

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
99-32 (LS)	Brant T. McCreddie	AN ACT TO AMEND §80.60 OF ARTICLE 4, CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING MINIMUM SENTENCES FOR CRIMES.	4/26/13 10:27 a.m.	4/26/13	Committee on the Guam U.S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary	6/13/13, 9:00am	8/12/13 2:04 p.m.	Fiscal Note Requested 4/30/13 Fiscal Notes WAIVER Received 6/19/13



COMMITTEE ON

**GUAM U.S. MILITARY RELOCATION
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY**

I Mina'trentai Dos Na Liheslaturan Guåhan | 32ND GUAM LEGISLATURE



**Senator
FRANK B. AGUON, JR.**
Committee Chairperson

**Senator
Tina Muna-Barnes**
Committee Vice Chairperson

**Speaker
Judith T. Won Pat, Ed.D.**
Committee Member

**Senator
Rory J. Respicio**
Committee Member

**Senator
Thomas C. Ada**
Committee Member

**Senator
Dennis G. Rodriguez, Jr.**
Committee Member

**Senator
V. Anthony Ada**
Committee Member

**Senator
Michael Limtiaco**
Committee Member

**Senator
Thomas Morrison**
Committee Member

August 8, 2013

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

VIA: **The Honorable Rory J. Respicio**
Chairperson, Committee on Rules

RE: **Committee Report on Bill No. 99-32 (LS)**

2013 AUG 12 PM 2:04

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 99-32 (LS) – “An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.”

Committee votes are as follows:

- 2 TO DO PASS
- 0 TO NOT PASS
- 3 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE

Respectfully,

SENATOR TINA ROSE MUÑA BARNES

Acting Committee Chairperson on Guam U.S. Military Relocation,
Homeland Security, Veterans' Affairs, and the Judiciary
Mina'trentai Dos Na Liheslaturan Guåhan | 32nd Guam Legislature



COMMITTEE ON

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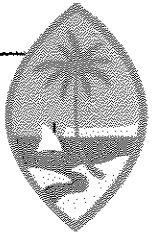
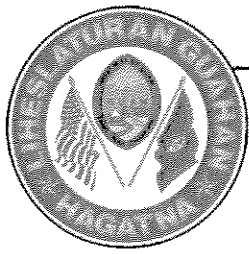
Thomas Morrison

Committee Member

COMMITTEE REPORT

ON

BILL NO. 99-32 (LS) - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.



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August 8, 2013

MEMORANDUM

To: All Members
Committee on Guam US Military Relocation, Homeland Security, Veteran's Affairs and Judiciary

From: Senator Tina Rose Muña Barnes
Acting Committee Chairperson

Subject: Committee Report on Bill No. 99-32 (LS)

Transmitted herewith for your consideration is the Committee Report on Bill No. 99-32 (LS) – "An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes."

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 99-32 (LS)
- Public Hearing Sign-in Sheet
- Copy of COR Referral of Bill No. 99-32 (LS)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Related News Reports

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!

**Senator
FRANK B. AGUON, JR.**
Committee Chairperson

**Senator
Tina Muna-Barnes**
Committee Vice Chairperson

**Speaker
Judith T. Won Pat, Ed.D.**
Committee Member

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Committee Member

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Committee Member



COMMITTEE ON

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I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE



COMMITTEE VOTING SHEET

Bill No. 99-32 (COR) – An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.

**Senator
FRANK B. AGUON, JR.**
Committee Chairperson

**Senator
Tina Muna-Barnes**
Committee Vice Chairperson

**Speaker
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Committee Member

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V. Anthony Ada**
Committee Member

**Senator
Michael Llimtiaco**
Committee Member

**Senator
Thomas Morrison**
Committee Member

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
AGUON, FRANK B. JR Committee Chairperson						
MUNA BARNES, TINA ROSE Committee Vice Chairperson				<input checked="" type="checkbox"/>		
SPEAKER WON PAT, JUDITH T. Ed.D. Committee Member						
RESPICIO, RORY J. Committee Member						
ADA, THOMAS C. Committee Member				<input checked="" type="checkbox"/>		
RODRIGUEZ, DENNIS G. JR. Committee Member						
ADA, V. ANTHONY Committee Member		<input checked="" type="checkbox"/>				
LIMTIACO, MICHAEL Committee Member				<input checked="" type="checkbox"/>		
MORRISON, THOMAS Committee Member		<input checked="" type="checkbox"/>				

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**Senator
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Committee Member

COMMITTEE REPORT DIGEST**I. OVERVIEW**

Bill No. 99-32 (LS) was introduced on April 26, 2013 by Senator Brant T. McCreadie, and was subsequently referred by the Committee on Rules to the Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary on April 26, 2013.

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary convened a public hearing on Bill No. 99-32 (LS) on June 13, 2013 at 9:00AM in I Liheslatura's Public Hearing Room.

Public Notice Requirements

Public Hearing notices were disseminated via e-mail to all senators and all main media broadcasting outlets June 6, 2013 (5-Day Notice), and again on June 11, 2013 (48-Hour Notice). Notices were also published in the Marianas Variety Newspaper on June 6, 2013 and June 11, 2013.

Senators Present

Senator Frank B. Aguon, Jr., Chairperson
Vice Speaker Benjamin J.F. Cruz
Senator Christopher M. Duenas
Senator V. Anthony Ada
Senator Aline A. Yamashita, Ph.D.
Senator Brant T. McCreadie
Senator Thomas C. Ada
Senator Michael F.Q. San Nicolas
Senator Michael Limtiaco

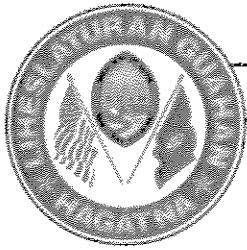
Appearing Before the Committee

Attorney Phil Tydingco, Deputy Attorney General
Attorney Mikaela Henderson, Public Defender Service Corporation
Attorney Richard Dirx, Public Defender Service Corporation
Former Senator Randy Cunliffe, Attorney, Law Offices of Cunliffe & Cook

The public hearing was Called-to-Order at 9:09 AM.

