellow with the alarming conduct. And I'm just saying, let the judge make that call. In a therapeutic court it's a very good idea. You should see how the judges do it because the people who are doing well, most of them get called in the front so they get rewarded by having to not wait through the whole proceeding. And so the people who aren't doing so well see all the positive reinforcement the good performers get. Also at the front, usually there is one or two who are going to get sanctioned. So the other people behind them, the ones who aren't doing so well see what the cost of failure might be. All I'm saying is let the judge who is running the therapeutic court make the decision in that case. The first example I gave, the fellow who is sleeping outside the Mayor's Office. He's going to have to make a decision. He knows when his boss says you go to jail for thirty days, you're fired. Well he can't support his family when that happens. If the judge has no flexibility and I want to join the program he's going to lose his job. When the judge has some flexibility and he signs up for the program, he might still be able to keep that job if the judge agrees this is an appropriate case where the judge can suspend all or nearly all of the time. I'm just saying we have great judges on our bench. Let's let them apply their expertise. When somebody needs to go to jail trust me they can tell. They do it. That's my reaction. Thank you.

Chairperson Therese Terlaje: Your Honor, for first offenders do you believe that anything in this bill will decrease the success that we're having in the declining DWI rates?

Presiding Judge Alberto C. Lamorena III: I don't understand the question.

Chairperson Therese Terlaje: Does this bill decrease potentially decrease the minimum or maximum fines for first offenders?

Presiding Judge Alberto C. Lamorena III: No I don't think so. For first offenders?

Chairperson Therese Terlaje: Yes.

Presiding Judge Alberto C. Lamorena III: I think what it would do is the education programs. If a person is aware of his duties or responsibilities as a responsible driver

usually those people do not have an addiction problem and will understand not to drive. As far as first offenders, I think this legislation will be a positive for them. First offenders have jobs and so although we give them the flexibility driving to and from work, some of them have duties and responsibilities so what that does giving discretion to the judge based on their success can be very helpful.

Chairperson Therese Terlaje: That is my question. So for first offenders I'm not talking about those that need the treatment now. I'm talking about the first offenders how you described the first offenders. I just want to be very clear because I have colleagues that I also have to convince that. Does this bill in any way in giving flexibility to the court for the sentencing for first offenders, do you think it will impact the trend for drunk driving? Will it decrease I think we had great success with the decline from drunk driving and I don't want them to think now that the courts have flexibility they are not mandatory sentences that may be that they'll get away with less. Something like that.

Presiding Judge Alberto C. Lamorena III: Well you know just being charged of a crime is a determinant itself. I think most people just fear having a conviction on their hands. Because first offenders won't you know their conviction will not be expunged, dismissed or expunged. So and they will not likely be in the treatment courts because they don't qualify. So just having a conviction will be a deterrent itself. Just because the judge or the courts have flexibility or discretion on the punishment, they will have to pay some sort of a fine. Their driver's license will somehow will be suspended. They will still have to attend recommended treatment programs or education treatment programs as assessed by probation. So nothing's really going to be changing except with some flexibility with the judge. But sometimes in order for it to be fair sometimes most judges if not all will try to be as fair to everybody as possible. One person isn't going to get a one thousand dollar fine and the other person is going to get a two hundred dollar fine. We'll try to find a way that everybody be treated fairly and impartially. So just because we have discretion, I'd rather have discretion mainly on the second and third offenders because what we're trying to do is make sure these people get into treatment and to succeed. We don't want to put anymore pediments in their success. Our thing is to rehabilitate and have recovery. And so adding heavy fines it's like putting more things on your back. It's already hard to have a conviction. It's hard to have an addiction. It's hard to go through all these programs. If you look through our manual and you see the requirements these people have to go through, it's really a lot of requirements. So therefore we want to give them flexibility to make sure that they concentrate more rehabilitation and recovery than rather than in fulfilling their final requirements etcetera. I know we give incentives for people to succeed by reducing their fines through community service and if you attend all your treatment programs, we give you a hundred community hours which will reduce your fines.

Chairperson Therese Terlaje: Those are not the people I am asking about.

Presiding Judge Alberto C. Lamorena III: Right. But I don't think it would have any effect on it.

Chairperson Therese Terlaje: Okay. I just want that assurance.

Presiding Judge Alberto C. Lamorena III: We'll try to be fair as possible. I know the AG usually recommends to the court what they think is fair and what we can do is address that problem. Okay.

Chairperson Therese Terlaje: Thank you.

Attorney General Elizabeth Barrett-Anderson: Senator we are still catches no large amount of offenders because G.P.D. doing a great job out there with their sobriety checks. And as Judge Lamorena says it's not am I going to get a three hundred fifty dollar fine or am I going to get a thousand dollar, that's what I'm looking at. It's getting charged. It's spending those first twenty four; forty eight hours in Agana lock up. That's the sobering effect of it. The flexibility on fines for first offenders; it will not make the first offenders think oh the law is easier now because it is not.

Chairperson Therese Terlaje: Thank you very much. That's the reassurance that I was looking for. Thank you.

Presiding Judge Alberto C. Lamorena III: Of course, you are a policy maker and it's your decision for first offenders to make it flexible or just keep the one thousand dollar fine for first offenders.

Chairperson Therese Terlaje: But I understand that you might also assess them on first offense to be very high risk like you described.

Presiding Judge Alberto C. Lamorena III: Yes. People who have a high BAC yes.

Chairperson Therese Terlaje: Thank you very much. I'm going to allow my colleague. Thank you for your patience Senator Castro, Senator San Agustin.

Senator Joe San Agustin: Thank you Madame Chair. I like what the judge is saying but I'm just trying to understand the two lawyers; one is the AG and the other is the Public Defender. You recommend that they to make some changes to the bill and so did you or don't make changes such as moving Article 2. I'm only concerned with that because I look forward to the flexibility on the courts. I actually can see the Safe Street Act you know being favorable. But I just want to make sure that the Madame Chair understand what your recommendation is because once it gets to the floor; I won't forget what you

recommended and if I don't hear it then I won't be able to vote in favor of it even though I like what the judge is mentioning. I just want to make sure that your recommendation is put in paper so when the Chairwoman Senator Terlaje presents it on the floor, I can say that this is what the judge is asking for to take care of the people of Guam. Get them educated and stop those drinking habits and changing your way of life to keep you employed and I want the people to be safe. And that is the true message the judge is trying to send out. Stop the re-entry act and both offices and yours just flowing.

Attorney General Elizabeth Barrett-Anderson: Senator the only difference in our testimony today is between what I'm saying and what Mr. Dirkx is saying regarding moving the substance of the drunk driving Safe Streets Act from Title 16 to the Criminal Code in Title 9 is in reference to implied consent. What's happening here with Bill 203 there will be nothing left in Chapter 18 Title 16 gone. Mr. Dirkx says he would recommend it would stay in Title 16. My recommendation is move anything that deals with Safe Streets Act and Drunk and Drug Driving all together keep it all together so when you're searching for something you can see anything that has to do with the Safe Streets Acts. So that's where we're differing.

Senator Joe San Agustin: I agree with you. On many occasions with Rev and Tax if you want to find something specifically you look at four different titles and it's all the same thing. I agree with you totally. Okay. Thank you Madame Chair.

Chairperson Therese Terlaje: And I think I'm very clear that we are moving it so that running the risk putting it in the bill at all. I see the language that they might someone will try to amend it but I understand completely what you are recommending.

Attorney General Elizabeth Barrett-Anderson: Senator if I could give you I think the recent Supreme Court case 2016 U.S. Supreme Court case called Burchfield vs. North Dakota, that had to deal with the Implied Consent Law dealing with breathalyzer and blood testing reading.

Chairperson Therese Terlaje: Okay. Thank you very much. Senator Castro? Senator Torres? I want to thank you again for your work on this bill and on your testimony today. And your patience with all our questions. Is there any other person who would like to present testimony? There are other people who signed up and stated their support. I'm just going to read this really quickly. It is Bonita Blas, Regis Reyes, Christina Toves, Michael Quan Quinata, Ray Dungca, Cecilia Javier, Ann Senato, Jane Almandres, Dee Mendiola, Melanie Brennan, Trisha Suzuki, thank you all very much.

III. FINDINGS & RECOMMENDATIONS

The Committee on Culture and Justice finds that Bill No. 203-34 (LS) would allow for the establishment of a DWI (Driving While Impaired) Treatment Court program to support the Judiciary's efforts to reduce recidivism for medium and high-risk offenders, and to address their risks, needs, and responsivity, through the implementation of evidence-based practices, therapeutic treatment for addiction, and rehabilitation. It would give more judicial discretion to take away driving privileges and impose fines and incarceration.

The bill repeals (the Safe Streets Act of 1993) § 18101 through § 18124, § 18125, and Article 3 all from Chapter 18, Title 16 (Vehicles), Guam Code Annotated, as recommended in written testimony from the Attorney General. These sections are rewritten in a new Article 1 of Chapter 92, Title 9 (Crimes and Corrections), Guam Code Annotated, as the Safe Streets Act of 2018.

The bill also transfers § 18124.1 of Chapter 18, Title 16 (Vehicles), Guam Code Annotated, to "Rules of the Road" in Article 3 of Chapter 3 (General Provision), Title 16 (Vehicles), Guam Code Annotated, as recommended in written testimony from the Attorney General.

Additionally, the bill moves the "Implied Consent Law" in Article 2 of Chapter 18, Title 16 (Vehicles), to Chapter 92, Title 9, Guam Code Annotated, with no amendments. The Attorney General noted in her written testimony that the DWI Executive Committee did not want any content or language in the "Implied Consent Law" to be altered at this time.

The bill also moves the "Ignition Interlock Devices" in Article 4 of Chapter 18, Title 16, Guam Code Annotated, to Chapter 92, Title 9, Guam Code Annotated, with no amendments, as recommended in written testimony from the Attorney General.

Based on testimony from the Judiciary, the Office of the Attorney General, the Public Defender Service Corporation and the Guam Police Department, the Committee on Culture and Justice incorporated the following changes in the substituted version:

- Adding language in Section 2 that authorizes the Judicial Council of the Judiciary of Guam to establish a DWI Treatment Court through a duly adopted resolution in order to be consistent with current language in the statutes relative to establishing specialty courts.
- Adding a definition for "negligence" on page 30, under § 92101(j) as recommended in written testimony from the Attorney General.

- Amending the definition on page 31 under § 92101(m) to clarify prior offenses and convictions, as recommended in written testimony from the Attorney General.
- Removing from Section 5 the previous subsection (e) from § 92102 which read “e) Having any level of a controlled substance in his or her blood or urine.” The Guam Police Department in their written testimony raised the concern that this language would make enforcement difficult and may criminalize individuals who are not impaired while driving but are taking prescription medication.
- The Committee finds it preferable to maintain the mandatory minimum fine amounts in § 92104, § 92105, § 92106, and § 92107 as in the current statute instead of decreasing these fines as proposed in the introduced bill.
- The Committee finds it preferable to maintain the offense levels in § 92112, § 92113 and § 92114 for Drinking While Driving a Motor Vehicle, Drinking While Riding in a Motor Vehicle, and Opened Container of Alcohol as listed in the current statute, recommended in written testimony by the Guam Police Department.

The Committee on Culture and Justice hereby reports out **Bill No. 203-34 (COR), As Substituted by the Committee on Culture and Justice** – Introduced by: T.M. Terlaje – An Act to Amend and Move Chapter 18, Title 16, Guam Code Annotated, relative to the Safe Streets Act of 2018 to *I Mina'trentai Kuáttro na Liheslaturan Guåhan*, with the recommendation TO DO PASS.

I Minda T'yemai Kukuro Na Lheestaran
 BILL STATUS

2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017
NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	COMMITTEE REFERRED	REPORT DATE	COMMITTEE REPORT DATE	PERSON INTRODUCED	PERSON REFERRED	
203-34 (LS)	Theres M. Tenlape	AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.	10/27/17 11:52 a.m.	11/07/17	Committee on Culture and Justice			Fiscal Note Request 11/09/17	Fiscal Note 11/21/17	

I MINA 'TRENTAI KUATTRO NALIHESLATURANGUAHAN
2017 (FIRST) Regular Session

Bill No. 203-34(LS)

Introduced by:

Therese M. Terlaje *MT*

AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16,
GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO THE SAFE
STREETS ACT OF 2017

2017 OCT 27 AM 11:52

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1.** Legislative Findings and Intent. It is the intent of *I Liheslatura*
3 to amend the 1996 enactment of Guam's drunk and drugged driving statute, known
4 as the Safe Streets Act, to improve Guam's enforcement of those laws, and to
5 further improve the criminal justice response to arrests and prosecution in line with
6 theories of therapeutic jurisprudence, rehabilitation of persons addicted to alcohol
7 and drugs, and immediate accountability. The Legislature supports the efforts of
8 the Judiciary of Guam in the continued operation of therapeutic courts such as
9 Adult Drug Court, Juvenile Drug Court, Family Violence Court, Mental Health
10 Court, Veterans Court, and the Driving While Impaired Treatment Court.

11 **Section 2.** A new subsection (d) is *added* to §2101, Chapter 2, Title 7, Guam
12 Code Annotated to read as follows:

13 “(d) DWI Treatment Court. The Supreme Court of Guam may
14 establish a Driving While Impaired Treatment Court (DWI Treatment Court).
15 Participation in the Driving While Impaired Treatment Court shall be limited to

1 those defendants who meet the legal and clinical requirements in accordance with
2 orders as promulgated by the Supreme Court of Guam.”

3 **Section 3.** Chapter 18, Title 16, Guam Code Annotated is hereby
4 *amended and moved* to Chapter 92, Title 9, Guam Annotated Code, to read as
5 follows:

6 ~~“CHAPTER 18~~

7 ~~—SAFE STREETS ACT CHAPTER 92~~

8 SAFE STREETS ACT OF 2017

9 Article 1. Offenses Involving Alcohol and Controlled Substances.

10 Article 2. Implied Consent and Suspension or Revocation of Driving.

11 Article 3. Probation and General Considerations of Probation.

12 Article 4. Ignition Interlock Devices.

13
14 ARTICLE 1

15 OFFENSES INVOLVING ALCOHOL AND

16 CONTROLLED SUBSTANCES

17 ~~§18101~~ 92101. Definitions.

18 ~~§ 18102~~ 92102. ~~Influence of Alcohol and Controlled Substances; Causing~~
19 ~~Bodily Injury to Person Other Than Driver; Alcoholic~~
20 ~~Content in Blood; Proof~~ Driving While Impaired.

21 ~~§ 18103~~ 92103. Reckless Driving While Intoxicated; Presumptions
22 Impaired.

23 ~~§ 18104~~ 92104. First Offender Conviction; ~~of First Violation of § 18102;~~
24 Punishment.

25 ~~§ 18105~~ 92105. Second Offender Conviction; ~~of § 18102;~~ Punishment.

26 ~~§ 18106~~ 92106. Third Offender Conviction of Violation of ~~§ 18102~~ Within
27 Five Years After Two Violations; Felony Punishment.

- 1 § ~~18107~~ 92107. Fourth Offender Conviction of Violation of § 18102
2 ~~Within Five Years of Three or More Violations of~~
3 ~~Designated Sections;~~ Felony Punishment.
- 4 § ~~18108~~ 92108. ~~Forfeiture of Vehicle~~ Vehicle Negligence: Bodily
5 Injuries.
- 6 § ~~18109~~ 92109. ~~Conviction Involving a~~ Driving While Impaired With
7 Child On Board: Felony Punishment.
- 8 § ~~18110~~ ~~Vehicle Negligence; Third Degree Felony~~
- 9 § ~~18111~~ 92110. ~~Vehicle Homicide; Classified:~~ Felony Punishment.
- 10 § ~~18112~~. ~~Impoundment of Vehicle of Registered Owner Convicted or~~
11 ~~Charged of Violation of § 18102; Prior Offenses; Considerations;~~
12 ~~Exemption.~~
- 13 § ~~18113~~. ~~Charging a Violation of § 18102 After Convictions of Violations~~
14 ~~of § 18102; Effect of Prior Convictions on Sentencing and~~
15 ~~Driving Privilege.~~
- 16 § ~~18114~~. ~~Use of Controlled Substance as Defense to Violations.~~
- 17 § ~~18115~~. ~~Participation in Driver Improvement or Treatment Programs; No~~
18 ~~Suspension or Stay of Proceedings Prior to Acquittal or~~
19 ~~Conviction of Violations of § 18102; Effect After Conviction and~~
20 ~~Sentencing.~~
- 21 § ~~18116~~. ~~Restriction on Privilege to Operate Motor Vehicles; Markings on~~
22 ~~Licenses and Records; Removal of Restriction; Notice and~~
23 ~~Recordation of Probation.~~
- 24 § ~~18117~~. ~~Separate Conviction; Challenge to Constitutional Validity; Use in~~
25 ~~Judicial or Administrative Proceedings.~~

- 1 ~~§ 18118. Dismissal of Allegation of Violation of § 18102 of This Chapter;~~
2 ~~Substitution of Lesser Offense or Dismissal or Striking of~~
3 ~~Separate Conviction; Reasons by Court and Prosecution.~~
- 4 ~~§ 18119~~ 92112. Drinking While Driving a Motor Vehicle ~~Upon Any~~
5 ~~Highway; Petty Misdemeanor; Punishment.~~
- 6 ~~§ 18120~~ 92113. Drinking While Riding in a Motor Vehicle; Petty
7 Misdemeanor; Punishment.
- 8 ~~§ 18121~~ 92114. ~~Possession of Opened Container in a Motor Vehicle of~~
9 Alcohol; Petty Misdemeanor; Punishment.
- 10 § 92115. Marijuana Use While Driving a Motor Vehicle; Petty
11 Misdemeanor; Punishment.
- 12 § 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.
- 13 § 92117. Occupational Driving Permit: First Offender Only.
- 14 ~~§ 18122. Storage of Opened Container.~~
- 15 ~~§ 18123~~ 92118. Suspension or Revocation of Driver's License; Process.
- 16 ~~§ 18124. Restriction or Suspension of Driving Privilege; Probation with~~
17 ~~Conditions; Revocation of License.~~
- 18 ~~§ 18124.1~~ 92119. Driving While License Suspended or Revoked For
19 Driving While Impaired.
- 20 § 92120. Participation in the Driving While Impaired Treatment Court.
- 21 § 92121. Dismissal for Completion of Driving While Impaired Treatment
22 Court; Permitted.
- 23 § 92122. No Conditional Discharge and Dismissal Permitted for Offenses
24 Involving Serious Injuries.
- 25 § 92123. Probation Allowed. Any person convicted under this Chapter
- 26 ~~§ 18125~~ 92124. Safe Street Fund.
- 27 § 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.

1 § 92126. Presumptions Affecting the Burden of Proof: Defenses.

2
3 § ~~18101~~ 92101. Definitions.

4 As used in this Chapter:

5 (a) Alcohol means a colorless, volatile, flammable liquid synthesized
6 or obtained by fermentation of sugars and starches and widely used, either
7 pure or denatured, as a solvent and in drugs; an intoxicating beverage with
8 the same characteristics.

9 (b) Bodily Injury carries the same meaning for bodily injury as
10 defined in 9 GCA §16.10(b).

11 (c) Breath Alcohol Ignition Interlock Device (BAIID) means a device
12 that attaches to a vehicle and prevents its starting unless a breath alcohol test
13 is passed.

14 (d) Bus means a vehicle chartered for transportation of persons for
15 hire. It shall not mean a school bus, open vehicles resembling trolleys, or a
16 vehicle operated pursuant to a public or private franchise operating over a
17 regularly scheduled route.

18 (e) Controlled Substance is as defined in Chapter 67 of the Uniform
19 Controlled Substance Act.

20 (f) ~~Driving under the influence ("DUI") or while intoxicated~~ While
21 Impaired, or While Driving Impaired ("DWI") means any person driving a
22 motor vehicle under the influence of an alcoholic beverage alcohol, or a the
23 ingestion or administration of any controlled substance, or a any
24 combination thereof of these, when as a result of consuming such alcoholic
25 beverage or controlled substance or the combination thereof, his or her, his
26 physical or mental abilities are impaired to such a degree that he or she no
27 longer has the ability to drive a motor vehicle with the caution

1 characteristics of a sober person of ordinary prudence, under the same or
2 similar ~~circumstance, and includes any circumstances.~~

3 (g) Electronic Alcohol Monitoring Device means a portable device
4 capable of automatically and periodically testing and recording alcohol
5 consumption levels and automatically and periodically transmitting such
6 information and tamper attempts regarding such device, regardless of the
7 location of the person operating or in-actual-physical being monitored.

8 (h) Oral Fluid (Saliva) Test means a method used to collect a saliva
9 sample from a test subject and analyze it for the presence of hormones,
10 drugs, antibodies or other molecules.

11 (i) Limousine means a chauffeur-driven motor vehicle, other than a
12 bus or taxicab, designed and used for transportation of persons for
13 compensation.

14 (j) Officer means an officer of the Guam Police Department, or a law
15 enforcement officer of the Guam Airport Authority or Guam Port Authority,
16 but only while such law enforcement officer is carrying out his duties within
17 the confines of the property under the control of a motor vehicle who has
18 eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol
19 in his or her blood, and jurisdiction of the Authority by which the law
20 enforcement officer is employed.

21 (k) Percent of alcohol by weight shall be based upon grams of
22 alcohol per ~~one hundred (100)~~ milliliters of blood, or grams of alcohol per
23 210 liters of breath.

24 -(e) Physical control of a vehicle means being physically present in
25 the driver's seat of a motor vehicle while the engine is turned on, whether
26 moving or stationary on a public highway, a shoulder adjacent to a public
27 highway, or parked in any public area.

1 ~~(m) Prior offense of driving under the influence includes a conviction~~
2 ~~for driving while impaired, means a conviction of an offense in violation of~~
3 ~~any Section of this Chapter, or an offense based on drunk the driving while~~
4 ~~impaired laws in effect prior to the enactment of this Chapter, or under~~
5 ~~drunk-driving while impaired laws in of any other jurisdiction in the world if~~
6 ~~the offense upon which the conviction is based would, if committed in on~~
7 ~~Guam, be a violation of § 18102 of this Chapter.~~

8 ~~(d) Controlled substances means those so defined by Chapter 67, Title~~
9 ~~9, Guam Code Annotated the Uniform Controlled Dangerous Substances~~
10 ~~Act.~~

11 ~~(e) Vehicular homicide means a person who does any act forbidden by~~
12 ~~law in the driving of a vehicle or who negligently drives a vehicle, which act~~
13 ~~or negligence proximately causes death to any person other than the driver.~~

14 ~~(f) Vehicular homicide while intoxicated means a person, while~~
15 ~~driving a vehicle under the influence does any act forbidden by law in the~~
16 ~~driving of the vehicle or if he or she negligently drives a vehicle, which act~~
17 ~~or negligence proximately causes death to any person other than the driver.~~

18 ~~(g) Negligence means the failure to use the ordinary or reasonable~~
19 ~~care which a person of ordinary prudence would use in order to avoid injury~~
20 ~~to himself or others under similar circumstances.~~

21 ~~(h) Reasonable cause means such a state of facts as would lead a~~
22 ~~person of ordinary care and prudence to believe and conscientiously~~
23 ~~entertain an honest strong suspicion that the person driving and in physical~~
24 ~~control of a vehicle is under the influence of alcohol or of a controlled~~
25 ~~substance or of a combination thereof.~~

26 ~~(i) Working day means any day of the week other than Saturday or~~
27 ~~Sunday or a legal holiday.~~

1 (n) Public highway means any primary or secondary roadway, street
2 or alley used by the general public, including a public easement.

3 (o) Serious Bodily Injury carries the same meaning for serious bodily
4 injury as defined in 9 GCA §16.10(c).

5 (p) Suspended driver's license means an operator's license,
6 chauffeur's license, or driving privilege that has been suspended by the
7 Court, or by administrative action, or seized by an officer pursuant to law.

8 **§ 18102 92102. Influence of Alcohol and Controlled Substances;**
9 **Causing Bodily Injury to Person Other Than Driver; Alcoholic Content**
10 **in Blood; Proof Driving While Impaired.**

11 ~~(a) It is unlawful for any a person, while under the influence of an~~
12 ~~alcoholic beverage or any controlled substance, or under the combined~~
13 ~~influence of an alcoholic beverage and any controlled substance, to operate~~
14 ~~to drive, operate, or be in physical control of a any motor vehicle; within the~~
15 ~~territory:~~

16 ~~(b) It is unlawful for any person, while having eight one-hundredths~~

17 ~~a) While under the influence of one alcohol;~~

18 ~~b) While under the influence of a controlled substance;~~

19 ~~c) Having an alcohol concentrate of 0.08 percent (0.08%), or more, by~~
20 ~~weight, of alcohol in his or her blood to operate or be in physical control of a~~
21 ~~motor vehicle.~~

22 ~~(c) It is unlawful for any person, while under the influence of an~~
23 ~~alcoholic beverage or any controlled substance, or under the combined~~
24 ~~influence of an alcoholic beverage and any controlled substance, to operate~~
25 ~~or be in physical control of a motor vehicle and, when doing so, do any act~~
26 ~~forbidden blood, as shown by law or neglect any duty imposed by law in the~~
27 ~~driving of the vehicle or who negligently drives a vehicle, which act or~~

1 neglect or negligence proximately causes bodily injury to any person other
2 than the driver. a chemical analysis of such person's breath or blood
3 administered as authorized by this Chapter;

4 (d) ~~It is unlawful for any person, while having eight one hundredths of~~
5 ~~one percent (0.08%) or more, by weight, of alcohol in his or her blood to~~
6 ~~operate or be in physical control of a motor vehicle and, when doing so, do~~
7 ~~any act forbidden by law or neglect any duty imposed by law in the driving~~
8 ~~of the vehicle, which act or neglect proximately causes bodily injury to any~~
9 ~~person other than the driver.~~

10 (e) ~~In any prosecution under this Section, it is a rebuttable~~
11 ~~presumption that the person with eight one hundredths of one percent~~
12 ~~(0.08%) or more, by weight, of alcohol in his or her blood at the time of~~
13 ~~operating or in actual physical control of a motor vehicle is under the~~
14 ~~influence of alcohol if the person had eight one hundredths of one percent~~
15 ~~(0.08%) Having an alcohol concentrate of 0.04 percent, or more, by weight,~~
16 ~~of alcohol in his or her blood at the time of the performance of a blood or~~
17 ~~breath test within three (3) hours after the driving.~~

18 (f) ~~In proving the person neglected any duty imposed by law in the~~
19 ~~driving of the vehicle, it is not necessary to prove that any specific section of~~
20 ~~this title was violated.~~

21 (g) (1) ~~Notwithstanding the other provisions of this Section, the blood~~
22 ~~of a person under the age of twenty-one (21) years shall be guilty of a~~
23 ~~violation of Subsections (b) or (d) of this Section if such person shall be~~
24 ~~found within three (3) hours of his or her arrest for a violation of this Section~~
25 ~~to have four one hundredths of one percent (0.04%) or more, by weight, of~~
26 ~~alcohol in his or her blood.~~

1 ~~(2) A person convicted for the first time of a violation of item (1) of~~
2 ~~this Subsection shall be guilty of a misdemeanor and shall have his or her~~
3 ~~license or permit to operate a motor vehicle suspended for six (6) months.~~
4 ~~Upon any subsequent conviction of the person while under the age of~~
5 ~~twenty one (21) years, the person's license or permit to operate a motor~~
6 ~~vehicle shall be suspended for one (1) year with no exception for~~
7 ~~occupational driving privileges. Upon any conviction the Court shall notify~~
8 ~~the Department of Revenue and Taxation), as shown by a chemical analysis~~
9 ~~of such suspension of the person's privilege to drive and confiscate the~~
10 ~~person's license or permit to operate a motor vehicle. In addition to the~~
11 ~~required mandatory suspension of a person's license or permit to operate a~~
12 ~~motor vehicle, the Court may impose such additional penalty as may be~~
13 ~~permitted by law for conviction of a misdemeanor: person's breath or blood~~
14 ~~administered as authorized by this Chapter;~~

15 e) Having any level of a controlled substance in his or her blood or
16 urine,

17 f) Having inhaled, ingested, applied or otherwise used any chemical,
18 poison or organic solvent, or any compound, or combination of any of these,
19 when as a result, his physical or mental abilities are impaired to such a
20 degree that he no longer has the ability to drive a motor vehicle with the
21 characteristics of a sober person of ordinary prudence under the same or
22 similar circumstances;

23 g) While under the influence of any combination of subsections (a)
24 through (g).

