

I Mina'trentai Siette Na Liheslaturan Guåhan  
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
131-37 (COR)	Chris Barnett Therese M. Terlaje Sabina Flores Perez Christopher M. Dueñas Thomas J. Fisher Joanne Brown Dwayne T.D. San Nicolas Jesse A. Lujan Telo T. Taitague	AN ACT TO AMEND §§ 40.15(c)(5), 40.20(f), 40.60(a)(7), 40.60(b) AND TO ADD NEW §§ 40.15(e) & (f) AND 40.20(h) & (i) TO CHAPTER 40, TITLE 8 GUAM CODE ANNOTATED RELATIVE TO REQUIRING JUDGES TO ORDER RISK ASSESSMENTS OF CERTAIN DEFENDANTS PRIOR TO GRANTING PRETRIAL RELEASE.	6/5/23 8:29 a.m.						

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

**Bill No. 131-37 (COR)**

Introduced by:

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**AN ACT TO AMEND §§ 40.15(c)(5), 40.20(f), 40.60(a)(7),  
40.60(b) AND TO ADD NEW §§ 40.15(e) & (f) AND 40.20(h)  
& (i) TO CHAPTER 40, TITLE 8 GUAM CODE  
ANNOTATED RELATIVE TO REQUIRING JUDGES TO  
ORDER RISK ASSESSMENTS OF CERTAIN  
DEFENDANTS PRIOR TO GRANTING PRETRIAL  
RELEASE.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
3 Guam's pretrial release and bail laws allow judges the discretion to release or detain  
4 defendants charged with crimes. The law also gives judges the discretion to conduct  
5 risk assessments that might predict whether a defendant is likely to reoffend while  
6 on pretrial release.

7 *I Liheslaturan Guåhan* further finds that many cases involving defendants  
8 who were released pending trial have committed additional crimes, while on pretrial  
9 release, including violent crimes. In many such cases, no risk assessments were  
10 ordered by the judge prior to granting releases. While all defendants are entitled to  
11 due process, the right to a speedy trial and protection excessive bail under the Bill

1 of Rights, all courts have held that a defendant who poses a danger to the community  
2 can be detained until a jury verdict is rendered. It is incumbent upon the court,  
3 however, to order risks assessments on certain defendants to determine the  
4 defendant's risk probability of committing a crime while on pretrial release.

5 It is the intent of *I Liheslaturan Guåhan* to require that risk assessments be  
6 ordered prior to the release on personal recognizance or on bail for defendants  
7 charged with a violent crime, family violence, a crime while on pretrial release,  
8 violation of a protective order and for those previously convicted of a violent crime.

9 **Section 2.** § 40.15(c)(5) of Chapter 40, Title 8 Guam Code Annotated is  
10 *amended* to read as follows:

11 “(5) lethality/violence risk assessments or other risk assessments  
12 deemed appropriate by the Judiciary of Guam for defendants charged in  
13 Superior Court or Family Court; and”

14 **Section 3.** New paragraphs (e) and (f) are *added* to § 40.15 of Chapter 40,  
15 Title 8 Guam Code Annotated to read as follows:

16 “(e) A judge shall order a lethality/violence risk assessment for the  
17 following defendants charged in Superior Court or Family Court:

18 (1) A defendant charged with a violent crime.

19 (2) A defendant charged with Family Violence.

20 (3) A defendant previously convicted of a violent crime.

21 (4) A defendant charged with a crime while on pretrial release or  
22 post-conviction release pending appeal.

23 (5) A defendant charged with a violation of an order of  
24 protection.

