

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 99-32(LS)

Introduced by:

Brant T. McCreddie 

**AN ACT TO AMEND §80.60 OF ARTICLE 4,
CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO CLARIFYING MINIMUM
SENTENCES FOR CRIMES.**

2013 APR 26 AM 10:27

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that,
3 over time, past legislatures have set minimum sentences in the criminal code for a
4 broad spectrum of crimes and offenses. Additionally, as the criminal code has been
5 amended and expanded over time, the language regarding minimum sentencing has
6 become muddled. *I Liheslaturan Guåhan* further finds that clarification of minimum
7 mandatory sentencing is needed to protect the people's interest in the sentencing of
8 convicted persons.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to clarify what "minimum"
10 means by amending §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated.

11 **Section 2.** §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated, is
12 hereby *amended* to read:

13 **“§ 80.60. Standards for Imposing or Withholding Probation.**

14 (a) When Sentence May Not Require Prison Term. The court, in its
15 discretion, may make disposition in respect to any person who has been
16 convicted of a crime without imposing sentence of imprisonment unless a

1 minimum term is made mandatory by a provision of ~~[sic] Guam Codes~~ the Guam
2 Code Annotated.

3 “Minimum” wherever it appears in this Code means, for purposes of
4 imposing punishment upon a person convicted of a crime, that the court shall
5 impose the entire term of confinement, the full amount of the fine and the
6 complete requirement of community service prescribed by law. The court shall
7 not suspend in full or in part any punishment described as minimum punishment.

8 When used for the purpose of describing or requiring a sentence of
9 incarceration imposed pursuant to this Code, the terms “minimum,” “mandatory,”
10 “minimum mandatory”, “mandatory minimum”, “minimum sentence of”, “a
11 sentence of no less than”, “a sentence of at least” and any derivative thereof shall
12 be construed as being synonymous.

13 (b) Notwithstanding Subsection (a) the court shall not suspend imposition
14 of sentence or place an offender on probation if, having due regard to the nature
15 and circumstances of the crime and the history, character and condition of the
16 offender, the court finds that imprisonment is necessary for the protection of the
17 public because:

18 (1) there is undue risk that during the period of a suspended
19 sentence or probation the offender would commit another crime;

20 (2) the offender is in need of correctional treatment that can be
21 provided most effectively by commitment to an institution; or

22 (3) a lesser sentence would depreciate the seriousness of the
23 offender's crime.

24 (c) The following factors, while not controlling, shall be accorded weight
25 in determining whether to suspend imposition of sentence or to place the
26 offender on probation whether:

1 (1) The offender's criminal conduct neither caused nor threatened
2 serious harm.

3 (2) The offender did not contemplate that his criminal conduct
4 would cause or threaten serious harm.

5 (3) There were substantial grounds tending to excuse or justify the
6 offender's criminal conduct, though failing to establish a defense.

7 (4) The offender has compensated or will compensate the victim of
8 his criminal conduct for the damage or injury which was sustained.

9 (5) The offender has no history of prior delinquency or criminal
10 activity or has led a law-abiding life for a substantial period of time before
11 the commission of the present crime.

12 (6) The offender is particularly likely to respond affirmatively to
13 probationary treatment.

14 (d) If a person who has been convicted of a crime is not sentenced to
15 imprisonment, the court shall place him on probation if he is in need of the
16 supervision, guidance, assistance or direction that probation can provide.”

17 **Section 3. Effective Date.** This Act shall be effective upon enactment.

18 **Section 4. Severability.** *If any provision of this Law or its application to any*
19 *person or circumstance is found to be invalid or contrary to law, such invalidity shall*
20 *not affect other provisions or applications of this Law which can be given effect*
21 *without the invalid provisions or application, and to this end the provisions of this*
22 *Law are severable.*