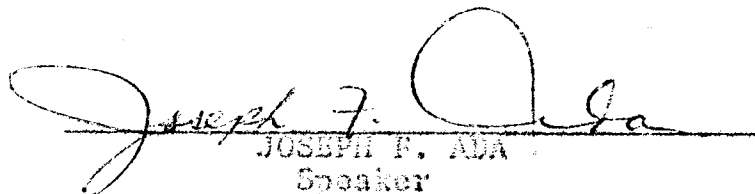


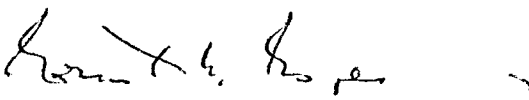
FOURTEENTH GUAM LEGISLATURE  
1978 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

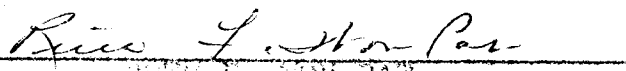
This is to certify that Substitute Bill No. 222, "An Act to amend and add certain sections to the Guam Codes for the purposes of providing certain mandatory sentences for certain crimes", was on the 7th day of September, 1978, duly and regularly passed.

  
JOSEPH F. ADA  
Speaker


ATTESTED:

  
ERNESTO M. ESPALDON  
Legislative Secretary

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This Act was received by the Governor this 19th day of September, 1978, at 4:40 o'clock P.M.

  
RUTH F. SON PAT  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
RICARDO J. BORDALLO  
Governor of Guam

DATE: September 29, 1978  
8:45 A.M.

Public Law 14-143

FOURTEENTH GUAM LEGISLATURE  
1978 (SECOND) Regular Session

Bill No. 222  
(As Substituted by  
the Committee on  
Judiciary and  
Criminal Justice)

Introduced by

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J. M. Rivera  
J. F. Ada  
J. T. San Agustin  
E. R. Duenas

AN ACT TO AMEND AND ADD CERTAIN SECTIONS  
TO THE GUAM CODES FOR THE PURPOSES OF  
PROVIDING CERTAIN MANDATORY SENTENCES  
FOR CERTAIN CRIMES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 80.37 is added to the Criminal and  
Correctional Code to read:

"Section 80.37. Unlawful possession or use of a  
deadly weapon in commission of a felony; mandatory sentence.  
Whoever unlawfully possesses or uses a deadly weapon in the  
commission of a felony punishable under the laws of Guam  
shall, in addition to the punishment imposed for the commis-  
sion of such felony, be imprisoned for a term of not less  
than five (5) years nor more than twenty-five (25) years.  
The sentence shall include a special parole term of not  
less than three (3) years in addition to such term of  
imprisonment. No person convicted and sentenced hereunder  
shall be eligible for parole or probation until he shall  
have served at least five (5) years in prison. No person  
convicted or sentenced hereunder shall be eligible to parti-  
cipate in any work release program until he shall have  
served at least five (5) years. The term required to be  
imposed by this section shall not run concurrently with any  
term of imprisonment imposed for the commission of any other  
felony."

1 Section 2. Section 8935 of the Government Code is amended  
2 to read:

3 "Section 8935. Unlawful possession. Every person not  
4 in lawful possession of an explosive who knowingly has any  
5 explosive in his possession is guilty of a third degree  
6 felony."

7 Section 3. Section 25.15(b) of the Criminal and Correctional  
8 Code is amended to read:

9 "(b) Aggravated rape is a felony of the first degree  
10 if, in the course thereof, the defendant inflicts serious  
11 bodily injury on his victim or if his conduct violates both  
12 paragraphs (1) and (2) of subsection (a). In the case of  
13 rape as a felony of the first degree, the court shall impose  
14 a sentence of imprisonment of a minimum term of ten (10)  
15 years and may impose a maximum sentence of up to twenty-five  
16 (25) years; said minimum term imposed shall not be suspended  
17 nor may probation be imposed in lieu of said minimum sentence  
18 nor shall parole or work release be granted before completion  
19 of the minimum term. The sentence shall include a special  
20 parole term of not less than three (3) years in addition to  
21 such term of imprisonment. Otherwise, aggravated rape is a  
22 felony of the second degree."

