

I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2011 (FIRST) Regular Session

Bill No. 317-31 (COR)

Introduced by:

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*EBON*

AN ACT TO ADD A NEW §2114 TO TITLE 10 GUAM CODE  
ANNOTATED, CHAPTER 2, RELATIVE TO REQUIRING DRUG  
TESTING FOR RECIPIENTS OF PUBLIC ASSISTANCE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1           **Section 1. Legislative findings and intent.** *I Mina'trentai Umu Na Liheslaturan* finds  
2 that individuals in need of public assistance are expected to demonstrate personal accountability  
3 and personal responsibility to continue receiving government subsidized services.

4           *I Liheslaturan* finds that it is not the duty of the Government of Guam to subsidize illegal  
5 activities of individuals on public assistance. It is, however, the duty of the Government of Guam  
6 to protect its citizens by prohibiting irresponsible or illegal practices, including controlled  
7 substance abuse, which hinders the intent of assistance programs.

8           *I Liheslaturan* finds that mechanisms are needed to emphasize and require increased  
9 responsibility, including personal sobriety, of those applying for and receiving public assistance.

10           **Section 2.** A new §2114, Chapter 2 Title 10 Guam Code Annotated is added to read as  
11 follows:

12           “§2114. Drug Testing for Scheduled Controlled Substances of Recipients of Public Assistance.

13           (1) The Director of the Department of Public Health and Social Services shall establish a  
14 drug testing program that requires an individual, as a condition of eligibility, and/or renewal, for  
15 all public assistance programs under the authority of the Government of Guam, local and federal,  
16 to being subject to a drug testing. The cost of the drug screening shall be the responsibility of the  
17 individual(s) tested.

18           (a) An individual subject to the requirements of this section includes any parent or  
19 caretaker relative, including an individual who may be exempt from work activity  
20 requirements due to the age of the youngest child or who may be exempt from

1 work activity requirements.

2 (b) An individual who tests positive for controlled substances as a result of a drug  
3 test required under this section is ineligible to receive public assistance benefits  
4 for one (1) year after the date of the positive drug test.

5 (c) Applicants and current recipients of public assistance found to be involved in  
6 the illegal sale, manufacture or distribution of any controlled substance will be  
7 permanently rejected and/or removed from any further public assistance.

8 (d) Initial applicants demonstrating addiction to any controlled substance will be  
9 rejected.

10 (e) Any improper use of any controlled substance by an applicant after application  
11 will be grounds for permanent disqualification, and/or subject to repayment of  
12 benefits.

13 (f) The results of drug tests on applicants for public assistance shall be kept  
14 confidential and shall not be used as evidence in any subsequent criminal  
15 prosecution of the applicant.

16 The Director of the Department of Public Health, or his/her designee, shall establish guidelines  
17 for those found in violation of this act and are reapplying for public assistance. The Department  
18 of Public Health is charged with screening as well as the reporting out the individual's eligibility  
19 to programs outside the purview of the Department of Public Health. Those found to be in use of  
20 a Scheduled Controlled Substance as directed by a medical professional shall be responsible to  
21 submit all appropriate paperwork to the Director of the Department of Public Health, or his/her  
22 designee, for eligibility. The Director of the Department of Public Health may waive the  
23 rejection of, and/or the revoking of, future and/or current public assistance benefits if the  
24 individual:

25 (a) Has successfully completed a supervised drug or alcohol rehabilitation program;

26 (b) Has otherwise been rehabilitated successfully; or

27 (c) Is participating in a supervised drug or alcohol rehabilitation program

28 (2) The department shall:

29 (a) Provide notice of drug testing to each individual at the time of application. The  
30 notice must advise the individual that drug testing will be conducted as a  
31 condition for receiving benefits and that the individual must bear the cost of

1 testing. If the individual tests negative for controlled substances, the department  
2 shall increase the amount of the initial benefit by the amount paid by the  
3 individual for the drug testing. The individual shall be advised that the required  
4 drug testing may be avoided if the individual does not apply for benefits.  
5 Dependent children under the age of 18 are exempt from the drug-testing  
6 requirement.

7 (b) Require that for two-parent families, both parents must comply with the drug-  
8 testing requirement.

9 (c) Require that any teen parent who is not required to live with a parent, legal  
10 guardian, or other adult caretaker must comply with the drug-testing requirement.

11 (d) Advise each individual to be tested, before the test is conducted, that he or she  
12 may, but is not required to, advise the agent administering the test of any  
13 prescription or over-the-counter medication he or she is taking.

14 (e) Require each individual to be tested to sign a writ acknowledgment that he or  
15 she has received and understood the notice and advice provided under paragraphs  
16 (a) and (d).

17 (f) Assure each individual being tested a reasonable degree of dignity while  
18 producing and submitting a sample for drug testing, consistent with local  
19 government need to ensure the reliability of the sample.

20 (g) Specify circumstances under which an individual who fails a drug test has the  
21 right to take one or more additional tests.

22 (h) Inform an individual who tests positive for a controlled substance and is  
23 deemed ineligible for benefits that the individual may reapply for those benefits  
24 one (1) year after the date of the positive drug test unless the individual meets the  
25 requirements of paragraph

26 (i). Ensure that if the individual tests positive again, he or she is ineligible to  
27 receive benefits for 3 years after the date of the second positive drug test unless  
28 the individual meets the requirements of paragraph.

29 (j) Provide any individual who tests positive with a list of licensed substance  
30 abuse treatment providers available in the area in which he or she resides that  
31 meet the requirements of and are licensed by the department. Neither the

1 department nor the state is responsible for providing or paying for substance  
2 abuse treatment as part of the screening conducted under this section.

3 (k) If a parent is deemed ineligible for public assistance as a result of failing a  
4 drug test conducted under this section:

5 (a) The dependent child's eligibility for benefits is not affected.

6 (b) An appropriate protective payee shall be designated to receive benefits  
7 on behalf of the child.

8 (c) The parent may choose to designate another individual to receive  
9 benefits for the parent's minor child. The designated individual must be an  
10 immediate family member or, if an immediate family member is not  
11 available or the family member declines the option, another individual,  
12 approved by the department, may be designated. The designated  
13 individual must also undergo drug testing before being approved to  
14 receive benefits on behalf of the child. If the designated individual  
15 tests positive for controlled substances, he or she is ineligible to receive  
16 benefits on behalf of the child.

17 All information regarding Scheduled Controlled Substances, to include, but are not limited to:  
18 Definitions, Standards & Schedules, Regulation of Manufacture, Distributions and Dispensing of  
19 Controlled Substances, Offenses and Penalties, are outlined in Title 9, Guam Code Annotated,  
20 Chapter 67. “

21 **Section 3. Effective Date.** This Act shall take effect upon enactment.

22 **Section 4: Severability.** If any provision of this law or its application to any person or  
23 circumstance is found to be invalid or contrary to law, such invalidity shall not affect other  
24 provisions or applications of this law which can be given effect without the invalid provisions or  
25 applications, and to this end the provisions of this law are severable