II. SUMMARY OF TESTIMONY & DISCUSSION***Senator Frank B. Aguon, Jr.:***

"Bill No. 99-32 (LS) - Relative to clarifying minimum sentences for crimes. Attorney General Tydingco, Attorney Henderson, Attorney Dirx, there's a Kayla Winters, if you want to provide testimony, I do have her signed up, and Attorney Cunliffe. General Tydingco, if you want to go ahead and open up with your comments. Please identify yourself for the record."



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Deputy Attorney General Phil Tydingco:

"Good Morning again Chairman Aguon, Senators McCreddie, Yamashita, Ada, Duenas, Senators San Nicolas, Vice Speaker BJ Cruz, Senator Tom Ada, Senator Mike Limtiaco – I'm Phil Tydingco on behalf of Attorney General Rapadas and the Office of the Attorney General. We Support the Bill to clarify the minimum mandatory sentence. As you know we believe that this proposed amendment and legislation will make it clear what the meaning of minimum mandatory is.

We believe it's always been clear that when a statute provides for a minimum term of imprisonment to be served that it helps to guide us in how we approach our cases as well as for reaching plea agreements and if we reach a plea agreement. Our problem is we reach a plea agreement or we look at the statute and it provides for a minimum mandatory or a minimum prison sentence, that's what we're looking at, and yet there are arguments that minimum mandatory and minimum doesn't mean what it means. Then it makes it difficult for us to understand how to proceed and will make our ability to reach just plea agreements when there's a dispute about what that actually means. So we appreciate and support the efforts of the Senator with having this bill to clarify it. I think that's the purpose and intent here.

Others may argue on some different grounds, for example, it takes away the discretion of the court and so forth. But again for our purposes, the Office of the Attorney General supports clarifying the meaning of the term minimum mandatory because as you know, in the proposed amendment, there are different ways to state it in the statute. You know, "serves at least this much" or "serves no less than" and so we wanted to make sure that all of those are synonymous and means the same and we believe that legislative policy has always been clear. That the Legislature intended for certain types of crimes to carry minimum mandatory sentences and that's, you know, you say what you mean, and you mean what you say. So that's what this bill does. Thank you."

Senator Frank B. Aguon, Jr.:

"Thank you very much General Tydingco and I apologize folks, but I owe my colleague an apology I didn't give an opportunity to him to explain the proposal. Senator McCreddie?"

Senator Brant T. McCreddie:

"Thank you Mr. Chairman, no apology needed, but accepted. Bill 99 is a relatively simple bill. As stated it amends Section 80.60, Chapter 80, Title 9 Guam Code Annotated in order to clarify the sentencing for offenders like the Chief just explained. In the past many different legislative bodies have written and amended laws as needed by the changing times and there were changing criminal codes. Now the problem was that the language used by the office who drafted the bill was not uniform so as to prevent any ambiguity in interpretation of the law. Now this bill defines what the word minimum in the criminal code means so that when punishing or imposing punishment on a convicted person, the courts shall impose the full minimum term of confinement, the amount of fine, or the length of community service as intended under the law. It is not to digress from the discretion of judges during sentencing. This legislation provides clarity and more uniform implementation of our criminal code. My office has worked extensively with the Attorney General's office on this bill and I want to thank them for their assistance and their guidance in drafting this piece of legislation. It is my goal that if this bill is passed that it would provide clarity and discretion so that our hard working judges can effectively administer justice in accordance with the people of Guam's best interests and within the confinements of the laws. Thank you Mr. Chairman."



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Senator Frank B. Aguon, Jr.:

“Thank you very much Senator McCreadie. Attorney Dirx?”

Attorney Richard Dirx, Public Defender:

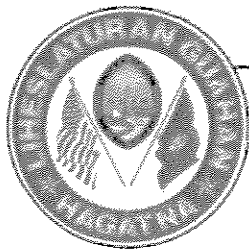
“Senators I’ll be rather brief – as you might guess, I oppose taking away discretion away from judges. Once again it’s like taking a scalpel from the hand of the surgeon and giving it to a guy in a white smock and a meat cleaver. Just to give an example, criminal sexual conduct can be a horrifying -- forceable rape, overcoming the resistance of the victim. It can be, I can’t use the word consensual, but it can be a non-violent loving act between two people who lack the legal ability to consent. Usually a young teenager. And this law would say they both – the judge has no discretion to discriminate between the two situations. Even more seriously is the fact that the judge has no discretion to weigh the input of the victim. In the first case the victim is going to probably say he should never see the light of day. In the second case, the victim, and perhaps her parents, are going to be saying wait a minute. They care for each other, the families care for each other. She’s going to have his baby. There’s a better way to handle this. Burglary, it can be driving a moving van up to your neighbor’s house blowing open the door and stealing everything. Or it can be a housewife with no money planning to steal what she needs for her baby. Walking into PayLess, loading her purse, and then going out. They’re both burglaries. But they certainly don’t deserve the same treatment. And there’s an expression that hard cases make bad laws. Well bad laws make for hard cases in the sense that it takes away from the ability of the judge to design the sentence to the crime that occurred and the people he has in front of them. I go back to saying that Guam has, in all the years I’ve been here, Guam has always been graced with the gift of good judges. And I say let them do their work. Now if there’s a disruption between what the victims are saying and what the judges are hearing, we need to fix that. Because I’m not saying that they should be left out of the process. But I’m just saying let the people who are trained to do this, and the people who are required by law to be neutral and independent, let them do their jobs. Thank you.”

Senator Frank B. Aguon, Jr.:

“Thank you very much Attorney Dirx. Attorney Henderson?”

