

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) Regular Session

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Bill No. 108(Ec)

Introduced by:

A. B. Palacios, Sr. 

**AN ACT TO PROVIDE FOR MANDATORY MINIMUM
INCARCERATION UPON CONVICTION OF BRIBERY
AND OTHER UNLAWFUL INFLUENCES AND
RELATED OFFENSES, BY ADDING A NEW §49.95 TO
CHAPTER 49, TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO PUNISHMENT.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative findings and intent.** The purpose of punishment for a
2 crime committed is deterrence against future crimes. Punishment varies in degrees, and
3 correspondingly influences the degree of deterrence. For some people monetary
4 punishment has a greater deterrence than incarceration, and vice versa. It is generally
5 believed that for white collar crimes and public corruption, incarceration has a greater
6 deterrence than is monetary punishment.

7 Official public corruption is a crime that is committed consciously and knowingly,
8 the main motive of which is self-enrichment through the improper exercise of authority
9 entrusted to the public official. Public officials convicted of public corruption often would
10 rather pay a fine than be incarcerated. Incarceration is just too much of a public

1 humiliation. *I Liheslaturan Guåhan* believes that for some crimes the nature of which
2 involved the improper use of entrusted authority, incarceration would be more appropriate
3 than monetary punishment. *I Liheslaturan Guåhan* finds that Chapter 45 of Title 9, Guam
4 Code Annotated, while it defines the crimes of bribery, unlawful influence, extortion, and
5 misuse of information for private gain, provides for punishment thereof, the statute does
6 not mandate for incarceration upon conviction. *I Liheslaturan Guåhan* acknowledges that on
7 some occasions, incarceration is included in the punishment. *I Liheslaturan Guåhan*
8 recognizes and respects the exercise of judicial discretion in meting out punishment.
9 Notwithstanding this, *I Liheslaturan Guåhan* believes that for some crimes the nature of
10 which involved misuse or abuse of a public trust, a mandatory *minimum* incarceration
11 would be very appropriate and more effective in deterring future crimes of the same or
12 similar nature.

13 It is therefore the intent of *I Liheslaturan Guåhan* to provide for mandatory *minimum*
14 incarceration for crimes against the public trust, by adding a new §49.95 to Chapter 49,
15 Title 9, Guam Code Annotated, relative to punishment.

16 **Section 2.** A new §49.95 is hereby added to Chapter 49, Title 9, Guam Code
17 Annotated, to read as follows:

18 **“§49.95. Mandatory Incarceration.** Any public servant or any
19 person who is convicted of any of the offenses under this Chapter 49 shall
20 serve a mandatory minimum incarceration of a period of *not* less than one

1 third (1/3) of the incarceration punishment penalty provided for the offense
2 for which said public servant or person is convicted in addition to other
3 punishments authorized by law.”