25 **§ 18103 92103. Reckless Driving While Intoxicated; Presumptions**
26 **Impaired.**

1 (a) ~~Upon the trial of any criminal action, or preliminary proceeding in~~
2 ~~a criminal action, arising out of acts alleged to have been committed by any~~
3 ~~person while driving or being in actual physical control of a vehicle while~~
4 ~~under the influence of an alcoholic beverage in violation of subsections (b)~~
5 ~~or (d) of § 18102 of this Chapter, the amount of alcohol in the person's blood~~
6 ~~at the time of the test as shown by an analysis of that person's blood or~~
7 ~~breath shall give rise to the following presumptions affecting the burden of~~
8 ~~proof~~

9 (1) ~~If there was at that time less than eight one hundredths of one~~
10 ~~percent (0.08%) by weight of alcohol in the person's blood, that fact shall~~
11 ~~not give rise to any presumption that the person was or was not under the~~
12 ~~influence of an alcoholic beverage, but the fact may be considered with other~~
13 ~~competent evidence in determining whether the person was under the~~
14 ~~influence of an alcoholic beverage at the time of the alleged offense.~~

15 (2) ~~If there was at that time eight one hundredths of one percent~~
16 ~~(0.08%) or more by weight of alcohol in the person's blood, it shall be~~
17 ~~presumed that the person was under the influence of an alcoholic beverage at~~
18 ~~the time of the alleged offense. Any person who, in reckless disregard for the~~
19 ~~safety of persons or property, operates a motor vehicle while driving~~
20 ~~impaired shall be guilty of a petty misdemeanor, and shall not be considered~~
21 ~~a prior conviction under § 92102.~~

22 (b) ~~Before such presumptions are made in cases involving a breath~~
23 ~~test, the prosecuting attorney must show the following by a preponderance~~
24 ~~of the evidence~~

25 (1) ~~That the instrument used for the test was properly checked~~
26 ~~and in proper working order at the time of conducting the test;~~

1 ~~(2) That any chemicals employed in the test were of the correct~~
2 ~~kind and compounded in the proper proportions;~~

3 ~~(3) That the person had nothing in his mouth at the time of the~~
4 ~~test and that he had taken no food or drink within fifteen (15) minutes~~
5 ~~prior to taking the test;~~

6 ~~(4) That the test was given by a qualified operator and in the~~
7 ~~proper manner.~~

8 ~~The provisions of this subsection shall not be construed as limiting the~~
9 ~~introduction of any other competent evidence bearing upon the question~~
10 ~~whether the person ingested any alcoholic beverage or was under the~~
11 ~~influence of an alcoholic beverage at the time of the alleged offense. If the~~
12 ~~People agree to a plea of guilty or nolo contendere to a charge of a violation~~
13 ~~of this Section in satisfaction of, or as a substitute for, an original charge of a~~
14 ~~violation of § 92102, the People shall state for the record a factual basis for~~
15 ~~the satisfaction or substitution, including whether or not the defendant was~~
16 ~~driving while impaired in connection with the offense.~~

17 (c) The court shall notify the Department of Revenue and Taxation of
18 each conviction of this Section.

19 (d) A defendant placed on probation for a conviction under this
20 Section shall enroll in an alcohol or drug education program at the expense
21 of the participant, and complete the same as a condition of probation.
22 § 18104 92104. **First Offender Conviction of First Violation of § 18102;**
23 **Punishment.**

24 (a) ~~If any~~ A person is convicted of a first violation of ~~§ 18102~~ of this
25 Chapter, that person shall be driving while impaired is guilty of a
26 misdemeanor, and shall be punished by imprisonment in the custody of the

1 ~~Department of Corrections ("DOC") or the Guam Police Department~~
2 ~~("GPD") for not sentenced as follows:~~

3 (a) A term of incarceration not less than a mandatory forty-eight (48)
4 hours, nor more than one (1) year and a

5 (b) A mandatory minimum fine of not less than One Thousand Three
6 Hundred Fifty Dollars (\$1,000350.00) and ~~not~~ not more than Five One
7 Thousand Dollars (\$5,0001,000). ~~In addition, the judge may impose any~~
8 ~~additional penalties, including requiring the offenders to pay restitution to~~
9 ~~persons injured or for property damaged.~~

10 ~~(b) The court may order that any person punished under this section,~~
11 ~~who is to be punished by imprisonment by DOC or GPD, be imprisoned on~~
12 ~~days other than days of regular employment of the person, as determined by~~
13 ~~the court.~~

14 ~~(c) Any person who has been granted probation under the conditions~~
15 ~~of § 18301 of this Chapter, may, after six (6) months have elapsed since the~~
16 ~~commencement of participation in the treatment program, petition the court~~
17 ~~to have the restriction on that person's privilege to operate a motor vehicle~~
18 ~~removed, and the court may, for good cause shown, order the Department of~~
19 ~~Revenue and Taxation to remove the restrictions upon a showing that the~~
20 ~~person has successfully participated in the treatment program and complied~~
21 ~~with the terms and conditions of probation, has given proof of insurance, and~~
22 ~~has made a showing to the court that there is little likelihood of a repeat~~
23 ~~offense. The Court shall order the person to be placed on probation for not~~
24 ~~more than one (1) year.~~

25 ~~(d) The court shall suspend and confiscate the person's operator's or~~
26 ~~chauffeur's license or permit and Suspension of a person's driving privilege~~
27 ~~for six (6) months, with occupational driving privileges. The Court may~~

1 modify this suspension prior to the end of six (6) months suspension
2 provided the person can show proof that he or she has successfully
3 completed a drug and alcohol treatment program acceptable to the Court.

4 (e) The Court shall notify the Department of Revenue and Taxation
5 that the privilege to operate a motor vehicle of a person punished under this
6 section has been suspended for six (6) months of each conviction of this
7 Section.

8 **§ 18105-92105. Second Offender Conviction of § 18102; Punishment.**

9 If any A person is convicted of a second violation of § 18102 of this
10 Chapter driving while impaired, and the offense occurred within five (5)
11 years of a separate prior conviction of a violation of said § 18102 or of
12 conviction of a prior for such an offense as defined in §18101(e) of this
13 Chapter, that person shall be, is guilty of a misdemeanor and shall be
14 punished by imprisonment in the custody of DOC or GPD for sentenced as
15 follows:

16 (a) A term of incarceration of not less than a mandatory seven (7)
17 days, nor more than two (2) years and by a one (1) year;

18 (b) A mandatory minimum fine of not less than Two One Thousand
19 Dollars (\$21,000) nor, and not more than Five Thousand Dollars (\$5,000).

20 (c) The person's Court shall order the person to be placed on probation
21 for not more than three (3) years.

22 (d) Suspension of a person's driving privilege to operate a motor
23 vehicle shall be suspended for one (1) year, with no exceptions for
24 occupational driving privileges, which time period may be reduced at the
25 discretion of the Court provided on motion by the defendant that he has: 1)
26 completed Court approved treatment; 2) paid all fines and fees; 3) has not
27 been charged with a subsequent criminal offense; and 4) the Probation

1 officer recommends reduction based on satisfactory performance. The Court
2 may further reduce the period of suspension by no more than fifty percent
3 (50%) provided the defendant agrees to have installed either a breath alcohol
4 ignition interlock device (BAIID) as ordered by the Court, or an electronic
5 alcohol monitoring device approved by the Court.

6 (e) The Court shall notify the Department of Revenue and Taxation
7 pursuant to § 18124 of each conviction of this Chapter Section.

8 **§ 18106 92106. Third Offender Conviction of Violation of § 18102**
9 **Within Five Years After Two Violations;: Felony Punishment.**

10 (a) If any A person is convicted of a third violation of § 18102 of this
11 Chapter driving while impaired, and the offense occurred within five (5)
12 years of two (2) separate prior convictions of a violation of said § 18102 or
13 of two (2) separate convictions of a prior for such an offense as defined in §
14 18101(e) of this Chapter, or any combination thereof resulting in two (2) or
15 more prior convictions, that person shall be, is guilty of a felony of the third
16 degree and, notwithstanding any other provision of law, shall be punished by
17 imprisonment in the custody of DOC or GPD for sentenced as follows:

18 (a) A term of incarceration of not less than a mandatory of
19 ninety (90) days and not more than five (5) years and by a, nor more
20 than five (5) years; provided, however, if the defendant agrees to
21 voluntarily participate in, and successfully complete all terms and
22 conditions of the DWI Court Treatment Program, the Court may
23 reduce the mandatory incarceration time from ninety (90) days to no
24 less than thirty (30) days, otherwise the defendant shall serve the full
25 ninety (90) days.

1 **(b) A mandatory fine of not less than ThreeTwo Five Hundred**
2 **Thousand Dollars (\$3,0002,500), ~~nor~~ and not more than Five**
3 **Thousand Dollars (\$5,000).**

4 **(c) The Revocation of a person's driving privilege to operate a**
5 **motor vehicle shall be revoked by the for not less than two (2) years,**
6 **which time period may be reduced at the discretion of the Court**
7 **provided on motion by the defendant that he has 1) completed Court**
8 **approved treatment; 2) paid all fines and fees; 3) has not been charged**
9 **with a subsequent criminal offense; and 4) the Probation officer**
10 **recommends reduction based on satisfactory performance. The Court**
11 **may further reduce the period of suspension by no more than fifty**
12 **percent (50%) provided the defendant agrees to have installed either a**
13 **breath alcohol ignition interlock device (BAIID) as ordered by the**
14 **Court, or an electronic alcohol monitoring device approved by the**
15 **Court.**

16 **(d) The Court shall order the person to be placed on probation**
17 **for not less than three (3) years, and not more than five (5) years.**

18 **(e) The Court shall notify the Department of Revenue and**
19 **Taxation pursuant to § 18201 of this Chapter for a period of not less**
20 **than two (2) years of each conviction of this Section.**

21 **§ 18107 92107. Fourth Offender Conviction of Violation of § 18102**
22 **Within Five Years of Three or More Violations of Designated Sections;**
23 **Felony Punishment.**

24 **If any A person is convicted of a fourth violation of § 18102 of this**
25 **Chapter driving while impaired, and the offense occurred within five seven**
26 **(57) years of three (3) or more separate prior convictions for driving while**
27 **under the influence, is guilty of a violation of said § 18102 or of three (3) or**

1 ~~more separate convictions of a prior offense as defined in § 18101(e) of this~~
2 ~~Chapter, or any combination thereof resulting in three (3) or more prior~~
3 ~~convictions, that person felony of the third degree, and notwithstanding any~~
4 ~~other provision of law, shall be punished by imprisonment in the custody of~~
5 ~~DOC or GPD for sentenced as follows:~~

6 (a) A term of incarceration of not less than a minimum
7 mandatory one (1) year, nor more than six (6) years, and by a. A
8 mandatory minimum fine of not less than Four ~~Four~~ Three Thousand
9 Dollars (\$4,000~~3,000~~), nor and not more than Seven Thousand Dollars
10 (\$7,000).

11 (b) The Revocation of a person's driving privilege to operate a
12 motor vehicle shall be revoked by for not less than three (3) years,
13 which time period may be reduced in the discretion of the Court
14 provided on motion by the defendant he has 1) completed Court
15 approved treatment; 2) paid all fines and fees; 3) has not been charged
16 with a subsequent criminal offense; and 4) the Probation officer
17 recommends reduction based on satisfactory performance. The Court
18 may further reduce the period of suspension by no more than fifty
19 percent (50%) provided the defendant agrees to have installed either a
20 breath alcohol ignition interlock device (BAIID) as ordered by the
21 Court, or an electronic alcohol monitoring device approved by the
22 Court.

23 (c) The Court shall order the person to be placed on probation
24 for not less than four (4) years, and not more than six (6) years.

25 (d) The Court shall notify the Department of Revenue and
26 Taxation pursuant to § 18201 of this Chapter for a period of not less
27 than five (5) years each conviction of this Section.

1 **§ 18108 92108. Forfeiture of Vehicle Vehicular Negligence: Bodily**
2 **Injuries.**

3 ~~Any person convicted of violating the provisions of § 18102 of this~~
4 ~~Chapter three (3) or more times, as provided in § 18107 of this Chapter,~~
5 ~~shall forfeit the vehicle in which the third offense, or more, was committed.~~
6 ~~However, in those cases where there is a showing of extreme circumstances,~~
7 ~~or where the vehicle is owned by a person other than the person convicted of~~
8 ~~three (3) or more violations of said § 18102, and the owner had no~~
9 ~~knowledge that the vehicle would be driven by an intoxicated person and~~
10 ~~that the driver had been convicted of prior violations of said § 18102, the~~
11 ~~Court, instead of ordering the forfeiture of the vehicle, shall suspend the~~
12 ~~convicted person's driving privilege for a minimum period of five (5) years,~~
13 ~~and no limited privilege to operate a motor vehicle shall be granted.~~

14 ~~At the time of arrest for an offense under said § 18102, the vehicle in~~
15 ~~which the offense was committed shall be impounded by GPD and released~~
16 ~~only upon the approval of the Prosecution Division of the Attorney General's~~
17 ~~Office when it is determined that the vehicle is not subject to forfeiture~~
18 ~~under this Section. The seizure and forfeiture of the vehicle shall be enforced~~
19 ~~by the GPD and the vehicle shall be disposed of in accordance with those~~
20 ~~provisions of law relating to assets forfeiture by public sale or auction at~~
21 ~~such times as GPD may choose to conduct such sale or auction.~~

22 ~~The profits made from such sale or auction shall be deposited in the~~
23 ~~Special Assets Forfeiture Fund, under the Local Assets Forfeiture Account.~~
24 ~~The Chief of Police of GPD shall convey clear title as owner of said~~
25 ~~confiscated vehicles, subject to any perfected security interests in said~~
26 ~~vehicles.~~

1 ~~The provisions of this subsection shall not be construed as limiting the~~
2 ~~introduction of any other competent evidence bearing upon the question~~
3 ~~whether the person ingested any alcoholic beverage or was under the~~
4 ~~influence of an alcoholic beverage at the time of the alleged offense.~~

5 (a) It is unlawful for any person to operate or be in physical control of
6 a motor vehicle while driving impaired and, when doing so, do any act
7 forbidden by law or neglect any duty imposed by law in the driving of the
8 vehicle, or who negligently drives a vehicle, which act or neglect or
9 negligence proximately causes bodily injury to any person other than the
10 driver.

11 (b) It is unlawful for any person to operate or be in physical control of
12 a motor vehicle while having 0.08 percent or more, by weight, of alcohol in
13 his or her blood and, when doing so, do any act forbidden by law or neglect
14 any duty imposed by law in the driving of the vehicle, or who negligently
15 drives a vehicle, which act or neglect or negligence proximately causes
16 bodily injury to any person other than the driver.

17 (c) It is unlawful for any person under the age of twenty-one (21)
18 years to operate or be in physical control of a motor vehicle if such person is
19 found to have 0.04 percent or more, by weight, of alcohol in his or her
20 breath or blood, when doing so, do any act forbidden by law or neglect any
21 duty imposed by law in the driving of the vehicle, or who negligently drives
22 a vehicle, which act or neglect or negligence proximately causes bodily
23 injury to any person other than the driver.

24 (d) Any violation of subsection (a), (b) or (c) shall be punished as a
25 felony of the third degree, and notwithstanding any other provision of law,
26 shall be sentenced as follows:

1 1. A term of incarceration of up to three (3) years for a first
2 conviction under this Chapter, and up to five (5) years in the event of
3 a prior conviction of driving while impaired.

4 2. A mandatory fine of not less than two thousand five hundred
5 (\$2,500.) dollars, and not more than five thousand (\$5,000.) dollars.

6 3. The Court shall order the person to be placed on probation
7 for not more than five (5) years.

8 4. Suspension of a person's driving privilege for not more than
9 five (5) years, which time period may be reduced in the discretion of
10 the Court provided on motion by the defendant he has 1) completed
11 Court approved treatment; 2) paid all fines and fees; 3) has not been
12 charged with a subsequent criminal offense; and 4) the Probation
13 officer recommends reduction based on satisfactory performance. The
14 Court may further reduce the period of suspension by no more than
15 fifty percent (50%) provided the defendant agrees to have installed
16 either a breath alcohol ignition interlock device (BAIID) as ordered by
17 the Court, or an electronic alcohol monitoring device approved by the
18 Court.

19 5. The Court shall notify the Department of Revenue and
20 Taxation of each conviction of this Section.

21 (e) In proving the person neglected any duty imposed by law in
22 driving the vehicle, it is not necessary to prove that any specific section of
23 this code was violated.

24 **§ 18109 92109. Conviction Involving a Driving While Impaired With**
25 **Child On Board: Felony Punishment.**

26 ~~Notwithstanding any other provision of law, a~~ A person convicted of a
27 ~~violation of § 18102 of this Chapter shall be~~ driving while impaired is guilty

1 of a felony of the third degree if at the time of ~~his or her~~ arrest ~~the person, he~~
2 ~~or she~~ was operating a motor vehicle in which a child under the age of
3 sixteen (16) was a passenger, or if a child under the age of sixteen (16) was
4 injured as a result of an accident in which the motor vehicle operated by the
5 person was involved, and notwithstanding any other provision of law, shall
6 be sentenced as follows:

7 (a) A term of incarceration of not more than five (5) years.

8 (b) A mandatory fine of Two Thousand Five Hundred Dollars
9 (\$2,500), and not more than Five Thousand Dollars (\$5,000.00).

10 (c) Suspension of a person's driving privilege for not less than
11 one (1) year without occupational driving privileges, which time
12 period may be reduced in the discretion of the Court provided on
13 motion by the defendant he has: 1) completed Court approved
14 treatment; 2) paid all fines and fees; 3) has not been charged with a
15 subsequent criminal offense; and 4) the Probation officer recommends
16 reduction based on satisfactory performance. The Court may further
17 reduce the period of suspension by no more than fifty percent (50%)
18 provided the defendant agrees to have installed either a breath alcohol
19 ignition interlock device (BAIID) as ordered by the Court, or an
20 electronic alcohol monitoring device approved by the Court.

21 (d) The Court shall notify the Department of Revenue and
22 Taxation of each conviction of this Section.

23 **~~§ 18110. Vehicular Negligence; Third Degree Felony.~~**

24 ~~Any violation of subsections (c) or (d) of § 18102 of this Chapter shall~~
25 ~~be a felony of the third degree.~~

26 **~~§ 18111~~ 92110. Vehicular Homicide; Classified: Felony Punishment.**

1 (a) A person is guilty of vehicular homicide if, ~~while driving a~~
2 ~~vehicle,~~ he or she does any act forbidden by law in the ~~driving of the vehicle~~
3 ~~or if he or she negligently drives a vehicle,~~ which act or negligence
4 ~~proximately causes death to any person other than himself or herself. As~~
5 ~~allowed in § 4.45 of Title 9, Guam Code Annotated, in proving that the~~
6 ~~person did any act forbidden by law, it shall not be necessary to prove that~~
7 ~~the person possessed a culpable mental state. Vehicular homicide is a felony~~
8 ~~of the second degree and shall be punishable by imprisonment in the custody~~
9 ~~of DOC and GPD for up to eight (8) years.~~

10 (b) ~~A person is guilty of vehicular homicide while intoxicated if,~~
11 ~~while driving a vehicle in violation of § 18102 of this Chapter, he or she~~
12 ~~does any act forbidden by law in the operating or driving of the vehicle, or if~~
13 ~~he or she negligently operates or drives a vehicle, which act or negligence~~
14 ~~proximately causes death to any person other than himself or herself. As~~
15 ~~allowed in § 4.45 of Title 9, Guam Code Annotated, in proving that the~~
16 ~~person did any act forbidden by law, it shall not be necessary to prove that~~
17 ~~the person possessed a culpable mental state. Vehicular homicide while~~
18 ~~intoxicated driving a vehicle~~ is a felony of the second degree, and
19 notwithstanding any other provision of law, shall be punishable by
20 ~~imprisonment in the custody of DOC or GPD for not less than a mandatory~~
21 ~~five (5) years, and up to fifteen (15) years.~~ as follows:

22 (a) A term of incarceration not to exceed eight (8) years,

23 (b) A fine of not to exceed ten thousand dollars (\$10,000.00),

24 and

25 (c) Revocation of the privilege to drive for five (5) years
26 without occupational driving privileges.

1 (d) The Court shall notify the Department of Revenue and
2 Taxation of each conviction of this Section.

3 **§ 92111. Vehicular Homicide While Driving Impaired: Felony**

4 **Punishment.**

5 A person is guilty of vehicular homicide while driving impaired, if he
6 or she does any act forbidden by law in driving while impaired, or if he or
7 she negligently operates or drives a vehicle while impaired, which act or
8 negligence proximately causes death to any person other than himself or
9 herself. Vehicular homicide while driving impaired is a felony of the second
10 degree, and notwithstanding any other provision of law, shall be punishable
11 as follows:

12 a) A term of incarceration of not less than a mandatory eight (8)
13 years, and not more than fifteen (15) years;

14 b) A fine of not more than ten thousand dollars (\$10,000.00),
15 and;

16 c) Revocation of driving privileges for eight (8) years without
17 occupational driving privileges.

18 d) The Court shall notify the Department of Revenue and
19 Taxation of each conviction of this Section.

20 ~~**§ 18112. Impoundment of Vehicle of Registered Owner Convicted or**~~
21 ~~**Charged of Violation of § 18102; Prior Offenses; Considerations;**~~
22 ~~**Exemption.**~~

23 ~~The interest of any owner of a motor vehicle which has been used in~~
24 ~~the commission of a violation of § 18102 of this Chapter for which the~~
25 ~~owner was convicted, is subject to impoundment as provided in this section.~~

26 ~~Upon conviction the court may order the vehicle impounded by GPD~~
27 ~~or its authorized agent at such locations as shall be designated by the Chief~~

1 of Police at the owner's expense for not less than one (1) day nor more than
2 thirty (30) days. For purposes of section, "owner of a motor vehicle"
3 includes the registered owners, legal owner, or the lessee of said vehicle at
4 the time of the offense.

5 If the offense occurred within five (5) years of a prior conviction of a
6 violation of § 18102 of this Chapter or of a prior offense as defined in §
7 18101(c) of this Chapter, the prior conviction shall also be charged in the
8 accusatory pleading and if admitted or found to be true by the jury upon a
9 jury trial or by the court upon a court trial, the court, except in an unusual
10 case where the interests of justice would best be served by not ordering
11 impoundment, shall order the vehicle impounded at the owner's expense for
12 not less than thirty (30) or more than ninety (90) days.

13 For purposes of this section the court may consider in the interests of
14 justice factors such as whether impoundment of the vehicle would result in a
15 loss of employment of the offender or the offender's family, impair the
16 ability of the offender or the offender's family to attend school or obtain
17 medical care, result in the loss of the vehicle because of inability to pay
18 impoundment fees, or unfairly infringe upon community property rights or
19 any other facts the court finds relevant. When no impoundment is ordered in
20 an unusual case pursuant to this section, the court shall specify on the record
21 and shall enter in the minutes the circumstances indicating that the interests
22 of justice would best be served by such a disposition.

