

MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 68/LS)

Introduced by:

F. F. Blas, Jr.
R. Tenorio

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**AN ACT TO *ADD* ARTICLE 4 TO TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
INSTITUTING A GOOD TIME ALLOWANCE
PROGRAM WITHIN THE DEPARTMENT OF
CORRECTIONS AND TO CITE THE ACT AS "*THE
GOOD TIME BEHAVIOR ALLOWANCE ACT OF
2009.*"**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Article 4 is hereby *added* to Title 9 of the Guam Code Annotated
to read as follows:

"Article 4.

Good Time Allowance Program.

Section 90.85.

Title.

Section 90.86.

Definitions.

Section 90.87.

Entitlement.

Section 90.88.

**Rules and regulations for behavior and
conduct, penalties, and the awarding,
denying and revocation of good
behavior allowance.**

Section 90.89.

Severability.

1
2 **Section 90.85. Title.** This Act shall be known and may be referred to
3 cited as the ***“Good Time Behavior Allowance Act of 2009.”***

4 **Section 90.86. Definitions.** For the purposes of this Act, the
5 following words and phrases are defined to mean:

6 *“Director”* means the person appointed by *I Maga’lahen Guåhan* subject
7 to the advice and consent of *I Liheslaturan Guåhan*, to be in charge of the
8 overall operations of the Department of Corrections.

9 *“Good behavior”* means the successful completion of an established
10 rehabilitation program within the Department of Corrections, conducted by a
11 licensed clinical psychologist and compliance by a person with all rules and
12 regulations of the institution and all laws of the territory while confined in a
13 territorial jail.

14 *“Good behavior allowance”* means the number of days awarded in
15 diminution of sentence as a reward for good behavior.

16 *“Date of sentence”* means and includes the date of the calendar month on
17 which the person commences to serve the sentence. If the sentence commences
18 at midnight, date of sentence shall be the date of the day occurring one minute
19 after midnight.

20 **Section 90.87. Entitlement.** (a) The good behavior of any
21 person who commences a sentence of confinement at the Department of
22 Corrections for a fixed term of imprisonment, starting in 2000, shall entitle such
23 person to a good behavior allowance, except that:

24 (1) a person who inflicted physical harm upon another person in
25 committing the offense for which he is confined shall receive no good
26 behavior allowance; and

1 (2) a person sentenced for an offense for which the law provides
2 a mandatory minimum sentence shall not receive any portion of a good
3 behavior allowance that would reduce the sentence below the mandatory
4 minimum; and

5 (3) a person sentenced to a county impact incarceration
6 program.

7 (b) The good behavior allowance provided for in this Article shall not
8 apply to individuals sentenced for a felony to probation or conditional discharge
9 where a condition of such probation or conditional discharge is that the
10 individual serve a sentence of periodic imprisonment or to individuals
11 sentenced under an order of court for civil contempt.

12 (c) Such good behavior allowance shall be cumulative and awarded as
13 provided in this Article.

14 (d) The good behavior allowance rate shall be cumulative and awarded
15 on the following basis:

16 (1) The inmate shall receive up to ten (10) days of good
17 behavior allowance for successfully completing an established
18 rehabilitation program. Each day of good behavior allowance shall
19 reduce by one day the inmate's period of incarceration set by the court.

20 (e) If consecutive sentences are served and the time served amounts to
21 a total of one year or more, the good behavior allowance shall be calculated on
22 a continuous basis throughout the entire time served beginning on the first date
23 of sentence or incarceration, as the case may be.

24 **Section 90.88. (a) Rules and regulations for behavior and**
25 **conduct, penalties, and the awarding, denying and revocation of good**
26 **behavior allowance.** Within three (3) months after the effective date of this
27 Act, the director or his designee and the clinical psychologists who supervises

1 institutions, under this Act shall meet and agree upon uniform rules and
2 regulations for behavior and conduct, penalties, and the awarding, denying and
3 revocation of good behavior allowance, in such institutions; and such rules and
4 regulations shall be immediately promulgated and consistent with the
5 provisions of this Act.

6 **(b) Interim Rules.** Interim rules shall be provided by the director
7 or his designee consistent with the provision of this Article and shall be
8 effective until the promulgation of uniform rules. All disciplinary action shall
9 be consistent with the provisions of this Act. Committed persons shall be
10 informed of rules of behavior and conduct, the penalties for violation thereof,
11 and the disciplinary procedure by which such penalties may be imposed. Any
12 rules, penalties and procedures shall be posted and made available to the
13 committed persons.

14 (b) Whenever a person is alleged to have violated a rule of behavior, a
15 written report of the infraction shall be filed with the director or his designee
16 within Seventy-two (72) hours of the occurrence of the infraction or the
17 discovery of it, and such report shall be placed in the file of the institution or
18 facility. No disciplinary proceeding shall be commenced more than eight (8)
19 days after the infraction or the discovery of it, unless the committed person is
20 unable or unavailable for any reason to participate in the disciplinary
21 proceeding.

22 (c) All or any of the good behavior allowance earned may be revoked
23 by the director or his designee, unless he initiates the charge, and in that case by
24 the disciplinary board, for violations of rules of behavior at any time prior to
25 discharge from the institution, consistent with the provisions of this Act.

26 (d) In disciplinary cases that may involve the loss of good behavior
27 allowance or eligibility to earn good behavior allowance, the director or his

1 designee shall establish disciplinary procedures consistent with the following
2 principles:

3 (1) The director or his designee shall establish one or more
4 disciplinary boards, made up of one or more persons, to hear and
5 determine charges. Any person who initiates a disciplinary charge against
6 a committed person shall not serve on the disciplinary board that will
7 determine the disposition of the charge. In those cases in which the
8 charge was initiated by the director or his designee, director or his
9 designee shall establish a disciplinary board which will have the authority
10 to impose any appropriate discipline.

11 (2) Any committed person charged with a violation of rules of
12 behavior shall be given notice of the charge, including a statement of the
13 misconduct alleged and of the rules this conduct is alleged to violate, no
14 less than 24 hours before the disciplinary hearing.

15 (3) Any committed person charged with a violation of rules is
16 entitled to a hearing on that charge, at which time he shall have an
17 opportunity to appear before and address the director or his designee or
18 disciplinary board deciding the charge.

19 (4) The person or persons determining the disposition of the
20 charge may also summon to testify any witnesses or other persons with
21 relevant knowledge of the incident. The person charged may be permitted
22 to question any person so summoned.

23 (5) If the charge is sustained, the person charged is entitled to a
24 written statement, within fourteen (14) days after the hearing, of the
25 decision by the director or his designee or the disciplinary board which
26 determined the disposition of the charge, and the statement shall include

1 the basis for the decision and the disciplinary action, if any, to be
2 imposed.

3 (6) The director or his designee shall impose the discipline
4 recommended by the disciplinary board, or may reduce the discipline
5 recommended; however, no committed person may be penalized more
6 than thirty (30) days of good behavior allowance for any one infraction.

7 (7) The director or his designee, in appropriate cases, shall
8 restore good behavior allowance that has been revoked, suspended or
9 reduced.

10 **Section 90.89. Severability.** *If any of the provisions of this Act,*
11 *or the application thereof to any person or circumstance are held invalid, such*
12 *invalidity shall not affect any other provision or application of this Act, which*
13 *can be given effect without the invalid provision or application, and to this end*
14 *the provisions of this Act are severable.”*