



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OCT 23 1997

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>Joni Amalante</i>
Time	<i>4:35 p.m.</i>
Date	<i>10-23-97</i>


Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 40 (COR), "AN ACT TO AMEND §80.48 OF ARTICLE 2, CHAPTER 80 OF TITLE 9 OF THE GUAM CODE ANNOTATED BY ADDING SUBSECTION (g) THERETO, RELATIVE TO THE WORK AND EDUCATIONAL PROGRAMS OF INMATES CONFINED AT THE DEPARTMENT OF CORRECTIONS." which I have signed into law today as Public Law No. 24-95.

This legislation provides that if an inmate at the Department of Corrections escapes or is absent without authorization from an educational or work release program, that the inmate will forfeit the eligibility to participate in educational or work release programs for 5 years.

This legislation basically tracks the current policies in place at the Department of Corrections.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

00499

Office of the speaker
ANTONIO R. UNPINGCO
Date: *10/23/97*
Time: *1:55*
Rec'd by: *[Signature]*
Print Name: *Chacka Puenas*


TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 40 (COR), "AN ACT TO AMEND §80.48 OF ARTICLE 2, CHAPTER 80 OF TITLE 9 OF THE GUAM CODE ANNOTATED BY ADDING SUBSECTION (g) THERETO, RELATIVE TO THE WORK AND EDUCATIONAL PROGRAMS OF INMATES CONFINED AT THE DEPARTMENT OF CORRECTIONS," was on the 9TH day of October, 1997, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

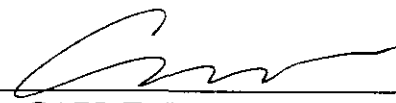
Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 17th day of October, 1997, at
4:35 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
Governor of Guam

Date: 10-23-97

Public Law No. 24-95

CONFINED AT THE DEPARTMENT OF
CORRECTIONS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Subsection (g) is hereby added to §80.48 of Article 2,
3 Chapter 80 of Title 9 of the Guam Code Annotated to read as follows:

4 "Section 80.48(g). Termination of Eligibility; Work and
5 Education Programs. Notwithstanding Subsection (c) of this Section,
6 any inmate who has been placed under the work and educational
7 programs must comply with the conditions laid down for the inmate's
8 conduct while enjoying the benefits of the program. Any violations of
9 the conditions, such as failure of the offender to return to the place of
10 confinement within the time pursuant to the terms and conditions of the
11 programs, shall suspend the offender's eligibility to the programs as
12 outlined below.

13 Any inmate who is found guilty of escape or attempted escape
14 shall immediately be removed from work and educational programs
15 and shall not be eligible for participation in work and educational
16 programs for a period of not less than five (5) years. Any inmate not
17 currently participating or eligible to participate in work or educational
18 programs and is found guilty of escape or attempted escape shall not be
19 eligible to participate in work or educational programs for a period of
20 not less than five (5) years."



Committee on Judiciary, Public Safety
and Consumer Protection
Twenty-Fourth Guam Legislature



P.L. 24-⁹⁵~~40~~

Senator
Elizabeth Barrett-Anderson
Chairperson

Senator
John C. Salas
Vice-Chairman

Senator
Anthony C. Blaz
Member

Senator
Joanne M.S. Brown
Member

Senator
Mark Forbes
Member

Senator
Edwardo J. Cruz, M.D.
Member

Senator
Vicente C. Pangelinan
Member

Senator
Frank Blas Aguon, Jr.
Member

August 27, 1997

SPEAKER ANTONIO R. UNPINGCO
Twenty-Fourth Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety and Consumer Protection, to which was referred **Bill No. 40**, wishes to report back to the Legislature with its recommendation **TO DO PASS Bill 40 AS SUBSTITUTED.**

The voting record is as follows:

<u>7</u>	TO PASS
—	NOT TO PASS
—	ABSTAIN
—	TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Sincerely,