Attorney Mikaela Henderson, Public Defender:

“Thank you. Michaela Henderson again from Public Defender, and I support the concept of clarification. Thank you for that concept. I think that it will make it better for us to advise our clients as to what to expect and how to better understand what the penalties are under the criminal code. However, I would oppose anything that I believe would take away discretion away from the judge. And anything that would be more of a one size fits all approach with the word minimum. I too have serious concerns especially about the way that teenagers are treated under our criminal code and with criminal sexual conduct in situations where we’ve got two teenagers who have been dating and I think that Mr. Cunliffe brought up earlier, I recently did have a case with a 16yr old and a 13yr old. Because he was 16, it was a first degree felony so he was charged as an adult, looking at a minimum of 15 to life. And so in these situations, my concern especially is with these teenagers and the kinds of penalties that we would give them. I’m not advocating that kids get any kind of a free pass at all, but that proportional penalties need to be taken into account and that the punishment should fit the crime. And so my major concern with this, with regards to our criminal sexual conduct laws, is that these teenagers will be subject to the new definition of minimum. And I believe that these penalties are disproportionate to the conduct, and I would like to explore that issue more as to how we can tailor our code to fit individual situations. Especially regarding teenagers who lack the maturity to form, for the same reason we protect teenagers and say they can’t legally consent. I have issues then with imposing adult sanctions on them. Because for the reasons they can’t fully, their minds aren’t mature to consent, but yet we are punishing them as adults and so

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that would be my concern especially with the minimum issue for the sentencing.”

Senator Frank B. Aguon, Jr.:

“Thank you very much Attorney Henderson. Senator Cunliffe?”

Attorney F. Randall Cunliffe, Former Senator, Law Office of Cunliffe & Cook

“Thank you Mr. Chairman, my name is Randy Cunliffe and I am here testifying against the bill. In the criminal law, there are gradations of crimes – misdemeanors, third (3rd) degree felonies, second (2nd) degree felonies, first (1st) degree felonies. Essentially, each crime carries a different penalty. For a misdemeanor, it's 0 to 1 year, for a 3rd degree felony it's 0 to 3 years, for a 2nd degree felony it's 1 to 8 (years), and then for a 1st degree it varies from 3 to 15 years except for certain crimes that are different. And some crimes say the minimum term to be imposed shall not be suspended. That means the judge can't give you probation – they have to give you the 3 years or the 1 year. But in general, it can be suspended. And the reason for that is, if not then many first time offenders, who are not likely to offend again, but they commit a 2nd or 1st degree felony, have to go to jail. We don't give them a chance to prove that they can better themselves and won't commit another crime, they have to go to jail. And that's what this bill would do. People who key a car, have to go to jail for a year for keying a car. You know, people who do those kind of things. Generally they see a boyfriend or girlfriend with another person and they go out and key their car in retaliation. And under this bill they'd have to spend a year in jail. The courts look at these and they say, 'Well there's certainly some discretion'. Some people, we think, probation will help. We can watch them for 3 years, make sure they're good, send them to counseling if that's the issue. We have various types of counseling that the court sends them to. And hopefully they don't re-offend. But by making everything mandatory, you're saying every first offender who commits a second (2nd) or first (1st) degree felony must go to jail.

Now we have a crime, it's called vehicular homicide and it's a second (2nd) degree felony. If you fail to turn on your turn signal when you change lanes and an accident occurs and somebody dies, you're guilty of manslaughter, vehicular manslaughter. There's no intent required whatsoever, it has no intent requirements whatsoever. So I had a case and I was researching this law because generally criminal laws require some kind of intent. But this law does not require any intent and somebody, whoever drafted, and I don't know where it came from, I don't remember from which Legislature, they picked it up and they brought it into our vehicular code. So it was a woman driving her husband down the road, in I think Pennsylvania, and she had a heart attack. The car crossed the road and hit another car head on and her husband and the other driver were killed. And she was convicted of vehicular homicide because she crossed the road, even though she was unconscious because she had a heart attack, and under this law she'd have to go to jail. Is that the kind of sanction we want to take away from our judges. I mean the judge can look at that and say well, “Ok, by law she's guilty.” But does she have to go to jail? I mean she didn't intend to kill anybody. She was unconscious because she had a medical condition and had a heart attack, but under this law she would go to jail.

My client in the case that I was researching it on, was driving in Dededo, 6 o'clock in the morning, had gone to Winchell's to get donuts for his family's Sunday breakfast. And just as he was approaching the left turn intersection, the sun broke through a cloud. Right at road level, and it blinded him. His car went about 2 feet in the oncoming lane. The left bumper was on the oncoming lane. A car coming in the other direction, speeding, and the driver didn't have on a seatbelt, hit him and was killed -- and he was facing vehicular homicide charges because of this incident. Now if he had been convicted of that, he would have had to spend a year in jail because it's a second (2nd) degree felony, it's minimum 1 to 8 (years).



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So there are cases and there are laws that say the minimum sentence cannot be suspended. And those are the ones that the Legislature looks at and says "We don't want these people to get out if they do this crime" but in every crime you gotta give the Attorney General's Office, and the judge some opportunity to try to work out something that's going to be right for this offender and right for society. Otherwise, again, you'll be just going to trial all the time because you have to tell your client, "Well you know, you keyed the car and it was a really bad mistake and you're 18 years old, but you've now got a felony conviction and you'll have to spend a year in jail". And it just, it doesn't make any sense. And you know the Attorney General's upset because they pled a case and the judge said, "No, I don't have to give a minimum sentence on this." And they've appealed it and the Supreme Court's going to make a decision on that case. But in every -- it's not the thing that you want to do and just say, "Every first time offender who commits a second (2nd) or first (1st) degree felony has to go to jail". Because then you're giving up on society, and you're giving up on people that can change their lives and make something better. Thank you."

Senator Frank B. Aguon, Jr.:

"Thank you very much Senator Cunliffe. General Tydingco? By all means, please."

Deputy Attorney General Phil Tydingco:

"Only because I appear all the time and I felt the ground rules were usually you folks ask the questions, we don't. So now that I know it's almost like and I can just jump in, that's fine. It's not quite accurate to say that we are able to adjust to certain situations. I think that, and reach the right result because the defense attorneys are very ethical and they advocate zealously on their clients and if they think it's unjust that the minimum mandatory, they're not going to plead to it. They're going to go to trial and take it from there. And by the way I know that there's active work, I know Ms. Henderson's on that, trying to work with Senators and the AG's office recognizing there's a need for a 'Romeo & Juliet' exception within the statute. So that would adjust. The statutes set out minimum mandatories right now, according to the grades. And they also allow, we also have first (1st) offender sentencing guidelines which. For example third (3rd) degree felony is 0-5 (years), but first (1st) offender reduces it to 0-3 (years). Up to first (1st) degree felony is 5-20 (years) but it gets lowered so 3-15 (years) and second (2nd) degree 1-8 (years). So, again, there are those. But I think what we need to make clear is what is a minimum mandatory. If it's under the first (1st) offenders, 1 year means 1 year, and so that's what we were just trying to clarify here in that. It's not so much about our feelings that we're upset, just trying to understand, what does minimum mean. And so I understand the arguments for the different cases they bring up.