25 (f) For purposes of this Section a violent crime is any of the following:

26 (1) Violent Crime as defined by (§ 80.37.2 9 GCA),

27 (2) Third Degree Criminal Sexual Conduct (§ 25.25 9 GCA),



- (3) Fourth Degree Criminal Sexual Conduct (§ 25.30 9 GCA),  
(4) Assault with Intent to Commit Criminal Sexual Conduct (§  
25.35 9 GCA),  
(5) Human Trafficking and Criminal Exploitation (Chapter 26, 9  
GCA),  
(6) Terroristic Conduct (§ 19.50, 9 GCA),  
(7) Terrorizing (§ 19.60, 9 GCA),  
(8) Stalking (§ 19.70, 9 GCA),  
(9) Strangulation (§ 19.80, 9 GCA),  
(10) Home Invasion (Chapter 37 Article 2 9 GCA),  
(11) Carjacking (Chapter 37 Article 3 9 GCA),  
(12) Any crime involving the intimidation, bribery or tampering  
with witnesses or the destruction or falsification of evidence (Chapter  
52, 9 GCA), and  
(13) Attempt, Solicitation or Conspiracy to commit a violent  
crime, *supra* (Chapter 13, 9 GCA)."

**Section 4** § 40.20(f) of Chapter 40, Title 8 Guam Code Annotated is *amended*  
to read as follows:

"(f) require the person charged with family violence, a crime of  
violence or violation of a protective order to undergo a lethality/violence risk  
assessment or other risk assessments deemed appropriate by the Judiciary of  
Guam; or"

**Section 5.** New paragraphs (h) and (i) are *added* to § 40.20 of Chapter 40,  
Title 8 Guam Code Annotated to read as follows:

"(h) A judge shall order a lethality/violence risk assessment for the  
following defendants:

- (1) A defendant charged with a violent crime.

1           (2) A defendant charged with Family Violence.

2           (3) A defendant previously convicted of a violent crime.

3           (4) A defendant charged with a crime while on pretrial release or  
4 post-conviction release pending appeal.

5           (5) A defendant charged with a violation of an order of  
6 protection.

7           (i) For purposes of this Section a violent crime is any of the following:

8               (1) Violent Crime as defined by (§ 80.37.2 9 GCA),

9               (2) Third Degree Criminal Sexual Conduct (§ 25.25 9 GCA),

10              (3) Fourth Degree Criminal Sexual Conduct (§ 25.30 9 GCA),

11              (4) Assault with Intent to Commit Criminal Sexual Conduct (§  
12 25.35 9 GCA),

13              (5) Human Trafficking and Criminal Exploitation (Chapter 26, 9  
14 GCA),

15              (6) Terroristic Conduct (§ 19.50, 9 GCA),

16              (7) Terrorizing (§ 19.60, 9 GCA),

17              (8) Stalking (§ 19.70, 9 GCA),

18              (9) Strangulation (§ 19.80, 9 GCA),

19              (10) Home Invasion (Chapter 37 Article 2 9 GCA),

20              (11) Carjacking (Chapter 37 Article 3 9 GCA),

21              (12) Any crime involving the intimidation, bribery or tampering  
22 with witnesses or the destruction or falsification of evidence (Chapter  
23 52, 9 GCA), and

24              (13) Attempt, Solicitation or Conspiracy to commit a violent  
25 crime, *supra* (Chapter 13, 9 GCA)."

26           **Section 6.** § 40.60(a)(7) of Chapter 40, Title 8 Guam Code Annotated is  
27 *amended* to read as follows:

1                   “(7) requires the person charged, in the Superior Court or Family  
2                   Court, with family violence, a violent crime or violation of a protective  
3                   order to undergo a lethality/violence risk assessment or other risk  
4                   assessments deemed appropriate by the court.”

5                   **Section 7.** § 40.60(b) of Chapter 40, Title 8 Guam Code Annotated is *amended*  
6                   to read as follows

7                   “(b) For any person charged, in the Superior Court or Family Court,  
8                   with family violence or a violent crime, a judge may issue an order for  
9                   electronic monitoring or an order for risk assessment without application of  
10                  the prosecuting attorney.”

11                  **Section 8. Effective Date**

12                  This Act is effective ninety (90) days following the date of enactment. The  
13                  Guam Supreme Court may extend the effective date by an additional ninety (90)  
14                  days in the event that the Superior Court of Guam is unable to implement the  
15                  provisions of this Act within ninety (90) days from the date of enactment.