23 **§ 18113. Charging a Violation of § 18102 After Convictions of Violations**
24 **of § 18102; Effect of Prior Convictions on Sentencing and Driving**
25 **Privilege.**

26 (a) In any case charging a violation of § 18102 of this Chapter and the
27 offense occurred within five (5) years of one (1) or more separate

1 ~~convictions of a violation of said § 18102 or of prior offenses as defined in §~~
2 ~~18101(e) of this Chapter, the court shall not strike any separate conviction of~~
3 ~~those offenses for purposes of sentencing in order to avoid imposing as part~~
4 ~~of the sentence or term of probation, the minimum time of imprisonment and~~
5 ~~the minimum fine, as provided in this chapter, or for purposes of avoiding~~
6 ~~revocation, suspension, or restriction of the privilege to operate a motor~~
7 ~~vehicle, as provided in this Chapter.~~

8 ~~(b) In any case charging a violation of § 18102 of this Chapter, the~~
9 ~~court shall obtain a copy of the driving record of the person charged from~~
10 ~~the Department of Revenue and Taxation and may obtain any records or any~~
11 ~~other source to determine if one (1) or more convictions have occurred~~
12 ~~within five (5) years of the charged offense.~~

13 ~~(c) If any separate convictions of violations of § 18102 of this Chapter~~
14 ~~or of said prior offenses, are reported to have occurred within five (5) years~~
15 ~~of the charged offense, the court shall notify each court where any of the~~
16 ~~separate convictions occurred for the purpose of enforcing terms and~~
17 ~~conditions of probation pursuant to Article 3 of this Chapter.~~

18 ~~§ 18114. Use of Controlled Substance as Defense to Violations.~~

19 ~~The fact that any person charged with driving under the influence of~~
20 ~~alcohol or any controlled substance or a combination thereof, in violation of~~
21 ~~§ 18102 of this Chapter, is or has been entitled to use a controlled substance~~
22 ~~shall not constitute a defense against any violation of said § 18102.~~

23 ~~§ 18115. Participation in Driver Improvement or Treatment Programs;~~
24 ~~No Suspension or Stay of Proceedings Prior to Acquittal or Conviction~~
25 ~~of Violations of § 18102; Effect After Conviction and Sentencing.~~

26 ~~(a) In any case in which a person is charged with a violation of §~~
27 ~~18102 of this Chapter, prior to acquittal or conviction, the court shall not~~

1 ~~suspend or stay the proceedings for the purpose of allowing the accused~~
2 ~~person to attend or participate, nor shall the court consider dismissal of or~~
3 ~~entertain a motion to dismiss the proceedings because the accused person~~
4 ~~attends or participates during that suspension, in any one (1) or more~~
5 ~~education, training, or treatment programs, including, but not limited to, a~~
6 ~~driving improvement program, a treatment program for persons who are~~
7 ~~habitual users of alcohol or other alcoholism program, a program designed~~
8 ~~to offer alcohol service to problem drinkers, an alcohol or drug education~~
9 ~~program, or a treatment program for persons who are habitual users of~~
10 ~~controlled substances or other drug related program.~~

11 (b) ~~This section shall not apply to any attendance or participation in~~
12 ~~any education, training, or treatment programs after conviction and~~
13 ~~sentencing, including attendance or participation in any of these programs as~~
14 ~~a condition of probation granted after conviction when permitted pursuant to~~
15 ~~this article.~~

16 (c) ~~The court may at its discretion allow credit for therapeutic~~
17 ~~treatment.~~

18 ~~§ 18116. Restriction on Privilege to Operate Motor Vehicles; Markings~~
19 ~~on Licenses and Records; Removal of Restriction; Notice and~~
20 ~~Recordation of Probation.~~

21 (a) ~~If a person's privilege to operate a motor vehicle is restricted by a~~
22 ~~court pursuant to this Chapter, the court shall issue an occupational driving~~
23 ~~permit in a form designed by the Division of Motor Vehicle, Department of~~
24 ~~Revenue and Taxation. The permit shall be displayed in the rear window of~~
25 ~~any vehicle driven by the motorist granted limited driving privileges. The~~
26 ~~court shall promptly notify the Department of Revenue and Taxation (the~~
27 ~~"Department") of the terms of the restriction in a manner prescribed by the~~

1 ~~Department. The clerk of court shall punch a hole in the lower right hand~~
2 ~~side of the person's license, indicating a restriction. The Department shall~~
3 ~~place that restriction on the person's records in the Department and enter the~~
4 ~~restriction on any license subsequently issued by the Department to that~~
5 ~~person during the period of the restriction. If the person removes the permit~~
6 ~~or fails to produce the punched license, he or she shall be guilty of a felony~~
7 ~~of the third degree.~~

8 ~~(b) The cost of the permit shall be borne by the person whose~~
9 ~~privilege to operate a motor vehicle is restricted.~~

10 ~~(c) If the court removes a restriction before the end of the previously~~
11 ~~specified term pursuant to § 18110 of this Chapter, the court shall so mark~~
12 ~~the person's driver's license in a manner prescribed by the Department and~~
13 ~~promptly notify the Department of the removal of the restriction.~~

14 ~~(d) If a person is placed on probation pursuant to this Chapter, the~~
15 ~~court shall promptly notify the Department of the probation and~~
16 ~~probationary term and conditions in a manner prescribed by the Department.~~
17 ~~The Department shall place the fact of probation and the probationary term~~
18 ~~and conditions on the person's record in the Department.~~

19 ~~(e) If a person's privilege to operate a motor vehicle is required or~~
20 ~~ordered to be suspended or revoked by the Department pursuant to other~~
21 ~~provisions of this title upon the conviction of an offense under this Chapter,~~
22 ~~at the time for sentencing, that person shall be present in court and each and~~
23 ~~every operator's license of that person shall be surrendered to the court~~
24 ~~where the Clerk of Court shall punch a hole in such license.~~

25 ~~(f) Upon such person completing his or her sentence for such~~
26 ~~conviction, the court shall transmit the license or licenses to the Department~~

1 for reissuance if such person passes the drivers license examination given by
2 the Department.

3 ~~§ 18117. Separate Conviction; Challenge to Constitutional Validity; Use~~
4 ~~in Judicial or Administrative Proceedings.~~

5 Only one (1) challenge shall be permitted to the constitutionality of a
6 separate conviction of a violation of § 18102 of this Chapter, which was
7 entered in a separate proceeding to declare a separate judgment of conviction
8 constitutionally invalid. A determination by the court that the separate
9 conviction is constitutional precludes any subsequent attack on
10 constitutional grounds in a subsequent prosecution in which the same
11 separate conviction is charged. Any determination that a separate conviction
12 in unconstitutional precludes any allegation or use of that separate
13 conviction in any judicial or administrative proceeding, and the Department
14 shall strike that separate conviction from its records. Pursuant to § 18124 of
15 this Chapter, the court shall report to the Department any determination
16 upholding a conviction on constitutional grounds and any determination that
17 a conviction is unconstitutional.

18 This § 18117 shall not preclude a subsequent challenge to a
19 conviction if, at a later time, a subsequent statute or appellate court decision
20 having retroactive application affords any new basis to challenge the
21 constitutionality of the conviction.

22 ~~§ 18118. Dismissal of Allegation of Violation of § 18102 of This Chapter;~~
23 ~~Substitution of Lesser Offense or Dismissal or Striking of Separate~~
24 ~~Conviction; Reasons by Court and Prosecution.~~

25 When an allegation of a violation of § 18102 of this Chapter is
26 dismissed by the court, an allegation of a different or lesser offense is
27 substituted for an allegation of a violation of said § 18102, or an allegation

1 of a separate conviction is dismissed or stricken, the court shall specify on
2 the record its reason or reasons for the order. The court shall also specify on
3 the record whether the dismissal, substitution, or striking was requested by
4 the prosecution and whether the prosecution concurred in or opposed the
5 dismissal, substitution, or striking.

6 When the prosecution makes a motion for a dismissal or substitution,
7 or for the striking of a separate conviction, the prosecution shall submit a
8 written statement which shall become part of the court records and which
9 gives the specific reasons for the motion. The reasons shall include, but need
10 not be limited to, problems of proof, the interests of justice, why another
11 offense is more properly charged, if applicable, and any other pertinent
12 reasons. If the reasons include the "interests of justice", the written statement
13 shall specify all of the factors which contributed to this conclusion.

14 **§ 18119 92112. Drinking While Driving a Motor Vehicle Upon Any**
15 **Highway: Petty Misdemeanor: Punishment.**

16 No It is unlawful for any person shall to drink any alcoholic beverage
17 or consume a controlled substance while driving a motor vehicle upon any
18 highway. The penalties for violation of within this territory. § 18119 shall be
19 the same as the first offense in § 18104 of this Chapter.

20 **§ 18120 92113. Drinking While Riding in a Motor Vehicle: Petty**
21 **Misdemeanor: Punishment.**

22 It is unlawful for Any person who to drinks any alcoholic beverage
23 or consumes a controlled substance while in a motor vehicle upon a highway
24 within this territory. Any person convicted of violating this Section shall be
25 guilty of a petty misdemeanor.

26 **§ 18121 92114. Possession of Opened Container in a Motor Vehicle of**
27 **Alcohol: Petty Misdemeanor: Punishment.**

1 (a) ~~It shall be a misdemeanor~~ is unlawful for any person to transport
2 or possess ~~in any moving vehicle upon a public highway, street or alley any~~
3 ~~alcoholic beverage, or any intoxicating beverage, except in the original in a~~
4 ~~container which shall not have been opened and from in~~ which the original
5 cap or seal ~~shall not have been removed, unless the opened of the container~~
6 has been opened, broken, or the contents of which have been partially
7 removed when the vehicle is upon a public highway. Any person convicted
8 of violating this Section shall be guilty of a petty misdemeanor.

9 (b) It is unlawful for the registered owner of a vehicle, when the
10 registered owner is not then present in a sealed, the vehicle, to knowingly
11 permit another person to store in the registered owner's motor vehicle
12 alcoholic in a container in which the original cap or seal of the container has
13 been opened, broken, or the contents of which have been partially removed
14 when the vehicle is upon a public highway. Any person convicted of
15 violating this Section shall be guilty of a petty misdemeanor.

16 (c) Subsection (a) does not prohibit the transport, possession or
17 storage of alcoholic in which the original cap or seal of the container has
18 been opened, broken, or the contents of which have been partially removed
19 if the container is secured or in a rear compartment not or trunk of the
20 vehicle not normally occupied by the driver or a passenger, or a rear
21 compartment which is not immediately accessible to the driver or any other
22 person in passenger, while the vehicle while it is in motion. Any person
23 violating the provisions upon a public highway. A front passenger glove or
24 utility compartment is not acceptable for purposes of this Section and its
25 Subsections shall be deemed guilty of a misdemeanor exemption.

26 (b) The provisions of Subsection (a) of this (d) This Section shall does
27 not apply to the passenger area of living quarters of a motor home or

1 camper, a bus, or a limousine; provided the operator is enclosed within a
2 driver's compartment not accessible to passengers, clients or customers
3 where alcohol is present while the vehicle is in motion upon a public
4 highway.

5 ~~(c) No employee, driver or agent of any limousine or bus company~~
6 ~~shall consume, nor be permitted to consume, any alcoholic beverage while~~
7 ~~on duty.~~

8 ~~(d) Unless authorized by license and~~

9 **§ 92115. Marijuana Use While Driving a Motor Vehicle: Petty**
10 **Misdemeanor: Punishment.**

11 It is unlawful for any person, whether a driver or passenger, to
12 consume marijuana in any manner including, but not limited to, smoking or
13 ingesting in a motor vehicle when the vehicle is upon the public highway.
14 Any person convicted of violating this Section shall be guilty of a petty
15 misdemeanor.

16 **§ 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.**

17 Alcoholic beverages may be sold, offered for sale, and consumed only
18 by passengers, not to include the operator, within the premises of a bus or
19 limousine only by a business authorized and issued a license as prescribed
20 by the Alcoholic Beverage Control Board by regulation, no alcoholic
21 beverage shall be sold, offered or consumed by any person within the
22 premises of any limousine or bus. Each limousine and bus authorized by this
23 Act to permitting the sell, offer or allow of alcoholic beverages within the
24 premises of the limousine or bus shall be individually licensed and shall be
25 required to display such license within the limousine or bus. The license
26 shall include the vehicle identification number of the vehicle.

1 ~~(e) No alcoholic beverages shall be sold, offered or consumed by any~~
2 ~~person within the premises of any limousine or bus, except for a bus or~~
3 ~~limousine, and only during authorized hours prescribed as permitted by the~~
4 ~~Alcoholic Beverage Control Board.~~

5 ~~(f) The license, and which license is prominently display within the~~
6 ~~bus or limousine. This exemption in Subsection (b) of this Section shall does~~
7 ~~not apply if in the event any passenger is a minor below under the age of~~
8 ~~twenty-one (21) years unaccompanied of age, unless accompanied by a~~
9 ~~parent or legal guardian. It shall be is the duty of the operator of the driver of~~
10 ~~the vehicle bus or limousine to verify the age-ages of all every passengers.~~
11 ~~whom alcoholic beverages is intended to be sold or consumed. Any person~~
12 ~~or company found in violation this Subsection~~

13 ~~(g) As used in this Section:~~

14 ~~(1) 'Bus' means a vehicle chartered for transportation of persons for~~
15 ~~hire. It shall not mean a school bus transporting children, open vehicles~~
16 ~~resembling trolleys, or a vehicle operated pursuant to a public or private~~
17 ~~franchise operating over a regularly scheduled route; and~~

18 ~~(2) 'Limousine' means a chauffeur driven motor vehicle, other than a~~
19 ~~bus or taxicab, designed and used for transportation of persons for~~
20 ~~compensation.~~

21 ~~§ 18122. Storage of Opened Container.~~

22 ~~A person shall be guilty of a misdemeanor if he or she is the registered~~
23 ~~owner of any motor vehicle or the driver, if the registered owner is not then~~
24 ~~present in the vehicle, keeps in a motor vehicle, when the vehicle is upon~~
25 ~~any highway, any bottle, can, or other receptacle containing any alcoholic~~
26 ~~beverage which has been opened, or a seal broken, or the contents of which~~
27 ~~have been partially removed, unless the container is kept in the trunk of the~~

1 vehicle, or kept in some other area of the vehicle not normally occupied by
2 the driver or passengers, if the vehicle is not equipped with a trunk. A utility
3 compartment or glove compartment shall be deemed to be within the area
4 occupied by the driver and passengers. This Section shall not apply to the
5 living quarters of a house, car or camper. This Section shall not apply to
6 persons and vehicles exempted by §18121, supra.

7 **92117. Occupational Driving Permit: First Offender Only.**

8 An Occupational Driving Permit may be issued to a person convicted
9 of a first offender violation under Section 104 by the Court authorizing the
10 person to drive for employment purposes, and as permitted by the Court for
11 therapeutic rehabilitation. The person whose privilege to drive is suspended
12 shall immediately surrender to the Court his or her driver's license, and if
13 valid, may be granted an Occupational Driving Permit for six (6) months.
14 The Court may establish by rule and procedure the manner of issuance of an
15 Occupational Driving Permit, and must notify the Department of Revenue &
16 Taxation promptly regarding the person's restriction on his or her driving
17 privileges. The Court is authorized to charge a reasonable fee for issuance of
18 the Occupational Driving Permit which must be fully paid before the permit
19 can be issued. The cost of the permit shall be borne by the person whose
20 privilege to operate a motor vehicle has been restricted by the Court. In the
21 event a person does not possess a valid driver's license at the time of
22 conviction, the person's privilege to apply for a driver's license shall be
23 prohibited for the full period of the suspension.

24 **§ 18123-92118. Suspension or Revocation of Driver's License: Process.**

25 The Department(a) The driver's license of a person whose privilege to
26 operate a motor vehicle has been suspended or revoked under this Chapter

1 shall be mutilated with a hole punched on the lower right-hand corner of the
2 license so as to identify it is a restricted license.

3 (b) A license that has been revoked shall be permanently seized from
4 a defendant by the Court and promptly transmitted to the Department of
5 Revenue and Taxation with a copy of the abstract of judgment. The Court is
6 authorized to maintain custody of a driver's license which is suspended
7 without occupational driving privileges until reinstatement.

8 (c) The Department of Revenue & Taxation shall immediately
9 suspend or revoke the privilege of any person to operate a motor vehicle for
10 the time period required by the judgment, and in accordance with this
11 Chapter, upon receipt of a duly certified an abstract of judgment from the
12 record-Clerk of any courtCourt showing that the person has been convicted
13 of a violation of § 18102 of this Chapter. For purposes of this section, this
14 Act. The Department shall reinstate a person's driving privileges upon
15 receipt of an order of the court granting such reinstatement in accordance
16 with this Chapter, or upon expiration of the time restriction.

17 (d) The Court may establish by rule and procedure the process for
18 suspension or revocation shall be as follows: of a person's privilege to driver,
19 not inconsistent with the provisions herein.

20 ~~(1) Violation of § 18102; first offense. Upon a conviction of a~~
21 ~~violation of § 18102 of this Chapter, the privilege to operate a motor vehicle~~
22 ~~shall be suspended for a period of six (6) months and restricted during this~~
23 ~~period to travel to and from that person's place of employment and to and~~
24 ~~from the program described in § 18115(b) of this Chapter. The clerk of court~~
25 ~~shall take possession of the driver's license and mutilate it by punching a~~
26 ~~hole in the lower right hand corner. The Department shall issue a restricted~~

1 ~~license if the license expires during the suspension. The restricted license~~
2 ~~shall also contain a hole punched in the lower right hand corner.~~

3 ~~(2) Violation of § 18102; second offense within five years of~~
4 ~~conviction of § 18102. Upon conviction or finding of a violation of § 18102~~
5 ~~of this Chapter within five (5) years of a conviction of said § 18102 or of a~~
6 ~~prior offense as defined in § 18101(c) of this Chapter, the privilege to~~
7 ~~operate a motor vehicle shall be suspended for a period of one (1) year with~~
8 ~~no exceptions for occupational privileges or travelling to and from the~~
9 ~~program described in § 18116(b). The clerk of court shall take possession of~~
10 ~~the person's driver's license and shall notify the Department of the~~
11 ~~revocation.~~

12 ~~(3) Violation of § 18102 within five years after three violations of §~~
13 ~~18102. If any person is convicted of a violation of § 18102 of this Chapter~~
14 ~~and the offense occurred within five (5) years of three (3) or more separate~~
15 ~~convictions of a violation of said § 18102 or of prior offenses as defined in §~~
16 ~~18101(c) of this Chapter, or any combination thereof, that person's driving~~
17 ~~privileges shall be revoked by the Department for a period of not less than~~
18 ~~five (5) years.~~

19 ~~§ 18124. Restriction or Suspension of Driving Privilege; Probation with~~
20 ~~Conditions; Revocation of License.~~

21 ~~(a) Unless ordered to do so by the court upon a finding that the terms~~
22 ~~and conditions of probation were violated, the Department shall not suspend,~~
23 ~~pursuant to paragraph (2) of § 18123 of this Chapter, but shall suspend for~~
24 ~~one (1) year and, thereafter, restrict for two (2) additional years the privilege~~
25 ~~of any person to operate a motor vehicle upon a conviction or finding that~~
26 ~~the person violated § 18102 of this Chapter, but only if the court has~~
27 ~~certified to the Department that the court has granted probation to the person~~

1 on conditions which include the conditions specified in § 18301 of this
2 Chapter and the court has restricted the privilege to operate a motor vehicle
3 as provided in that section.

4 (b) Unless ordered to do so by the court upon a finding that the terms
5 and conditions of probation were violated, the Department shall not revoke,
6 pursuant to paragraph (2) of said § 18123, but shall revoke for five (5) years,
7 the privilege of any person to operate a motor vehicle upon a conviction or
8 finding that the person violated said § 18102, but only if the court has
9 certified to the Department that the court has granted probation to the person
10 on conditions which include the conditions specified in said § 18301, and the
11 court has ordered the Department to suspend the privilege to operate a motor
12 vehicle as provided in that section.

13 (c) So much of the Fund as is required is appropriated to the
14 Department of Corrections to be used to compensate staff and provide
15 supplies or facilities to house incarcerated persons convicted of
16 misdemeanors and persons convicted of acts made unlawful in Article 1,
17 Chapter 18 of 16 GCA.

18 (d) The Director of Corrections may expend not more than Eight
19 Thousand Dollars (\$8,000) per month from the fund for the purpose outlined
20 in Subsection (c) of this Section, which the Administrative Director of the
21 Court shall pay over to the Director of Corrections on a regular basis. Any
22 funds in excess of the monthly payment to the Director of Corrections and
23 all funds accumulated shall be disbursed in accordance with Subsection (c)
24 of § 9211 of 7 GCA.

25 (e) All abstracts of record showing a conviction that are forwarded to
26 the Department shall state whether the court has granted probation to the
27 person on conditions which include the conditions specified in said § 18301

1 and state the date on which the person consented to participate in the
2 program.

3 **§ 18124.1 92119. Driving While License Suspended, or Revoked For**
4 **Driving While Impaired.**

5 (a) ~~No~~ It is unlawful for a person shall to drive a motor vehicle on a
6 highway in Guam while this territory knowing, or having reason to know,
7 that his or her driver's license is suspended or revoked under this Chapter.
8 Any person convicted of violating this Section shall be guilty of a
9 misdemeanor.

10 (b) ~~As used in this Section, suspended driver's license means an~~
11 ~~operator's license, chauffeur's license, or driving privilege that has been~~
12 ~~suspended or revoked by judicial or administrative action, or seized by a~~
13 ~~police officer pursuant to law.~~

14 (c) ~~In any prosecution for driving while license suspended under this~~
15 ~~Section, competent evidence that the defendant's driver license was~~
16 ~~surrendered to a police officer, or was suspended or revoked by order of a~~
17 ~~judge in open court, or that written notice of the suspension was mailed to~~
18 ~~defendant's last known address by the Department of Revenue and Taxation~~
19 ~~under this Chapter by an order of the Court, shall be prima facie evidence of~~
20 ~~the defendant's knowledge of the suspension or revocation.~~

21 (d) ~~Driving while license suspended is a misdemeanor, punishable by~~
22 ~~imprisonment for not more than one (1) year, or by a fine of not more than~~
23 ~~One Thousand Dollars (\$1,000.00), or both. In addition to any other penalty~~
24 ~~imposed upon a conviction, the sentencing court may order the defendant's~~
25 ~~driver's license to be suspended for an additional consecutive period of up to~~
26 ~~five (5) years.~~

27 **§ 92120. Participation in the Driving While Impaired Treatment Court.**

1 The Court may remove or reduce any restriction on a person's
2 privilege to drive and/or reduce any fine imposed resulting from a conviction
3 of any offense in this Chapter upon that person's participation in the Driving
4 While Impaired Treatment Court and the completion of any terms and
5 conditions imposed therefrom, provided that the person has also
6 demonstrated full compliance with probationary conditions.

7 **§ 92121. Dismissal for Completion of Driving While Impaired**
8 **Treatment Court; Permitted.**

9 Upon satisfactory completion of all conditions of probation and
10 treatment in DWI Treatment Court the Judge shall order the case dismissed
11 and expunged.

12 **§ 92122. No Conditional Discharge and Dismissal Permitted for**
13 **Offenses Involving Serious Injuries.**

14 The provisions of Sections 120 and 121 shall not apply in the case of a
15 violation defined as third degree felony in this Chapter, and that involves
16 bodily injury to any person other than the driver.

17 **§ 92123. Probation Allowed.**

18 Any person convicted under this Chapter may be granted probation at
19 the discretion of the Court, which may include, but is not limited to,
20 prohibition from consuming alcohol or controlled substance(s), payment of
21 restitution, mandatory alcohol and drug testing, obey all laws, perform
22 community service, agree to use an alcohol electronic device or BAIID,
23 random searches of home, vehicle and person, regular reporting to
24 Probation, and any other condition the Court deems reasonable.

25 ~~§ 18125~~ **92124. Safe Street Fund.**

26 (a) There is created within the Superior Court of Guam the (the
27 "Fund"), which shall be maintained separate and apart from the other funds

1 of the Superior Court. The fund shall be held in an interest bearing account.
2 All interest earned shall remain in the Fund.

3 (b) All fines collected for any of the acts made unlawful in ~~§§ 18102,~~
4 ~~18109, 18111, 18120, and 18121~~ of Title 16 this Act, Superior Court of
5 ~~Guam Code Annotated, as amended from time to time, and for which~~
6 ~~punishment is prescribed in §§ 18104, 18105, 18106, 18107, 18109, 18110,~~
7 ~~18111, 18119, 18120 and 18121~~ of Title 16, ~~Guam Code Annotated, as~~
8 ~~amended from time to time,~~ shall be deposited in the Safe Streets Fund.

9 (c) So much of the Fund as is required is appropriated to the
10 Department of Corrections to be used to compensate staff and provide
11 supplies or facilities to house incarcerated persons convicted of
12 misdemeanors and persons convicted of acts made unlawful in Article 1,
13 Chapter 18 of Title 16, Guam Code Annotated.

14 (d) The Director of Corrections may expend not more than Eight
15 Thousand Dollars (\$8,000) per month from the fund for the purpose outlined
16 in Subsection (c) of this Section, which the Administrative Director of the
17 Courts shall pay over to the Director of Corrections on a regular basis. Any
18 funds in excess of the monthly payment to the Director of Corrections and
19 all funds accumulated shall be disbursed in accordance with Subsection (c)
20 of § 9211 of Title 7, Guam Code Annotated.

21 (e) The Administrator of the Courts and the Director of Corrections
22 shall submit an annual report to I Maga'lahañ Guåhan and to the Speaker of
23 I Liheslaturan Guåhan regarding the status of the Fund no later than ninety
24 (90) days after the close of the preceding fiscal year. Such report shall be
25 included in the financial statements of the Judiciary of Guam, including its
26 year-end financial statements.

27 **§ 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.**

1 The Judicial Council may promulgate rules, regulations, and proposed
2 fees relative to the use of electronic alcohol monitoring devices by
3 defendants convicted under this Chapter.

4 **§ 92126. Presumptions Affecting the Burden of Proof: Defenses.**

5 (a) The amount of alcohol in the person's blood as shown by an
6 analysis of that person's blood or breath shall give rise to the following
7 presumptions affecting the burden of proof:

8 1. If there was at that time less than 0.08 percent by weight of alcohol
9 in the person's blood, that fact shall not give rise to any presumption that the
10 person was or was not under the influence of an alcoholic beverage, but the
11 fact may be considered with other competent evidence in determining
12 whether the person was driving while under the influence of alcoholic at the
13 time of the alleged offense.

14 2. If there was at that time 0.08 percent or more by weight of alcohol
15 in the person's blood, or 0.04 percent or more by weight of alcohol in a
16 person's blood who is under the age of twenty-one (21), it shall be presumed
17 that the person was under the influence of an alcoholic beverage at the time
18 of the alleged offense.

19 (b) Before such presumptions are made in cases involving a breath
20 test, the People must show the following by a preponderance of the
21 evidence:

22 1. That the instrument used for the breath test was properly checked
23 and in proper working order at the time of conducting of the breath test;

24 2. That the person had nothing in his mouth at the time of the breath
25 test and that he had taken no food or drink within fifteen (15) minutes prior
26 to taking the breath test;

1 3. That the breath test was given by a qualified operator and the
2 proper manner;

3 4. The provisions of this Subsection shall not be construed as limiting
4 the introduction of any other competent evidence bearing upon the question
5 whether the person ingested alcoholic, or was driving while impaired at the
6 time of the alleged offense.

7 (c) It is a rebuttable presumption that a person was under the influence
8 of alcohol if the person had 0.08 percent or more, by weight, of alcohol in
9 his or her blood at the time of the performance of a blood or breath test
10 within three (3) hours after driving.