Like for example with the accident cases. There are all different types of circumstances and cases, this is true, we have to apply the facts to the different charges that are there. So I would submit to you that clarifying this is not a bad thing. I don't think it takes the discretion away if it's clear, generally speaking, what the definition of minimum means. Now of course the other approach, if you don't want to take this general bill, would be to scrub through all the statutes where we saw where this language is and amend all those statutes where they have this language so that then it's abundantly clear in those statutes that provide for minimum mandatory. You don't have to have this general rule, we can certainly scrub, and that's what we did, we scrubbed all the offenses that say where the community and the Legislature has said 'No less than, at least this much, no more than' or you know, 'A minimum sentence of'.

We just want to know what is the meaning of a minimum mandatory and so we think it clarifies that. So again, for those circumstances that have been brought up where there are issues, if there's a *mens rea* issue of the DUI law, like the 'Romeo Juliet' circumstance, then we need to go into the Safe Streets Act and fix that, if that's where the fix needs to be done. Same thing with the CSC (Criminal Sexual Conduct), and I know there's active work on those fronts.



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But we're just talking about the general rule and the definition of the word 'minimum mandatory'. Thank you."

Senator Frank B. Aguon, Jr.:

"Thank you very much General Tydingco. Attorney Dirkx?"

Attorney Richard Dirkx, Public Defender:

"I just wanted to add one little detail. If the judge has the authority to suspend the sentence. That means he has the authority to put the offender on probation, and with that goes a very wide group of powers over the offender, and the conditions by which he keeps them out of jail. And in the 'Keying The Car' situation, something that's going to be ordered in every case is restitution of the victim. "I'm suspending the jail time, you're fined a paint job for the car you keyed," and that will be enforced by the probation officer supervising the situation by the offender coming to court repeatedly facing the judge and hearing in public how he's doing. If the judge doesn't have that power, if the person is being sentenced to a jail term then the statute says that they're going to be released on parole, parole does not have the power to collect restitution. Now they often do, it's in many plea agreements, and I think to their best ability they try. But they do not have the Judge's authority to enforce that sort of thing. Nor do they have the authority to bring somebody into court and say "Are you in your drug program?"

Judge Bordallo has software that allows him to check the attendance of every single probationer in all of the programs that they are ordered to attend. That ability to suspend the sentence, rather than ordering the jail sentence, gives the Judge a tremendous degree of power over a probationer. And that's why I say I think the Probation Department are the unsung heroes. I think they are the best bang for your buck other than perhaps the Police Department, as far as forcing people to be productive citizens. And the abilities to suspend the sentence and impose probation is at the heart and center of it. Thank you. "

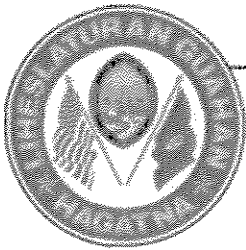
Senator Frank B. Aguon, Jr.:

"Thank you very much Attorney Dirkx. Senator McCreadie?"

Senator Brant T. McCreadie:

"Thank you Mr. Chairman. I just want to state for the record that once again, the language in this bill is not intended to take away discretion from any of the judges, and if you look at it, it's community service, confinement, fine. So if for instance, Mr. Cunliffe used the example of a key. That's not taking discretion away from the judge, that's basically saying the 0-1 (years) when the judge sentences three (3) months in prison or three (3) months community service, he then serves the three (3) months of community service. So it's up to the judge to give him the proper punishment for the crime. We're not taking away the discretion, we're just clarifying it. So when the judge then goes to sentence him, he says well, "The law states that if I give you three (3) months confinement, you have to serve the whole three (3) months." So if the judge doesn't want him to serve three (3) months, then give him one (1) month. We're not taking away the discretion, we're just clarifying. So now the judge knows that when he sentences him to one (1) year or one (1) month, that he has to serve the sentence. That's all it is, it's just a clarification. And I understand and I agree with Ms. Henderson, if we have to put some language in there that excludes teenagers or people who don't know the law.

I'm a humanitarian, I'm willing to do whatever it takes to work together to try and clarify this. So yeah, its definitely not taking away any discretion from the judges. So thank you."



COMMITTEE ON

**GUAM U.S. MILITARY RELOCATION
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY**

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE



Senator Frank B. Aguon, Jr.:

"Thank you Senator McCreadie. Any other comments or questions we have for the Senators? Senator San Nicolas?"

Senator Michael F.Q. San Nicolas:

"Thank you Mr. Chair. I just wanted to make a quick comment. You know when it comes to the law, when it comes to keeping our people safe. It's a delicate balance between not over-punishing for trivial crimes, and also not allowing for people to be victimized over and over again by repeat offenders -- and that's kind of where we are here in the Legislature, and that's why we kind of picked up this meat cleaver and we're looking at this problem, and we're saying, "I'm ready to bring this thing down." Because our community does not feel safe and our victims do not feel like the Judicial system has served them fairly.

And we're not here today addressing laws that are overly harsh because someone's kid keyed a car. We're here today because there are victims out there, lots of them, who are being victimized and they're looking for a solution. And I'm listening to everybody here today, and you guys are great defense lawyers by the way, you know I just told my office. I said, "If I ever need a legal team you guys are my Go To", but absent that, when I listen all that is said today, I still don't hear any bonafide solution for these victims. I still don't hear how the system is going to stop allowing for criminals to go back out there and do this again. You know, and I understand that the legal system and the defense is going to do everything they can to do for their client; and the prosecution is going to do everything they can for the government; and in the end, justice is supposed to be found somewhere in the middle; but as policy makers, one of the things that we're responsible for is setting the standards of the community and having that reflected in our laws.