E. Barrett-Anderson
ELIZABETH BARRETT-ANDERSON
Chairperson

Attachments

COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND C O N S U M E R P R O T E C T I O N T W E N T Y - F O U R T H G U A M L E G I S L A T U R E

173 ASPINALL AVENUE, ADA PLAZA CENTER SUITE 108A, AGANA, GUAM 96910

SENATOR ELIZABETH BARRETT-ANDERSON
Chairperson

SENATOR JOHN C. SALAS
Vice-Chairperson

SPEAKER ANTONIO R. UNPINGCO
Ex-Officio Member

VOTING SHEET

BILL 40. As Substituted: An act to amend 9 GCA §80.48, by adding subsection (g) thereto, relative to the work and educational programs of inmates confined at the Department of Corrections.

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>	<u>INITIAL</u>
1). Sen. Elizabeth Barrett-Anderson Chairperson	✓				EB
2). Sen. John C. Salas Vice-Chairperson	✓				JS
3). Sen. Frank B. Aguon, Jr. Member	✓				FBA
4). Sen. Anthony C. Blaz Member	✓				ACB
5). Sen. Joanne M.S. Brown Member					
6). Sen. Edwardo J. Cruz M.D. Member	✓				EJC
7). Sen. Mark Forbes Member	✓				MF
8). Sen. Vicente C. Pangelinan Member	✓				VCP
9). Speaker Antonio Unpingco Ex-Officio Member	✓				AU

TWENTY FOURTH GUAM LEGISLATURE
COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND CONSUMER
PROTECTION
ELIZABETH BARRETT-ANDERSON

Committee Report

on

Bill No. 40: AN ACT TO AMEND SECTION 80.48, 9 GCA BY ADDING SUBSECTION (g) THERETO, RELATIVE TO THE WORK AND EDUCATIONAL PROGRAMS OF INMATES CONFINED AT THE DEPARTMENT OF CORRECTIONS.

I. Overview

The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Thursday, February 27, 1997 at 1:30 p.m. on Bill No. 40 at The Committee on Judiciary, Public Safety and Consumer Protection public hearing room. Public notice was given in the February 23 & 26, 1997 issues of the Pacific Daily News.

Committee Members Present:

Senator Elizabeth Barrett-Anderson, Chairperson
Senator Edwardo J. Cruz M.D.

Providing Testimony on the Bill:

Charles Troutman, **oral/written** (attachment "A")

Purpose:

Bill 40 is designed to exclude inmates who escape or attempt to escape from participating in certain work and educational programs at the Department of Corrections.

Relationship to Existing Law:

Section 1 states that in order to maintain the integrity of the work and educational programs of the Department of Corrections, and to continue the programs for deserving inmates, the legislature intends to exclude non-deserving inmates, i.e., those inmates who use the programs to escape custody.

Section 2 adds a new subsection to 9 GCA §80.48 to disqualify for a minimum of five (5) years any inmate on work or educational release who is "found guilty" of escape or attempted escape. An inmate not on release who is found guilty of either of those offenses would be ineligible to participate for five (5) years. The statute now provides as follows:

§80.48. Extension of Limits of Confinement:

Failure to Adhere to Conditions Punished: Failure to Return is Escape. (a) Except as otherwise provided by law, either the court at the time of sentencing or the Director of Corrections after the offender has been placed in custody, may extend the limits of his confinement to permit the offender to continue in his regular employment or educational program or if the prisoner does not have regular employment or a regular educational program, to secure employment or education. Any employment or education so secured must be suitable for the offender. Such employment or educational program if such educational program includes earnings by the offender, must be at a wage at least as high as the prevailing wage for similar work in the Territory and in accordance with the prevailing working conditions in the Territory. In no event may any such employment or educational program involving earnings by the offender be permitted where there is a labor dispute in the establishment in which the offender is or is to be employed or educated. Whenever the offender is not employed or being educated and between the hours or periods of employment or education, he shall be confined in such

facility designated by the court or Director of Corrections.

