

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 298-32 (COR)

Introduced by:

Brant T. McCreadie
V. Anthony Ada
T.A. Morrison

**AN ACT TO AMEND §§ 67.401.4 AND 67.401.9 OF
CHAPTER 67, TITLE 9 GUAM CODE ANNOTATED
RELATIVE TO PUNISHMENT FOR THE
DELIVERY, DISPENSING, MANUFACTURING AND
IMPORTATION OF CONTROLLED SUBSTANCES,
WHICH MAY BE CITED AS THE
“METHAMAPHETAMINE INCARCERATION
REFORM ACT OF 2014”.**

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

2 **Section 1. Short Title.** This act shall be cited as the “*Methamphetamine*
3 *Incarceration Reform Act of 2014*”.

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
5 drugs, and in particular, extremely addictive drugs such as Cocaine, Heroin and
6 Methamphetamine, have had an extremely negative impact on our community. They
7 have destroyed families, increased crime and placed an extreme burden on
8 government services. Many of the crimes committed on Guam, such as burglary, theft
9 and even assault have drug use and abuse as a causative circumstance. More must be
10 done to limit, and hopefully eliminate, the importation and distribution of these deadly
11 substances on Guam. Increasing the sentences for individuals who manufacture,
12 distribute or import controlled substances, or attempt to do so will serve as a deterrent
13 to potential criminals.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* to set increased sentences
2 for those offenders who choose to import controlled substances into Guam as well as
3 those who bring in controlled substances with the intent to deliver, dispense or
4 manufacture by amending §67.401.4 and §67.401.9 of Chapter 67, Title 9 Guam Code
5 Annotated.

6 **Section 4.** §67.401.4 of Chapter 67, Title 9 Guam Code Annotated is hereby
7 *amended* to read:

8 **“§ 67.401.4. Prison Terms for Drug Offenders.**

9 Any person who is convicted of an offense pursuant to § 67.401.1 of this
10 Act shall be sentenced as follows:

11 (a) If he is guilty of an offense pursuant § 67.401.1(b)(1) of this
12 Act, he shall be sentenced to imprisonment for not less than ~~ten (10)~~
13 twenty (20) nor more than ~~twenty (20)~~ thirty (30) years and may, in
14 addition, be fined not more than Fifty Thousand Dollars (\$50,000.00). The
15 sentence shall include a special parole term of not less than three (3) years
16 in addition to such term of imprisonment. Imposition or execution of such
17 sentence shall not be suspended and probation shall not be granted. Parole
18 or work release shall not be granted to the offender until he has served at
19 least ~~ten (10)~~ twenty (20) years of his sentence ~~or~~ of imprisonment.

20 (b) If he is guilty of an offense pursuant to § 67.401.1(b)(1) of this
21 Act and if he has been convicted on one (1) or more felonies under any
22 provision of this Act, any law of the United States relating to controlled
23 substances or for any offense under state or foreign law relating to
24 narcotic drugs listed in Schedule I as per Appendix A of this Act or
25 Schedule II as per Appendix B of this Act which offense would be a
26 felony under this Act and one (1) or more of the convictions are final, he

1 shall be sentenced to a term of imprisonment which shall not be less than
2 fifteen (15) years and which may be up to life imprisonment without the
3 possibility of parole, and may, in addition, be fined not more than One
4 Hundred Thousand Dollars (\$100,000.00). The sentence, if for a term of
5 years, shall include a special parole term of not less than six (6) years in
6 addition to such term of imprisonment. Imposition of execution of such
7 sentence shall not be suspended, and probation shall not be granted.
8 Parole or work release shall not be granted to the offender until he has
9 served at least fifteen (15) years of his sentence of imprisonment.

10 (c) If he is guilty of an offense pursuant to § 67.401.1(a) of this Act
11 committed while he was released on bail pursuant to Chapter 40 of Title 8
12 of the Guam Code Annotated, Criminal Procedure, on a charge of
13 violating § 67.401.1(a), he shall be sentenced to a term of imprisonment
14 which shall not be less than fifteen (15) years and which may be up to life
15 imprisonment and, in addition, may be fined not more than One Hundred
16 Thousand Dollars (\$100,000.00). The sentence, if for a term of years,
17 shall include a special parole term of not less than six (6) years in addition
18 to such term of imprisonment. Imposition or execution of such sentence
19 shall not be suspended and probation shall not be granted. Parole or work
20 release shall not be granted to the offender until he has served at least
21 fifteen (15) years of sentence of imprisonment.

22 (d) The imposition of a minimum term of imprisonment and the
23 prohibitions against suspension of sentence and granting of probation and
24 requirement for service of a minimum term of imprisonment prior to
25 granting parole as prescribed by Subsections (a), (b) and (c) of this
26 Section shall not apply in the case of a person whom the court determines

1 violated § 67.401.1(a) of this Act for the primary purpose of enabling him
2 to obtain a narcotic drug which he requires for his personal use because of
3 his addiction to such drug.

