





I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
20-37 (COR)	William A. Parkinson Therese M. Terlaje Roy Anthony Benavente Quinata Dwayne T. D San Nicolas	AN ACT TO AMEND SECTIONS 2103 AND 2014 OF ARTICLE 1; SECTION 2201 OF ARTICLE 2; AND SECTIONS 2701, 2702, 2703 AND 2705 OF ARTICLE 7; ALL OF CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED; RELATIVE TO RESTORING ACCESS TO FEDERAL PUBLIC ASSISTANCE FOR OTHERWISE ELIGIBLE INDIVIDUALS WITH FELONY DRUG CONVICTIONS.	1/27/23 11:00 a.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 20-37 (COR)

Introduced by:

William A. Parkinson 
Therese M. Terlaje 
Roy A. B. Quinata 
Dwayne T. D. San Nicolas 

**AN ACT TO AMEND SECTIONS 2103 AND 2014
OF ARTICLE 1; SECTION 2201 OF ARTICLE 2;
AND SECTIONS 2701, 2702, 2703 AND 2705 OF
ARTICLE 7; ALL OF CHAPTER 2, TITLE 10,
GUAM CODE ANNOTATED; RELATIVE TO
RESTORING ACCESS TO FEDERAL PUBLIC
ASSISTANCE FOR OTHERWISE ELIGIBLE
INDIVIDUALS WITH FELONY DRUG
CONVICTIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

SECTION 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that whereas restrictions or limitations to rights, benefits, and opportunities as a
consequence of criminal conviction often serve a legitimate public safety or regulatory
function and are directly related to a particular crime, one such collateral sanction that
applies to Guam residents without regard to the relationship between the crime and
opportunity being restricted is the lifetime ban on public assistance for drug felonies
enforced under the federal Personal Responsibility and Work Opportunity
Reconciliation Act of 1996 (“PRWORA”), Pub. L. No. 104-193, section 115, 110 Stat.
2015.

1 Capturing the national zeitgeist of the time, PRWORA was signed into law by
2 then-President Clinton as a consequence of the Congress’ welfare reform priorities
3 during the “war on drugs” era. The omnibus measure included Section 115—a floor
4 amendment that duly passed with minimal discussion—which proposed a lifetime ban
5 permanently disqualifying otherwise eligible individuals from receiving public benefits
6 provided by the Supplemental Nutrition Assistance Program (“SNAP”) and Temporary
7 Assistance for Needy Families program (“TANF”) if they have been convicted of a
8 federal or state felony offense involving the possession, use, or distribution of a
9 controlled substance, as defined in Section 102(6) of the federal Controlled Substances
10 Act, 21 U.S.C. 802(c)), for conduct occurring on or after August 22, 1996.

11 Inasmuch as the permanent disqualification from receipt of public assistance
12 under PRWORA was rationalized as a means to deter drug use and reduce incidences
13 of welfare fraud, *I Liheslaturan Guåhan* finds this collateral sanction is both
14 underinclusive because it does not apply to drug users who have been convicted of non-
15 drug related felonies, and overinclusive because it permanently disallows public
16 assistance to people who have never engaged in fraudulent use of government benefits.

17 The American Bar Association’s (“ABA”) *Standards for Criminal Justice*
18 regarding collateral consequences and discretionary disqualifications of convicted
19 persons proscribes automatic sanctions that render persons ineligible to participate in
20 government programs providing necessities of life, including food, clothing, and
21 housing; or those that “without justification, [] frustrate a convicted person’s chances
22 of successfully reentering society.” Placing a heavy burden of justification on
23 legislatures, the ABA explicitly prohibits jurisdictions from imposing collateral
24 consequences on a person convicted of an offense “unless [] the conduct constituting
25 that particular offense provides so substantial a basis for imposing the sanction that the
26 legislature cannot reasonably contemplate any circumstances in which imposing the
27 sanction would not be justified.” Accordingly, *I Liheslaturan* finds that the possession,

1 use, or distribution of a controlled substance constituting a felony drug offense does not
2 justify the categorical imposition of a lifetime ban of public assistance on otherwise
3 eligible individuals based solely on a drug-related felony conviction.

4 It is therefore the intent of *I Liheslaturan Guåhan*, under the authority of
5 subsection (d)(1)(A) of 21 U.S.C. § 862a, to lift the federal ban under PRWORA as a
6 collateral sanction against Guam residents by electing to opt out of the provisions of 21
7 U.S.C. §§ 862a(a)(1) and (2) relative to the categorical ineligibility of individuals with
8 felony drug convictions to receive federally funded public assistance.