(b) The earnings of the offender may be collected by the Director of Corrections. From such earnings, the Director may deduct such costs incident to the offender's confinement as the Director deems appropriate and reasonable. The Director may also deduct payments for the support of the offender's dependents and forward such payments to them.

(c) In any event the offender violates the conditions laid down for his conduct, custody, education or employment, the Director (or the court, if the limits of confinement were originally extended by the court) may order the balance of the offender's sentence to be spent in actual confinement subject to any release on parole pursuant to Article 5 (commencing with §80.70).

(d) Willful failure of the offender to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement pursuant to this Section is punishable as an escape.

(e) Except for inmates participating in the Work and Educational Programs, all inmates sentenced to the custody of the Department of Corrections and in the Adult Correctional Facility shall be issued uniforms which they shall wear at all times they are outside the facility. The uniform shall be prominently marked to indicate that the person wearing it is an inmate. The uniforms shall at the least have the letter "P" permanently marked on the front and back of the shirt or top portion of the uniform. All inmates including those in the Work and Educational Programs shall have as many haircuts as necessary to maintain a short style so that hair does not extend over the ear or over the shirt collar of the uniform. No beards shall be worn by inmates.

(f) The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund (the "Fund"). After complying with subsection (b) of this Section, associated with support of dependents and debts, the remaining balance shall be deposited in the Fund. (Emphasis added)

NOTE: The authority of the Director of Corrections under Subsection (c) is discretionary in cases where the offender violates conditions of education or employment. Presumably, that could include failure to return to custody, or escape while on release. In order to preclude any conflict with Subsection (c), the Committee finds it advisable to include in the new subsection, "Notwithstanding Subsection (c) of this Section". . . .

II. Summary of Testimony

MR. CHARLES TROUTMAN
COMPILER OF LAWS/ATTORNEY GENERAL'S OFFICE

Mr. Troutman testified that the Attorney General's Office had no problem with the concept of the Bill. Mr. Troutman suggested that language should be added to the Bill allowing the Director of Corrections to remove inmates from the program.

III. Findings and recommendations

The Committee on Judiciary, Public Safety and Consumer Protection finds support for the passage of Bill No. 40; however, several recommendations were made to the Committee to improve the Bill. After considering the recommendations, a Substituted version of Bill 40 was prepared. The Committee on Judiciary, Public Safety and Consumer Protection presents its findings with the recommendation **TO DO PASS** Bill No. 40 As Substituted by the Committee.

Carl T.C. Gutierrez
Maga'láhi
Governor



EXHIBIT "A"

Calvin E. Holloway, Sr.
Hinirát Abugao
Attorney General

Madeleine Z. Bordallo
Tinente Gubelnadora
Lt. Governor

Ufisinan Hinirát Abugao
Tiritorian Guáhan

Gus F. Diaz
Atkádi, Sigundo Hinirát Abugao
Chief Deputy Attorney General

Office of the Attorney General
Territory of Guam

February 27, 1997

The Honorable Elizabeth Barrett-Anderson
Senator
Chairperson, Committee on Judiciary, Public
Safety and Consumer Protection
Twenty-Fourth Guam Legislature
Ada Plaza Center, Suite 108A
173 Aspinall Avenue
Agana, Guam 96910

Re: Testimony on Proposed Bills

Dear Senator Barrett-Anderson:

Buenas yan Hafa Adai!

We have received the following bills and are submitting our comments on them as follows:

1. We have no problems with Bill #7 which addresses matters related to motorcycle helmets
2. On Bill #14 we see some potential problems. The Department believes it is a good idea; however, Guam currently has no effective forfeiture statute. Presently, we are in the process of drafting a forfeiture statute and will be submitting it to the Governor within the coming weeks. Further, it may not be possible to redirect forfeited assets that are received by the various local law enforcement



Commonwealth Now!

