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<th>DATE COMMITTEE REPORT FILED</th>
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| 11/12/19     | 6/26/19 10:21 a.m. | 7/12/19       | Committee on Health, Tourism, Historic Preservation, Land, and Justice | 7/24/19 9:00 a.m. | 11/13/19 10:49 a.m. | As amended by the Committee on Health, Tourism, Historic Preservation, Land, and Justice | Request: 7/18/19  
Waiver: 7/26/19 |

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<th>SESSION DATE</th>
<th>DATE PASSED</th>
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<th>DUE DATE</th>
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<th>DATE SIGNED</th>
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| 11/12/19     | 11/18/19 | 11/18/19 | 11/28/19 | 35-57 | 11/27/19 | Received: 11/27/19  
November 27, 2019

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina’trentai Singko Na Lihesluran Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

Re: Bill No. 172-35 (COR) – An Act to Amend § 80.14 of Article 1, and §§ 80.76 and 80.78 of Article 5, All of Chapter 80, Title 9, Guam Code Annotated, Relative to Ensuring Pre-Sentence Reports and Assessments are Utilized by the Guam Parole Board Prior to the Release of Any Offender on Parole

Dear Madame Speaker:

I am signing Bill 172-35 into law as Public Law No. 35-57, to give the Parole Board an important tool in its deliberations. Our community deserves to feel safe, part of that is giving those responsible for parole the information they need to make sound decisions.

Pre-Sentence reports are a necessary tool for the court when determining appropriate sentences for convicted felons. These reports should also be a tool for the parole board when considering release. Bill No. 172-35, which I have signed into law as Public Law No. 35-57, arms the parole board in making informed decisions. To the extent that the laws allow, the board should now have access to those vital assessment reports.

I appreciate the Legislature’s effort in improving this process. I also hope that these efforts continue with meaningful steps that help parolees prepare for reentry. To decrease recidivism and

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stop the cycle of crime, we must stop drugs at our border and aggressively treat addiction and mental health challenges.

Senseremente,

[Signature]

LOURDES A. LEON GUERRERO  
Magaˈhågan Guåhan  
Governor of Guam

Enclosure(s): Bill No. 172-35 (COR) nka Public Law 35-57

c c via email: Sigundo Magaˈlåhen Guåhan  
Compiler of Laws
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÁGAN GUÁHAN

This is to certify that Bill No. 172-35 (COR), “AN ACT TO AMEND § 80.14 OF ARTICLE 1, AND §§ 80.76 AND 80.78 OF ARTICLE 5, ALL OF CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENSURING PRE-SENTENCE REPORTS AND ASSESSMENTS ARE UTILIZED BY THE GUAM PAROLE BOARD PRIOR TO THE RELEASE OF ANY OFFENDER ON PAROLE,” was on the 18th day of November 2019, duly and regularly passed.

__________________________
Tina Rose Muña Barnes
Speaker

Attested:

__________________________
Amanda L. Shelton
Legislative Secretary

This Act was received by I Maga’hågan Guåhan this 18th day of Nov., 2019, at 6:02 o'clock P.M.

__________________________
Assistant Staff Officer
Maga’håga’s Office

APPROVED:

__________________________
Lourdes A. Leon Guerrero
I Maga’hågan Guåhan

Date: 11/27/2019

Public Law No. 35-57
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN
2019 (FIRST) Regular Session

Bill No. 172-35 (COR)
As amended by the Committee on Health, Tourism, Historic Preservation, Land and Justice.

Introduced by:

 Therese M. Terlaje
 William M. Castro
 Régine Biscoe Lee
 Kelly Marsh (Taitano), PhD
 James C. Moylan
 Louise B. Muña
 Tina Rose Muña Barnes
 Telena Cruz Nelson
 Sabina Flores Perez
 Clynton E. Ridgell
 Joe S. San Agustin
 Amanda L. Shelton
 Telo T. Taitague
 Jose “Pedo” Terlaje
 Mary Camacho Torres

AN ACT TO AMEND § 80.14 OF ARTICLE 1, AND §§ 80.76 AND 80.78 OF ARTICLE 5, ALL OF CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENSURING PRE-SENTENCE REPORTS AND ASSESSMENTS ARE UTILIZED BY THE GUAM PAROLE BOARD PRIOR TO THE RELEASE OF ANY OFFENDER ON PAROLE.

1  BE IT ENACTED BY THE PEOPLE OF GUAM:

2  Section 1. Legislative Findings and Intent.
I Liheslaturan Guåhan intends to eliminate any barrier to the Guam Parole Board’s review of any and all pre-trial, pre-sentence and incarceration reports and assessments prior to release on parole of any offender.

Section 2. § 80.14 of Article 1, Chapter 80, Title 9, Guam Code Annotated, is hereby amended to read:


(a)(1) The presentence report shall not be a public record.