And right now the community is clamoring and saying that the standard that they want is tougher -- a tougher stance on crime. They're not saying we're too tough on crime, they're saying we're not tough enough on crime, and as policy makers, we're trying to figure out exactly how to respond to that community concern because that's our job. So I just wanted to kind of make that statement and if you guys can kind of think that over and come up with some things that you can share with the Chairman and the Committee so that we can figure out from a policy perspective how are we going to respond to that, because we must respond to that. And if we need to respond to that with a meat cleaver, then we gotta respond to that with a meat cleaver. I totally respect where you guys are coming from and it's a very, very compelling case. But in the end, we're going to have to respond somehow and maybe you guys can help us figure out how to do that. Thank you Mr. Chair."

Senator Frank B. Aguon, Jr.:

"Thank you very much Senator San Nicolas. That concludes our discussion on bill number 99. Thank you very much folks for your presentation."

The public hearing was adjourned at 12:32 PM.

III. FINDINGS & RECOMMENDATIONS

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary hereby submits these findings and reports out Bill No. 99-32 (LS) as substituted by the Committee on Guam US Military Relocation, Homeland Security, Veteran's Affairs and Judiciary, with a recommendation To Report Out Only.

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 99-32(LS)

Introduced by:

Brant T. McCreadie 

AN ACT TO *AMEND* §80.60 OF ARTICLE 4,
CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO CLARIFYING MINIMUM
SENTENCES FOR CRIMES.

2013 APR 26 AM 10:27 

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that,
3 over time, past legislatures have set minimum sentences in the criminal code for a
4 broad spectrum of crimes and offenses. Additionally, as the criminal code has been
5 amended and expanded over time, the language regarding minimum sentencing has
6 become muddled. *I Liheslaturan Guåhan* futher finds that clarification of minimum
7 mandatory sentencing is needed to protect the people’s interest in the sentencing of
8 convicted persons.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to clarify what “minimum”
10 means by amending §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated.

11 **Section 2.** §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated, is
12 hereby *amended* to read:

13 “§ 80.60. **Standards for Imposing or Withholding Probation.**

14 (a) When Sentence May Not Require Prison Term. The court, in its
15 discretion, may make disposition in respect to any person who has been
16 convicted of a crime without imposing sentence of imprisonment unless a

1 minimum term is made mandatory by a provision of ~~[sic] Guam Codes~~ the Guam
2 Code Annotated.

3 “Minimum” wherever it appears in this Code means, for purposes of
4 imposing punishment upon a person convicted of a crime, that the court shall
5 impose the entire term of confinement, the full amount of the fine and the
6 complete requirement of community service prescribed by law. The court shall
7 not suspend in full or in part any punishment described as minimum punishment.

8 When used for the purpose of describing or requiring a sentence of
9 incarceration imposed pursuant to this Code, the terms “minimum,” “mandatory,”
10 “minimum mandatory”, “mandatory minimum”, “minimum sentence of”, “a
11 sentence of no less than”, “a sentence of at least” and any derivative thereof shall
12 be construed as being synonymous.

13 (b) Notwithstanding Subsection (a) the court shall not suspend imposition
14 of sentence or place an offender on probation if, having due regard to the nature
15 and circumstances of the crime and the history, character and condition of the
16 offender, the court finds that imprisonment is necessary for the protection of the
17 public because:

18 (1) there is undue risk that during the period of a suspended
19 sentence or probation the offender would commit another crime;

20 (2) the offender is in need of correctional treatment that can be
21 provided most effectively by commitment to an institution; or

22 (3) a lesser sentence would depreciate the seriousness of the
23 offender's crime.

24 (c) The following factors, while not controlling, shall be accorded weight
25 in determining whether to suspend imposition of sentence or to place the
26 offender on probation whether:

1 (1) The offender's criminal conduct neither caused nor threatened
2 serious harm.

3 (2) The offender did not contemplate that his criminal conduct
4 would cause or threaten serious harm.

5 (3) There were substantial grounds tending to excuse or justify the
6 offender's criminal conduct, though failing to establish a defense.

7 (4) The offender has compensated or will compensate the victim of
8 his criminal conduct for the damage or injury which was sustained.

9 (5) The offender has no history of prior delinquency or criminal
10 activity or has led a law-abiding life for a substantial period of time before
11 the commission of the present crime.

12 (6) The offender is particularly likely to respond affirmatively to
13 probationary treatment.

14 (d) If a person who has been convicted of a crime is not sentenced to
15 imprisonment, the court shall place him on probation if he is in need of the
16 supervision, guidance, assistance or direction that probation can provide.”

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

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

**COMMITTEE ON GUAM US MILITARY RELOCATION, VETERANS' AFFAIRS HOMELAND
SECURITY & JUDICIARY**

I Mina'Trentai Dos na Liheslaturan Guahan | 32nd Guam Legislature



**SENATOR FRANK B. AGUON, JR
CHAIRMAN**

THURSDAY, JUNE 13, 2013 at 9:00AM

Bill No. 99-32 (COR) – An act to *amend* §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated relative to clarifying minimum sentences for crimes.

NAME (Please Print)	Agency/Organization	Contact Number	Oral Testimony	Written Testimony	In Favor	Not In Favor
<i>Phil Tyngon</i>	<i>A&O</i>		✓		ident	
<i>Mikaela Henderson</i>	<i>Public Defender</i>					X
<i>Richard Dookx</i>	<i>Public Defender</i>		✓			✓
<i>Karla Winters</i>	<i>public defender</i>					X



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2013 JUN 19 AM 10:31

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

June 19, 2013

Memorandum

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the waiver for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTE:

Bill Nos. 89-32(COR), 108-32(COR), 118-32(COR), and 129-32(COR)

WAIVER:

Bill No. 99-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!



BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

JUN 17 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 108-32(COR), 118-32(COR), and
Fiscal Note Waiver on the following Bill Nos.: 99-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan



BUREAU OF BUDGET & MANAGEMENT RESEARCH

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Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

JUN 14 2018

The Bureau requests that Bill No(s) 99-32(COR) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

Bill No. 99-32(COR) is an Act to Amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated relative to clarifying minimum sentences for crimes.

The intent of the Bill is administrative in nature and poses no fiscal impact upon any funds of the Government of Guam.