Suite 2-200E, Judicial Center Bldg., 120 West O'Brien Drive, Agana, Guam U.S.A. 96910
Phone: (671) 475-3324 Fax: (671) 472-2493 E-mail: law@ns.gov.gu

agencies into this fund. These are the assets that we receive from the federal government when government of Guam law enforcement agencies assist in a federal case which yields forfeited assets and, as a result of that assistance, a portion of the forfeited asset is "shared" with local law enforcement. There may be some difficulty in redirecting those assets over to a program such as this.

Another area that we would call to your attention is section 3 of the bill which directs in (b)(4) that forfeited property be sold and the proceeds deposited into the program fund. Traditionally vehicles that have been seized and forfeited have been made available to law enforcement agencies to use as undercover vehicles. If these vehicles are no longer made available it may have an impact of both the ability of the agency to conduct undercover activities and/or require an increase in the operating budget to compensate for the loss of these vehicles.

Finally, in section 3 at (b)(2) it is provided that certain property be delivered to the Attorney General for disposition or destruction. In fact, the proper recipient for this property would be the Guam Police Department which may dispose of it with the concurrence of the Attorney General.

3. On Bill #40 we have no problem with the concept of the bill. We do suggest that some language be added that would take into account the fact that a substantial time may elapse between the time of the escape and the time of conviction. There is the possibility that an inmate would argue that he should be allowed to participate in work and educational release programs between the time of his return to the prison and the time of his conviction.
4. On Bill #41 placing the Superior Court Marshals into the uniformed service we have no problems with the intent of the bill. We would however, suggest that at proposed 8 GCA §8107(a) the language be changed to provide that the uniforms shall be provided by the Superior Court rather than simply "the government of Guam".

Further, we would like to point out a problem that exists with the definition section of 4 GCA §8104(p) which you are seeking to amend to include the Superior Court Marshals as uniformed personnel. This section is a part of the definition section of the Retirement Law. A reading of the last sentence of (p) yields the language which establishes concurrent jurisdiction between the Guam Police Department and the airport, the port and the parks of Guam. This is an inappropriate location for such substantive law and it should

Ltr. to Senator Elizabeth Barrett-Anderson
February 27, 1997
Page 3

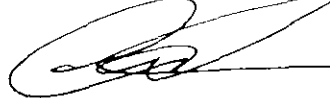
be relocated to a more logical section of the statutes.

5. Bill 130 which provides that the Superior Court Marshals shall have jurisdiction over certain areas around the Courthouse in order to regulate traffic, parking and to keep the peace could possibly be improved if it were to make specific reference to the need for enforcement of those parking regulations intended to provide adequate parking for the handicapped. Otherwise we feel that this is a statute which will give the marshals the ability to control the congestion which is a perennial problem in this area.
6. Finally, Bill 131 appears to be identical to Bill 41 and our comments above may be directed to this bill as well.

If there are any questions, please let me know.

Dàngkolo Na Agradesimiento - Thank You Very Much!

Senseramente...Sincerely,



CALVIN E. HOLLOWAY, SR.
Attorney General

cc: The Honorable Governor Carl T.C. Gutierrez

Amended

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 40
Introduced by:

W. P. ...

V. C. Pangelinan *[Signature]*
T.C. Ada *[Signature]*

**AN ACT TO AMEND SECTION 80.48, 9 GCA BY ADDING
SUBSECTION (g) THERETO, RELATIVE TO THE WORK AND
EDUCATIONAL PROGRAMS OF INMATES CONFINED AT THE
DEPARTMENT OF CORRECTIONS.**

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Legislative Findings. The Legislature finds that recent escapes involving inmates who have been placed under the work and educational programs of the Department of Corrections have placed the programs in jeopardy and need a closer look.

The Legislature further finds that in order to continue these programs and give integrity to its implementation without depriving deserving inmates towards its implementation, the programs should exclude non-deserving inmates who abuse the liberality of the programs in order to gain illegitimate freedom through escape.

It is the intent of the Legislature to exclude non-deserving inmates from the work and educational programs once they escape and violate the conditions laid down for his conduct while placed under the programs.

Section 2. Section 80.48, 9 GCA is hereby amended by adding subsection (g) to read:

Section 80.48, Subsection (g). Termination of Eligibility. Work and Education Programs.