4 (e) If he is guilty of an offense involving a controlled substance
5 listed in Schedule I or II of this Act which is not a narcotic drug or a
6 controlled substance listed in Schedule III of this Act he shall be
7 sentenced to a term of imprisonment of not more than five (5) years and
8 may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The
9 sentence shall include a special parole term of not less than two (2) years
10 in addition to such term of imprisonment. Imposition or execution of such
11 sentence shall not be suspended and probation shall not be granted.

12 (f) If he is guilty of an offense involving a controlled substance
13 listed in Schedule I or II of this Act which is not a narcotic drug or a
14 controlled substance in Schedule III of this Act and if he has been
15 convicted of one (1) or more prior offenses punishable under the
16 provisions of Subsection (e) of this Section, a felony under any provision
17 of this Act, any law of the United States, a state or foreign jurisdiction
18 relating to narcotic drugs, marijuana, or depressant or stimulant
19 substances and one (1) or more of the convictions are final, he shall be
20 sentenced to a term of imprisonment of not more than ten (10) years and,
21 in addition, may be fined not more than Thirty Thousand Dollars
22 (\$30,000.00). The sentence shall include a special parole term of at least
23 two (2) years in addition to such term of imprisonment. Imposition or
24 execution of such sentence shall not be suspended and probation shall not
25 be granted. Parole or work release shall not be granted to the offender
26 until he has served at least ten (10) years of his sentence of imprisonment.

1 (g) If he is guilty of an offense involving a controlled substance
2 listed in Schedule IV of this Act he shall be sentenced to a term of
3 imprisonment of not more than three (3) years and may, in addition, be
4 fined not more than Ten Thousand Dollars (\$10,000.00). The sentence
5 shall include a special parole term of not less than one (1) year in addition
6 to such term of imprisonment. Imposition or execution of such sentence
7 shall not be suspended and probation shall not be granted.

8 (h) If he is guilty of an offense involving a controlled substance
9 listed in Schedule IV of this Act and if he has been convicted of a felony
10 under a provision of this Act; or a law of the United States, a state or
11 foreign jurisdiction relating to narcotic drugs, marijuana, or depressant or
12 stimulant substances, and such convictions are final, then he shall he
13 sentenced to a term of imprisonment of not more than six (6) years and, in
14 addition, may be fined not more than Twenty Thousand Dollars
15 (\$20,000.00). The sentence shall include a special parole term of at least
16 two (2) years in addition to such term of imprisonment. Imposition or
17 execution of such sentence shall not be suspended and probation shall not
18 be granted.

19 (i) If he is guilty of an offense involving a controlled substance
20 listed in Schedule V of this Act he shall be sentenced to a term of
21 imprisonment of not more than one (1) year or a fine of not more than
22 Five Thousand Dollars (\$5,000.00), or both. Imposition or execution of
23 such sentence shall not be suspended and probation shall not be granted.

24 (j) If he is guilty of an offense involving a controlled substance
25 listed in Schedule V of this Act and if he has been convicted of a felony
26 under a provision of this Act, or a law of the United States, a state or

1 foreign jurisdiction relating to narcotic drugs, marijuana, or depressant or
2 stimulant substances, and such convictions are final, then he shall be
3 sentenced to a term of imprisonment of not more than two (2) years or a
4 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.
5 Imposition or execution of such sentence shall not be suspended and
6 probation shall not be granted.

7 (k) Notwithstanding the provisions of this Section, any person who
8 is guilty of an offense pursuant to § 67.401.1(a) of this Act by distributing
9 less than one (1) pound of marijuana for no remuneration shall be
10 sentenced as provided in § 67.412 of this Act.

11 (l) A special parole term imposed under the provisions of §67.407
12 of this Act may be revoked if its terms and conditions are violated. In such
13 circumstances the original term of imprisonment shall be increased by the
14 period of the special parole term and the resulting new term of
15 imprisonment shall not be diminished by the time which was spent on
16 special parole. A person whose special parole term has been revoked may
17 be required to serve all or part of the remainder of the new term of
18 imprisonment. A special parole term provided for in § 67.407 of this Act
19 shall be, in addition to, and not in lieu of, any other parole provided for by
20 law.

21 (m) The Court may, in its sole discretion and after consultation with
22 the Attorney General, reduce the minimum sentence of imprisonment by
23 not more than twenty percent (20%) of the minimum term established by
24 law of a person sentenced pursuant to Subsections (a), (b) or (c) of this
25 Section if it finds such person was a pusher and if such person offers
26 credible and necessary evidence as to the identity of his supplier,

1 supervisor or as to the source of his supply of drugs. As used in this
2 Subsection, "pusher" means a person not engaged in a continuing criminal
3 enterprise as defined in § 67.409 of this Act and who sells controlled
4 substances in such a manner that the majority of the sales are to ultimate
5 users of said controlled substances.

6 (n) If the person is guilty of possession under § 67.401.2(b)(1)
7 within the Drug-Free School Zone, the person may be sentenced to a
8 maximum of three (3) years of imprisonment, which sentence shall not be
9 suspended nor shall the person be placed on probation, nor shall the
10 person be eligible for parole until completion of the mandatory term of
11 incarceration.