9 **SECTION 2.** Section 2103 of Article 1, Chapter 2, Title 10, Guam Code
10 Annotated, is hereby *amended* to read as follows:

11 **“§ 2103. Duties Generally.**

12 It shall be the duty of the Director to:

13 (a) Administer public assistance and child welfare services in
14 Guam, and in accord therewith to adopt such rules and regulations subject
15 to the approval of the Governor, as may be necessary or desirable[-];

16 (b) Cooperate with the Federal government in carrying out the
17 purposes of the Social Security Act in matters pertaining to public welfare,
18 public assistance, and child welfare services[-];

19 (c) ~~[To p]~~ Pay medical claims of indigent persons as they are
20 defined in and in accordance with the guidelines and the cost-sharing
21 program developed pursuant to Article 9 of this Chapter[-]; and

22 (d) Exercise the opt out provision in Section 115 of the Federal
23 Personal Responsibility and Work Opportunity Reconciliation Act of
24 1996, 21 U.S.C. § 862a(d)(1)(A).”

25 **SECTION 3.** Section 2104 of Article 1, Chapter 2, Title 10, Guam Code
26 Annotated, is hereby *amended* to read as follows:

27 **“§ 2104. Federal Grants.**

1 The Director shall comply with all Federal requirements pertaining to
2 methods and standards of administration and shall make such rules and
3 regulations and follow such procedure as may be required for the receipt from
4 the Federal government of grants or grants-in-aid for public assistance and such
5 administrative costs as are provided in connection therewith.

6 In accordance with 21 U.S.C. 862a(d)(1)(A), Guam elects to opt out of the
7 application of provisions of 21 U.S.C. 862a to individuals who have been
8 convicted of any felony offense under the Guam Uniform Controlled Substances
9 Act or any comparable federal or state criminal law, that has as an element the
10 possession, use or distribution of a controlled substance, as defined in Section
11 102(6) of the Federal Controlled Substances Act, 21 U.S.C. 802(c)), for conduct
12 occurring on or after August 22, 1996.”

13 **SECTION 4.** Section 2201 of Article 2, Chapter 2, Title 10, Guam Code
14 Annotated, is hereby *amended* to read as follows:

15 “**§ 2201. Applications for Public Assistance.**

16 (a) Applications for public assistance under this Article shall be made
17 to the Director by the applicant, or by someone acting in his behalf, in the
18 manner, place and form prescribed by the Director.

19 (b) No applicant shall be entitled to public assistance under this Article
20 who has sufficient income or other resources to provide a subsistence compatible
21 to decency and health, or who is an inmate of any institution established
22 primarily for tuberculosis or mental illness, or for detention or forcible
23 confinement or correction; or who is an inmate of any public institution of a non-
24 curative character, but an inmate of such an institution mentioned in this Section
25 may apply for assistance to begin after his discharge from such an institution.

26 (c) In determining the needs of a blind applicant the Director, so long
27 as such exception is a requirement of the Social Security Act that must be

1 complied with in order for Guam to receive Federal matching funds under the
2 program of aid to the blind, shall not take into consideration the first Eighty-Five
3 Dollars (\$85.00) per month of earned income plus one-half (1/2) of earned
4 income in excess thereof of such blind applicant. In determining the need of an
5 applicant for or recipient of aid to the blind, only such income and resources as
6 are actually available to the individual for his support shall be taken into
7 consideration in computing the amount of aid to which such individual is
8 entitled, except that there shall be disregarded in making such determination all
9 such amounts of net earnings or other income and resources as now are or
10 hereafter may be permitted or required to be disregarded under Federal laws or
11 regulations providing grants to Guam for aid to the blind.

12 (d) Pursuant to the authorization provided in the Federal Personal
13 Responsibility and Work Opportunity Reconciliation Act of 1996, 21 U.S.C.
14 § 862a(d)(1)(A), the Director shall exempt applicants domiciled in Guam from
15 the provisions of 21 U.S.C. §§ 862a(a)(1) and (2) to ensure eligibility for public
16 assistance.”

17 **SECTION 5.** Section 2701 of Article 7, Chapter 2, Title 10, Guam Code
18 Annotated, is hereby *amended* to read as follows:

19 **“§ 2701. Definitions.**

20 For the purposes of this Article:

21 (a) *Department* means the Department of Public Health and
22 Social Services;

23 (b) *Food* means any food or food product for human
24 consumption except alcoholic beverages and tobacco and shall include
25 seeds and plants for use in gardens to produce food for the personal
26 consumption for the eligible household;

1 (c) *Food coupons* means any coupon, stamp or type of
2 certificate used under the Federal Food Stamp Act of 1977;

3 (d) *Food stamp program* means a program under the Food
4 Stamp Act of 1977 since renamed the Supplemental Nutrition Assistance
5 Program (SNAP) by the Federal Food and Nutrition Act of 2008, which
6 provides financial assistance intended to raise levels of nutrition among
7 low-income households[-]; and

8 (e) *SNAP benefits* means the value of supplemental nutrition
9 assistance provided to a household by means of an Electronic Benefit
10 Transfer (EBT) under the Food and Nutrition Act of 2008, or other means
11 of provided assistance, as determined by the United States Department of
12 Agriculture (USDA).”

