

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

Bill No. 171 (EC)

Introduced by:

Adolpho B. Palacios, Sr. 

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AN ACT TO ADD A NEW §80.61 TO ARTICLE 4, OF  
TITLE 9 GUAM CODE ANNOTATED, TO REQUIRE  
MINIMUM MANDATORY RELEASE CONDITIONS  
FOR PRETRIAL AND POST-TRIAL PROBATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*  
3 finds that the nature of work of Pretrial and Post-trial Probation Services is  
4 complex and hazardous requiring the need to ensure public and officer safety  
5 is maintained at a high level.

6 *I Liheslaturan Guåhan* also finds that criminal offenders are routinely  
7 released with conditions prior to or after trial. Sometimes conditions were not  
8 imposed. Defendants during their release period are monitored and  
9 supervised by Court Probation Officers. Conditions imposed prior to release  
10 will ensure a high degree of safety for the Probation Officer who will monitor  
11 and supervise the Defendants. Inadequate or no condition imposed prior to  
12 release, reduces officer safety, and compromises any evidence that might be

1 seized in the course of monitoring and supervising a Defendant. As an  
2 example, during a recent home search of a probationer, officers confiscated  
3 approximately 200 grams of 'methamphetamine,' approximately \$250,000  
4 dollars cash and a handgun that had been altered illegally. The court rejected  
5 the evidences because the home visit and subsequent search was not one of  
6 the conditions for probation. Hence, probation officers lacked the authority to  
7 conduct such home visit. In the example case, the court failed to provide as  
8 one of the conditions of release the home visit and search.

9 *I Liheslaturan Guåhan* further finds that conditional release of defendants  
10 on Pretrial and Post-trial Probation are preceded by several conditions agreed  
11 to prior to release. These conditions are routinely administered in almost all  
12 cases. However, on occasion through oversight or miscommunication  
13 conditions were not noted.

14 It is therefore the intent of *I Liheslaturan Guåhan* to establish minimum  
15 mandatory release conditions which are now currently and routinely  
16 administered, to ensure that Pretrial and Post-trial Probation officers  
17 discharge their supervisory responsibility in a safe manner, thereby,  
18 promoting a safe environment for all parties involved.

19 **Section 2. To add a new section §80.61 to Article 4, Title 9 GCA, to**  
20 **read as follows:**

21 **“§80.61. Minimum Mandatory Conditions.** Notwithstanding the  
22 provisions of §80.62 the following shall be the minimum mandatory release  
23 conditions of Pretrial and Post-trial Probation:

- 1 (a) That the defendant not commit any federal, state or local crime  
2 during the term of probation;
- 3 (b) That the defendant report to a probation officer as directed by  
4 the court or probation officer;
- 5 (c) That the defendant remain in the jurisdiction of the court,  
6 unless granted permission to leave by the court or a probation  
7 officer;
- 8 (d) That the defendant notify a probation officer prior to any  
9 change of address or employment;
- 10 (e) That the defendant notify a probation officer promptly if  
11 arrested or questioned by a law enforcement officer; and
- 12 (f) That the defendant agrees for a probation officer to visit the  
13 defendant at the defendant's home, and such officer may  
14 search the defendant's home or person to confirm compliance  
15 with release conditions.
- 16 (g) That the defendant surrenders firearms and firearm  
17 identification to the Probation Department.
- 18 (h) That all firearms be removed from the household in which  
19 Defendant will reside, in the case of a release to a third party  
20 custodian."