

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (First) Regular Session

Bill No. ^{LSM} 161-32 (COR)

Introduced by:

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Manuel Resplido

AN ACT RELATIVE TO THE ESTABLISHMENT OF A
GUAM VETERANS COURT WITHIN THE JUDICIARY
OF GUAM; THROUGH ADDING A NEW SUBSECTION
"D" TO §2101 OF CHAPTER 2, DIVISION 1, TITLE 7,
GUAM CODE ANNOTATED; THIS ACT SHALL
HENCEFORTH BE REFERRED TO AS THE "JUSTICE
FOR VETERANS ACT OF 2013".

ANTHONY ADA
B. J. McCreedy
T. Manicom
JUN 20 PM 3:25

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Establishment of a Guam Veterans Court within the Judiciary of
3 Guam.

4 A new subsection "d" is hereby added to §2101 of Chapter 2, Division 1,
5 Title 7, Guam Code Annotated, relative to the establishment of a Guam Veterans
6 Court, which shall read as follows:

7 "(d). Establishment of the Guam Veterans Court.

8 GUAM VETERANS COURT

9 JUSTICE FOR VETERANS ACT OF 2013

10 A. Legislative Findings and Intent.

11 I Liheslaturan Guahan recognizes that veterans, to include active, Reserve
12 and National Guard servicemembers, have provided or are currently providing an
13 invaluable service to our country. In so doing, some may suffer the effects of,
14 including but not limited to, post traumatic stress disorder, traumatic brain injury,

1 depression and may also suffer drug and alcohol dependency or addiction and co-
2 occurring mental illness and substance abuse problems. As a result of this, some
3 veterans or active duty servicemembers come into contact with the criminal justice
4 system and are charged with felony or misdemeanor offenses. There is a critical
5 need for the criminal justice system to recognize these veterans, provide
6 accountability for their wrongdoing, provide for the safety of the public and
7 provide for the treatment of our veterans. It is the intent of I Liheslaturan Guahan
8 to create a specialized veteran court program with the necessary flexibility to meet
9 the specialized problems faced by these veteran defendants.

10 **B. Definitions.**

11 The following terms, as utilized throughout this Act, shall be defined as
12 follows:

- 13 a. "Guam Veterans Court program", means a court program that includes a
14 pre-adjudicatory and a post-adjudicatory court program for veterans.
- 15 b. "Court" means the Guam Veterans Court.
- 16 c. "VAO" means the Guam Veterans Affairs Office.
- 17 d. "Post-adjudicatory Guam Veterans Court Program" means a program in
18 which the defendant has admitted guilt or has been found guilty and
19 agrees, along with the prosecution, to enter the Guam Veterans Court
20 program as part of the defendant's sentence.
- 21 e. "Pre-adjudicatory Guam Veterans Court Program" means a program that
22 allows the defendant with the consent of the prosecution, to expedite the
23 defendant's criminal case before conviction or before filing of a criminal
24 case and requires successful completion of the Guam Veterans Court
25 programs as part of the agreement.
- 26 f. "VA" means the United States Department of Veterans' Affairs.

- 1 g. "Veteran" means a person who has served, or is currently serving, in the
2 U. S. Armed Forces, to include the Army, Air Force, Marines, Navy, or
3 Coast Guard, and who was discharged or released therefrom under
4 conditions other than dishonorable.
- 5 h. "Guam Veterans Court professional" means a judge, prosecutor, defense
6 attorney, probation officer, or treatment provider involved with the Court
7 program.
- 8 i. "Guam Veterans Court" means a court or program with an immediate and
9 highly structured judicial intervention process for substance abuse
10 treatment, mental health, or other assessed treatment needs of eligible
11 veteran defendants that brings together substance abuse professionals,
12 mental health professionals, VA professionals, local social programs and
13 intensive judicial monitoring in accordance with the nationally
14 recommended 10 key components of drug courts.

15 **C. Authorization.**

16 The Chief Justice of the Judiciary of Guam, with the consideration of the
17 Judicial Council, may establish a Guam Veterans Court program in accordance
18 with the provisions contained in this Act. The Guam Veterans Court may, at the
19 discretion of the Chief Justice, be a separate court or a program of a drug court
20 within the Judiciary of Guam.

21 **D. Eligibility.**

22 Veterans are eligible for the Guam Veterans Court, in accordance with the
23 following provisions:

- 24 a. A defendant may be admitted into the Guam Veterans Court program
25 only upon the agreement of the prosecutor and the defendant and with
26 the approval of the Court.

1 b. A defendant shall be excluded from Guam Veterans Court program if
2 any of one of the following applies:

3 (1) The crime is a crime of violence as set forth in subsection “(c)” of
4 §80.50 of Article 2, Chapter 80, Title 9, Guam Code Annotated.

5 (2) The defendant does not demonstrate a willingness to participate in
6 a treatment program.

7 (3) The defendant has been convicted of a crime of violence within
8 the past 10 years excluding incarceration time, including but not
9 limited to: first degree murder, second degree murder, predatory
10 criminal sexual assault of a child, aggravated criminal sexual
11 assault, criminal sexual assault, armed robbery, aggravated arson,
12 arson, aggravated kidnapping and kidnapping, aggravated battery
13 resulting in great bodily harm or permanent disability, stalking,
14 aggravated stalking, or any offense involving the discharge of a
15 firearm or where occurred serious bodily injury or death to any
16 person.

17 (4) The defendant has previously completed or has been discharged
18 from a Veterans Court program within three years of that
19 completion or discharge.

20 **E. Procedure.**

21 a. The Court shall order the defendant to submit to an eligibility
22 screening and an assessment through the VA and/or the VAO to
23 provide information on the defendant's veteran status.