JOHN A RIOS



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
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Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

April 26, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Thomas C. Ada**
Acting Chairperson of the Committee on Rules

Subject: **Referral of Bill No. 99-32(LS)**

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 99-32(LS)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
99-32 (LS)	Brant T. McCreadie	AN ACT TO AMEND §80.60 OF ARTICLE 4, CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING MINIMUM SENTENCES FOR CRIMES.	4/26/13 10:27 a.m.	4/26/13	Committee on the Guam U.S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary			



FIRST NOTICE: Public Hearing at 9:00AM on THURSDAY

Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>

Thu, Jun 6, 2013 at 11:15 AM

To: phnotice@guamlegislature.org

June 06, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation, Veterans' Affairs,
Homeland Security and Judiciary

SUBJECT: FIRST NOTICE of **Public Hearing** on Thursday, June 13, 2013 at 9:00AM

Buenas yan Hala Adai!

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Wednesday, June 5, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for

enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to aguon4guam@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *Liheslaturan Guåhan*'s website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to admin@frankaguonjr.com.

Si Yu'os Ma'asel

Cc: Clerks
MIS
Sgt-at-Arms

--

Thanks!

Committee on Guam US Military Relocation, Veterans Affairs, Homeland Security and Judiciary

Office of Senator Frank B. Aguon, Jr.

155 Hesler PL Suite 104, Hagåtña, Guam 96910

Tel: (671) 475-GUM1/2 (4861/2)

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FIRST NOTICE: Public Hearing at 9:00AM on THURSDAY

Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>

Thu, Jun 6, 2013 at 1:54 PM

To: phnotice@guamlegislature.org

Please note the following correction:

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, ~~Wednesday~~ Thursday, June 5 13, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña.

On Thu, Jun 6, 2013 at 11:15 AM, Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com> wrote:

[Quoted text hidden]

[Quoted text hidden]



SECOND NOTICE: Public Hearing at 9:00AM on THURSDAY, June 13, 2013

Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>

Tue, Jun 11, 2013 at 3:03 PM

To: phnotice@guamlegislature.org

June 11, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary

SUBJECT: SECOND NOTICE of **Public Hearing** on Thursday, June 13, 2013 at 9:00AM

Buenas yan Hala Adai!

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Thursday, June 13, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

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Si Yu'os Ma'ase!

Cc: Clerks
MIS
Sgt-at-Arms

—
Thanks!

Committee on Guam US Military Relocation, Veterans Affairs, Homeland Security and Judiciary

Office of Senator Frank B. Aguon, Jr.


155 Hesler PL Suite 104, Hagåtña, Guam 96910

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As of May 14, 2013**

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news@guampdn.com
news@spbguam.com
nick@kuam.com
nicole@toduguam.com
norman.aguilar@guamcc.edu
nsantos@guamlegislature.org
odngirairiki@guampdn.com
office@senatorada.org
onlyonguam@acubedink.com
pacificjournalist@gmail.com
parroyo@k57.com
pdkprg@gmail.com
pete@tonyada.com
phillipsguam@gmail.com
publisher@glimpsesofiguam.com
qduenas_8@yahoo.com
rennae@guamlegislature.org
responsibleguam@gmail.com
rfteehan@yahoo.com
rgibson@k57.com

richdevera@gmail.com
ricknauta@hitradio100.com
rlimtiaco@guampdn.com
rob@judiwonpat.com
rolly@ktkb.com
roryforguam@gmail.com
ryanjames@senatormorrison.com
santos.duenas@gmail.com
senator@senatorbjcruz.com
senator@tinamunabarnes.com
senatordrodriguez@gmail.com
senatorsannicolas@gmail.com
senatortonyada@guamlegislature.org
senbenp@guam.net
sgflores@tinamunabarnes.com
sgtarms@guamlegislature.org
sitarose2@yahoo.com
slimtiaco@guampdn.com
sonedera-salas@guamlegislature.org
speaker@judiwonpat.com
steve@judiwonpat.com
tanya4families@gmail.com
tcastro@guam.net
telo.taitague@guam.gov
thebigshow@guamcell.net
thebigshow@k57.com
therese.hart.writer@gmail.com
therese@judiwonpat.com
tinamunabarnes@gmail.com
tjtaitano@cs.com
tom@senatorada.org
tommy@senatormorrison.com
tony@tonyada.com
tritent@pstripes.osd.mil
troy.torres@guam.gov
tterlaje@guam.net
val@tonyada.com
vincent@tinamunabarnes.com
wil@judiwonpat.com
will@senatorada.org
xiosormd@gmail.com
xiosormd@yahoo.com
ylee2@guam.gannett.com
zita@mvguam.com



GUAM U.S. MILITARY RELOCATION
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY


I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE



June 06, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary 

SUBJECT: FIRST NOTICE of Public Hearing on Thursday, June 13, 2013 at 9:00AM

Buenas yan Hafa Adai!

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Wednesday, June 5, 2013, at *Liheslaturan Guahan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.
- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to aguon4guam@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *Liheslaturan Guahan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to admin@frankaguonjr.com.

Si Yu'os Ma'ase!

Cc: Clerks | MIS | Sgt-at-Arms

Senator
FRANK B. AGUON, JR.
Committee Chairperson

Senator
Tina Muna-Barnes
Committee Vice Chairperson

Speaker
Judith T. Won Pat, Ed.D.
Committee Member

Senator
Rory J. Respicio
Committee Member

Senator
Thomas C. Ada
Committee Member

Senator
Dennis G. Rodriguez, Jr.
Committee Member

Senator
V. Anthony Ada
Committee Member

Senator
Michael Limtiaco
Committee Member

Senator
Thomas Morrison
Committee Member



OFFICE OF SENATOR FRANK B. AGUON, JR.

Chairman, Committee on Guam US Military Relocation,

Homeland Security, Veterans Affairs and Judiciary

Mina Trentel Dos Na Lihochiburan Guahan | 32nd Guam Legislature



PUBLIC HEARING

THURSDAY, JUNE 13, 2013 | 9:00AM

Bill No. 99-32 (LS) - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.

Bill No. 107-32 (LS) - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.

Bill No. 116-32 (COR) - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter, relative to the establishment of operational continuity plans for each agency of the government of Guam.

