

MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 42-33 (COR)

Introduced by:

Brant McCreadie 

**AN ACT TO REPEAL AND REENACT §58.60 OF
CHAPTER 58, TITLE 9 GUAM CODE ANNOTATED
RELATIVE TO THE CRIME OF PROMOTING
PRISON CONTRABAND; WHICH MAY BE CITED
AS THE CONTRABAND REFORM ACT OF 2015.**

2015 FEB 25 AM 11:12

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 correctional facilities require more stringent regulations regarding what items can and
4 cannot be brought into the facility. Unfortunately, current Guam law regarding prison
5 contraband is quite antiquated, and does not take into account the current needs of the
6 Department of Corrections to properly secure its facilities. Clarification in the law is
7 needed to properly define what items are prohibited along with appropriate penalties
8 for those who introduce, possess and promote contraband in correctional facilities. *I*
9 *Liheslaturan Guåhan* further finds that repealing and reenacting the prison contraband
10 statute will provide the Department of Corrections a more enforceable mandate that
11 can deter inmates, detainees and the general public from possessing contraband in
12 Guam's correctional facilities.

13 Therefore, it is the intent of *I Liheslaturan Guåhan* to repeal and reenact
14 §58.60 of Chapter 58, Title 9 Guam Code Annotated relative to the crime of
15 promoting prison contraband.

16 **Section 2.** §58.60 of Chapter 58, Title 9 Guam Code Annotated is hereby
17 *repealed* and *reenacted* to read:

1 **“§58.60. Promoting Prison Contraband.**

2 (a) As used in this section:

3 (1) "Contraband" means any article or thing that a person in custody who
4 is confined in a correctional facility is prohibited by statute, rule or policy from
5 obtaining or possessing and the use of which could endanger the safety or
6 security of the detention facility, any person therein, or the public.

7 (2) "Major contraband" means:

8 (A) Any controlled substance as defined by any provision of
9 Guam law;

10 (B) Any firearm or dangerous weapon including explosives or
11 combustibles or any plans or materials that may be used in the making or
12 manufacturing of such weapons, explosives or devices;

13 (C) Any telecommunication or digital equipment prohibited by
14 statute, rule or policy that provides communication, either in written or
15 verbal messages or through the transmission of electronic data via the
16 internet. Excluded from this definition is any device having
17 communication capabilities that has been approved by the facility head
18 for investigative or institutional security purposes or for conducting other
19 official business;

20 (D) Any object or instrument intended or reasonably likely to be
21 used in the planning or aiding in an escape or attempted escape from a
22 correctional facility.

23 (b) No person, including a person in custody as defined by this
24 Chapter, except as authorized by law or with permission of the facility head,
25 shall knowingly:

1 (A) Introduce, or attempt to introduce, contraband into a detention
2 facility or the grounds of a detention facility; or

3 (B) Convey, or attempt to convey, contraband to a prisoner
4 confined in a detention facility; or

5 (C) Possess, or attempt to possess, contraband within a detention
6 facility; or

7 (D) Receive, obtain or remove, or attempt to receive, obtain or
8 remove, contraband from a detention facility.

9 Any person, including a person in custody, who violates any provision of
10 this subsection shall be guilty of a misdemeanor, and on conviction thereof shall
11 be punished by a sentence of imprisonment for a period of no less than thirty
12 (30) days and or by a fine of no less than five hundred dollars (\$500.00), or by
13 both such minimum sentence of imprisonment and fine.

14 (c) No person, including a person in custody as defined by this
15 Chapter, except as authorized by law or with permission of the facility head,
16 shall knowingly:

17 (A) Introduce, or attempt to introduce, major contraband into a
18 correctional facility or the grounds of a detention facility; or

19 (B) Convey, or attempt to convey, major contraband to a prisoner
20 confined in a detention facility; or

21 (C) Possess, or attempt to possess, major contraband within a
22 detention facility; or

23 (D) Receive, obtain or remove, or attempt to receive, obtain or
24 remove, major contraband from a detention facility.

25 Any person, including a person in custody, who violates any provision of
26 subsection (c) of this section shall be guilty of a felony in the second degree and

1 on conviction shall be punished by a sentence of imprisonment for a period of
2 no less than three (3) years or by a fine of no less than five thousand dollars
3 (\$5,000), or by both such minimum sentence of imprisonment and fine.”

4 **Section 3. Effective Date.** This Act shall be effective immediately upon
5 enactment.

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