


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

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EDW  


Bill No. 400-31(LS)

Introduced by:

Adolpho B. Palacios, Sr.  
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**AN ACT TO AMEND §85.26 OF CHAPTER 85,  
9GCA, RELATIVE TO THE CONDUCT OF  
DELIBERATIONS AND VOTING ON PAROLE  
ACTIONS BY THE GUAM PAROLE BOARD.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that there has been a recent controversy on the conduct of Guam Parole Board  
4 meetings in accordance with the Open Government Law, specifically §8103(c)  
5 Title 5, Guam Code Annotated. §8103(c) of Title 5, Guam Code Annotated  
6 requires that no board, commission or public officer of the government of  
7 Guam may prevent or deny the recording (audio and/or video) of any public  
8 meeting, except for executive sessions and other meetings expressly  
9 authorized by public law to be closed. Following guidance from the Office of  
10 the Attorney General, the Guam Parole Board voided its actions at a meeting  
11 in September, 2011.

12 *I Liheslaturan Guåhan* further finds that no provision of law currently  
13 exists that permits deliberations by the Guam Parole Board to be conducted in

1 a closed meeting. Thus, the Parole Board has to forego deliberations, entirely,  
2 or conduct them in an open public meeting, subject to recording by audio or  
3 video. While the Open Government Law is intended to maximize  
4 transparency of Board actions, the decision of whether to release an inmate on  
5 parole, revoke parole or discharge an inmate from parole is a solemn quasi-  
6 judicial function for which Parole Board members should be able to express  
7 themselves freely during deliberations, so that all aspects of the case for or  
8 against a decision may be weighed. A number of states close at least portions  
9 of their parole board meetings to the public. California, Georgia and  
10 Kentucky each conduct their deliberations in a closed meeting.

11 Therefore, it is the intent of *I Liheslaturan Guåhan* to mitigate the  
12 concerns of the Parole Board relative to the conduct of its meetings by  
13 amending §85.26 of Chapter 85, 9GCA.

14 **Section 2. Board: General Powers.** §85.26 of Chapter 85, 9GCA, is  
15 hereby amended, to read:

16 **“§ 85.26. Board: General Powers.**

17 The Board is authorized to release on parole any person confined in any  
18 penal *or* correctional institution of Guam, and to revoke parole *or* discharge  
19 from parole any parolee as provided in Article 5 (commencing with § 80.70) of  
20 Chapter 80. The Board *shall* adopt such rules and procedures *not* inconsistent  
21 with law as it may deem proper *or* necessary to carry out its duties, and *shall*  
22 be in accordance with the Open Government Law.

1           Such rules and procedures *shall* include, but *not* be limited to, the  
2 following:

3           (a) rights and restrictions of an inmate during a parole application or  
4 revocation hearing;

5           (b) presence of legal counsel or a lay representative on behalf of an  
6 inmate during a hearing;

7           (c) the right of an inmate to receive, in writing, a specific reason or  
8 reasons for denial of parole, to include deficiencies to be addressed in  
9 preparation for a future parole application;

10           (d) rules for the recusal of a member due to a conflict;

11           (e) any other rules in furtherance of the mandates of the Board; ~~and~~

12           (f) Nothing herein shall prevent the Board from interviewing victims in  
13 private. Nothing herein *shall* prevent the Board from excluding any persons  
14 that they determine may unduly influence a victim's testimony; and

15           (g) pursuant to rules and regulations established by the Board, the  
16 Board may conduct deliberations in closed meetings and may vote by secret  
17 ballot on matters relative to the release on, revocation of, or discharge from  
18 parole."

19           **Section 3. Effective Date.** This Act shall be effective upon enactment.