11 (d) It is a rebuttable presumption that a person under the age of
12 twenty-one (21) was under the influence of alcohol if the person had 0.04
13 percent or more, by weight, of alcohol in his or her blood at the time of the
14 performance of a blood or breath test within three (3) hours after driving.

15 (e) As allowed under Title 9 GCA §4.45, proving that the person did
16 any act forbidden by law, it shall not be necessary to prove that the person
17 possessed a culpable mental state.

18 (f) The fact that any person, charged in violation of this Chapter, is or
19 has been entitled to use a controlled substance shall not constitute a defense.

20 **ARTICLE 2**

21 **IMPLIED CONSENT AND SUSPENSION OR REVOCATION OF**
22 **DRIVING PRIVILEGES AND LICENSE**

23
24 § ~~18201~~ 92201. Implied Consent of Driver of Motor Vehicle to Submit to
25 Blood, or Breath Testing to Determine Alcohol or
26 Controlled Substances Content of Blood.

1 § ~~18202~~ 92202. Sanctions for Refusal to Submit to or Failure to Complete a
2 Blood, or Breath Test.

3 § ~~18203~~ 92203. Administrative Revocation or Suspension of Driving
4 Privilege and License Procedures.

5 § ~~18204~~ 92204. Suspension; Refusal Under Implied Consent Law; Time to
6 Run Consecutively With Other Restrictions, Suspensions or
7 Revocations.

8 § ~~18205~~ 92205. Filing of Rules.

9 § ~~18206~~ 92206. Effective date of implementation.

10
11 **§ ~~18201~~ 92201. Implied Consent of Driver of Motor Vehicle to Submit to**
12 **Blood or Urine, or Breath Testing to Determine Alcohol or Controlled**
13 **Substances Content of Blood and Urine.**

14 (a) Any person who operates a motor vehicle on the public highways
15 or roadways of Guam shall be deemed to have given consent to a blood or
16 urine, or breath test for the purpose of determining the alcohol or controlled
17 substance content of the person's blood or urine.

18 (b) The blood or urine, or breath tests shall be administered at the
19 request of the peace officer having reasonable cause to believe the person
20 driving or in actual physical control of a motor vehicle upon the public
21 highways or roadways is under the influence of alcohol or controlled
22 substances only after: (1) a lawful arrest, and (2) the person has been
23 informed by a peace officer of the sanctions that may result from his or her
24 refusal to be tested.

25 (c) If there is probable cause to believe that a person is in violation of
26 § ~~18102~~ 92102 of this Chapter, then the person shall have the option of using

1 a blood or urine, or breath test for the purpose of determining the alcohol or
2 controlled substance content of that person's blood or urine.

3 (d) No person other than the authorized staff of a licensed clinical
4 laboratory certified by Health Care Financing Administration Clinical
5 Laboratory Improvement Act (>HCFA-CLIA'), or by the Joint Commission
6 of Accreditation of Health Organization may withdraw blood or urine for the
7 purpose of determining the alcohol or controlled substance content thereof.
8 This limitation shall not apply to the taking of a breath specimen. As soon as
9 the results of a blood or urine test performed pursuant to this Section are
10 available, the custodian of the record of the test shall provide, without
11 subpoena, a true copy of the results of the tests to the Guam Police
12 Department or criminal prosecutors. No physician, nurse, hospital, clinical
13 laboratory or any employee thereof, shall be subject to civil liability or suit
14 for providing blood or urine test results as required by the Subsection.

15 (e) The implied consent of a person to be tested shall not be
16 withdrawn by reason of the person's being dead, unconscious or in any state
17 which renders the person incapable of consenting or refusing to be tested. In
18 such event, a test of the person's blood or urine shall be administered.

19 (f) If a person under arrest refuses to submit to a breath or blood or
20 urine test, none shall be given. The person shall be warned, however, that his
21 or her failure to be tested may be used in evidence against him or her in any
22 charge arising from the arrest.

23 (g) In addition to the warnings provided in Subsection (f) of this
24 Section, the arresting officer shall warn the person that refusal to submit to a
25 blood or urine, or breath test will result also in the following:

26 (1) the person must immediately surrender his or her driver's license
27 to the officer;

1 (2) the officer will take custody of the license and will forward it to
2 the Department of Revenue and Taxation, Motor Vehicle Division, along
3 with the officer's sworn statement, affidavit or written declaration as
4 required by § ~~18202~~ 92202 of Title 16 of the Guam Code Annotated; and

5 (3) the driver's license will not be returned and the person's driving
6 privileges restored until completion of all administrative and court
7 proceedings against the person, and it is so ordered by the Director of
8 Revenue and Taxation or the courts.

9 **§ ~~18202~~ 92202. Sanctions for Refusal to Submit to or Failure to**
10 **Complete a Blood, or Breath Test.**

11 If any person refuses a police officer's request to submit to, or fails to
12 complete a blood or breath test or tests, upon receipt of a police officer's
13 sworn statement, affidavit or written declaration under penalty of perjury
14 that the police officer had reasonable cause to believe the person had been
15 operating and in physical control of a motor vehicle in violation of § ~~18102~~
16 92102 of this Chapter and that the person refused to submit to, or failed to
17 complete, the blood or breath tests after having been informed by the police
18 officer of the consequences under subsection (f) of § ~~18201~~ 92201 and this §
19 ~~18202~~ 92202 for refusing to submit to or failing to complete the blood or
20 breath test or tests, then the Department of Revenue and Taxation (the
21 Department) shall administratively (a) suspend the person's privilege and
22 license or permit to operate a motor vehicle for a period of six (6) months, or
23 (b) revoke the person's privilege and license or permit to operate a motor
24 vehicle for a period of two (2) years if the person has been convicted of a
25 separate prior violation of § ~~18102~~ 92102 or has been administratively
26 determined to have committed a prior violation of § ~~18102~~ 92102 of this
27 Chapter or convicted of any prior offense of driving under the influence

1 violation, or any combination thereof, within five (5) years of the date of the
2 refusal, or failure to complete the blood or breath test, or (c) revoke the
3 person's privilege and license or permit to operate a motor vehicle for a
4 period of three (3) years if the person has been convicted of two (2) or more
5 prior violations of § ~~18102~~ 92102 or has been administratively determined to
6 have committed two (2) or more prior violations of § ~~18202~~ 92202 of this
7 Chapter or convicted of any two (2) or more offenses of driving under the
8 influence, or any combination thereof, within five (5) years of the date of the
9 refusal or failure to complete the blood or breath test. For the purposes of
10 this Chapter, police officer means an officer of the Guam Police Department,
11 or a security officer of either the Guam Airport Authority or the Guam Port
12 Authority but only while such security officer is carrying on his or her duties
13 within the confines of the property under the control and jurisdiction of the
14 Authority by which he or she is employed.

15 **§ ~~18203~~ 92203. Administrative Revocation or Suspension of Driving**
16 **Privilege and License Procedures.**

17 (a) If a person is arrested for a violation of § ~~18102~~ 92102 of this
18 Chapter, on a determination by the police officer that there was reasonable
19 cause for the arrest then: (1) the police officer shall inform the person that he
20 or she has the option of taking blood or urine, or breath test, (2) the police
21 officer shall also inform the person that a refusal to submit to or a failure to
22 complete the blood or urine, or breath tests may be used in evidence against
23 him or her in criminal proceedings, and that he or she may be subject to
24 administrative suspension or revocation by the Department of his or her
25 privileges and license or permit to operate a motor vehicle, and (3) the
26 officer also shall inform the person that a refusal to take the test or a failure

1 to complete the test requires the officer to immediately take custody of the
2 person's driver's license for forwarding to the Department.

3 (b) The police officer complies with the requirements of § ~~18203~~
4 92203(a) of this Chapter and the person refuses to submit to or fails to
5 complete the blood or breath test, then the police officer shall within three
6 (3) working days of the arrest sign and submit to the Department an affidavit
7 or declaration under penalty of perjury setting forth such facts.

8 (c) Upon receipt by the Department of the police officer's affidavit or
9 declaration, an administrative action shall commence and the Department
10 shall within ten (10) working days notify the person in writing of the
11 commencement thereof. Notice of the administrative action shall be
12 provided to the person as follows:

13 (1) By delivering a copy thereof to the person; or

14 (2) By leaving a copy thereof at the person's dwelling house or usual
15 place of abode with some person of suitable age and discretion residing
16 therein; or

17 (3) By mailing a copy thereof to the person at his or her last known
18 address through certified or registered mail. The notice of the administrative
19 action shall inform the person of the matters set forth in §§ ~~18202~~ 92202 and
20 ~~18203~~ 92203 of this Chapter.

21 (d) Within fifteen (15) working days from the date of receipt of the
22 notice from the Department, the person may request in writing a hearing on
23 a form provided by the Department in its notice of the action taken.

24 (e) Upon receipt by the Department of the person's written request for
25 a hearing, the Department shall within five (5) working days notify the
26 person of a hearing date in the same manner as set forth in subsection (c),
27 (1), (2), and (3), of this § ~~18203~~ 92203. The Department shall schedule the

1 hearing to commence within fifteen (15) working days of the person's
2 written request for the hearing. The Director or his designee shall preside at
3 and conduct the hearing.

4 (f) The scope of the hearing shall be limited to whether the
5 requirements of this § 1820392203 were met.

6 (g) At the commencement of the initial or continued hearing, if for
7 any reason the person who is alleged to have refused to submit to or failed to
8 complete blood or urine, or breath testing did not surrender his or her
9 driver's license to the arresting officer, the person shall surrender to the
10 Department any license or permit issued in the name of the person which
11 authorizes the person to drive and be in physical control of a vehicle, and
12 which license or permit was not previously suspended or revoked.

13 (h) At the hearing the driver has the burden of proof to show by the
14 preponderance of the evidence that the requirements of this § ~~18203~~ 92203
15 were not met. If the hearing is continued to another date and time by the
16 Director, or the Director's designee, or if at the conclusion of the initial or
17 continued hearing, the Director, or the Director's designee, dismisses the
18 administrative action, then the Department shall return the person's driver's
19 license or permit to him or her.

20 (i) At the conclusion of the initial or continued hearing, the Director
21 or his designee shall render a decision to suspend or revoke the person's
22 driving privilege and license or permit, as authorized under § ~~18202~~ 92202
23 of this Act, or to dismiss the administrative action. The decision and order of
24 the Director or his designee shall be final but subject to judicial review.

25 (j) If the Director or his designee determines, upon a hearing of the
26 matter, to suspend or revoke the person's privilege and license or permit to
27 operate a motor vehicle, the suspension or revocation decision shall

1 thereupon become effective. If the person does not appear at that hearing,
2 the Director or his designee shall, in writing, determine, based upon a
3 preponderance of the evidence, that the person whose license or permit is to
4 be suspended or revoked is the person so charged and shall declare that by
5 default the license or permit is revoked or suspended. If the person does
6 appear at the hearing, the Director or his designee shall, in writing, based
7 upon the preponderance of the evidence, show that the person was (i) either
8 driving and in physical control of the motor vehicle or not, (ii) either refused
9 to take a breathalyzer or blood test or did not, and (iii) either was given
10 adequate warning of the alternatives before so suspending or revoking the
11 person's license or permit or was not.

12 (k) If the Director's or his designee's decision is to revoke or suspend
13 the person's privilege and license or permit to drive, the person may file a
14 petition for judicial review in the Superior Court of Guam within ten (10)
15 working days of such decision and order.

16 (1) The filing of the petition shall not operate as a stay of the
17 administrative revocation or suspension nor shall the court stay the
18 administrative revocation or suspension pending the outcome of the judicial
19 review.

20 (2) The petition shall state with specificity the grounds upon which
21 the petitioner seeks reversal of the administration revocation.

22 (3) The court shall schedule the judicial review as soon as practicable,
23 and the review shall be on the record of the administrative hearing without
24 taking additional testimony or evidence.

25 (4) If the petitioner fails to appear without just cause, the court shall
26 affirm the administrative revocation or suspension.

1 (5) The sole issues before the court shall be whether the Department
2 exceeded constitutional or statutory authority, erroneously interpreted the
3 law, acted in an arbitrary or capricious manner, committed an abuse of
4 discretion, or made a determination that is unsupported by the evidence in
5 the record.

6 (6) Unless the administrative revocation or suspension is reversed, the
7 revocation or suspension shall become effective as set out in subsection (j)
8 of this § ~~18203~~ 92203.

9 (l) Failure of the peace officer or the Department to comply with the
10 requirements in subsections (a), (b), (c), (e) or (i) of this § ~~18203-92203~~ shall
11 result in a dismissal of the action in favor of the person.

12 (m) Failure of the person to comply with subsections (d), (h) and (k)
13 of this § ~~18203~~ 92203 shall be deemed a waiver of the rights therein, and the
14 revocation or suspension if supported by the affidavit shall become effective
15 pursuant to §§ ~~18202~~ 92202 and ~~18203~~ 92203 of this Chapter.

16 (n) The Department may issue a written subpoena directing any
17 person to attend a hearing before the Director or his designee and in a proper
18 case to bring with him or her any book, record or paper which may be
19 deemed material as evidence in the case. The fee for such attendance shall
20 be the same as the fees of witnesses before the Superior Court, except that if
21 the witness is a government employee, no witness fee shall be given. The
22 subpoena shall be issued in the name of the Department, shall be directed to
23 the witness, and shall be served in the same manner as subpoenas to appear
24 and testify before the court. If any person or persons summoned to testify
25 shall refuse or neglect to obey said subpoena, upon petition, the court may
26 compel the attendance of such person or persons before the Department, or
27 punish said person or persons for contempt in the same manner provided by

1 law for securing the attendance of witnesses and their punishment for
2 neglect or refusal to attend the Superior Court.

3 (o) Article 2 of the Administrative Adjudication Law [5 GCA Chapter
4 9, Article 2 - Hearing Procedures] shall not apply to administrative actions
5 and hearings under this § ~~18203~~ 92203.

6 **§ ~~18204~~ 92204. Suspension; Refusal Under Implied Consent Law; Time**
7 **to Run Consecutively With Other Restrictions, Suspensions or**
8 **Revocations.**

9 (a) The purpose of this § ~~18204~~ 92204 is to require that any
10 suspension or revocation under § ~~18123~~ of this Chapter and any restriction,
11 suspension or revocation under §§ ~~18201~~ 92201 or ~~18124~~ of under this
12 Chapter resulting from the same arrest are cumulative and shall be imposed
13 consecutively, if so ordered by the court.

14 (b) If (1) an abstract of conviction is received by the Department for
15 an offense which requires the Department to restrict, suspend, or revoke the
16 driving privilege of a person after conviction or finding of a violation
17 pursuant to §§ ~~18201~~ 92201 or ~~18202~~ 92202 of this Chapter, and (2) there is
18 a suspension of that person's driving privilege already in effect for refusal to
19 consent to, or for failure to complete, a blood or breath test pursuant to said
20 § ~~18201~~ 92201, and (3) that suspension is administratively final and resulted
21 from the same arrest, and (4) the sentencing court orders these restrictions,
22 suspensions, revocations, or combination thereof to run consecutively, then
23 the restriction, suspension, or revocation resulting from the conviction or
24 finding pursuant to § ~~18123~~ or § ~~18124~~ of this Chapter shall commence after
25 the suspension already in effect pursuant to said § ~~18201~~ 92201 has
26 terminated.

27 **§ ~~18205~~ 92205. Filing of Rules.**

1 The Department may adopt rules to govern its procedures under this
2 Chapter. Article 3 of the Administrative Adjudication Law [5 GCA Chapter
3 9 - Rule-Making Procedure] is not applicable to such rules so adopted by the
4 Department nor to any procedures prescribed therein.

5 **§ 18206 92206. Effective Date of Implementation.**

6 The effective date to implementing the provisions of ~~§ 18203 92203~~
7 of this Chapter on the Department's administrative revocation or suspension
8 of driving privileges and licenses or permits of persons who refuse to submit
9 to or fail to complete a blood or breath test shall be April 1, 1995.
10

11 ARTICLE 3

12 PROBATION AND GENERAL CONSIDERATIONS OF
13 PROBATION

14
15 ~~§ 18301 92301.~~ Conditions of Probation for Violation of ~~§ 18102 92102.~~

16 ~~§ 18302 92302.~~ Probation Granted Under ~~§ 18102 92102;~~ Failure to Comply
17 with Terms and Conditions; Revocation or Termination;
18 Procedure.

19 ~~§ 18303 92303.~~ General Probation Conditions.

20 ~~§ 18301 92301.~~ Conditions of Probation for Violation of ~~§ 18102 92102.~~

21 (a) If the court grants probation to any person punished under §
22 1810292102 of this Chapter, including any other terms and conditions
23 imposed by the court, the court shall impose as a condition of probation that
24 the person be subject to the following:

25 (1) That the driver shall participate in, and successfully complete an
26 alcohol or drug education program, or both of these programs as designated
27 by the court.

1 (2) That the person be referred to a qualified substance abuse
2 counselor for an assessment of the person's alcohol dependence and need for
3 treatment.

4 (3) That the counselor shall submit a report with recommendations to
5 the court, which may require the person to obtain appropriate treatment.

6 (4) That all costs for such assessment or treatment or both shall be
7 borne by the penalized person at the discretion of the court.

8 **§ ~~18302~~ 92302. Probation Granted Under § ~~18102~~ 92102; Failure to**
9 **Comply with Terms and Conditions; Revocation or Termination;**
10 **Procedure.**

11 (a) If any person has been granted probation under the conditions of §
12 ~~18301~~ 92301 of this Chapter and fails at any time to participate successfully
13 in the treatment program designated by the court, then the court shall revoke
14 or terminate the probation, and the court may revoke or terminate the
15 probation if the person fails to comply with any other term or condition of
16 probation, and the court shall proceed under either of the following
17 provisions.

18 (1) Revoke the suspension of sentence and order the Department to
19 suspend the person's privilege to operate a motor vehicle from the date of the
20 order revoking or terminating probation.

21 (2) Grant a new term of probation on the condition that the person be
22 placed in the custody by DOC or GPD for at least thirty (30) days and order
23 the Department to suspend the person's privilege to operate a motor vehicle
24 from the date of the new grant of probation.

25 **§ ~~18303~~ 92303. General Probation Conditions.**

26 (a) If any person is convicted of a violation of § ~~18102~~ 92102 of this
27 Chapter, the court shall not stay or suspend pronouncement of sentencing

1 and shall pronounce sentence in conjunction with the conviction in a
2 reasonable time, including time for receipt of any pre-sentence investigation
3 report.

4 (b) If any person is convicted of a violation of § ~~18102~~ 92102 of this
5 Chapter and is granted probation, the terms and conditions of probation shall
6 include, but not be limited to the following:

7 (1) A period of probation not less than two (2) years if it is a
8 misdemeanor and not less than five (5) years if it is a felony.

9 (2) A requirement that the person shall not consume alcohol or any
10 controlled substances or any combination thereof not prescribed by a
11 medical doctor.

12 (3) A requirement that the person, if arrested for a violation of §
13 ~~18102~~ 92102 of this Chapter, shall not refuse to submit to a blood or breath
14 test for the purpose of determining the alcohol or controlled substance
15 content of his or her blood.

16 (4) A requirement that the person shall not commit any criminal
17 offense.

18 (5) A requirement that the person be referred to a qualified substance
19 abuse counselor for an assessment of the person's alcohol dependency and
20 need for treatment.

21
22 ARTICLE 4

23 IGNITION INTERLOCK DEVICES

24
25 § ~~18401~~ 92401. Ignition Interlock Devices, Requiring; Unlawful Acts.

26 § ~~18402~~ 92402. Ignition Interlock Devices, Certification; Warning Label.

1 **§ ~~18401~~ 92401. Ignition Interlock Devices, Requiring; Unlawful Acts.**

2 (a) In addition to any other authorized penalties, the Court may
3 require that any person who is convicted of driving under the influence in
4 violation of this Chapter shall not operate a motor vehicle unless that vehicle
5 is equipped with a functioning ignition interlock device certified by the
6 Department as provided in §~~18402~~ 92402 of this Article, and installed in
7 such a manner that the vehicle will not start if the operator's blood alcohol
8 level is in excess of five one-hundredths of one percent (0.05%) or as
9 otherwise specified by the court. The court may require the use of an
10 approved ignition interlock device for a period of not less than six (6)
11 months, if the person is permitted to operate a motor vehicle, whether or not
12 the privilege to operate a motor vehicle is restricted, as determined by the
13 court. The court, however, shall order placement of an ignition interlock
14 device in those circumstances required by this Chapter.

15 (b) If the court imposes the use of an ignition interlock device, the
16 court shall:

17 (1) stipulate on the record the requirement for, and the period
18 of, the use of a certified ignition interlock device;

19 (2) order that the records of the Department reflect such
20 requirement;

21 (3) order that an ignition interlock device be installed, as the
22 court may determine necessary, on any vehicle owned or operated by
23 the person;

24 (4) determine the person's ability to pay for installation of the
25 device if the person claims inability to pay. If the court determines
26 that the person is unable to pay for installation of the device, the court
27 may order that any portion of a fine paid by the person for a violation

1 of this Chapter shall be allocated to defray the costs of installing the
2 device; and

3 (5) require proof of installation of the device and periodic
4 reporting to the Department for verification of the operation of the
5 device in the person's vehicle.

6 (c) If the court imposes the use of an ignition interlock device on a
7 person whose driving privilege is not suspended or revoked, the court shall
8 require the person to provide proof of compliance to the Department within
9 thirty (30) days. If the person fails to provide proof of installation within that
10 period, absent a finding by the court of good cause for that failure which is
11 entered in the court record, the court shall notify the Department of Revenue
12 and Taxation.

13 (d) If the court imposes the use of an ignition interlock device on a
14 person whose driving privilege is suspended or revoked for a period of less
15 than three (3) years, the department shall require proof of compliance before
16 reinstatement of the person's driving privilege.

17 (e) (1) In addition to any other provision of law upon conviction of a
18 violation of this Section, the Department shall revoke the person's driving
19 privilege for one (1) year from the date of conviction. Upon conviction of a
20 separate violation of this Section during the same period of required use of
21 an ignition interlock device, the Department shall revoke the person's
22 driving privilege for five (5) years from the date of conviction.

23 (2) Any person convicted of a violation of Subsection (f) hereof who
24 does not have a driver's license shall, in addition to any other penalty
25 provided by law, pay a fine of not less than Two Hundred Fifty Dollars
26 (\$250) or more than Five Hundred Dollars (\$500) per each such violation. In
27 the event that the person is unable to pay any such fine, the fine shall

1 become a lien against the motor vehicle used in violation of Subsection (f)
2 hereof and payment shall be made pursuant to Title 16 GCA, §7172.

3 (f) (1) It is unlawful to tamper with or to circumvent the operation of a
4 court-ordered ignition interlock device.

5 (2) It is unlawful for any person whose driving privilege is restricted
6 pursuant to this Section to request or solicit any other person to blow into an
7 ignition interlock device or to start a motor vehicle equipped with the device
8 for the purpose of providing the person so restricted with an operable motor
9 vehicle.

10 (3) It is unlawful to blow into an ignition interlock device or to start a
11 motor vehicle equipped with the device for the purpose of providing an
12 operable motor vehicle to a person whose driving privilege is restricted
13 pursuant to this Section.

14 (4) It is unlawful to knowingly lease or lend a motor vehicle to a
15 person who has had his or her driving privilege restricted as provided in this
16 Section, unless the vehicle is equipped with a functioning, certified ignition
17 interlock device. Any person whose driving privilege is restricted under a
18 condition of probation requiring an ignition interlock device shall notify any
19 other person who leases or loans a motor vehicle to him or her of such
20 driving restriction.

21 (g) Notwithstanding the provisions of this Section, if a person is
22 required to operate a motor vehicle in the course and scope of his or her
23 employment and if the vehicle is owned by the employer, the person may
24 operate that vehicle without installation of an approved ignition interlock
25 device if the employer has been notified of such driving privilege restriction
26 and if proof of that notification is with the vehicle. This employment
27 exemption does not apply, however, if the business entity which owns the

1 vehicle is owned or controlled by the person whose driving privilege has
2 been restricted.

3 (h) In addition to the penalties provided in this Section, a violation of
4 this Section is a traffic violation, punishable as a nonmoving violation as
5 provided in Title 16 GCA, Chapter 9.

6 **§ ~~18402~~ 92402. Ignition Interlock Devices, Certification; Warning**
7 **Label.**

8 (a) The Department of Revenue and Taxation shall certify or cause to
9 be certified the accuracy and precision of the breath-testing component of
10 the ignition interlock devices as required by ~~§18401~~ 92401 of this Article,
11 and shall publish a list of approved devices, together with rules governing
12 the accuracy and precision of the breath-testing component of such devices
13 as adopted by rule in compliance with ~~§18401~~ 92401 of this Article. The
14 cost of certification shall be borne by the manufacturers of ignition interlock
15 devices.

16 (b) No model of ignition interlock device shall be certified unless it
17 meets the accuracy requirements specified by rule of the Department.

18 (c) The Department of Revenue and Taxation shall design and adopt
19 by rule, a warning label which shall be affixed to each ignition interlock
20 device upon installation. The label shall contain a warning that any person
21 tampering, circumventing or otherwise misusing the device is guilty of a
22 violation of law and may be subject to civil liability.”

23 **Section 4. Effective Date.** This Act *shall* become immediately effective
24 upon enactment.

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telena C. Nelson,
Member



Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR
SIKRITARIAN LIHESLATURAN GUAHAN
I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÁHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

November 7, 2017

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Senator Régine Biscoe Lee
Chairperson, Committee on Rules

Re: Letter of Explanation – Bill No. 203-34 (LS)

Buenas yan Háfa adai.

As per my authority as Chairperson of the Committee on Rules and pursuant to COR decision during COR meeting on April 3, 2017, this letter serves as an explanation of non-completion of pre-referral of checklist on **Bill No. 203-34 (LS)**.

Response from Legal Bureau's portion of the pre-referral (A)(1)(2) was recently received on November 7, 2017.