(2) It may be made available only

(A) to the sentencing court,

(B) to any reviewing court where relevant to an issue on which an appeal has been taken,

(C) to any examining facility, correctional institution, probation or parole department or board for use in the treatment or supervision of the offender and to the parties as provided in this Section.

(b) At least two (2) days before imposing sentence the court shall furnish the offender, or his counsel if he is so represented, a copy of the report of the presentence investigation exclusive of any recommendations as to sentence, unless in the opinion of the court the report contains diagnostic opinion which might seriously disrupt a program of rehabilitation, sources of information obtained upon a promise of confidentiality, or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other persons; and the court shall afford the offender or his counsel an opportunity to comment thereon.

(c) If the court is of the view that there is information in the presentence report which should not be disclosed under Subsection (b), the court in lieu of making the report or part thereof available shall state in writing
a summary of the factual information contained therein to be relied on in
determining sentence, and shall give the offender or his counsel an
opportunity to comment thereon. The statement may be made to the parties in
camera but shall be included as part of the permanent record and subject to
disclosure to the Parole Board.

(d) Any material disclosed to the offender or his counsel shall at the
same time be disclosed to the attorney for the Government.

(e) (1) Any copies of the presentence investigation report made
available to the offender or his counsel and the attorney for the Government
shall be returned to the court immediately following the imposition of
sentence.

(2) Copies of the presentence investigation report shall not be
made by the offender, his counsel or the attorney for the Government.”

Section 3. § 80.76 of Article 5, Chapter 80, Title 9, Guam Code Annotated,
is hereby amended to read:

“§ 80.76. Standards Governing Release on Parole.

(a) Whenever the board considers the release of a prisoner for
parole, the board shall order his release, if it is of the opinion after review of
the records mandated in 9 GCA § 80.78, that:

(1) his release is compatible with public safety and security
and will not put victims’ safety or security in danger based on an
assessment of the risk of prisoner to re-offend;

(2) there is substantial likelihood that he will abide by law and
conform to the conditions of parole;

(3) his release at that time would not depreciate the
seriousness of his crime nor promote disrespect for law;
(4) his release would not have a substantially adverse effect on institutional discipline; and

(5) he is of sufficient capacity and deemed likely to lead a law-abiding life when released and his continued correctional treatment, medical care, or vocational or other training in the institution will not substantially enhance his capacity to lead a law-abiding life when released at a later date.

(b) In making its determination regarding a prisoner’s release on parole, the board may consider, to the extent relevant, the following factors:

(1) the prisoner’s personality, including his age and maturity, stability, sense of responsibility and any apparent development in his personality which may promote or hinder his conformity to law;

(2) the prisoner’s parole plan;

(3) the prisoner’s ability and readiness to assume obligations and undertake responsibilities;

(4) the prisoner’s family status and whether he has relatives who display interest in him or whether he has other close and constructive associations in the community;

(5) the prisoner’s employment history, his occupational skills and training, and the stability of his past employment;

(6) the type of home environment in which the prisoner plans to live;

(7) the prisoner’s past use of narcotics or other harmful drugs, or past habitual and excessive use of alcohol;

(8) the prisoner’s mental and physical make-up, including any disability or handicap which may affect his conformity to law;
(9) the prisoner’s prior criminal record, including the nature and circumstances, recentness and frequency of previous offense;

(10) the prisoner’s attitude toward law and authority;

(11) the prisoner’s conduct in the institution, including whether he has taken advantage of the opportunities for self-improvement afforded by the institutional program;

(12) the prisoner’s conduct and attitude during any previous experience of probation or parole and the recentness of such experience.”

Section 4. § 80.78 of Article 5, Chapter 80, Title 9, Guam Code Annotated, is hereby amended to read:

“§ 80.78. Records to Be Made Available to Board.

Before making a determination regarding a prisoner’s release on parole, the board shall cause to be brought before it, and it shall be the responsibility of the Department of Corrections or administrative head of the institution in which an offender is held and the Clerk of Court of the Superior Court of Guam to furnish such of the following records and information regarding the prisoner as may be available:

(a) a report prepared by the institutional parole staff, relating to his personality, social history and adjustment to authority, and including any recommendations which the institutional staff may make;

(b) all official reports of his prior criminal record, including reports and records of earlier probation and parole experiences;

(c) any pre-sentence investigation report of the sentencing court;

(d) any recommendations regarding his parole made at the time of sentencing by the sentencing judge or the prosecutor;
(e) the reports of any physical and mental examinations of the prisoner;

(f) any and all pre-trial, pre-sentence, or incarceration assessment reports;

(g) any relevant information which may be submitted by the prisoner, the victim of his crime, or by other persons;

(h) the prisoner’s parole plan;

(i) the record of his conduct while imprisoned;

(j) such other relevant information concerning the prisoner as may be reasonably available.”