Any inmate who has been placed under the work and educational programs must comply with the conditions laid down for his conduct while enjoying the benefits of the program. Any violations of the conditions such as failure of the offender to return to the place of confinement within the time pursuant to the terms and conditions of the programs shall suspend the offender's eligibility to the programs as outlined below.

Any inmate who is found guilty of escape or attempted escape shall immediately be removed from work and educational programs and shall not be eligible for participation in work and educational programs for a period of not less than 5 years. Any inmate not currently participating or eligible to participate in educational or work programs and is found guilty of escape or attempted escape shall not be eligible to participate in educational or work programs for a period of not less than five (5) years.



24th Guam Legislature
Office of
Senator Elizabeth Barrett-Anderson

Chairperson,
Committee on Judiciary,
Public Safety and
Consumer Protection

Tel. (671) 472-3431/3432

Fax: (671)472-3433

MEMORANDUM

January 23, 1997

To: Chief Legal Counsel, Legislative Officer and Chief of Staff.
From: Chief of Staff
Subject: FPL Staff Review

Bill No. 40 has been referred to the Committee on Judiciary, Public Safety and Consumer Protection. Please begin your FPL review and return this form after such review and clearance.

FISCAL

Date Received: 1/22/97
Date sent to BBMR: 1/22/97
Review Clearance: 2/5/97
Signature: W.L. Ofly

NOTES:

POLICY

Date Received: 23 Jan 97
Date Cleared: 10 Feb 97
Signature: J. Underwood

NOTES:

RECOMMENDS TO DIRECTOR
LEGISLATIVE INTEREST FUNDING

LEGAL

Date Received: 1/23/97
Date Cleared: 1/27/97
Signature: JTB

NOTES:

Expressly prohibits escapes
from participating in work
or education release programs &
sets limits

ATTACHMENT: Bill No. 40

James H. Underwood
JAMES H. UNDERWOOD
Chief of Staff



24th Guam Legislature
Office of
Senator Elizabeth Barrett-Anderson

Chairperson,
Committee on Judiciary,
Public Safety and
Consumer Protection

Tel: (671) 472-3431/3432

Fax: (671)472-3433

MEMORANDUM

January 23, 1997

To: Chief Legal Counsel, Legislative Officer and Chief of Staff.
From: Chief of Staff
Subject: FPL Staff Review

Bill No. 40 has been referred to the Committee on Judiciary, Public Safety and Consumer Protection. Please begin your FPL review and return this form after such review and clearance.

FISCAL

Date Received: 1/22/97
Date sent to BBMR: 1/22/97
Review Clearance: [initials]
Signature: [signature]

NOTES:

POLICY

Date Received: _____
Date Cleared: _____
Signature: _____

NOTES:

LEGAL

Date Received: _____
Date Cleared: _____
Signature: _____

NOTES:

ATTACHMENT: Bill No. 40

JAMES H. UNDERWOOD
Chief of Staff



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agaña, Guam 96910

CARL T.C. GUTIERREZ
GOVERNOR

FEB 05 1997

JOSEPH E. RIVERA
DIRECTOR

MADELEINE Z. BORDALLO
1ST GOVERNOR

FRANCES J. BALAJADIA
DEPUTY DIRECTOR

The Bureau requests that Bill No(s), 40 be granted a waiver pursuant to Public Law 12-229 for the following reasons:

Bill No. 40 is an Act to amend Section 80.48 of 9 GCA by adding Subsection (g) thereto, relative to the work and educational programs of inmates confined at the Department of Corrections. Subsection (g) of Section 80.48 essentially excludes non-deserving inmates from the work and educational programs once they escape and violate the conditions laid down for his conduct while placed under the programs. The intent of Bill No. 40 is administrative in nature and poses no fiscal impact on the General Fund.