Bill No. 134-32 (COR) - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

Bill No. 135-32 (COR) - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The public hearing will be broadcasted on MCV Channel 13 or GuD TV Channel 21. If you require any special accommodations, please contact the Office of Senator Frank B. Aguon, Jr. at 475-GUM1/2 (4861/2) or e-mail committee@frankaguonjr.com. **This ad paid for with government funds**



OFFICE OF SENATOR FRANK B. AGUON, JR.

Chairman, Committee on Guam US Military Relocation,
Homeland Security, Veterans Affairs and Judiciary
Mina Trental Dos Na Lheslaturan Guahan | 32nd Guam Legislature



PUBLIC HEARING

THURSDAY, JUNE 13, 2013 | 9:00AM

Bill No. 99-32 (LS) - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.

Bill No. 107-32 (LS) - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.

Bill No. 116-32 (COR) - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter, relative to the establishment of operational continuity plans for each agency of the government of Guam.

Bill No. 134-32 (COR) - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

Bill No. 135-32 (COR) - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The public hearing will be broadcasted on MCV Channel 13 or GUDTV Channel 21. If you require any special accommodations, please contact the Office of Senator Frank B. Aguon, Jr. at 475-GUM1/2 (4861/2) or e-mail committee@frankaguonjr.com. *This ad paid for with government funds*



GUAM U.S. MILITARY RELOCATION
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY


I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN | 32ND GUAM LEGISLATURE



June 11, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation Veterans' Affairs, Homeland Security and Judiciary 

SUBJECT: SECOND NOTICE of Public Hearing on Thursday, June 13, 2013 at 9:00AM

Buenas yan Hafa Adail

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Thursday, June 13, 2013, at *Liheslaturan Guáhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.
- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to aguon4guam@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *Liheslaturan Guáhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to admin@frankaguonjr.com.

Si Yu'os Ma'ase!

Cc: Clerks | MIS | Sgt-at-Arms

Senator
FRANK B. AGUON, JR.
Committee Chairperson

Senator
Tina Muna-Barnes
Committee Vice Chairperson

Speaker
Judith T. Won Pat, Ed.D.
Committee Member

Senator
Rory J. Respicio
Committee Member

Senator
Thomas C. Ada
Committee Member

Senator
Dennis G. Rodriguez, Jr.
Committee Member

Senator
V. Anthony Ada
Committee Member

Senator
Michael Lintiacó
Committee Member

Senator
Thomas Morrison
Committee Member



COMMITTEE ON

**GUAM U.S. MILITARY RELOCATION
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY**

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE



June 06, 2013

The Honorable Madeleine Z. Bordallo
Congresswoman of Guam | Guam Delegate
120 Father Duenas Avenue Suite 107
Hagåtña, GU 96910
Sent via email to cecilia.blas@mail.house.gov

RE: Public Hearing Scheduled for Thursday, June 13, 2013 at 9:00AM

Dear Congresswoman Bordallo,

Buenas yan Hafa Adai!

The Committee on Guam US Military Relocation, Homeland Security, Veterans' Affairs and Judiciary has scheduled a public hearing Thursday, June 13, 2013 beginning at 9:00AM. Included on the agenda are the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.
- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

If you feel the above mentioned items impact your agency or organization, we encourage you to participate in this upcoming Public Hearing. Also, if you have any concerns in regards to this invitation, please contact me or my office via phone 475-GUM1/2 (4861/2) or email to aguon4guam@gmail.com.

Respectfully

SENATOR FRANK B. AGUON, JR.
Committee Chairman of Guam U.S. Military Relocation, Homeland Security, Veterans' Affairs, and the Judiciary
I Mina'Trentai Dos Na Liheslaturan Guåhan | 32nd Guam Legislature

**Senator
FRANK B. AGUON, JR.**
Committee Chairperson

**Senator
Tina Muna-Barnes**
Committee Vice Chairperson

**Speaker
Judith T. Won Pat, Ed.D.**
Committee Member

**Senator
Rory J. Respicio**
Committee Member

**Senator
Thomas C. Ada**
Committee Member

**Senator
Dennis G. Rodriguez, Jr.**
Committee Member

**Senator
V. Anthony Ada**
Committee Member

**Senator
Michael Limtiaco**
Committee Member

**Senator
Thomas Morrison**
Committee Member



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2013 JUN 19 AM 10:31

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

June 19, 2013

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Memorandum

Senator
Vicente (Ben) C. Pangelinan
Member

To: Rennae Meno
Clerk of the Legislature

Speaker
Judith T.P. Won Pat, Ed.D.
Member

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Senator
Dennis G. Rodriguez, Jr.
Member

Subject: Fiscal Notes

Vice-Speaker
Benjamin J.F. Cruz
Member

Hafa Adai!

Attached please find the waiver for the bill numbers listed below.
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Legislative Secretary
Tina Rose Muña Barnes
Member

FISCAL NOTE:

Bill Nos. 89-32(COR), 108-32COR), 118-32(COR), and 129-32(COR)

Senator
Frank Blas Aguon, Jr.
Member

WAIVER:

Bill No. 99-32(COR)

Senator
Michael F.Q. San Nicolas
Member

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
V. Anthony Ada
Member
MINORITY LEADER

Si Yu'os ma'åse'!

Senator
Aline Yamashita
Member

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNOR

JUN 17 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 108-32(COR), 118-32(COR), and
Fiscal Note Waiver on the following Bill Nos.: 99-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

A handwritten signature in black ink, appearing to read "John A. Rios".

JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR

Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR**JOHN A. RIOS**
DIRECTOR**RAY TENORIO**
LIEUTENANT GOVERNOR**JUN 14 2018**

The Bureau requests that Bill No(s) 99-32(COR) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

Bill No. 99-32(COR) is an Act to Amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated relative to clarifying minimum sentences for crimes.

The intent of the Bill is administrative in nature and poses no fiscal impact upon any funds of the Government of Guam.