If you have any questions or concerns, please feel free to contact Jean Cordero, Committee Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

Senator Régine Biscoe Lee
Chairperson, Committee on Rules

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telena C. Nelson,
Member



Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR
SIKRITARIAN LIHESLATURAN GUAHAN
I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

PRE-REFERRAL CHECKLIST

<p align="center">BILL NO. 203-34 (LS) AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.</p>		
<p>(A) Legal Bureau</p>	<p>(1) One subject matter? [SR § 6.01(a), 2 GCA § 2108(a)] <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)</p> <p>(2) Conform to Standing Rules as to form and style? [SR §§ 6.02(b) and (d), 6.03(d)] <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)</p>	<p>Notice to Legal Bureau: <u>Fri, October 27, 2017 @ 1:45 pm</u></p> <p>Completed by Legal Bureau: <u>Tues., November 7, 2017 @ 11:19 a.m.</u></p>
<p>(B) Office of Finance & Budget (OFB)</p>	<p>(1) Does the Bill contain appropriations or authorizations for appropriations from any fund sources? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>(2) Does the Bill contain an authorization to expend government funds? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p> <p>(3) Does the Bill contain provisions that have potential fiscal impacts on the government of Guam budget? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p>	<p>Notice to OFB: <u>Fri, October 27, 2017 @ 1:45 pm</u></p> <p>Completed by OFB: <u>Mon, November 6, 2017 @ 11:14 a.m.</u></p>
<p>COR Action</p>	<p>Is the fiscal impact revenue negative to the government of Guam budget? <input type="checkbox"/> YES (Refer to Committee on Appropriations) <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p>	<p>Completed by: <u>[Signature] 11.6.17 @ 1:30 pm</u></p>

PRE-REFERRAL CHECKLIST

BILL NO. 203-34 (LS)

AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.

(C) DEBT

(1) SR § 6.01 (b)(1)(A) Land, Infrastructure, Building Projects, Capital Improvement Projects	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)	Received by: (Signature, Date & Time) 11.7.17 @ 2pm
(2) SR § 6.01 (b)(1)(B) Refinancing of existing debt (not less than 2%)	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)	Completed by: (Signature, Date & Time) 11.7.17 @ 2pm
(3) SR § 6.01 (b)(2) Authorize public debt to fund operations of agency, instrumentality, public corporation	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES (Return to Prime Sponsor) <input type="checkbox"/> NO <input type="checkbox"/> Waived (per official state of emergency, as attached)	Completed by: (Signature, Date & Time) 11.7.17 @ 2pm
COR Action	<input type="checkbox"/> Return to Prime Sponsor <input checked="" type="checkbox"/> Refer to: CMTE on Culture and Justice, Vice Speaker Therese M. Terlaje	Date & Time: 11.7.17 @ 2:30pm

For COR Office Use Only	Pursuant to COR decision (COR Meeting, April 3, 2017): Completed within five (5) working days? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Initial: 11.7.17 @ 2:30pm. IF NO: Provide letter of explanation (see attached). <i>(attached)</i>
--------------------------------	--	--



I MINA 'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN

2017 (FIRST) Regular Session

Bill No. 203-34 (LS)

As Substituted by Committee on Culture and Justice

Introduced by:

Therese M. Terlaje

**AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16,
GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO THE SAFE
STREETS ACT OF 2018**

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

2 **Section 1.** Legislative Findings and Intent. It is the intent of *I Liheslatura*
3 to amend the 1996 enactment of Guam's drunk and drugged driving statute, known
4 as the Safe Streets Act, to improve Guam's enforcement of those laws, and to
5 further improve the criminal justice response to arrests and prosecution in line with
6 theories of therapeutic jurisprudence, rehabilitation of persons addicted to alcohol
7 and drugs, and immediate accountability. The Legislature supports the efforts of
8 the Judiciary of Guam in the continued operation of therapeutic courts such as
9 Adult Drug Court, Juvenile Drug Court, Family Violence Court, Mental Health
10 Court, Veterans Court, and the Driving While Impaired Treatment Court.

11 **Section 2.** A new subsection (d) is *added* to §2101, Chapter 2, Title 7, Guam
12 Code Annotated to read as follows:

13 “(d) DWI Treatment Court. The Judicial Council of the Judiciary of
14 Guam may establish through a duly adopted resolution, a Driving While Impaired
15 Treatment Court (DWI Treatment Court). Participation in the Driving While

1 Impaired Treatment Court shall be limited to those defendants who meet the legal
2 and clinical requirements in accordance with orders as promulgated by the
3 Supreme Court of Guam. Nothing herein requires the Judiciary to implement DWI
4 Treatment Court if it would result in a need for an increase in local funding for the
5 program or impede the ability of judges to address current caseloads under current
6 time restrictions or increase the need for additional judges at the court.”

7 **Section 3.** § 18101 through § 18124, and § 18125 of Chapter 18, Title 16,
8 Guam Code Annotated are hereby *repealed*.

9 ~~“§ 18101. Definitions.~~

10 ~~§ 18102. Influence of Alcohol and Controlled Substances; Causing Bodily~~
11 ~~Injury to Person Other Than Driver; Alcoholic Content in Blood;~~
12 ~~Proof.~~

13 ~~§ 18103. Driving While Intoxicated; Presumptions.~~

14 ~~§ 18104. Conviction of First Violation of § 18102; Punishment.~~

15 ~~§ 18105. Second Conviction of § 18102; Punishment.~~

16 ~~§ 18106. Conviction of Violation of § 18102 Within Five Years After Two~~
17 ~~Violations; Punishment.~~

18 ~~§ 18107. Conviction of Violation of § 18102 Within Five Years of Three or~~
19 ~~More Violations of Designated Sections; Punishment.~~

20 ~~§ 18108. Forfeiture of Vehicle.~~

21 ~~§ 18109. Conviction Involving a Child.~~

22 ~~§ 18110. Vehicular Negligence; Third Degree Felony.~~

23 ~~§ 18111. Vehicular Homicide; Classified.~~

24 ~~§ 18112. Impoundment of Vehicle of Registered Owner Convicted or~~
25 ~~Charged of Violation of § 18102; Prior Offenses; Considerations;~~
26 ~~Exemption.~~

1 ~~§ 18113. Charging a Violation of § 18102 After Convictions of Violations of~~
2 ~~§ 18102; Effect of Prior Convictions on Sentencing and Driving~~
3 ~~Privilege.~~

4 ~~§ 18114. Use of Controlled Substance as Defense to Violations.~~

5 ~~§ 18115. Participation in Driver Improvement or Treatment Programs; No~~
6 ~~Suspension or Stay of Proceedings Prior to Acquittal or Conviction~~
7 ~~of Violations of § 18102; Effect After Conviction and Sentencing.~~

8 ~~§ 18116. Restriction on Privilege to Operate Motor Vehicles; Markings on~~
9 ~~Licenses and Records; Removal of Restriction; Notice and~~
10 ~~Recordation of Probation.~~

11 ~~§ 18117. Separate Conviction; Challenge to Constitutional Validity; Use in~~
12 ~~Judicial or Administrative Proceedings.~~

13 ~~§ 18118. Dismissal of Allegation of Violation of § 18102 of This Chapter;~~
14 ~~Substitution of Lesser Offense or Dismissal or Striking of Separate~~
15 ~~Conviction; Reasons by Court and Prosecution.~~

16 ~~§ 18119. Drinking While Driving a Motor Vehicle Upon Any Highway.~~

17 ~~§ 18120. Drinking in Motor Vehicle Upon Highway.~~

18 ~~§ 18121. Possession of Opened Container in a Motor Vehicle.~~

19 ~~§ 18122. Storage of Opened Container.~~

20 ~~§ 18123. Suspension of Driver's License.~~

21 ~~§ 18124. Restriction or Suspension of Driving Privilege; Probation with~~
22 ~~Conditions; Revocation of License.~~

23 ~~§ 18124.1. Driving While License Suspended.~~

24 ~~§ 18125. Safe Street Fund.~~

25 ~~**§ 18101. Definitions.**~~

26 ~~As used in this Chapter:~~

27 ~~(a) Driving under the influence ("DUI") or while intoxicated~~

1 means any person driving a vehicle under the influence of an
2 alcoholic beverage or a controlled substance or a combination thereof,
3 when as a result of consuming such alcoholic beverage or controlled
4 substance or the combination thereof, his or her physical or mental
5 abilities are impaired to such a degree that he or she no longer has the
6 ability to drive a vehicle with the caution characteristics of a sober
7 person of ordinary prudence, under the same or similar circumstance,
8 and includes any person operating or in actual physical control of a
9 motor vehicle who has eight one hundredths of one percent (0.08%)
10 or more, by weight, of alcohol in his or her blood.

11 (b) Percent of alcohol by weight shall be based upon grams of
12 alcohol per one hundred (100) milliliters of blood.

13 (c) Prior offense of driving under the influence includes a
14 conviction based on drunk driving laws in effect prior to enactment of
15 this Chapter, or under drunk driving laws in any other jurisdiction in
16 the world if the offense upon which the conviction is based would, if
17 committed in Guam, be a violation of § 18102 of this Chapter.

18 (d) Controlled substances means those so defined by Chapter
19 67, Title 9, Guam Code Annotated the Uniform Controlled Dangerous
20 Substances Act.

21 (e) Vehicular homicide means a person who does any act
22 forbidden by law in the driving of a vehicle or who negligently drives
23 a vehicle, which act or negligence proximately causes death to any
24 person other than the driver.

25 (f) Vehicular homicide while intoxicated means a person, while
26 driving a vehicle under the influence does any act forbidden by law in
27 the driving of the vehicle or if he or she negligently drives a vehicle,

1 which act or negligence proximately causes death to any person other
2 than the driver.

3 (g) Negligence means the failure to use the ordinary or
4 reasonable care which a person of ordinary prudence would use in
5 order to avoid injury to himself or others under similar circumstances.

6 (h) Reasonable cause means such a state of facts as would lead
7 a person of ordinary care and prudence to believe and conscientiously
8 entertain an honest strong suspicion that the person driving and in
9 physical control of a vehicle is under the influence of alcohol or of a
10 controlled substance or of a combination thereof.

11 (i) Working day means any day of the week other than Saturday
12 or Sunday or a legal holiday.

13 **~~§ 18102. Influence of Alcohol and Controlled Substances; Causing~~**
14 **~~Bodily Injury to Person Other Than Driver; Alcoholic Content in~~**
15 **~~Blood; Proof.~~**

16 (a) It is unlawful for any person, while under the influence of an
17 alcoholic beverage or any controlled substance, or under the combined
18 influence of an alcoholic beverage and any controlled substance, to
19 operate or be in physical control of a motor vehicle.

20 (b) It is unlawful for any person, while having eight one-
21 hundredths of one percent (0.08%) or more, by weight, of alcohol in
22 his or her blood to operate or be in physical control of a motor
23 vehicle.

24 (c) It is unlawful for any person, while under the influence of an
25 alcoholic beverage or any controlled substance, or under the combined
26 influence of an alcoholic beverage and any controlled substance, to
27 operate or be in physical control of a motor vehicle and, when doing

1 so, do any act forbidden by law or neglect any duty imposed by law in
2 the driving of the vehicle or who negligently drives a vehicle, which
3 act or neglect or negligence proximately causes bodily injury to any
4 person other than the driver.

5 (d) It is unlawful for any person, while having eight one-
6 hundredths of one percent (0.08%) or more, by weight, of alcohol in
7 his or her blood to operate or be in physical control of a motor vehicle
8 and, when doing so, do any act forbidden by law or neglect any duty
9 imposed by law in the driving of the vehicle, which act or neglect
10 proximately causes bodily injury to any person other than the driver.

11 (e) In any prosecution under this Section, it is a rebuttable
12 presumption that the person with eight one hundredths of one percent
13 (0.08%) or more, by weight, of alcohol in his or her blood at the time
14 of operating or in actual physical control of a motor vehicle is under
15 the influence of alcohol if the person had eight one hundredths of one
16 percent (0.08%) or more, by weight, of alcohol in his or her blood at
17 the time of the performance of a blood or breath test within three (3)
18 hours after the driving.

19 (f) In proving the person neglected any duty imposed by law in
20 the driving of the vehicle, it is not necessary to prove that any specific
21 section of this title was violated.

22 (g) (1) Notwithstanding the other provisions of this Section, a
23 person under the age of twenty one (21) years shall be guilty of a
24 violation of Subsections (b) or (d) of this Section if such person shall
25 be found within three (3) hours of his or her arrest for a violation of
26 this Section to have four one hundredths of one percent (0.04%) or
27 more, by weight, of alcohol in his or her blood.

1 ~~(2) A person convicted for the first time of a violation of item~~
2 ~~(1) of this Subsection shall be guilty of a misdemeanor and shall have~~
3 ~~his or her license or permit to operate a motor vehicle suspended for~~
4 ~~six (6) months. Upon any subsequent conviction of the person while~~
5 ~~under the age of twenty one (21) years, the person's license or permit~~
6 ~~to operate a motor vehicle shall be suspended for one (1) year with no~~
7 ~~exception for occupational driving privileges. Upon any conviction~~
8 ~~the Court shall notify the Department of Revenue and Taxation of~~
9 ~~such suspension of the person's privilege to drive and confiscate the~~
10 ~~person's license or permit to operate a motor vehicle. In addition to the~~
11 ~~required mandatory suspension of a person's license or permit to~~
12 ~~operate a motor vehicle, the Court may impose such additional~~
13 ~~penalty as may be permitted by law for conviction of a misdemeanor.~~

14 **~~§ 18103. Driving While Intoxicated; Presumptions.~~**

15 ~~(a) Upon the trial of any criminal action, or preliminary~~
16 ~~proceeding in a criminal action, arising out of acts alleged to have~~
17 ~~been committed by any person while driving or being in actual~~
18 ~~physical control of a vehicle while under the influence of an alcoholic~~
19 ~~beverage in violation of subsections (b) or (d) of § 18102 of this~~
20 ~~Chapter, the amount of alcohol in the person's blood at the time of the~~
21 ~~test as shown by an analysis of that person's blood or breath shall give~~
22 ~~rise to the following presumptions affecting the burden of proof~~

23 ~~(1) If there was at that time less than eight one-~~
24 ~~hundredths of one percent (0.08%) by weight of alcohol in the~~
25 ~~person's blood, that fact shall not give rise to any presumption~~
26 ~~that the person was or was not under the influence of an~~
27 ~~alcoholic beverage, but the fact may be considered with other~~

1 competent evidence in determining whether the person was
2 under the influence of an alcoholic beverage at the time of the
3 alleged offense.

4 (2) If there was at that time eight one hundredths of one
5 percent (0.08%) or more by weight of alcohol in the person's
6 blood, it shall be presumed that the person was under the
7 influence of an alcoholic beverage at the time of the alleged
8 offense.

9 (b) Before such presumptions are made in cases involving a
10 breath test, the prosecuting attorney must show the following by a
11 preponderance of the evidence

12 (1) That the instrument used for the test was properly
13 checked and in proper working order at the time of conducting
14 the test;

15 (2) That any chemicals employed in the test were of the
16 correct kind and compounded in the proper proportions;

17 (3) That the person had nothing in his mouth at the time
18 of the test and that he had taken no food or drink within fifteen
19 (15) minutes prior to taking the test;

20 (4) That the test was given by a qualified operator and in
21 the proper manner.

22 The provisions of this subsection shall not be construed as
23 limiting the introduction of any other competent evidence
24 bearing upon the question whether the person ingested any
25 alcoholic beverage or was under the influence of an alcoholic
26 beverage at the time of the alleged offense.

27 **§ 18104. Conviction of First Violation of § 18102; Punishment.**

1 (a) ~~If any person is convicted of a first violation of § 18102 of~~
2 ~~this Chapter, that person shall be guilty of a misdemeanor and shall be~~
3 ~~punished by imprisonment in the custody of the Department of~~
4 ~~Corrections ("DOC") or the Guam Police Department ("GPD") for not~~
5 ~~less than a mandatory forty eight (48) hours nor more than one (1)~~
6 ~~year and a fine of not less than One Thousand Dollars (\$1,000) nor~~
7 ~~more than Five Thousand Dollars (\$5,000). In addition, the judge may~~
8 ~~impose any additional penalties, including requiring the offenders to~~
9 ~~pay restitution to persons injured or for property damaged.~~

10 (b) ~~The court may order that any person punished under this~~
11 ~~section, who is to be punished by imprisonment by DOC or GPD, be~~
12 ~~imprisoned on days other than days of regular employment of the~~
13 ~~person, as determined by the court.~~

14 (c) ~~Any person who has been granted probation under the~~
15 ~~conditions of § 18301 of this Chapter, may, after six (6) months have~~
16 ~~elapsed since the commencement of participation in the treatment~~
17 ~~program, petition the court to have the restriction on that person's~~
18 ~~privilege to operate a motor vehicle removed, and the court may, for~~
19 ~~good cause shown, order the Department of Revenue and Taxation to~~
20 ~~remove the restrictions upon a showing that the person has~~
21 ~~successfully participated in the treatment program and complied~~
22 ~~with the terms and conditions of probation, has given proof of~~
23 ~~insurance, and has made a showing to the court that there is little~~
24 ~~likelihood of a repeat offense.~~

25 (d) ~~The court shall suspend and confiscate the person's~~
26 ~~operator's or chauffeur's license or permit and shall notify the~~
27 ~~Department of Revenue and Taxation that the privilege to operate a~~

1 motor vehicle of a person punished under this section has been
2 suspended for six (6) months.

3 **~~§ 18105. Second Conviction of § 18102; Punishment.~~**

4 If any person is convicted of a violation of § 18102 of this
5 Chapter and the offense occurred within five (5) years of a separate
6 conviction of a violation of said § 18102 or of conviction of a prior
7 offense as defined in § 18101(c) of this Chapter, that person shall be
8 guilty of a misdemeanor and shall be punished by imprisonment in the
9 custody of DOC or GPD for not less than a mandatory seven (7) days
10 nor more than two (2) years and by a fine of not less than Two
11 Thousand Dollars (\$2,000) nor more than Five Thousand Dollars
12 (\$5,000). The person's privilege to operate a motor vehicle shall be
13 suspended for one (1) year, with no exceptions for occupational
14 driving privileges, by the Department of Revenue and Taxation
15 pursuant to § 18124 of this Chapter.

16 **~~§ 18106. Conviction of Violation of § 18102 Within Five Years~~**
17 **~~After Two Violations; Punishment.~~**

18 (a) If any person is convicted of a violation of § 18102 of this
19 Chapter and the offense occurred within five (5) years of two (2)
20 separate convictions of a violation of said § 18102 or of two (2)
21 separate convictions of a prior offense as defined in § 18101(c) of this
22 Chapter, or any combination thereof resulting in two (2) or more prior
23 convictions, that person shall be guilty of a felony of the third degree
24 and shall be punished by imprisonment in the custody of DOC or
25 GPD for not less than a mandatory ninety (90) days and not more than
26 five (5) years and by a fine of not less than Three Thousand Dollars
27 (\$3,000) nor more than Five Thousand Dollars (\$5,000). The person's

1 ~~privilege to operate a motor vehicle shall be revoked by the~~
2 ~~Department of Revenue and Taxation pursuant to § 18201 of this~~
3 ~~Chapter for a period of not less than two (2) years.~~

4 **~~§ 18107. Conviction of Violation of § 18102 Within Five Years of~~**
5 **~~Three or More Violations of Designated Sections; Punishment.~~**

6 ~~If any person is convicted of a violation of § 18102 of this~~
7 ~~Chapter and the offense occurred within five (5) years of three (3) or~~
8 ~~more separate convictions of a violation of said § 18102 or of three~~
9 ~~(3) or more separate convictions of a prior offense as defined in §~~
10 ~~18101(c) of this Chapter, or any combination thereof resulting in three~~
11 ~~(3) or more prior convictions, that person shall be punished by~~
12 ~~imprisonment in the custody of DOC or GPD for not less than a~~
13 ~~mandatory one (1) year nor more than six (6) years, and by a fine of~~
14 ~~not less than Four Thousand Dollars (\$4,000) nor more than Seven~~
15 ~~Thousand Dollars (\$7,000). The person's privilege to operate a motor~~
16 ~~vehicle shall be revoked by the Department of Revenue and Taxation~~
17 ~~pursuant to § 18201 of this Chapter for a period of not less than five~~
18 ~~(5) years.~~

19 **~~§ 18108. Forfeiture of Vehicle.~~**

20 ~~Any person convicted of violating the provisions of § 18102 of~~
21 ~~this Chapter three (3) or more times, as provided in § 18107 of this~~
22 ~~Chapter, shall forfeit the vehicle in which the third offense, or more,~~
23 ~~was committed. However, in those cases where there is a showing of~~
24 ~~extreme circumstances, or where the vehicle is owned by a person~~
25 ~~other than the person convicted of three (3) or more violations of said~~
26 ~~§ 18102, and the owner had no knowledge that the vehicle would be~~
27 ~~driven by an intoxicated person and that the driver had been convicted~~

1 of prior violations of said § 18102, the Court, instead of ordering the
2 forfeiture of the vehicle, shall suspend the convicted person's driving
3 privilege for a minimum period of five (5) years, and no limited
4 privilege to operate a motor vehicle shall be granted.

5 At the time of arrest for an offense under said § 18102, the
6 vehicle in which the offense was committed shall be impounded by
7 GPD and released only upon the approval of the Prosecution Division
8 of the Attorney General's Office when it is determined that the vehicle
9 is not subject to forfeiture under this Section. The seizure and
10 forfeiture of the vehicle shall be enforced by the GPD and the vehicle
11 shall be disposed of in accordance with those provisions of law
12 relating to assets forfeiture by public sale or auction at such times as
13 GPD may choose to conduct such sale or auction.

14 The profits made from such sale or auction shall be deposited in
15 the Special Assets Forfeiture Fund, under the Local Assets Forfeiture
16 Account. The Chief of Police of GPD shall convey clear title as owner
17 of said confiscated vehicles, subject to any perfected security interests
18 in said vehicles.

19 **§ 18109. Conviction Involving a Child.**

20 Notwithstanding any other provision of law, a person convicted
21 of a violation of § 18102 of this Chapter shall be guilty of a felony of
22 the third degree if at the time of his or her arrest the person was
23 operating a vehicle in which a child under the age of sixteen (16) was
24 a passenger or if a child under the age of sixteen (16) was injured as a
25 result of an accident in which the vehicle operated by the person was
26 involved.

27 **§ 18110. Vehicular Negligence; Third Degree Felony.**

1 Any violation of subsections (c) or (d) of § 18102 of this
2 Chapter shall be a felony of the third degree.

3 **§ 18111. Vehicular Homicide; Classified.**

4 (a) A person is guilty of vehicular homicide if, while driving a
5 vehicle, he or she does any act forbidden by law in the driving of the
6 vehicle or if he or she negligently drives a vehicle, which act or
7 negligence proximately causes death to any person other than himself
8 or herself. As allowed in § 4.45 of Title 9, Guam Code Annotated, in
9 proving that the person did any act forbidden by law, it shall not be
10 necessary to prove that the person possessed a culpable mental state.
11 Vehicular homicide is a felony of the second degree and shall be
12 punishable by imprisonment in the custody of DOC and GPD for up
13 to eight (8) years.

14 (b) A person is guilty of vehicular homicide while intoxicated
15 if, while driving a vehicle in violation of § 18102 of this Chapter, he
16 or she does any act forbidden by law in the operating or driving of the
17 vehicle or if he or she negligently operates or drives a vehicle, which
18 act or negligence proximately causes death to any person other than
19 himself or herself. As allowed in § 4.45 of Title 9, Guam Code
20 Annotated, in proving that the person did any act forbidden by law, it
21 shall not be necessary to prove that the person possessed a culpable
22 mental state. Vehicular homicide while intoxicated is a felony of the
23 second degree and shall be punishable by imprisonment in the custody
24 of DOC or GPD for not less than a mandatory five (5) years, and up to
25 fifteen (15) years.

1 **~~§ 18112. Impoundment of Vehicle of Registered Owner Convicted~~**
2 **~~or Charged of Violation of § 18102; Prior Offenses;~~**
3 **~~Considerations; Exemption.~~**

4 ~~The interest of any owner of a motor vehicle which has been~~
5 ~~used in the commission of a violation of § 18102 of this Chapter for~~
6 ~~which the owner was convicted, is subject to impoundment as~~
7 ~~provided in this section.~~

8 ~~Upon conviction the court may order the vehicle impounded by~~
9 ~~GPD or its authorized agent at such locations as shall be designated by~~
10 ~~the Chief of Police at the owner's expense for not less than one (1) day~~
11 ~~nor more than thirty (30) days. For purposes of section, "owner of a~~
12 ~~motor vehicle" includes the registered owners, legal owner, or the~~
13 ~~lessee of said vehicle at the time of the offense.~~

14 ~~If the offense occurred within five (5) years of a prior~~
15 ~~conviction of a violation of § 18102 of this Chapter or of a prior~~
16 ~~offense as defined in § 18101(c) of this Chapter, the prior conviction~~
17 ~~shall also be charged in the accusatory pleading and if admitted or~~
18 ~~found to be true by the jury upon a jury trial or by the court upon a~~
19 ~~court trial, the court, except in an unusual case where the interests of~~
20 ~~justice would best be served by not ordering impoundment, shall order~~
21 ~~the vehicle impounded at the owner's expense for not less than thirty~~
22 ~~(30) or more than ninety (90) days.~~

23 ~~For purposes of this section the court may consider in the~~
24 ~~interests of justice factors such as whether impoundment of the~~
25 ~~vehicle would result in a loss of employment of the offender or the~~
26 ~~offender's family, impair the ability of the offender or the offender's~~
27 ~~family to attend school or obtain medical care, result in the loss of the~~

1 ~~vehicle because of inability to pay impoundment fees, or unfairly~~
2 ~~infringe upon community property rights or any other facts the court~~
3 ~~finds relevant. When no impoundment is ordered in an unusual case~~
4 ~~pursuant to this section, the court shall specify on the record and shall~~
5 ~~enter in the minutes the circumstances indicating that the interests of~~
6 ~~justice would best be served by such a disposition.~~

7 **~~§ 18113. Charging a Violation of § 18102 After Convictions of~~**
8 **~~Violations of § 18102; Effect of Prior Convictions on Sentencing~~**
9 **~~and Driving Privilege.~~**

10 (a) ~~In any case charging a violation of § 18102 of this Chapter~~
11 ~~and the offense occurred within five (5) years of one (1) or more~~
12 ~~separate convictions of a violation of said § 18102 or of prior offenses~~
13 ~~as defined in § 18101(c) of this Chapter, the court shall not strike any~~
14 ~~separate conviction of those offenses for purposes of sentencing in~~
15 ~~order to avoid imposing as part of the sentence or term of probation,~~
16 ~~the minimum time of imprisonment and the minimum fine, as~~
17 ~~provided in this chapter, or for purposes of avoiding revocation,~~
18 ~~suspension, or restriction of the privilege to operate a motor vehicle,~~
19 ~~as provided in this Chapter.~~

20 (b) ~~In any case charging a violation of § 18102 of this Chapter,~~
21 ~~the court shall obtain a copy of the driving record of the person~~
22 ~~charged from the Department of Revenue and Taxation and may~~
23 ~~obtain any records or any other source to determine if one (1) or more~~
24 ~~convictions have occurred within five (5) years of the charged~~
25 ~~offense.~~

26 (c) ~~If any separate convictions of violations of § 18102 of this~~
27 ~~Chapter or of said prior offenses, are reported to have occurred within~~

1 five (5) years of the charged offense, the court shall notify each court
2 where any of the separate convictions occurred for the purpose of
3 enforcing terms and conditions of probation pursuant to Article 3 of
4 this Chapter.