JE
Joseph Rivera
JOSEPH E. RIVERA
Acting

[Handwritten signature]

[Handwritten mark]





Office of
Senator Elizabeth Barrett-Anderson

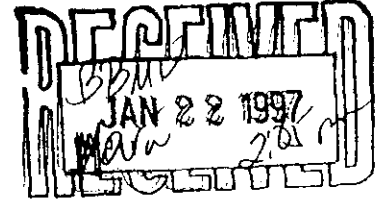
Chairperson,
Committee on Judicial
Public Safety and
Consumer Protection

Tel: (671) 472-3431/3432

Fax: (671) 472-3433

January 22, 1997

COPY



MEMORANDUM

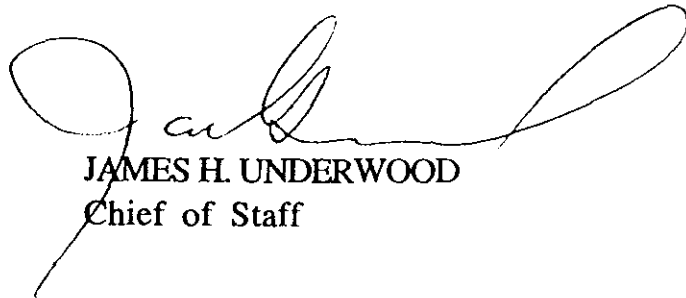
TO: Director, Bureau of Budget & Management Research

FROM: Chief of Staff, Office of Senator Elizabeth
Barrett-Anderson

SUBJECT: Request for Fiscal Note for Bill(s) #6, 14, 38, 40, and 41

Per requirement of 2 GCA Chapter 9, the attached bills are submitted for your review and issuance of a fiscal note or waiver of such fiscal note.

Your prompt and professional attention to this request is appreciated.
Dangkulo Na Si Yu'os Maase.



JAMES H. UNDERWOOD
Chief of Staff

Attachments:
Bill(s) No. 6, 14, 38, 40, and 41



24th Guam Legislature
Office of
Senator Elizabeth Barrett-Anderson

Chairperson,
Committee on Judiciary,
Public Safety and
Consumer Protection

Tel: (671) 472-3431/3432

Fax: (671)472-3433

MEMORANDUM

January 23, 1997

To: Chief Legal Counsel, Legislative Officer and Chief of Staff.

From: Chief of Staff

Subject: FPL Staff Review

Bill No. 40 has been referred to the Committee on Judiciary, Public Safety and Consumer Protection. Please begin your FPL review and return this form after such review and clearance.

FISCAL

Date Received: _____
Date sent to BBMR: _____
Review Clearance: _____
Signature: _____

NOTES:

POLICY

Date Received: 23 Jan 97
Date Cleared: 1st FEB 97
Signature: [Signature]

NOTES:

LEGISLATURE FINDINGS COULD BE
INAPPROPRIATE AND WOULD BE
BEST TO DELIVER

LEGAL

Date Received: _____
Date Cleared: _____
Signature: _____

NOTES:

ATTACHMENT: Bill No. 40

[Signature]
JAMES H. UNDERWOOD
Chief of Staff

TWENTY-FOURTH GUAM LEGISLATURE

PUBLIC HEARING

SENATOR ELIZABETH BARRETT-ANDERSON
Chairperson, Committee on Judiciary, Public Safety and Corrections and Consumer Protection

734 3982
734 4556

WITNESS SIGN-IN SHEET

Committee Hearing Room, 173 Aspinall Ave., Ada Plaza Center, Suite 108A, Agana, Guam 96910

Thursday, February 27, 1997

Public Hearing on Bill(s): 7, 14, 40, 41, 130, and 131

NAME(Please print) ORGANIZATION Bill(s) to Testify On ORAL/WRITTEN FOR/AGAINST List Bill Number

Table with 5 columns: NAME, ORGANIZATION, Bill(s) to Testify On, ORAL/WRITTEN, FOR/AGAINST. Row 1: Anthony P. Smith, Superior Court, 41, 131, 130, written, For. Row 2: Joseph Cruz, Sup. Court, 41, 131, 130, written, For.