24 b. The Court shall order the defendant to submit to an eligibility
25 screening and mental health and drug/alcohol screening and
26 assessment of the defendant by the VA or by the VAO to provide
27 assessment services for the Guam Court. The assessment shall include

1 a risks assessment and be based, in part, upon the known availability
2 of treatment resources available to the Guam Veterans Court. The
3 assessment shall also include recommendations for treatment of the
4 conditions which are indicating a need for treatment under the
5 monitoring of the Court and be reflective of a level of risk assessed
6 for the individual seeking admission. An assessment need not be
7 ordered if the Court finds a valid screening and/or assessment related
8 to the present charge pending against the defendant has been
9 completed within the previous 60 days.

10 c. The judge shall inform the defendant that if the defendant fails to meet
11 the conditions of the Guam Veterans Court program, eligibility to
12 participate in the program may be revoked and the defendant may be
13 sentenced or the prosecution continued as provided in Guam law for
14 the crime charged.

15 d. The defendant shall execute a written agreement with the Court as to
16 his or her participation in the program and shall agree to all of the
17 terms and conditions of the program, including but not limited to the
18 possibility of sanctions or incarceration for failing to abide or comply
19 with the terms of the program.

20 e. In addition to any conditions authorized under existing Guam law,
21 Court may order the defendant to complete substance abuse treatment
22 in an outpatient, inpatient, residential, or jail-based custodial treatment
23 program, order the defendant to complete mental health counseling in
24 an inpatient or outpatient basis, comply with physicians'
25 recommendation regarding medications and all follow up treatment.
26 This treatment may include but is not limited to post-traumatic stress
27 disorder, traumatic brain injury and depression.

1 **F. Mental health and substance abuse treatment.**

- 2 a. The Guam Veterans Court program may maintain a network of
3 substance abuse treatment programs representing a continuum of
4 graduated substance abuse treatment options commensurate with the
5 needs of defendants; these shall include programs with the VA, VAO,
6 and Guam community-based programs supported and sanctioned by
7 either or both.
- 8 b. Any substance abuse treatment program to which defendants are
9 referred must meet all of the rules and governing programs as
10 established in Guam law.
- 11 c. The Guam Veterans Court program may, in its discretion, employ
12 additional services or interventions, as it deems necessary on a case by
13 case basis.
- 14 d. The Guam Veterans Court program may maintain or collaborate with
15 a network of mental health treatment programs and, if it is a co-
16 occurring mental health and substance abuse court program, a network
17 of substance abuse treatment programs representing a continuum of
18 treatment options commensurate with the needs of the defendant and
19 available resources including programs with the VA, the VAO, and
20 the community of Guam.

21 **G. Violation; termination; discharge.**

- 22 a. If the Court finds from the evidence presented including but not
23 limited to the reports or proffers of proof from the Guam Veterans
24 Court professionals that:
- 25 (1) the defendant is not performing satisfactorily in the assigned
26 program;

1 (2) the defendant is not benefitting from education, treatment, or
2 rehabilitation;

3 (3) the defendant has engaged in criminal conduct rendering him or
4 her unsuitable for the program; or

5 (4) the defendant has otherwise violated the terms and conditions of
6 the program or his or her sentence or is for any reason unable to
7 participate; the Court may impose reasonable sanctions under prior
8 written agreement of the defendant, including but not limited to
9 imprisonment or dismissal of the defendant from the program and the
10 Court may reinstate criminal proceedings against him or her or
11 proceed consistent with Guam law for a violation of probation,
12 conditional discharge, or supervision hearing.

13 b. Upon successful completion of the terms and conditions of the
14 program, the Court may dismiss the original charges against the
15 defendant or successfully terminate the defendant's sentence or
16 otherwise discharge him or her from any further proceedings against
17 him or her in the original prosecution.

18 **H. Schedule of Fees for the Guam Veterans Court.**

19 The Chief Justice of the Judiciary of Guam, with the consideration of the
20 Judicial Council, may establish a fee schedule to supplement the cost for the
21 conduct of the Guam Veterans Court. The creation of such fees, if deemed
22 necessary, shall be established in accordance with the Administrative Adjudication
23 Act requirements as set forth in law.

24 **I. Guam Veterans Court Budget.**

25 The Judiciary of Guam shall include in its annual budgetary submission to I
26 Liheslaturan Guahan, the sums necessary to finance the operation and conduct of
27 the Guam Veterans Court. Such funding request, upon the establishment and full

1 operation of the Guam Veterans Court, shall include a report on the number of
2 veterans who have or who are currently participating in the Guam Veterans Court
3 program.”

4 **Section 2. Funding Requirements for the Establishment of the Guam Veterans**
5 **Court.**

6 The Chief Justice, upon the adoption of a resolution by the Judicial Council
7 endorsing the official establishment of a Guam Veterans Court, may forward a
8 request to I Liheslaturan Guahan for the funding necessary to realize the
9 establishment of the Court. Although local funding may become available for the
10 operational requirements of the Guam Veterans Court, the Judiciary of Guam shall
11 prioritize the pursuit of federal funds or other available funding sources both
12 nationally or locally, prior to any such request for local government fund support.
13 It is therefore the intent for the Judiciary of Guam to acquire funds through
14 alternative funding sources prior to the application and use of local government
15 funds, when and if available.

16 **Section 3. Severability Clause.**

17 If any provision of this Act or its application to any person or circumstance
18 is held invalid, the invalidity shall not affect other provisions or applications of this
19 Act which can be given effect without the invalid provision or application.

20 **Section 4. Effective Date.**

21 The provisions contained herein shall be effective immediately upon
22 enactment of this Act.