5 **~~§ 18114. Use of Controlled Substance as Defense to Violations.~~**

6 The fact that any person charged with driving under the
7 influence of alcohol or any controlled substance or a combination
8 thereof, in violation of § 18102 of this Chapter, is or has been entitled
9 to use a controlled substance shall not constitute a defense against any
10 violation of said § 18102.

11 **~~§ 18115. Participation in Driver Improvement or Treatment~~**
12 **~~Programs; No Suspension or Stay of Proceedings Prior to~~**
13 **~~Acquittal or Conviction of Violations of § 18102; Effect After~~**
14 **~~Conviction and Sentencing.~~**

15 (a) In any case in which a person is charged with a violation of
16 § 18102 of this Chapter, prior to acquittal or conviction, the court
17 shall not suspend or stay the proceedings for the purpose of allowing
18 the accused person to attend or participate, nor shall the court consider
19 dismissal of or entertain a motion to dismiss the proceedings because
20 the accused person attends or participates during that suspension, in
21 any one (1) or more education, training, or treatment programs,
22 including, but not limited to, a driving improvement program, a
23 treatment program for persons who are habitual users of alcohol or
24 other alcoholism program, a program designed to offer alcohol service
25 to problem drinkers, an alcohol or drug education program, or a
26 treatment program for persons who are habitual users of controlled
27 substances or other drug related program.

1 ~~(b) This section shall not apply to any attendance or~~
2 ~~participation in any education, training, or treatment programs after~~
3 ~~conviction and sentencing, including attendance or participation in~~
4 ~~any of those programs as a condition of probation granted after~~
5 ~~conviction when permitted pursuant to this article.~~

6 ~~(c) The court may at its discretion allow credit for therapeutic~~
7 ~~treatment.~~

8 ~~§ 18116. Restriction on Privilege to Operate Motor Vehicles;~~
9 ~~Markings on Licenses and Records; Removal of Restriction;~~
10 ~~Notice and Recordation of Probation.~~

11 ~~(a) If a person's privilege to operate a motor vehicle is restricted~~
12 ~~by a court pursuant to this Chapter, the court shall issue an~~
13 ~~occupational driving permit in a form designed by the Division of~~
14 ~~Motor Vehicle, Department of Revenue and Taxation. The permit~~
15 ~~shall be displayed in the rear window of any vehicle driven by the~~
16 ~~motorist granted limited driving privileges. The court shall promptly~~
17 ~~notify the Department of Revenue and Taxation (the "Department") of~~
18 ~~the terms of the restriction in a manner prescribed by the Department.~~
19 ~~The clerk of court shall punch a hole in the lower right hand side of~~
20 ~~the person's license, indicating a restriction. The Department shall~~
21 ~~place that restriction on the person's records in the Department and~~
22 ~~enter the restriction on any license subsequently issued by the~~
23 ~~Department to that person during the period of the restriction. If the~~
24 ~~person removes the permit or fails to produce the punched license, he~~
25 ~~or she shall be guilty of a felony of the third degree.~~

26 ~~(b) The cost of the permit shall be borne by the person whose~~
27 ~~privilege to operate a motor vehicle is restricted.~~

1 ~~(c) If the court removes a restriction before the end of the~~
2 ~~previously specified term pursuant to § 18110 of this Chapter, the~~
3 ~~court shall so mark the person's driver's license in a manner prescribed~~
4 ~~by the Department and promptly notify the Department of the removal~~
5 ~~of the restriction.~~

6 ~~(d) If a person is placed on probation pursuant to this Chapter,~~
7 ~~the court shall promptly notify the Department of the probation and~~
8 ~~probationary term and conditions in a manner prescribed by the~~
9 ~~Department. The Department shall place the fact of probation and the~~
10 ~~probationary term and conditions on the person's record in the~~
11 ~~Department.~~

12 ~~(e) If a person's privilege to operate a motor vehicle is required~~
13 ~~or ordered to be suspended or revoked by the Department pursuant to~~
14 ~~other provisions of this title upon the conviction of an offense under~~
15 ~~this Chapter, at the time for sentencing, that person shall be present in~~
16 ~~court and each and every operator's license of that person shall be~~
17 ~~surrendered to the court where the Clerk of Court shall punch a hole~~
18 ~~in such license.~~

19 ~~(f) Upon such person completing his or her sentence for such~~
20 ~~conviction, the court shall transmit the license or licenses to the~~
21 ~~Department for reissuance if such person passes the drivers license~~
22 ~~examination given by the Department.~~

23 ~~**§ 18117. Separate Conviction; Challenge to Constitutional**~~
24 ~~**Validity; Use in Judicial or Administrative Proceedings.**~~

25 ~~Only one (1) challenge shall be permitted to the~~
26 ~~constitutionality of a separate conviction of a violation of § 18102 of~~
27 ~~this Chapter, which was entered in a separate proceeding to declare a~~

1 ~~separate judgment of conviction constitutionally invalid. A~~
2 ~~determination by the court that the separate conviction is~~
3 ~~constitutional precludes any subsequent attack on constitutional~~
4 ~~grounds in a subsequent prosecution in which the same separate~~
5 ~~conviction is charged. Any determination that a separate conviction in~~
6 ~~unconstitutional precludes any allegation or use of that separate~~
7 ~~conviction in any judicial or administrative proceeding, and the~~
8 ~~Department shall strike that separate conviction from its records.~~
9 ~~Pursuant to § 18124 of this Chapter, the court shall report to the~~
10 ~~Department any determination upholding a conviction on~~
11 ~~constitutional grounds and any determination that a conviction is~~
12 ~~unconstitutional.~~

13 ~~This § 18117 shall not preclude a subsequent challenge to a~~
14 ~~conviction if, at a later time, a subsequent statute or appellate court~~
15 ~~decision having retroactive application affords any new basis to~~
16 ~~challenge the constitutionality of the conviction.~~

17 ~~**§ 18118. Dismissal of Allegation of Violation of § 18102 of This**~~
18 ~~**Chapter; Substitution of Lesser Offense or Dismissal or Striking**~~
19 ~~**of Separate Conviction; Reasons by Court and Prosecution.**~~

20 ~~When an allegation of a violation of § 18102 of this Chapter is~~
21 ~~dismissed by the court, an allegation of a different or lesser offense is~~
22 ~~substituted for an allegation of a violation of said § 18102, or an~~
23 ~~allegation of a separate conviction is dismissed or stricken, the court~~
24 ~~shall specify on the record its reason or reasons for the order. The~~
25 ~~court shall also specify on the record whether the dismissal,~~
26 ~~substitution, or striking was requested by the prosecution and whether~~

1 the prosecution concurred in or opposed the dismissal, substitution, or
2 striking.

3 When the prosecution makes a motion for a dismissal or
4 substitution, or for the striking of a separate conviction, the
5 prosecution shall submit a written statement which shall become part
6 of the court records and which gives the specific reasons for the
7 motion. The reasons shall include, but need not be limited to,
8 problems of proof, the interests of justice, why another offense is
9 more properly charged, if applicable, and any other pertinent reasons.
10 If the reasons include the "interests of justice", the written statement
11 shall specify all of the factors which contributed to this conclusion.

12 **~~§ 18119. Drinking While Driving a Motor Vehicle Upon Any~~**
13 **~~Highway.~~**

14 No person shall drink any alcoholic beverage or consume a
15 controlled substance while driving a motor vehicle upon any highway.
16 The penalties for violation of this § 18119 shall be the same as the
17 first offense in § 18104 of this Chapter.

18 **~~§ 18120. Drinking in Motor Vehicle Upon Highway.~~**

19 Any person who drinks any alcoholic beverage or consumes a
20 controlled substance while in a motor vehicle upon a highway shall be
21 guilty of a misdemeanor.

22 **~~§ 18121. Possession of Opened Container in a Motor Vehicle.~~**

23 (a) It shall be a misdemeanor for any person to transport or
24 possess in any moving vehicle upon a public highway, street or alley
25 any alcoholic beverage, or any intoxicating beverage, except in the
26 original container which shall not have been opened and from which
27 the original cap or seal shall not have been removed, unless the

1 ~~opened container be in a sealed, secured or rear compartment not~~
2 ~~accessible to the driver or any other person in the vehicle while it is in~~
3 ~~motion. Any person violating the provisions of this Section and its~~
4 ~~Subsections shall be deemed guilty of a misdemeanor.~~

5 ~~(b) The provisions of Subsection (a) of this Section shall not~~
6 ~~apply to the passenger area of a bus or limousine, provided the~~
7 ~~operator is enclosed within a driver's compartment not accessible to~~
8 ~~passengers, clients or customers where alcohol is present while the~~
9 ~~vehicle is in motion.~~

10 ~~(c) No employee, driver or agent of any limousine or bus~~
11 ~~company shall consume, nor be permitted to consume, any alcoholic~~
12 ~~beverage while on duty.~~

13 ~~(d) Unless authorized by license and as prescribed by the~~
14 ~~Alcoholic Beverage Control Board by regulation, no alcoholic~~
15 ~~beverage shall be sold, offered or consumed by any person within the~~
16 ~~premises of any limousine or bus. Each limousine and bus authorized~~
17 ~~by this Act to sell, offer or allow alcoholic beverages within the~~
18 ~~premises of the limousine or bus shall be individually licensed and~~
19 ~~shall be required to display such license within the limousine or bus.~~
20 ~~The license shall include the vehicle identification number of the~~
21 ~~vehicle.~~

22 ~~(e) No alcoholic beverages shall be sold, offered or consumed~~
23 ~~by any person within the premises of any limousine or bus, except~~
24 ~~during hours prescribed by the Alcoholic Beverage Control Board.~~

25 ~~(f) The exemption in Subsection (b) of this Section shall not~~
26 ~~apply if any passenger is a minor below the age of twenty one (21)~~

1 years unaccompanied by a parent or legal guardian. It shall be the
2 duty of the driver of the vehicle to verify the age of all passengers.

3 (g) As used in this Section:

4 (1) 'Bus' means a vehicle chartered for transportation of
5 persons for hire. It shall not mean a school bus transporting
6 children, open vehicles resembling trolleys, or a vehicle
7 operated pursuant to a public or private franchise operating over
8 a regularly scheduled route; and

9 (2) 'Limousine' means a chauffeur driven motor vehicle,
10 other than a bus or taxicab, designed and used for transportation
11 of persons for compensation.

12 **§ 18122. Storage of Opened Container.**

13 A person shall be guilty of a misdemeanor if he or she is the
14 registered owner of any motor vehicle or the driver, if the registered
15 owner is not then present in the vehicle, keeps in a motor vehicle,
16 when the vehicle is upon any highway, any bottle, can, or other
17 receptacle containing any alcoholic beverage which has been opened,
18 or a seal broken, or the contents of which have been partially
19 removed, unless the container is kept in the trunk of the vehicle, or
20 kept in some other area of the vehicle not normally occupied by
21 the driver or passengers, if the vehicle is not equipped with a trunk. A
22 utility compartment or glove compartment shall be deemed to be
23 within the area occupied by the driver and passengers. This Section
24 shall not apply to the living quarters of a house, car or camper. This
25 Section shall not apply to persons and vehicles exempted by §18121,
26 supra.

27 **§ 18123. Suspension of Driver's License.**

1 ~~The Department shall immediately suspend or revoke the~~
2 ~~privilege of any person to operate a motor vehicle upon receipt of a~~
3 ~~duly certified abstract of the record of any court showing that the~~
4 ~~person has been convicted of a violation of § 18102 of this Chapter.~~
5 ~~For purposes of this section, suspension or revocation shall be as~~
6 ~~follows:~~

7 ~~(1) Violation of § 18102; first offense. Upon a conviction of a~~
8 ~~violation of § 18102 of this Chapter, the privilege to operate a motor~~
9 ~~vehicle shall be suspended for a period of six (6) months and~~
10 ~~restricted during this period to travel to and from that person's place of~~
11 ~~employment and to and from the program described in § 18115(b) of~~
12 ~~this Chapter. The clerk of court shall take possession of the driver's~~
13 ~~license and mutilate it by punching a hole in the lower right hand~~
14 ~~corner. The Department shall issue a restricted license if the license~~
15 ~~expires during the suspension. The restricted license shall also contain~~
16 ~~a hole punched in the lower right hand corner.~~

17 ~~(2) Violation of § 18102; second offense within five years of~~
18 ~~conviction of § 18102. Upon conviction or finding of a violation of §~~
19 ~~18102 of this Chapter within five (5) years of a conviction of said §~~
20 ~~18102 or of a prior offense as defined in § 18101(c) of this Chapter,~~
21 ~~the privilege to operate a motor vehicle shall be suspended for a~~
22 ~~period of one (1) year with no exceptions for occupational privileges~~
23 ~~or travelling to and from the program described in § 18116(b). The~~
24 ~~clerk of court shall take possession of the person's driver's license and~~
25 ~~shall notify the Department of the revocation.~~

26 ~~(3) Violation of § 18102 within five years after three violations~~
27 ~~of § 18102. If any person is convicted of a violation of § 18102 of this~~

1 Chapter and the offense occurred within five (5) years of three (3) or
2 more separate convictions of a violation of said § 18102 or of prior
3 offenses as defined in § 18101(c) of this Chapter, or any combination
4 thereof, that person's driving privileges shall be revoked by the
5 Department for a period of not less than five (5) years.

6 **§ 18124. Restriction or Suspension of Driving Privilege; Probation**
7 **with Conditions; Revocation of License.**

8 (a) Unless ordered to do so by the court upon a finding that the
9 terms and conditions of probation were violated, the Department shall
10 not suspend, pursuant to paragraph (2) of § 18123 of this Chapter, but
11 shall suspend for one (1) year and, thereafter, restrict for two (2)
12 additional years the privilege of any person to operate a motor vehicle
13 upon a conviction or finding that the person violated § 18102 of this
14 Chapter, but only if the court has certified to the Department that the
15 court has granted probation to the person on conditions which include
16 the conditions specified in § 18301 of this Chapter and the court has
17 restricted the privilege to operate a motor vehicle as provided in that
18 section.

19 (b) Unless ordered to do so by the court upon a finding that the
20 terms and conditions of probation were violated, the Department shall
21 not revoke, pursuant to paragraph (2) of said § 18123, but shall revoke
22 for five (5) years, the privilege of any person to operate a motor
23 vehicle upon a conviction or finding that the person violated said §
24 18102, but only if the court has certified to the Department that the
25 court has granted probation to the person on conditions which include
26 the conditions specified in said § 18301, and the court has ordered the

1 Department to suspend the privilege to operate a motor vehicle as
2 provided in that section.

3 (c) ~~So much of the Fund as is required is appropriated to the~~
4 ~~Department of Corrections to be used to compensate staff and provide~~
5 ~~supplies or facilities to house incarcerated persons convicted of~~
6 ~~misdemeanors and persons convicted of acts made unlawful in Article~~
7 ~~1, Chapter 18 of 16 GCA.~~

8 (d) ~~The Director of Corrections may expend not more than~~
9 ~~Eight Thousand Dollars (\$8,000) per month from the fund for the~~
10 ~~purpose outlined in Subsection (c) of this Section, which the~~
11 ~~Administrative Director of the Court shall pay over to the Director of~~
12 ~~Corrections on a regular basis. Any funds in excess of the monthly~~
13 ~~payment to the Director of Corrections and all funds accumulated~~
14 ~~shall be disbursed in accordance with Subsection (c) of § 9211 of 7~~
15 ~~GCA.~~

16 (e) ~~All abstracts of record showing a conviction that are~~
17 ~~forwarded to the Department shall state whether the court has granted~~
18 ~~probation to the person on conditions which include the conditions~~
19 ~~specified in said § 18301 and state the date on which the person~~
20 ~~consented to participate in the program.~~

21 **§ 18124.1 Driving While License Suspended.**

22 (a) No person shall drive a motor vehicle on a highway in
23 Guam while knowing or having reason to know that his or her driver's
24 license is suspended.

25 (b) As used in this Section, suspended driver's license means an
26 operator's license, chauffeur's license, or driving privilege that has

1 been suspended or revoked by judicial or administrative action, or
2 seized by a police officer pursuant to law.

3 (c) In any prosecution for driving while license suspended,
4 competent that evidence that defendant's driver license was
5 surrendered to a police an officer, or was suspended or revoked by
6 order of a judge in open court, or that written notice of the suspension
7 was mailed to defendant's last known address by the Department of
8 Revenue and Taxation shall be prima facie evidence of defendant's
9 knowledge of the suspension or revocation.

10 (d) Driving while license suspended is a misdemeanor,
11 punishable by imprisonment for not more than one (1) year, or by a
12 fine of not more than One Thousand Dollars (\$1,000.00), or both. In
13 addition to any other penalty imposed upon a conviction, the
14 sentencing court may order the defendant's driver's license to be
15 suspended for an additional consecutive period of up to five (5) years.

16 **~~§ 18125. Safe Street Fund.~~**

17 ~~(a) There is created within the Superior Court of Guam the Safe~~
18 ~~Streets Fund (the "Fund"), which shall be maintained separate and~~
19 ~~apart from the other funds of the Superior Court. The fund shall be~~
20 ~~held in an interest bearing account. All interest earned shall remain in~~
21 ~~the Fund.~~

22 ~~(b) All fines collected for any of the acts made unlawful in §§~~
23 ~~18102, 18109, 18111, 18120, and 18121 of Title 16, Guam Code~~
24 ~~Annotated, as amended from time to time, and for which punishment~~
25 ~~is prescribed in §§ 18104, 18105, 18106, 18107, 18109, 18110,~~
26 ~~18111, 18119, 18120 and 18121 of Title 16, Guam Code Annotated,~~

1 as amended from time to time, shall be deposited in the Safe Streets
2 Fund.

3 ~~(c) So much of the Fund as is required is appropriated to the~~
4 ~~Department of Corrections to be used to compensate staff and provide~~
5 ~~supplies or facilities to house incarcerated persons convicted of~~
6 ~~misdemeanors and persons convicted of acts made unlawful in Article~~
7 ~~1, Chapter 18 of Title 16, Guam Code Annotated.~~

8 ~~(d) The Director of Corrections may expend not more than~~
9 ~~Eight Thousand Dollars (\$8,000) per month from the fund for the~~
10 ~~purpose outlined in Subsection (c) of this Section, which the~~
11 ~~Administrative Director of the Courts shall pay over to the Director of~~
12 ~~Corrections on a regular basis. Any funds in excess of the monthly~~
13 ~~payment to the Director of Corrections and all funds accumulated~~
14 ~~shall be disbursed in accordance with Subsection (c) of § 9211 of Title~~
15 ~~7, Guam Code Annotated.~~

16 ~~(e) The Administrator of the Courts and the Director of~~
17 ~~Corrections shall submit an annual report to I Maga'lahen Guåhan and~~
18 ~~to the Speaker of I Liheslaturan Guåhan regarding the status of the~~
19 ~~Fund no later than ninety (90) days after the close of the preceding~~
20 ~~fiscal year. Such report shall be included in the financial statements of~~
21 ~~the Judiciary of Guam, including its year end financial statements.~~

22 **Section 4.** § 18124.1 of Chapter 18, Title 16, Guam Code Annotated, is
23 hereby *transferred* to “Rules of the Road” Article 3 of Chapter 3, Title 16, Guam
24 Code Annotated and numbered accordingly by the Compiler of Laws.

25 **Section 5.** A new Chapter 92 is hereby *added* to Title 9, Guam Annotated
26 Code, entitled “Safe Streets Act of 2018” to read as follows:

27 **“CHAPTER 92**

1 **SAFE STREETS ACT OF 2018**

2 **Article 1. Offenses Involving Alcohol and Controlled Substances.**

3 **ARTICLE 1**

4 **OFFENSES INVOLVING ALCOHOL AND**

5 **CONTROLLED SUBSTANCES**

6 **§ 92101. Definitions.**

7 **§ 92102. Driving While Impaired.**

8 **§ 92103. Reckless Driving While Impaired.**

9 **§ 92104. First Offender Conviction: Punishment.**

10 **§ 92105. Second Offender Conviction: Punishment.**

11 **§ 92106. Third Offender Conviction: Felony Punishment.**

12 **§ 92107. Fourth Offender Conviction: Felony Punishment.**

13 **§ 92108. Vehicular Negligence: Bodily Injuries.**

14 **§ 92109. Driving While Impaired With Child On Board: Felony**
15 **Punishment.**

16 **§ 92110. Vehicular Homicide: Felony Punishment.**

17 **§ 92111. Vehicular Homicide While Driving Impaired: Felony**
18 **Punishment.**

19 **§ 92112. Drinking While Driving a Motor Vehicle: Misdemeanor:**
20 **Punishment.**

21 **§ 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor:**
22 **Punishment.**

23 **§ 92114. Opened Container of Alcohol: Misdemeanor: Punishment.**

24 **§ 92115. Marijuana Use While Driving a Motor Vehicle: Petty**
25 **Misdemeanor: Punishment.**

26 **§ 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.**

27 **§ 92117. Occupational Driving Permit: First Offender Only.**

1 § 92118. Suspension or Revocation of Driver’s License: Process.

2 § 92119. Driving While License Suspended or Revoked For Driving While
3 Impaired.

4 § 92120. Participation in the Driving While Impaired Treatment Court.

5 § 92121. Dismissal for Completion of Driving While Impaired Treatment
6 Court; Permitted.

7 § 92122. No Conditional Discharge and Dismissal Permitted for Offenses
8 Involving Serious Injuries.

9 § 92123. Probation Allowed. Any person convicted under this Chapter

10 § 92124. The Safe Street Fund.

11 § 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.

12 § 92126. Presumptions Affecting the Burden of Proof: Defenses.

13 **§ 92101. Definitions.**

14 As used in this Chapter:

15 (a) Alcohol means a colorless, volatile, flammable liquid synthesized
16 or obtained by fermentation of sugars and starches and widely used, either
17 pure or denatured, as a solvent and in drugs; an intoxicating beverage with
18 the same characteristics.

19 (b) Bodily Injury carries the same meaning for bodily injury as
20 defined in 9 GCA §16.10(b).

21 (c) Breath Alcohol Ignition Interlock Device (BAIID) means a device
22 that attaches to a vehicle and prevents its starting unless a breath alcohol test
23 is passed.

24 (d) Bus means a vehicle chartered for transportation of persons for
25 hire. It shall not mean a school bus, open vehicles resembling trolleys, or a
26 vehicle operated pursuant to a public or private franchise operating over a
27 regularly scheduled route.

1 (e) Controlled Substance is as defined in Chapter 67 of the Uniform
2 Controlled Substance Act.

3 (f) Driving While Impaired, or While Driving Impaired (“DWI”)
4 means any person driving a motor vehicle under the influence, or the
5 ingestion or administration of any controlled substance, or any combination
6 of these, when as a result, his physical or mental abilities are impaired to
7 such a degree that he or she no longer has the ability to drive a motor vehicle
8 with the characteristics of a sober person of ordinary prudence, under the
9 same or similar circumstances.

10 (g) Electronic Alcohol Monitoring Device means a portable device
11 capable of automatically and periodically testing and recording alcohol
12 consumption levels and automatically and periodically transmitting such
13 information and tamper attempts regarding such device, regardless of the
14 location of the person being monitored.

15 (h) Oral Fluid (Saliva) Test means a method used to collect a saliva
16 sample from a test subject and analyze it for the presence of hormones,
17 drugs, antibodies or other molecules.

18 (i) Limousine means a chauffeur-driven motor vehicle, other than a
19 bus or taxicab, designed and used for transportation of persons for
20 compensation.

21 (j) Negligence as used in this Chapter has the same meaning for
22 criminal negligence as defined under 9 G.C.A. § 4.30(d).

23 (l) Officer means an officer of the Guam Police Department, or a law
24 enforcement officer of the Guam Airport Authority or Guam Port Authority,
25 but only while such law enforcement officer is carrying out his duties within
26 the confines of the property under the control and jurisdiction of the
27 Authority by which the law enforcement officer is employed.

1 (k) Percent of alcohol by weight shall be based upon grams of alcohol
2 per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.

3 (l) Physical control of a vehicle means being physically present in the
4 driver's seat of a motor vehicle while the engine is turned on, whether
5 moving or stationary on a public highway, a shoulder adjacent to a public
6 highway, or parked in any public area.

7 (m) Prior conviction for driving while impaired, means a conviction
8 of an offense in violation of any Section of this Chapter, or an offense based
9 on a violation of Chapter 18 of Title 16 in effect prior to the enactment of
10 this Chapter, or under driving while impaired laws of any other jurisdiction
11 in the world if the offense upon which the conviction is based would, if
12 committed on Guam, be a violation of this Chapter.

13 (n) Public highway means any primary or secondary roadway, street
14 or alley used by the general public, including a public easement.

15 (o) Serious Bodily Injury carries the same meaning for serious bodily
16 injury as defined in 9 GCA §16.10(c).

17 (p) Suspended driver's license means an operator's license,
18 chauffeur's license, or driving privilege that has been suspended by the
19 Court, or by administrative action, or seized by an officer pursuant to law.

20 **§ 92102. Driving While Impaired.**

21 It is unlawful for a person to drive, operate, or be in physical control
22 of any motor vehicle within the territory:

23 a) While under the influence of ~~one~~ alcohol;

24 b) While under the influence of a controlled substance;

25 c) Having an alcohol concentrate of 0.08 percent, or more, by weight,
26 of alcohol in his blood as shown by a chemical analysis of such person's
27 breath or blood administered as authorized by this Chapter;

1 (d) Having an alcohol concentrate of 0.04 percent, or more, by weight,
2 of alcohol in the blood of a person under the age of twenty-one (21), as
3 shown by a chemical analysis of such person's breath or blood administered
4 as authorized by this Chapter;

5 e) Having inhaled, ingested, applied or otherwise used any chemical,
6 poison or organic solvent, or any compound, or combination of any of these,
7 when as a result, his physical or mental abilities are impaired to such a
8 degree that he no longer has the ability to drive a motor vehicle with the
9 characteristics of a sober person of ordinary prudence under the same or
10 similar circumstances;

11 f) While under the influence of any combination of subsections (a)
12 through (f).