A handwritten signature in black ink, appearing to read "John A. Rios".
JOHN A RIOS



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2013 APR 30 PM 3:41

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

April 30, 2013

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

VIA EMAIL
john.rios@bbmr.guam.gov

Senator
Vicente (Ben) C. Pangelinan
Member

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

Speaker
Judith T.P. Won Pat, Ed.D.
Member

RE: Request for Fiscal Note – Bill Nos. 97-32(LS), 98-32(LS),
99-32(LS), and 100-32(LS)

Senator
Dennis G. Rodriguez, Jr.
Member

Håfa Adai Mr. Rios:

Vice-Speaker
Benjamin J.F. Cruz
Member

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Legislative Secretary
Tina Rose Muña Barnes
Member

Si Yu'os ma'åse' for your attention to this matter.

Senator
Frank Blas Aguon, Jr.
Member

Very Truly Yours,

Senator
Michael F.Q. San Nicolas
Member

Senator Rory J. Respicio
Chairperson, Committee on Rules

Senator
V. Anthony Ada
Member
MINORITY LEADER

Attachments

Senator
Aline Yamashita
Member

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
97-32 (LS)	D.G. Rodriguez,Jr.	AN ACT TO APPROPRIATE AVAILABLE FUNDS FROM THE GUAM/TERRITORIAL HIGHWAY FUND TO DESIGNATE AND PRIORITIZE CERTAIN CAPITAL IMPROVEMENT PROJECTS, PURCHASE HEAVY EQUIPMENT NEEDED BY THE DEPARTMENT OF PUBLIC WORKS FOR FLOOD MITIGATION AND FUND THE DEPARTMENT OF REVENUE AND TAXATION'S TRANSACTION PROCESSING SYSTEM.
98-32(LS)	D.G. Rodriguez,Jr.	AN ACT TO MANDATE THE ESTABLISHMENT OF A GUAM IMMUNIZATION REGISTRY, AND TO PROVIDE FOR THE COORDINATED SUBMISSION OF OTHER STATISTICAL DATA FOR COMPILATION AND REPORTING BY THE OFFICE OF VITAL STATISTICS, BY ADDING A NEW §3210.1 AND AMENDING §3218, ALL OF ARTICLE 2 OF CHAPTER 3,10GCA.
99-32(LS)	Brant T. McCreadie	AN ACT TO AMEND §80.60 OF ARTICLE 4, CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING MINIMUM SENTENCES FOR CRIMES.
100-32(LS)	Judith T. Won Pat,Ed.D	AN ACT TO ADD A NEW ITEM (e) TO §21116 OF CHAPTER 21, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE DEPOSIT OF UNCLAIMED OR UNPAID TAX REFUND CHECKS INTO THE INCOME TAX REFUND RESERVE FUND



COMMITTEE ON RULES

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Senator
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CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
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Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

April 26, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Thomas C. Ada
Acting Chairperson of the Committee on Rules

Subject: Referral of Bill No. 99-32(LS)

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 99-32(LS)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 99-32(LS)

Introduced by:

Brant T. McCreddie 

**AN ACT TO AMEND §80.60 OF ARTICLE 4,
CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO CLARIFYING MINIMUM
SENTENCES FOR CRIMES.**

2013 APR 26 AM 10:27

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that,
3 over time, past legislatures have set minimum sentences in the criminal code for a
4 broad spectrum of crimes and offenses. Additionally, as the criminal code has been
5 amended and expanded over time, the language regarding minimum sentencing has
6 become muddled. *I Liheslaturan Guåhan* further finds that clarification of minimum
7 mandatory sentencing is needed to protect the people's interest in the sentencing of
8 convicted persons.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to clarify what "minimum"
10 means by amending §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated.

11 **Section 2.** §80.60 of Article 4, Chapter 80, Title 9 Guam Code Annotated, is
12 hereby *amended* to read:

13 **“§ 80.60. Standards for Imposing or Withholding Probation.**

14 (a) When Sentence May Not Require Prison Term. The court, in its
15 discretion, may make disposition in respect to any person who has been
16 convicted of a crime without imposing sentence of imprisonment unless a

1 minimum term is made mandatory by a provision of ~~[sic] Guam Codes~~ the Guam
2 Code Annotated.

3 “Minimum” wherever it appears in this Code means, for purposes of
4 imposing punishment upon a person convicted of a crime, that the court shall
5 impose the entire term of confinement, the full amount of the fine and the
6 complete requirement of community service prescribed by law. The court shall
7 not suspend in full or in part any punishment described as minimum punishment.

8 When used for the purpose of describing or requiring a sentence of
9 incarceration imposed pursuant to this Code, the terms “minimum,” “mandatory,”
10 “minimum mandatory”, “mandatory minimum”, “minimum sentence of”, “a
11 sentence of no less than”, “a sentence of at least” and any derivative thereof shall
12 be construed as being synonymous.

13 (b) Notwithstanding Subsection (a) the court shall not suspend imposition
14 of sentence or place an offender on probation if, having due regard to the nature
15 and circumstances of the crime and the history, character and condition of the
16 offender, the court finds that imprisonment is necessary for the protection of the
17 public because:

18 (1) there is undue risk that during the period of a suspended
19 sentence or probation the offender would commit another crime;

20 (2) the offender is in need of correctional treatment that can be
21 provided most effectively by commitment to an institution; or

22 (3) a lesser sentence would depreciate the seriousness of the
23 offender's crime.

24 (c) The following factors, while not controlling, shall be accorded weight
25 in determining whether to suspend imposition of sentence or to place the
26 offender on probation whether:

1 (1) The offender's criminal conduct neither caused nor threatened
2 serious harm.

3 (2) The offender did not contemplate that his criminal conduct
4 would cause or threaten serious harm.

5 (3) There were substantial grounds tending to excuse or justify the
6 offender's criminal conduct, though failing to establish a defense.

7 (4) The offender has compensated or will compensate the victim of
8 his criminal conduct for the damage or injury which was sustained.

9 (5) The offender has no history of prior delinquency or criminal
10 activity or has led a law-abiding life for a substantial period of time before
11 the commission of the present crime.

12 (6) The offender is particularly likely to respond affirmatively to
13 probationary treatment.

14 (d) If a person who has been convicted of a crime is not sentenced to
15 imprisonment, the court shall place him on probation if he is in need of the
16 supervision, guidance, assistance or direction that probation can provide.”

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

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