12 (o) Sentences in these cases shall also include mandatory
13 participation in a drug rehabilitation program at the Department of
14 Corrections."

15 **Section 4.** §67.401.9 of Chapter 67, Title 9 Guam Code Annotated is hereby
16 *amended* to read:

17 **“§67.401.9. Importation and Exportation Penalties.**

18 (a) Any person who:

19 (1) contrary to §§ 67.601 or 67.602 of this Act, knowingly or
20 intentionally imports or exports a controlled substance; or

21 (2) contrary to § 67.604 of this Act, knowingly or intentionally brings or
22 possesses on board a vessel or aircraft a controlled substance; or

23 (3) contrary to § 67.608 of this Act, manufacturers who distribute a
24 controlled substance shall be punished as provided in § 67.401.9(b).

25 (b) (1) In the case of an offense under Subsection (a) of this Section
26 involving a controlled substance listed in Schedules I, II, III, IV or V of this Act

1 which is a narcotic, the person guilty of such an offense shall be imprisoned not
2 less than ~~ten (10)~~ twenty (20) years nor more than ~~twenty (20)~~ thirty (30) years
3 and may, in addition, be fined not more than Fifty Thousand Dollars
4 (\$50,000.00). The sentence shall include a special parole term of not less than
5 three (3) years in addition to such terms of imprisonment.

6 (2) If he is guilty of an offense under Subsection (a) of this Section
7 and if he has been convicted on one (1) or more felonies under any provision of
8 this Act, any law of the United States relating to controlled substances or for
9 any offense under state or foreign law relating to narcotic drugs listed in
10 Schedule I as per Appendix A of this Act or Schedule II as per Appendix B of
11 this Act which offense would be a felony under this Act and one (1) or more of
12 the convictions are final, he shall be sentenced to a term of life imprisonment
13 without the possibility of parole, and may, in addition, be fined not more than
14 One Hundred Thousand Dollars (\$100,000.00).

15 ~~(2)~~ (3) In the case of an offense under Subsection (a) of this Section with
16 respect to a controlled substance other than a narcotic drug listed in Schedules I,
17 II, III, IV or V of this Act, the person guilty of such offense shall be imprisoned
18 for not less than three (3) years nor more than ten (10) years and may, in
19 addition, be fined not more than Fifteen Thousand Dollars (\$15,000.00). The
20 sentence shall, in addition to such term of imprisonment, include:

21 (A) a special parole term of not less than two (2) years if such
22 controlled substance is listed in Schedules I, II or III of this Act, or

23 (B) a special parole term of not less than one (1) year if such
24 controlled substance is listed in Schedule IV of this Act.

25 (c) The minimum term of imprisonment prescribed by Subsection (b)(1)
26 of this Section shall not apply in the case of a person whom the Court

1 determines violated Subsection (a)(1) of this Section for the primary purpose of
2 enabling him to obtain a narcotic drug which he requires for his personal use
3 because of his addiction to such drug. The Court shall take into consideration
4 the amount of the controlled substance imported in determining if the offender's
5 primary purpose is importation or exportation for his own use.

6 (d) In the case of any sentence under this Section, imposition or execution
7 of such sentence shall not be suspended and probation shall not be granted nor
8 shall parole or work release be granted until the person has served the minimum
9 term of imprisonment.

10 A special parole term imposed under this Section or § 67.411 of this Act
11 may be revoked if its terms and conditions are violated. In such circumstances,
12 the original term of imprisonment shall be increased by the period of the special
13 parole term and the resulting new term of imprisonment shall not be diminished
14 by the time which was spent on special parole. A person whose special parole
15 term has been revoked may be required to serve all or part of the remainder of
16 the new term of imprisonment. The special term provided for in this Section
17 and in § 67.411 of this Act is in addition to and not in lieu of any other parole
18 provided for by law.

19 (e) Sentences in these cases shall also include mandatory participation in
20 a drug rehabilitation program at the Department of Corrections."

21 **Section 5.** The Director of Customs shall include in a prominent location of
22 the Guam Customs Declaration form the following:

23 "Pursuant to §67.401.4 & §67.401.9 of Chapter 67, Title 9 Guam Code
24 Annotated, any person who is found guilty of manufacturing, delivering or possessing
25 with intent to manufacture, deliver or dispense controlled substances as identified in
26 Guam law; or found guilty of importing a controlled substance, shall be sentenced to a

1 minimum of 20 years and maximum of 30 years for the first offense, and shall be
2 sentenced to LIFE IMPRISONMENT WITHOUT PAROLE for a subsequent
3 offense.”

4 **Section 6. Effective Date.** This act shall be effective immediately upon
5 enactment. The Director of Customs shall have one hundred twenty (120) days to
6 comply with Section 4 of this act.

7 **Section 7. Severability.** *If* any provision of this Law or its application to any
8 person or circumstance is found to be invalid or contrary to law, such invalidity shall
9 *not* affect other provisions or applications of this Law which can be given effect
10 without the invalid provisions or application, and to this end the provisions of this
11 Law are severable.