13 **§ 92103. Reckless Driving While Impaired.**

14 (a) Any person who, in reckless disregard for the safety of persons or
15 property, operates a motor vehicle while driving impaired shall be guilty of a
16 petty misdemeanor, and shall not be considered a prior conviction under §
17 92102.

18 (b) If the People agree to a plea of guilty or nolo contendere to a charge
19 of a violation of this Section in satisfaction of, or as a substitute for, an
20 original charge of a violation of § 92102, the People shall state for the record
21 a factual basis for the satisfaction or substitution, including whether or not
22 the defendant was driving while impaired in connection with the offense.

23 (c) The court shall notify the Department of Revenue and Taxation of
24 each conviction of this Section.

25 (d) A defendant placed on probation for a conviction under this
26 Section shall enroll in an alcohol or drug education program at the expense
27 of the participant, and complete the same as a condition of probation.

1 **§ 92104. First Offender Conviction: Punishment.**

2 A person convicted of a first violation of sentenced as follows:

3 (a) A term of incarceration not less than a mandatory forty-eight (48)
4 hours, nor more than one (1) year.

5 (b) A mandatory minimum fine of not less than One Thousand Dollars
6 (\$1,000) and not more than Five Thousand Dollars (\$5,000).

7 (c) The Court shall order the person to be placed on probation for not
8 more than one (1) year.

9 (d) Suspension of a person's driving privilege for six (6) months, with
10 occupational driving privileges. The Court may modify this suspension prior
11 to the end of six (6) months suspension provided the person can show proof
12 that he or she has successfully completed a drug and alcohol treatment
13 program acceptable to the Court.

14 (e) The Court shall notify the Department of Revenue and Taxation of
15 each conviction of this Section.

16 **§ 92105. Second Offender Conviction: Punishment.**

17 A person convicted of a second violation of driving while impaired,
18 and the offense occurred within five (5) years of a prior conviction is guilty
19 of a misdemeanor and shall be sentenced as follows:

20 (a) A term of incarceration of not less than a mandatory seven (7)
21 days, nor more than one (1) year;

22 (b) A mandatory minimum fine of not less than Two Thousand
23 Dollars (\$2,000), and not more than Five Thousand Dollars (\$5,000).

24 (c) The Court shall order the person to be placed on probation for not
25 more than three (3) years.

26 (d) Suspension of a person's driving privilege for one (1) year, with
27 no occupational driving privileges, which time period may be reduced at the

1 discretion of the Court provided on motion by the defendant that he has: 1)
2 completed Court approved treatment; 2) paid all fines and fees; 3) has not
3 been charged with a subsequent criminal offense; and 4) the Probation
4 officer recommends reduction based on satisfactory performance. The Court
5 may further reduce the period of suspension by no more than fifty percent
6 (50%) provided the defendant agrees to have installed either a breath alcohol
7 ignition interlock device (BAIID) as ordered by the Court, or an electronic
8 alcohol monitoring device approved by the Court.

9 (e) The Court shall notify the Department of Revenue and Taxation of
10 each conviction of this Section.

11 **§ 92106. Third Offender Conviction: Felony Punishment.**

12 A person is convicted of a third violation of driving while impaired,
13 and the offense occurred within five (5) years of two (2) separate prior
14 convictions for such an offense, is guilty of a felony of the third degree and,
15 notwithstanding any other provision of law, shall be sentenced as follows:

16 (a) A term of incarceration of not less than a mandatory of
17 ninety (90) days, nor more than five (5) years; provided, however, if
18 the defendant agrees to voluntarily participate in, and successfully
19 complete all terms and conditions of the DWI Court Treatment
20 Program, the Court may reduce the mandatory incarceration time from
21 ninety (90) days to no less than thirty (30) days, otherwise the
22 defendant shall serve the full ninety (90) days.

23 (b) A mandatory fine of not less than Three Thousand Dollars
24 (\$3,000), and not more than Five Thousand Dollars (\$5,000).

25 (c) Revocation of a person's driving privilege for not less than
26 two (2) years, which time period may be reduced at the discretion of
27 the Court provided on motion by the defendant that he has 1)

1 completed Court approved treatment; 2) paid all fines and fees; 3) has
2 not been charged with a subsequent criminal offense; and 4) the
3 Probation officer recommends reduction based on satisfactory
4 performance. The Court may further reduce the period of suspension
5 by no more than fifty percent (50%) provided the defendant agrees to
6 have installed either a breath alcohol ignition interlock device
7 (BAIID) as ordered by the Court, or an electronic alcohol monitoring
8 device approved by the Court.

9 (d) The Court shall order the person to be placed on probation
10 for not less than three (3) years, and not more than five (5) years.

11 (e) The Court shall notify the Department of Revenue and
12 Taxation of each conviction of this Section.

13 **§ 92107. Fourth Offender Conviction: Felony Punishment.**

14 A person convicted of a fourth violation of driving while impaired,
15 and the offense occurred within seven (7) years of three (3) separate prior
16 convictions for driving while under the influence, is guilty of a felony of the
17 third degree, and notwithstanding any other provision of law, shall be
18 sentenced as follows:

19 (a) A term of incarceration of not less than a minimum
20 mandatory one (1) year, nor more than six (6) years. A mandatory
21 minimum fine of not less than Four Thousand Dollars (\$4,000), and
22 not more than Seven Thousand Dollars (\$7,000).

23 (b) Revocation of a person's driving privilege for not less than
24 three (3) years, which time period may be reduced in the discretion of
25 the Court provided on motion by the defendant he has 1) completed
26 Court approved treatment; 2) paid all fines and fees; 3) has not been
27 charged with a subsequent criminal offense; and 4) the Probation

1 officer recommends reduction based on satisfactory performance. The
2 Court may further reduce the period of suspension by no more than
3 fifty percent (50%) provided the defendant agrees to have installed
4 either a breath alcohol ignition interlock device (BAIID) as ordered by
5 the Court, or an electronic alcohol monitoring device approved by the
6 Court.

7 (c) The Court shall order the person to be placed on probation
8 for not less than four (4) years, and not more than six (6) years.

9 (d) The Court shall notify the Department of Revenue and
10 Taxation of each conviction of this Section.

11 **§ 92108. Vehicular Negligence: Bodily Injuries.**

12 (a) It is unlawful for any person to operate or be in physical control of
13 a motor vehicle while driving impaired and, when doing so, do any act
14 forbidden by law or neglect any duty imposed by law in the driving of the
15 vehicle, or who negligently drives a vehicle, which act or neglect or
16 negligence proximately causes bodily injury to any person other than the
17 driver.

18 (b) It is unlawful for any person to operate or be in physical control of
19 a motor vehicle while having 0.08 percent or more, by weight, of alcohol in
20 his or her blood and, when doing so, do any act forbidden by law or neglect
21 any duty imposed by law in the driving of the vehicle, or who negligently
22 drives a vehicle, which act or neglect or negligence proximately causes
23 bodily injury to any person other than the driver.

24 (c) It is unlawful for any person under the age of twenty-one (21)
25 years to operate or be in physical control of a motor vehicle if such person is
26 found to have 0.04 percent or more, by weight, of alcohol in his or her
27 breath or blood, when doing so, do any act forbidden by law or neglect any

1 duty imposed by law in the driving of the vehicle, or who negligently drives
2 a vehicle, which act or neglect or negligence proximately causes bodily
3 injury to any person other than the driver.

4 (d) Any violation of subsection (a), (b) or (c) shall be punished as a
5 felony of the third degree, and notwithstanding any other provision of law,
6 shall be sentenced as follows:

7 1. A term of incarceration of up to three (3) years for a first
8 conviction under this Chapter, and up to five (5) years in the event of
9 a prior conviction of driving while impaired.

10 2. A mandatory fine of not less than three thousand (\$3,000)
11 dollars, and not more than five thousand (\$5,000.) dollars.

12 3. The Court shall order the person to be placed on probation
13 for not more than five (5) years.

14 4. Suspension of a person's driving privilege for not more than
15 five (5) years, which time period may be reduced in the discretion of
16 the Court provided on motion by the defendant he has 1) completed
17 Court approved treatment; 2) paid all fines and fees; 3) has not been
18 charged with a subsequent criminal offense; and 4) the Probation
19 officer recommends reduction based on satisfactory performance. The
20 Court may further reduce the period of suspension by no more than
21 fifty percent (50%) provided the defendant agrees to have installed
22 either a breath alcohol ignition interlock device (BAIID) as ordered by
23 the Court, or an electronic alcohol monitoring device approved by the
24 Court.

25 5. The Court shall notify the Department of Revenue and
26 Taxation of each conviction of this Section.

1 (e) In proving the person neglected any duty imposed by law in
2 driving the vehicle, it is not necessary to prove that any specific section of
3 this code was violated.

4 **§ 92109. Driving While Impaired With Child On Board: Felony**
5 **Punishment.**

6 A person convicted of driving while impaired is guilty of a felony of
7 the third degree if at the time of arrest, he or she was operating a motor
8 vehicle in which a child under the age of sixteen (16) was a passenger, or if a
9 child under the age of sixteen (16) was injured as a result of an accident in
10 which the motor vehicle operated by the person was involved, and
11 notwithstanding any other provision of law, shall be sentenced as follows:

12 (a) A term of incarceration of not more than five (5) years.

13 (b) A mandatory fine of Two Thousand Five Hundred Dollars
14 (\$3,000), and not more than Five Thousand Dollars (\$5,000.00).

15 (c) Suspension of a person's driving privilege for not less than
16 one (1) year without occupational driving privileges, which time
17 period may be reduced in the discretion of the Court provided on
18 motion by the defendant he has: 1) completed Court approved
19 treatment; 2) paid all fines and fees; 3) has not been charged with a
20 subsequent criminal offense; and 4) the Probation officer recommends
21 reduction based on satisfactory performance. The Court may further
22 reduce the period of suspension by no more than fifty percent (50%)
23 provided the defendant agrees to have installed either a breath alcohol
24 ignition interlock device (BAIID) as ordered by the Court, or an
25 electronic alcohol monitoring device approved by the Court.

26 (d) The Court shall notify the Department of Revenue and
27 Taxation of each conviction of this Section.

1 **§ 92110. Vehicular Homicide: Felony Punishment.**

2 A person is guilty of vehicular homicide if, he or she does any act
3 forbidden by law in operating or driving of the vehicle, or if he or she
4 negligently operates or drives a vehicle, which act or negligence proximately
5 causes death to any person other than himself or herself. Vehicular homicide
6 while driving a vehicle is a felony of the second degree, and notwithstanding
7 any other provision of law, shall be punishable as follows:

8 (a) A term of incarceration not to exceed eight (8) years,

9 (b) A fine of not to exceed ten thousand dollars (\$10,000.00),

10 and

11 (c) Revocation of the privilege to drive for five (5) years
12 without occupational driving privileges.

13 (d) The Court shall notify the Department of Revenue and
14 Taxation of each conviction of this Section.

15 **§ 92111. Vehicular Homicide While Driving Impaired: Felony**
16 **Punishment.**

17 A person is guilty of vehicular homicide while driving impaired, if he
18 or she does any act forbidden by law in driving while impaired, or if he or
19 she negligently operates or drives a vehicle while impaired, which act or
20 negligence proximately causes death to any person other than himself or
21 herself. Vehicular homicide while driving impaired is a felony of the second
22 degree, and notwithstanding any other provision of law, shall be punishable
23 as follows:

24 a) A term of incarceration of not less than a mandatory eight (8)
25 years, and not more than fifteen (15) years;

26 b) A fine of not more than ten thousand dollars (\$10,000.00),
27 and;

1 c) Revocation of driving privileges for eight (8) years without
2 occupational driving privileges.

3 d) The Court shall notify the Department of Revenue and
4 Taxation of each conviction of this Section.

5 **§ 92112. Drinking While Driving a Motor Vehicle: Misdemeanor:**
6 **Punishment.**

7 It is unlawful for any person to drink alcoholic beverage or consume a
8 controlled substance while driving a motor vehicle within this territory. Any
9 person convicted of violating this Section shall be guilty of a misdemeanor.

10 **§ 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor:**
11 **Punishment.**

12 It is unlawful for any person to drinks any alcoholic beverage or
13 consumes a controlled substance while in a motor vehicle within this
14 territory. Any person convicted of violating this Section shall be guilty of a
15 misdemeanor.

16 **§ 92114. Opened Container of Alcohol: Misdemeanor: Punishment.**

17 (a) It is unlawful for any person to transport or possess alcohol in a
18 container in which the original cap or seal of the container has been opened,
19 broken, or the contents of which have been partially removed when the
20 vehicle is upon a public highway. Any person convicted of violating this
21 Section shall be guilty of a misdemeanor.

22 (b) It is unlawful for the registered owner of a vehicle, when the
23 registered owner is not then present in the vehicle, to knowingly permit
24 another person to store in the registered owner's motor vehicle alcohol in a
25 container in which the original cap or seal of the container has been opened,
26 broken, or the contents of which have been partially removed when the

1 vehicle is upon a public highway. Any person convicted of violating this
2 Section shall be guilty of a misdemeanor.

3 (c) Subsection (a) does not prohibit the transport, possession or
4 storage of alcoholic in which the original cap or seal of the container has
5 been opened, broken, or the contents of which have been partially removed
6 if the container is secured in a rear compartment or trunk of the vehicle not
7 normally occupied by the driver or a passenger, or a rear compartment which
8 is not immediately accessible to the driver or any other passenger, while the
9 vehicle upon a public highway. A front passenger glove or utility
10 compartment is not acceptable for purposes of this exemption.

11 (d) This Section does not apply to living quarters of a motor home or
12 camper, a bus, or a limousine provided the operator is enclosed within a
13 compartment not accessible to passengers, clients or customers where
14 alcohol is present while the vehicle is upon a public highway.

15 **§ 92115. Marijuana Use While Driving a Motor Vehicle: Petty**
16 **Misdemeanor: Punishment.**

17 It is unlawful for any person, whether a driver or passenger, to
18 consume marijuana in any manner including, but not limited to, smoking or
19 ingesting in a motor vehicle when the vehicle is upon the public highway.
20 Any person convicted of violating this Section shall be guilty of a petty
21 misdemeanor.

22 **§ 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.**

23 Alcoholic beverages may be sold, offered for sale, and consumed only
24 by passengers, not to include the operator, within the premises of a bus or
25 limousine only by a business authorized and issued a license as prescribed
26 by the Alcoholic Beverage Control Board permitting the sell of alcoholic
27 beverages within the premises for a bus or limousine, and only during

1 authorized hours as permitted by the license, and which license is
2 prominently display within the bus or limousine. This exemption does not
3 apply in the event any passenger is under the age of twenty-one (21) years of
4 age, unless accompanied by a parent or legal guardian. It is the duty of the
5 operator of the bus or limousine to verify the ages of every passenger whom
6 alcoholic beverages is intended to be sold or consumed. Any person or
7 company found in violation this Subsection shall be guilty of a
8 misdemeanor.

9 **§ 92117. Occupational Driving Permit: First Offender Only.**

10 An Occupational Driving Permit may be issued to a person convicted
11 of a first offender violation under §92104 by the Court authorizing the
12 person to drive for employment purposes, and as permitted by the Court for
13 therapeutic rehabilitation. The person whose privilege to drive is suspended
14 shall immediately surrender to the Court his or her driver's license, and if
15 valid, may be granted an Occupational Driving Permit for six (6) months.
16 The Court may establish by rule and procedure the manner of issuance of an
17 Occupational Driving Permit, and must notify the Department of Revenue &
18 Taxation promptly regarding the person's restriction on his or her driving
19 privileges. The Court is authorized to charge a reasonable fee for issuance of
20 the Occupational Driving Permit which must be fully paid before the permit
21 can be issued. The cost of the permit shall be borne by the person whose
22 privilege to operate a motor vehicle has been restricted by the Court. In the
23 event a person does not possess a valid driver's license at the time of
24 conviction, the person's privilege to apply for a driver's license shall be
25 prohibited for the full period of the suspension.

26 **§ 92118. Suspension or Revocation of Driver's License: Process.**

1 (a) The driver's license of a person whose privilege to operate a motor
2 vehicle has been suspended or revoked under this Chapter shall be mutilated
3 with a hole punched on the lower right-hand corner of the license so as to
4 identify it is a restricted license.

5 (b) A license that has been revoked shall be permanently seized from
6 a defendant by the Court and promptly transmitted to the Department of
7 Revenue and Taxation with a copy of the abstract of judgment. The Court is
8 authorized to maintain custody of a driver's license which is suspended
9 without occupational driving privileges until reinstatement.

10 (c) The Department of Revenue & Taxation shall immediately
11 suspend or revoke the privilege of any person to operate a motor vehicle for
12 the time period required by the judgment, and in accordance with this
13 Chapter, upon receipt of an abstract of judgment from the Clerk of Court
14 showing that the person has been convicted of a violation of this Act. The
15 Department shall reinstate a person's driving privileges upon receipt of an
16 order of the court granting such reinstatement in accordance with this
17 Chapter, or upon expiration of the time restriction.

18 (d) The Court may establish by rule and procedure the process for
19 suspension or revocation of a person's privilege to driver, not inconsistent
20 with the provisions herein.

21 **§ 92119. Driving While License Suspended or Revoked For Driving**
22 **While Impaired.**

23 (a) It is unlawful for a person to drive a motor vehicle in this territory
24 knowing, or having reason to know, that his or her driver's license is
25 suspended or revoked under this Chapter. Any person convicted of violating
26 this Section shall be guilty of a misdemeanor.

1 (b) In any prosecution under this Section, competent evidence that the
2 defendant's driver license was surrendered to an officer, or was suspended
3 or revoked under this Chapter by an order of the Court, shall be prima facie
4 evidence of the defendant's knowledge of the suspension or revocation.

5 **§ 92120. Participation in the Driving While Impaired Treatment**
6 **Court.**

7 The Court may remove or reduce any restriction on a person's
8 privilege to drive and/or reduce any fine imposed resulting from a conviction
9 of any offense in this Chapter upon that person's participation in the Driving
10 While Impaired Treatment Court and the completion of any terms and
11 conditions imposed therefrom, provided that the person has also
12 demonstrated full compliance with probationary conditions.

13 **§ 92121. Dismissal for Completion of Driving While Impaired**
14 **Treatment Court; Permitted.**

15 Upon satisfactory completion of all conditions of probation and
16 treatment in DWI Treatment Court the Judge shall order the case dismissed
17 and expunged.

18 **§ 92122. No Conditional Discharge and Dismissal Permitted for**
19 **Offenses Involving Serious Injuries.**

20 The provisions of § 92120 and § 92121 shall not apply in the case of a
21 violation defined as third degree felony in this Chapter, and that involves
22 bodily injury to any person other than the driver.

23 **§ 92123. Probation Allowed.**

24 Any person convicted under this Chapter may be granted probation at
25 the discretion of the Court, which may include, but is not limited to,
26 prohibition from consuming alcohol or controlled substance(s), payment of
27 restitution, mandatory alcohol and drug testing, obey all laws, perform

1 community service, agree to use an alcohol electronic device or BAIID,
2 random searches of home, vehicle and person, regular reporting to
3 Probation, and any other condition the Court deems reasonable.

4 **§ 92124. Safe Street Fund.**

5 (a) There is created within the Superior Court of Guam the (the
6 “Fund”), which shall be maintained separate and apart from the other funds
7 of the Superior Court. The fund shall be held in an interest bearing account.
8 All interest earned shall remain in the Fund.

9 (b) All fines collected for any of the acts made unlawful in Article 1,
10 Chapter 92, Title 9 Guam Code Annotated, shall be deposited in the Safe
11 Streets Fund.

12 (c) So much of the Fund as is required is appropriated to the
13 Department of Corrections to be used to compensate staff and provide
14 supplies or facilities to house incarcerated persons convicted of
15 misdemeanors and persons convicted of acts made unlawful in Article 1,
16 Chapter 92, Title 9 Guam Code Annotated.

17 (d) The Director of Corrections may expend not more than Eight
18 Thousand Dollars (\$8,000) per month from the fund for the purpose outlined
19 in Subsection (c) of this Section, which the Administrative Director of the
20 Courts shall pay over to the Director of Corrections on a regular basis. Any
21 funds in excess of the monthly payment to the Director of Corrections and
22 all funds accumulated shall be disbursed in accordance with Subsection (c)
23 of § 9211 of Title 7, Guam Code Annotated.

24 (e) The Administrator of the Courts and the Director of Corrections
25 shall submit an annual report to *I Maga'lahaen Guåhan* and to the Speaker of
26 *I Liheslaturan Guåhan* regarding the status of the Fund no later than ninety
27 (90) days after the close of the preceding fiscal year. Such report shall be

1 included in the financial statements of the Judiciary of Guam, including its
2 year-end financial statements.

3 **§ 92125. Electronic Alcohol Monitoring Device, Rules and**
4 **Regulations.**

5 The Judicial Council may promulgate rules, regulations, and proposed
6 fees relative to the use of electronic alcohol monitoring devices by
7 defendants convicted under this Chapter.

8 **§ 92126. Presumptions Affecting the Burden of Proof: Defenses.**

9 (a) The amount of alcohol in the person's blood as shown by an
10 analysis of that person's blood or breath shall give rise to the following
11 presumptions affecting the burden of proof:

12 1. If there was at that time less than 0.08 percent by weight of alcohol
13 in the person's blood, that fact shall not give rise to any presumption that the
14 person was or was not under the influence of an alcoholic beverage, but the
15 fact may be considered with other competent evidence in determining
16 whether the person was driving while under the influence of alcoholic at the
17 time of the alleged offense.

18 2. If there was at that time 0.08 percent or more by weight of alcohol
19 in the person's blood, or 0.04 percent or more by weight of alcohol in a
20 person's blood who is under the age of twenty-one (21), it shall be presumed
21 that the person was under the influence of an alcoholic beverage at the time
22 of the alleged offense.

23 (b) Before such presumptions are made in cases involving a breath
24 test, the People must show the following by a preponderance of the
25 evidence:

26 1. That the instrument used for the breath test was properly checked
27 and in proper working order at the time of conducting of the breath test;

1 2. That the person had nothing in his mouth at the time of the breath
2 test and that he had taken no food or drink within fifteen (15) minutes prior
3 to taking the breath test;

4 3. That the breath test was given by a qualified operator and the
5 proper manner;

6 4. The provisions of this Subsection shall not be construed as limiting
7 the introduction of any other competent evidence bearing upon the question
8 whether the person ingested alcoholic, or was driving while impaired at the
9 time of the alleged offense.

10 (c) It is a rebuttable presumption that a person was under the influence
11 of alcohol if the person had 0.08 percent or more, by weight, of alcohol in
12 his or her blood at the time of the performance of a blood or breath test
13 within three (3) hours after driving.

14 (d) It is a rebuttable presumption that a person under the age of
15 twenty-one (21) was under the influence of alcohol if the person had 0.04
16 percent or more, by weight, of alcohol in his or her blood at the time of the
17 performance of a blood or breath test within three (3) hours after driving.

18 (e) As allowed under Title 9 GCA §4.45, proving that the person did
19 any act forbidden by law, it shall not be necessary to prove that the person
20 possessed a culpable mental state.

21 (f) The fact that any person, charged in violation of this Chapter, is or
22 has been entitled to use a controlled substance shall not constitute a
23 defense.”

24 **Section 6.** Article 2 of Chapter 18, Title 16, Guam Code Annotated, the
25 “Implied Consent Law” is hereby *transferred* to Chapter 92, Title 9, Guam Code
26 Annotated and renumbered accordingly by the Compiler of Laws.

1 **Section 7.** Article 3 of Chapter 18, Title 16, Guam Code Annotated is
2 hereby *repealed* in their entirety.

3 “ARTICLE 3

4 ~~PROBATION AND GENERAL CONSIDERATIONS OF PROBATION~~

5 ~~§ 18301. Conditions of Probation for Violation of § 18102.~~

6 ~~§ 18302. Probation Granted Under § 18102; Failure to Comply with Terms~~
7 ~~and Conditions; Revocation or Termination; Procedure.~~

8 ~~§ 18303. General Probation Conditions.~~

9 ~~**§ 18301. Conditions of Probation for Violation of § 18102.**~~

10 ~~(a) If the court grants probation to any person punished under § 18102~~
11 ~~of this Chapter, including any other terms and conditions imposed by the~~
12 ~~court, the court shall impose as a condition of probation that the person be~~
13 ~~subject to the following:~~

14 ~~(1) That the driver shall participate in, and successfully~~
15 ~~complete an alcohol or drug education program, or both of these~~
16 ~~programs as designated by the court.~~

17 ~~(2) That the person be referred to a qualified substance abuse~~
18 ~~counselor for an assessment of the person's alcohol dependence and~~
19 ~~need for treatment.~~

20 ~~(3) That the counselor shall submit a report with~~
21 ~~recommendations to the court, which may require the person to obtain~~
22 ~~appropriate treatment.~~

23 ~~(4) That all costs for such assessment or treatment or both shall~~
24 ~~be borne by the penalized person at the discretion of the court.~~

25 ~~**§ 18302. Probation Granted Under § 18102; Failure to Comply with**~~
26 ~~**Terms and Conditions; Revocation or Termination; Procedure.**~~

1 ~~(a) If any person has been granted probation under the conditions of §~~
2 ~~18301 of this Chapter and fails at any time to participate successfully in the~~
3 ~~treatment program designated by the court, then the court shall revoke or~~
4 ~~terminate the probation, and the court may revoke or terminate the probation~~
5 ~~if the person fails to comply with any other term or condition of probation,~~
6 ~~and the court shall proceed under either of the following provisions:~~

7 ~~(1) Revoke the suspension of sentence and order the~~
8 ~~Department to suspend the person's privilege to operate a motor~~
9 ~~vehicle from the date of the order revoking or terminating probation.~~

10 ~~(2) Grant a new term of probation on the condition that the~~
11 ~~person be placed in the custody by DOC or GPD for at least thirty~~
12 ~~(30) days and order the Department to suspend the person's privilege~~
13 ~~to operate a motor vehicle from the date of the new grant of probation.~~

14 **~~§ 18303. General Probation Conditions.~~**

15 ~~(a) If any person is convicted of a violation of § 18102 of this~~
16 ~~Chapter, the court shall not stay or suspend pronouncement of sentencing~~
17 ~~and shall pronounce sentence in conjunction with the conviction in a~~
18 ~~reasonable time, including time for receipt of any pre-sentence investigation~~
19 ~~report.~~

20 ~~(b) If any person is convicted of a violation of § 18102 of this Chapter~~
21 ~~and is granted probation, the terms and conditions of probation shall include,~~
22 ~~but not be limited to the following:~~

23 ~~(1) A period of probation not less than two (2) years if it is a~~
24 ~~misdemeanor and not less than five (5) years if it is a felony.~~

25 ~~(2) A requirement that the person shall not consume alcohol or~~
26 ~~any controlled substances or any combination thereof not prescribed~~
27 ~~by a medical doctor.~~

1 ~~(3) A requirement that the person, if arrested for a violation of §~~
2 ~~18102 of this Chapter, shall not refuse to submit to a blood or breath~~
3 ~~test for the purpose of determining the alcohol or controlled substance~~
4 ~~content of his or her blood.~~

5 ~~(4) A requirement that the person shall not commit any criminal~~
6 ~~offense.~~

7 ~~(5) A requirement that the person be referred to a qualified~~
8 ~~substance abuse counselor for an assessment of the person's alcohol~~
9 ~~dependency and need for treatment.”~~

10 **Section 8.** Article 4 of Chapter 18, Title 16, Guam Code Annotated,
11 “Ignition Interlock Devices” is hereby *transferred* to Chapter 92, Title 9, Guam
12 Code Annotated and renumbered accordingly by the Compiler of Laws.