13 **SECTION 6.** Section 2702 of Article 7, Chapter 2, Title 10, Guam Code
14 Annotated, is hereby *amended* to read as follows:

15 “§ 2702. **Authorization.**

16 The Department of Public Health and Social Services, through the
17 Division of Social Services, is authorized to implement the food stamp
18 program locally in accordance with the provisions of the Federal [~~Food~~
19 ~~Stamp Act of 1977~~] Personal Responsibility and Work Opportunity
20 Reconciliation Act of 1996 and the Food and Nutrition Act of 2008:

21 (a) Householders determined by the Department to be eligible
22 for assistance under the food stamp program may obtain [~~food~~
23 ~~coupons~~] SNAP benefits or other means of provided assistance as
24 determined by the USDA;

25 (b) [~~Food coupons~~] SNAP benefits shall be used to purchase
26 food from retail food stores which have been approved for the
27 participation in the food stamp program.”

1 **SECTION 7.** Section 2703 of Article 7, Chapter 2, Title 10, Guam Code
2 Annotated, is hereby *amended* to read as follows:

3 **“§ 2703. Duties of the Department.**

4 The Department of Public Health and Social Services, through the
5 Division of Social Services, shall:

6 (a) Adopt rules and regulations necessary to carry out the food
7 stamp program;

8 (b) Cooperate with the Federal government and do all things
9 necessary to continue [~~territorial~~] eligibility under the food stamp
10 program;

11 (c) Comply with the requirements of the Federal [~~Food Stamp~~
12 ~~Act of 1977~~] Food and Nutrition Act of 2008[-]; and

13 (d) Exempt individuals domiciled in Guam from the application
14 of Section 115 of the Federal Personal Responsibility and Work
15 Opportunity Reconciliation Act of 1996, 21 U.S.C. §§ 862a(a)(1),
16 and (2), by allowing payment of SNAP benefits to an otherwise
17 eligible individual who has been convicted of a felony offense
18 under federal, state or Guam criminal law which has as an element
19 the possession, use or distribution of a controlled substance, as
20 defined in Section 102(6) of the Federal Controlled Substances Act,
21 21 U.S.C. § 802(c), if (1) the individual has successfully completed
22 probation, parole, community corrections, a reentry court program,
23 or any other post-conviction monitoring program ordered by a
24 court; or (2) the individual is successfully complying with
25 conditions of probation, parole, or community corrections, the
26 terms of participation in a reentry court program, or the

1 requirements of any other post-conviction monitoring program
2 ordered by a court.”

3 **SECTION 8.** Section 2705 of Article 7, Chapter 2, Title 10, Guam Code
4 Annotated, is hereby *amended* to read as follows:

5 **“§ 2705. Penalties.**

6 A person is guilty:

7 (a) of a felony of the third degree if he knowingly makes a false
8 statement for the purpose of influencing the action of the
9 Department in connection with its responsibilities under the
10 Federal [~~Food Stamp Act of 1977~~] Food and Nutrition Act of 2008,
11 with respect to the certification of households applying for
12 participation in the food stamp program and the issuance under
13 such program of [~~food stamp coupons~~] SNAP benefits to
14 households;

15 (b) of a misdemeanor if he knowingly uses, transfers, acquires,
16 alters or possesses [~~food stamp coupons~~] SNAP benefits or
17 authorization-to-participate cards in any manner not authorized by
18 the Federal [~~Food Stamp Act of 1977~~] Food and Nutrition Act of
19 2008 or the Federal or [~~territorial~~] local regulations issued pursuant
20 to this Act and the face value of the [~~food stamp coupons~~] SNAP
21 benefits or the authorization-to-participate card is One Hundred
22 Dollars (\$100.00) or less;

23 (c) of a felony of the third degree if he knowingly uses, transfers,
24 acquires, alters or possesses [~~food stamp coupons~~] SNAP benefits
25 or authorization-to-participate cards in any manner not authorized
26 by the Federal [~~Food Stamp Act of 1977~~] Food and Nutrition Act
27 of 2008, or the Federal or [~~territorial~~] local regulations issued

1 pursuant to this Act and the face value of the [~~food stamp coupons~~]
2 SNAP benefits or the authorization-to-participate card exceeds One
3 Hundred Dollars (\$100.00);

4 (d) of a felony of the third degree if he knowingly uses, transfers,
5 acquires, alters, or possesses a blank authorization-to-participate
6 card of the Department in any manner not authorized by the
7 Department;

8 (e) of a felony of the third degree if he knowingly counterfeits,
9 forges, or alters any authorization-to-participate card issued by the
10 Department in connection with its responsibilities under the
11 Federal [~~Food Stamp Act of 1977~~] Food and Nutrition Act of 2008;

12 or

13 (f) of a felony of the third degree if he knowingly alters,
14 publishes, or puts into circulation any counterfeited, forged or
15 altered authorization-to-participate cards.”

16 **SECTION 9. Date of Enactment.** This Act shall become effective upon
17 enactment.

18 **SECTION 10. Severability.** If any provision of this Act or its application
19 to any person or circumstance is found to be invalid or contrary to law, such invalidity
20 shall not affect other provisions or applications of this Act that can be given effect
21 without the invalid provision or application, and to this end the provisions of this Act
22 are severable.