13 **Section 9. Effective Date.** This Act *shall* become immediately effective
14 upon enactment.

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telena C. Nelson,
Member



Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR
SIKRITARIAN LIHESLATURAN GUAHAN
I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

November 21, 2017

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Senator Régine Biscoe Lee
Chairperson, Committee on Rules

Re: Fiscal Note

Buenas yan Háfa adai.

Attached, please find the fiscal note for the following bill:

Bill No. 203-34 (LS)

Please forward the same to Management Information Services (MIS) for posting on our website.

For any questions or concerns, please feel free to contact Jean Cordero, Committee on Rules Director, at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

Senator Régine Biscoe Lee
Chairperson, Committee on Rules



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 203-34 (LS)**

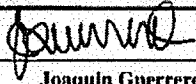
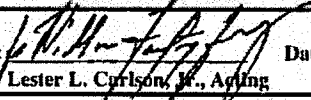
AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.

Department/Agency Appropriation Information	
Dept./Agency Affected: Unified Judiciary of Guam	Dept./Agency Head: Hon. Katherine A. Maraman, Chief Justice
Department's General Fund (GF) appropriation(s) to date:	\$34,696,443
Department's Other Fund (Safe Streets Fund) appropriation(s) to date:	\$162,875
Total Department/Agency Appropriation(s) to date:	\$34,859,318

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2017 Unreserved Fund Balance		\$0	\$0
FY 2018 Adopted Revenues	\$0	\$0	\$0
FY 2018 Appro. (P.L. 34-42)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2018 (if applicable)	FY 2019	FY 2020	FY 2021	FY 2022
General Fund	1/	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ /X/ N/A
- Does the Bill establish a new program/agency? /X/ Yes / / No
If yes, will the program duplicate existing programs/agencies? / / N/A / / Yes /X/ No
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes / / No
/X/ Requested agency comments not received by due date / / Other:

Analyst:  Date: 11/16/17	Director:  Date: NOV 16 2017
Joaquin Guerrero	Lester L. Carlson, Jr., Acting

Footnotes:
1/ Legislative Bill No. 203-34 is seeking to amend and move Chapter 18 of Title 16 of the Guam Code Annotated (G.C.A.) entitled "Safe Streets Act" to Chapter 92 of Title 9 of the G.C.A., renaming the new Chapter as the "Safe Streets Act of 2017." Furthermore, the proposed legislation intends on adding a new subsection (d) to § 2101 of Chapter 2, Title 7 of the G.C.A. regarding the establishment and participation in the Driving While Impaired Treatment Court. Although the proposed legislation appears administrative in nature, the establishment of a new treatment court may require additional court hearings and proceedings which may likely result in an increase in personnel and administrative costs. The Bureau is unable to determine the overall fiscal impact at this time absent additional information from the Judiciary of Guam.

https://www.postguam.com/news/local/safe-streets-act-to-be-revamped/article_1bc233f0-72a7-11e7-a21e-3f20ceb6c0d8.html

Safe Streets Act to be revamped

Louella Losinio | The Guam Daily Post Jul 30, 2017



ZERO TOLERANCE: Attorney General Elizabeth Barrett-Anderson said the Safe Streets Act is being revamped to set a zero-tolerance policy against drivers found with any amount of any controlled substance. David Castro/The Guam Daily Post

Two decades since it was last updated, a revamped version of the Safe Streets Act addressing current DUI enforcement challenges will be unveiled soon, according to Attorney General Elizabeth Barrett-Anderson.

The Safe Streets Act covers implementation and enforcement of Driving Under the Influence laws, to include prohibition, penalties and adjudication. These laws cover those who drive under the influence of alcohol or any controlled substance.

Components of the new legislation will deal with 21st-century challenges, according to Barrett-Anderson, including a provision introducing a per se statute covering those driving under the influence of marijuana or any controlled substance.

Per se statutes set a zero-tolerance policy for these types of substances. "Any amount of controlled substance – like marijuana – in your body is considered driving while under the influence, in a per se statute," Barrett-Anderson explained.

The per se statute, which could potentially trigger diverse opinions from the community, should be discussed in a public hearing, Barrett-Anderson said.

According to the National Conference of State Legislatures, at least 20 states have their own version of a drugged driving per se statute as of 2017. These laws "make it a criminal offense to have a drug in one's body/body fluids while operating a motor vehicle."

Some states, such as Michigan, have exempted medicinal marijuana patients from the per se provision. Other jurisdictions impose certain limits to the amount found in the individual.

Barrett-Anderson said the process to revamp the Safe Streets Act was a collaborative effort between the Office of the Attorney General, the Judiciary of Guam and Vice Speaker Therese Terlaje's office. The AG added that the act has not been updated for more than 20 years.

According to Barrett-Anderson, the revamped statute incorporates other components of modern DUI laws, including setting up a therapeutic court and programs covering treatment for addiction and rehabilitation of drunk drivers.

"These would really make our drunk driving statutes more workable. But if you haven't touched something since 1996, that's not good," she said, referring to the current version of the statute.

Back in 2010, a DUI Court Executive Committee was formed, consisting of agencies involved in the criminal justice system, such as the OAG, Guam Police Department and the Department of Corrections, among others. According to the AG, interest in revamping the Safe Streets Act started after the formation of the committee.

Louella Losinio

https://www.postguam.com/news/local/safe-streets-act-revamped/article_9b875620-c05d-11e7-9ede-c31904d3070d.html

Safe Streets Act revamped

Louella Losinio | The Guam Daily Post Nov 6, 2017

Vice Speaker Sen. Therese Terlaje introduced a revamped version of the 1996 Safe Streets Act to expand coverage and address current DUI enforcement challenges.

Bill 203-34, or Safe Streets Act 2017, makes several changes, including a subsection to create a Driving While Impaired treatment court under the Supreme Court of Guam.

The new bill aims to improve enforcement of the laws and further improve the criminal justice response to arrests and prosecution in line with theories of therapeutic jurisprudence, rehabilitation of people addicted to alcohol and drugs, and immediate accountability.

The bill also utilizes the term DWI instead of Driving Under the Influence (DUI) to describe the illegal act of "driving, operating, or be in physical control of any motor vehicle while under the influence of alcohol or a controlled substance."

The bill also adds a specific provision prohibiting an individual from having any level of a controlled substance in his or her blood or urine while driving, operating or in physical control of any motor vehicle.

Marijuana provision added

The measure also adds a specific provision banning marijuana use while driving a motor vehicle. Under the bill, "it is unlawful for any person, whether a driver or passenger to consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway."

Any person convicted of violating the section shall be guilty of a petty misdemeanor.

In July, Attorney General Elizabeth Barrett-Anderson said the OAG has been collaborating with the vice speaker's office on the revamping of the local statute.

Components of the new legislation will deal with 21st-century challenges, according to Barrett-Anderson, including a provision introducing a per se statute covering those driving under the influence of marijuana or any controlled substance.

Maraman: State of Judiciary is healthy but faces fiscal challenges

Haidee V Eugenio, heugenio@guampdn.com Published 4:44 p.m. ChT May 1, 2018



(Photo: Frank San Nicolas/PDN)

Supreme Court of Guam Chief Justice Katherine A. Maraman on Tuesday said the state of the Guam judicial system is for the most part healthy but is challenged by deep budget cuts that have gone from "hampering, to now threatening, core court operations."

Maraman, in delivering her second State of the Judiciary Address at a packed Guam Congress Building, also touched on the continuing challenges related to illegal drug use in the community and their impacts on children, families and the justice system.

More: [Guam chief justice orders cost-cutting measures for judiciary \(/story/news/2018/02/27/guam-chief-justice-orders-cost-cutting-measures-judiciary/375984002/\)](https://www.guampdn.com/story/news/2018/02/27/guam-chief-justice-orders-cost-cutting-measures-judiciary/375984002/)

More: [Guam court shelves electronic monitoring program and more to cut costs \(/story/news/2018/02/20/guam-court-shelves-electronic-monitoring-program-and-more-cut-costs/353704002/\)](https://www.guampdn.com/story/news/2018/02/20/guam-court-shelves-electronic-monitoring-program-and-more-cut-costs/353704002/)

The chief justice's address came a few months after the Calvo administration ordered budget cuts and revenue-generating measures to deal with a \$67 million projected budget shortfall because of a federal tax reform law.

The Judiciary did its part, including cost-cutting measures such as suspending electronic monitoring, delayed hiring and reduced fees for court appointed attorneys.

"The Judicial branch has been asked to bear 15 percent of total fiscal year 2018 government-wide reductions, yet we only represent 5 percent of the General Fund operations," Maraman said.

Publicly, the governor's office has said there has been a 10 percent budget cut to the Judiciary, she said.

Gov. Eddie Calvo and Del. Madeleine Bordallo were among those who joined Speaker Benjamin Cruz and the rest of the Legislature in receiving the chief justice's address, which coincided with Law Day.

Cutting corners will come at the cost of public service

The Judiciary's cash allotments have been slashed twice, starting with a 10 percent cut of \$3.4 million. Further cash allotment reductions increased its shortfall to \$4.6 million, or 13 percent of the funds appropriated for fiscal 2018, the chief justice said.

Maraman said the Judiciary fully recognizes that belt-tightening is a necessity to be borne by all who work in public service.

"For the record, we have responsibly managed our dwindled resources by increasing efficiencies across all of our divisions, but cutting corners will inevitably come at the cost of serving the public," she said. "We have been transparent in this process."

This year, she said, she's proud to report that the judicial branch is continuing to build on the foundations that have supported it in settling disputes in a more peaceful, equitable, and wholistic manner.

She attributes this in large part to the Judiciary's prudent planning, dedicated staff, and a collective support.

\$36.7M budget request

Prior to the chief justice's address, the Judiciary transmitted to the Legislature its proposed fiscal 2019 budget of \$36.7 million, which follows two consecutive years of a status quo budget.

"We have presented a budget that funds our operations, with a focus on filling critical vacancies, implementing legislatively-mandated reclassification of all of our personnel, starting the electronic monitoring program, and giving adequate financial resources to our under-funded indigent defense services," Maraman said.

More: [Adelup plans to attack "soft spots" in tax collections \(/story/news/2018/04/30/adelup-plans-attack-soft-spots-tax-collections/563762002/\)](#)

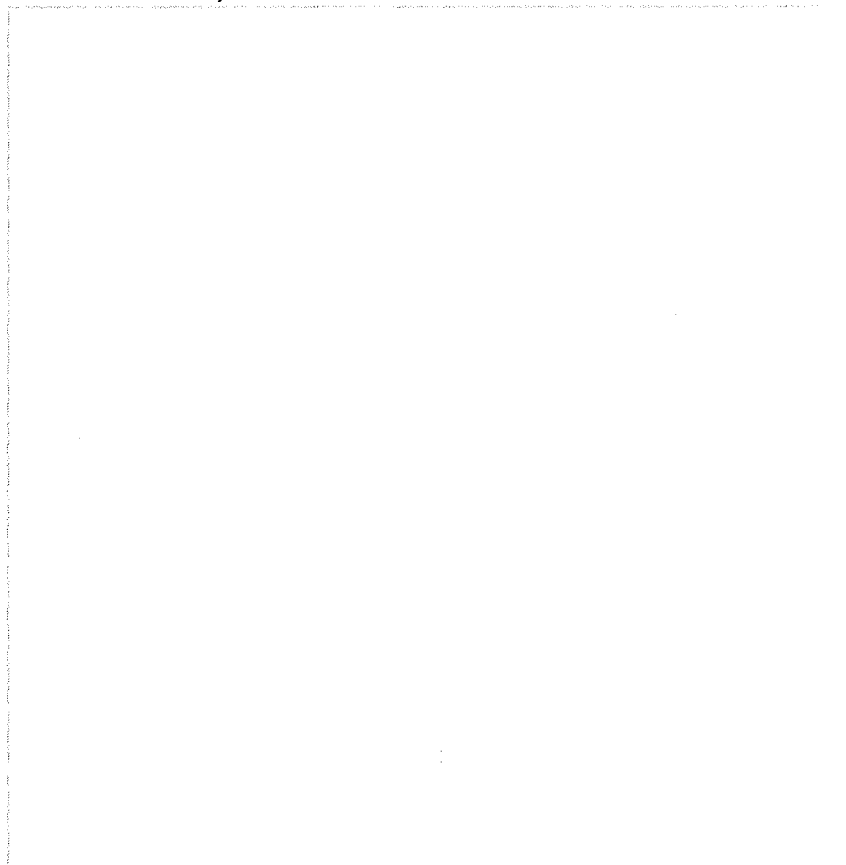
More: [New fee for real estate sale, transfer among bills up for Tuesday's vote \(/story/news/2018/04/30/new-fee-real-estate-sale-transfer-among-bills-up-tuesdays-vote/563428002/\)](#)

The chief justice cited a few examples of the Judiciary's accomplishments, despite the challenges, including training for its employees to better serve the public.

Public Auditor Doris Flores Brooks, after the address, said she understands the problems faced by the Judiciary while continuing to provide needed service to the community.

Brooks said unless the government gets a better handle of fiscal 2019, it's difficult to be able to know what's going to happen from a budgetary process.

(Story continues below videos)



Guam Family Recovery Program

Maraman cited the newest program the Judiciary launched last year, called the Guam Family Recovery Program, in response to Child Protective Services receiving an average of 220 referrals a year involving children who were at-risk due to drug use by their parents or caretakers.

The crowd applauded when the chief justice reported that the program bridged the gaps that exist in the current system by focusing on family engagement and reunification.

The Judiciary has also implemented the Guam Immediate Violation Enforcement program, or GIVE, which imposes graduated sanctions for traditional probationers with drug offenses who violate their conditions.

More: [Calvo: Support bill to get tax refunds to people faster \(/story/opinion/2018/04/30/calvo-support-bill-get-tax-refunds-people-faster/563758002/\)](#)

More: [Our View: Support Guam Family Recovery Program \(/story/opinion/editorials/2018/05/01/our-view-support-guam-family-recovery-program/567523002/\)](#)

She also cited some examples of services through the Juvenile and Adult Drug Courts, our Veterans Treatment Court, and the Mental Health Court.

Maraman said the unfortunate reality is that approximately half of Guam's recidivists are re-incarcerated due to drugs.

"Offenders transitioning back into the community need careful pre-release assessment and connection to community treatment along with aftercare to reduce their risk of recidivism," she said.

The Guam Adult Reentry Court Program, she said, will target medium- to high-risk individuals incarcerated and convicted of non-violent offenses and eligible for parole and will address individualized supervision, treatment, and services by utilizing evidence-based practices and assessment-driven case plans.

Senators urged to act

Maraman asked senators to pass Bill 203, or the Safe Streets Act, and develop a Driving while Impaired, DWI, Treatment Court.

"The goal of this measure is to amend our DWI laws and adopt a treatment court to enhance public safety, lower costs, improve the quality of life of intransigent DWI offenders, and reduce recidivism in their cases," she said.

Participants become eligible after being identified as medium- to high-risk for breaking the law and high-need alcohol-dependent offenders, who may have co-occurring disorders; and are repeat DWI violators or first-time violators with a BAC at 0.15 and higher.

Vice Speaker Therese Terlaje, in a statement, said she commends the chief justice and the Judiciary for their leadership in ensuring the courts are fair, forward-thinking, and respond holistically to the needs of the community.

"I appreciate their commitment to using evidence-based best practices especially during a time when we need all branches of government to be as efficient and effective as possible," Terlaje stated. "I look forward to our continued collaboration with the Judiciary to ensure the people of Guam have access to justice."

More: [One man in detainee murder case takes plea \(/story/news/2018/05/01/one-man-detainee-murder-case-takes-plea/567706002/\)](http://www.guampdn.com/story/news/2018/05/01/one-man-detainee-murder-case-takes-plea/567706002/)

More: [Tenorio denies allegations Torres made after drug arrest \(/story/news/2018/05/01/tenorio-denies-allegations-torres-made-after-drug-arrest/563755002/\)](http://www.guampdn.com/story/news/2018/05/01/tenorio-denies-allegations-torres-made-after-drug-arrest/563755002/)

Reporter Haidee Eugenio covers Guam's Catholic church issues, education, government, business and more. Follow her on Twitter @haidee_eugenio (https://twitter.com/haidee_eugenio). Follow Pacific Daily News on Facebook/GuamPDN (<http://www.facebook.com/guampdn/>) and Instagram @gua (<http://instagram.com/GuamPDN>)mpd (<http://instagram.com/GuamPDN>).

Read or Share this story: <https://www.guampdn.com/story/news/2018/05/01/maraman-state-judiciary-healthy-but-faces-fiscal-challenges/563778002/>

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telenia C. Nelson,
Member



Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR

SIKRITARIAN LIHESLATURAN GUÅHAN
I MINA 'TRENIAI KUÅTTRO NA LIHESLATURAN GUÅHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

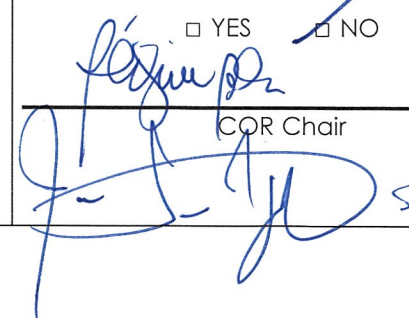
COMMITTEE REPORT CHECKLIST

Part 1 / 1

<p>Bill No. 203-34 (LS) As Substituted by the Committee on Culture and Justice</p> <p>AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2017.</p> <p>Introduced by: Vice Speaker Therese M. Terlaje</p>	
<p>REFERRED TO: Vice Speaker Therese M. Terlaje Committee on Culture and Justice</p>	
<p>(A) FISCAL NOTE or WAIVER</p>	<p>(1) Requested by COR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Date & Time: <i>Wed. Nov. 8, 2017 @ 1:42 p.m.</i></p>
	<p>(2) Received by COR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Date & Time: <i>Tue. Nov 21, 2017 @ 7:53am</i></p>
	<p>(3) Waived by COR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date & Time:</p>
	<p>(4) Bill contains appropriations or authorizations for appropriations from any fund sources? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If YES: (4/5)(a) Funding Availability Note/Waiver (OFB) attached? <input type="checkbox"/> YES <input type="checkbox"/> NO (Unable to file CMTE Report)</p>
	<p>(5) Bill contains an authorization to expend government funds? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (4/5)(b) Funding source identified? 2 GCA § 9101 <input type="checkbox"/> YES <input type="checkbox"/> NO (Proceed to (A)(6))</p>
	<p>(4/5)(c) Funds available and sufficient? 2 GCA § 9101 <input type="checkbox"/> YES <input type="checkbox"/> NO (Proceed to (A)(6))</p>
<p>(6) Restrictions Against Unfunded Appropriations (2 GCA § 9101) <i>If no boxes checked:</i></p> <p><input type="checkbox"/> Identifies specific alternate funding source</p> <p><input type="checkbox"/> De-appropriates from previous appropriation with available funds and fiscal note</p> <p><input type="checkbox"/> Written certification by CMTE Chair that a situation exists which "threatens the safety, health and welfare of the community"</p> <p style="text-align: right;">UNABLE TO PLACE ON SESSION AGENDA 2 GCA § 9102</p>	



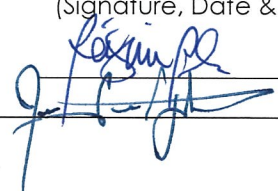
**Committee Report Checklist on
 Bill No. 203-34 (LS) As Substituted by the Committee on Culture and Justice.
 Part 1 / 1**

(B) PUBLIC HEARING	(1) HEARING NOTICES SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)	
	<input checked="" type="checkbox"/> (a) Five (5) working days prior (A L Senators & ALL Media)	Date and Time of Notice: MON., NOV. 13, 2017 @ 8:57am
	<input checked="" type="checkbox"/> (b) Forty-eight (48) hours prior (ALL Senators & ALL Media)	Date and Time of Notice: Fri., Nov. 17, 2017 @ 3:44 pm
	(2) Date and Time of Hearing: Tue, Nov. 21, 2017 @ 2:00pm	or (4) HEARING WAIVED by Speaker in case of emergency SR § 6.04(a)(1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A If YES: Attach memo indicating WAIVER
	(3) Location: Public Hearing Room, Guam Congress Building	
(5) AMENDMENTS or SUBSTITUTIONS BY COMMITTEE SR § 6.04(b)		
(a) Committee elects to substitute bill? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	If YES: Date and Time: (a)(1) Vote sheet affirmative? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (a)(2) Preliminary report filed with COR? SR § 6.04(b)(2) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (a)(3) Public Hearing noticed? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
(b) Bill materially different after committee amendment or substitution? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	If YES: SECONDARY PUBLIC HEARING MAY BE REQUIRED SR § 6.04(c)(3) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  COR Chair 5.21.18	

**Committee Report Checklist on
 Bill No. 203-34 (LS) As Substituted by the Committee on Culture and Justice.
 Part 1 / 1**

(C) COMMITTEE REPORT	(1) Committee Report filed with COR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES:</i> Date & Time: <u>Thurs. May 17, 2018 @ 10:30am</u>	Notes:	<i>If NO:</i> UNABLE TO PLACE ON SESSION AGENDA SR § 6.04(d)(1)		
	(1)(a) Secondary CMTE Report filed with COR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>If YES:</i> Date & Time:				
	(2) LAND LEGISLATION				
	(a) Bill involves government taking, transfer, purchase, or lease of land? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> ATTACH TWO (2) PROPERTY APPRAISALS TO CMTE REPORT SR § 6.04(c)(4) 2 GCA § 2107(b)	
	(a)(1) Please indicate on both columns: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> (i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease </td> <td style="width: 50%; vertical-align: top;"> (ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government </td> </tr> </table>	(i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease	(ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government		
	(i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease	(ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government			
	(b) Bill involves legislative land rezoning? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> INCLUDE Land Zoning Consideration Report 2 GCA § 2110	
	(b)(1) Bill involves legislative rezoning of property zoned Agricultural (A)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> INCLUDE Agricultural Consideration Report (Dept. of Agriculture) 2 GCA § 2110 [Proceed to (b)(2)]	
(b)(2) Proof of Agricultural consideration report reviewed by Guam Land Use Commission? 21 GCA § 61637 <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A					

**Committee Report Checklist on
 Bill No. 203-34 (LS) As Substituted by the Committee on Culture and Justice.
 Part 1 / 1**

	(3) G.A.R.R. LEGISLATION SR § 6.04(c)(1) 5 GCA §§ 9301 and 9303	
	a) Bill involves approving or amending Rules and Regulations? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A	If YES: INCLUDE Economic Impact Statement 5 GCA §§ 9301(d), 9301(e), 9301(f)
(D) COMMITTEE REPORT (continued)	(4) COMMITTEE REPORT COMPONENTS	
	(a) Front Page Transmittal to Speaker	<input checked="" type="checkbox"/>
	(a)(1) COR Chair Signature Line	<input type="checkbox"/>
	(b) Title Page	<input checked="" type="checkbox"/>
	(c) Committee Chair Memo to All Committee Members	<input checked="" type="checkbox"/>
	(d) COR Referral Memorandum	<input checked="" type="checkbox"/>
	(e) Notice of Public Hearing & Other Correspondence	<input checked="" type="checkbox"/>
	(f) Public Hearing Agenda	<input checked="" type="checkbox"/>
	(g) Public Hearing Sign-in Sheet	<input checked="" type="checkbox"/>
	(h) Written Testimonies & Additional Documents	<input checked="" type="checkbox"/>
	(i) Committee Vote Sheet(s)	<input checked="" type="checkbox"/>
	(j) Committee Report Digest(s)	<input checked="" type="checkbox"/>
	(k) Bill History	<input type="checkbox"/>
	(k)(1) Copy of Bill as introduced	<input checked="" type="checkbox"/>
	(k)(2) COR Pre-Referral Checklist	<input checked="" type="checkbox"/>
	(k)(3) Copy of Bill as corrected by Prime Sponsor (if applicable)	<input type="checkbox"/> <i>NA</i>
	(k)(4) Copy of Bill as amended/substituted by Committee (if applicable)	<input checked="" type="checkbox"/>
	Substitute/Amended Mark-Up Version	<input type="checkbox"/> <i>NA</i>
	Substitute/Amended Word-Version Emailed to COR?	<input checked="" type="checkbox"/>
	(l) Fiscal Note/Waiver and Funding Availability Note (OFB)	<input checked="" type="checkbox"/>
	(m) Two (2) Property Appraisals (if applicable)	<input type="checkbox"/> <i>NA</i>
	(n) Related News Reports (optional)	<input checked="" type="checkbox"/>
	(o) Miscellaneous (optional)	<input checked="" type="checkbox"/>
	(p) Committee Report Checklist(s)	<input checked="" type="checkbox"/>
		Originals <input checked="" type="checkbox"/>
	Single-Sided <input checked="" type="checkbox"/>	
	Letter Size <input checked="" type="checkbox"/>	
	No Staples/ Paper Clips <input checked="" type="checkbox"/>	
(E) COR Action	<input checked="" type="checkbox"/> CMTE Report duly filed; Available for Placement on Session Agenda <input type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee	COR CHAIR (Signature, Date & Time)  5-21-18