23 Section 4. Section 22.20(b) of the Criminal and Correctional  
24 Code is amended to read:

25 "(b) Kidnapping is a felony of the first degree unless  
26 the defendant voluntarily releases the victim alive and in a  
27 safe place prior to trial, in which case it is a felony of  
28 the second degree. In the case of kidnapping as a felony of  
29 the first degree, the court shall impose a sentence of  
30 imprisonment of a minimum term of ten (10) years and may im-  
31 pose a maximum sentence of up to twenty-five (25) years; said

1 minimum term shall not be suspended nor probation be imposed  
2 in lieu of said minimum term nor shall parole or work release  
3 be granted before completion of the minimum term. The  
4 sentence shall include a special parole term of not less than  
5 three (3) years in addition to such term of imprisonment."  
6 Section 5. Section 40.10(b) and Section 40.20(b) of the  
7 Criminal and Correctional Code are amended to read:

8 "Section 40.10(b). Robbery in the first degree is  
9 a felony of the first degree. In the case of robbery in  
10 the first degree, the court shall impose a sentence of  
11 imprisonment of a minimum term of ten (10) years and may  
12 impose a maximum term of up to twenty-five (25) years; the  
13 minimum term imposed shall not be suspended nor probation be  
14 imposed in lieu of said minimum term nor shall parole or work  
15 release be granted before completion of the minimum term.  
16 The sentence shall include a special parole term of not less  
17 than three (3) years in addition to such term of imprisonment.

18 Section 40.20(b). Robbery in the second degree is a  
19 felony of the second degree. In the case of robbery of  
20 the second degree as a felony of the second degree, the court  
21 shall impose a sentence of imprisonment of a minimum term  
22 of five (5) years and may impose a maximum term of up to  
23 ten (10) years; the minimum term imposed shall not be sus-  
24 pended nor may probation be imposed in lieu of the minimum  
25 term nor shall parole or work release be granted before  
26 completion of the minimum term. The sentence shall include  
27 a special parole term of not less than three (3) years in  
28 addition to such term of imprisonment."

1 Section 6. Section 34.20(b) of the Criminal and Correctional  
2 Code is amended to read:

3 "(b) Aggravated arson is a second degree felony.

4 In the case of aggravated arson as a felony of the second  
5 degree, the court shall impose a sentence of imprisonment of  
6 a minimum term of five (5) years and may impose a maximum  
7 term of up to ten (10) years; the minimum term imposed shall  
8 not be suspended nor may probation be imposed in lieu of the  
9 minimum term nor shall parole or work release be granted be-  
10 fore completion of the minimum term. The sentence shall  
11 include a special parole term of not less than three (3)  
12 years in addition to such term of imprisonment."

13 Section 7. Section 37.20(b) of the Criminal and Correctional  
14 Code is repealed and reenacted to read:

15 (b) Burglary is a felony of the second degree. In  
16 the case of burglary as a felony of the second degree, the  
17 court shall impose a sentence of imprisonment of a minimum  
18 term of five (5) years and may impose a maximum term of up  
19 to ten (10) years; the minimum term imposed shall not be  
20 suspended nor may probation be imposed in lieu of the minimum  
21 term nor shall parole or work release be granted before  
22 completion of the minimum term. The sentence shall include  
23 a special parole term of not less than three (3) years in  
24 addition to such term of imprisonment. Provided, however,  
25 that in the case of an offender not previously convicted of  
26 a felony, the court may sentence the offender to not more  
27 than five (5) years imprisonment and the provisions of this  
28 subsection prohibiting probation, suspension, parole or work  
29 release shall not be applicable to such offender."

1 Section 8. Section 43.20 of the Criminal and Correctional  
2 Code is repealed and reenacted to read:

3 "Section 43.20. (a) Theft constitutes a felony of  
4 the second degree if the amount involved exceeds One Thousand  
5 Five Hundred Dollars (\$1,500) or if the property stolen is  
6 a bus, truck, automobile, aircraft, motorcycle or motor boat  
7 or in the case of theft by receiving stolen property, if  
8 the defendant is in the business of buying or selling stolen  
9 property. In the case of theft as a felony of the second  
10 degree, the court shall impose a sentence of imprisonment of  
11 a minimum term of five (5) years and may impose a maximum  
12 term of up to ten (10) years; the minimum term imposed shall  
13 not be suspended nor may probation be imposed in lieu of the  
14 minimum term nor shall parole or work release be granted be-  
15 fore completion of the minimum term. The sentence shall in-  
16 clude a special parole term of not less than three (3) years  
17 in addition to such term of imprisonment provided, however,  
18 that in the case of an offender not previously convicted of a  
19 felony or an offense constituting theft, the court may  
20 sentence the offender to not more than five (5) years  
21 imprisonment and the provisions of this subsection prohibiting  
22 probation, suspension, parole or work release shall not be  
23 applicable to such offender.

24 (b) Theft constitutes a felony of the third degree if  
25 the amount involved is less than One Thousand Five Hundred  
26 Dollars (\$1,500) but exceeds Five Hundred Dollars (\$500) or  
27 if the property stolen is a firearm or motorized vehicle  
28 other than those set forth in subsection (a) of this section.

1 (c) Theft not constituting a felony of the second or  
2 third degree is a misdemeanor if the amount involved exceeds  
3 Fifty Dollars (\$50) or if the property stolen is a credit  
4 card or if the property was taken from the person or by  
5 extortion.

6 (d) Theft not constituting a felony of the second or  
7 third degree or a misdemeanor is a petty misdemeanor.

8 (e) The amount involved in a theft shall be the fair  
9 market value of the property or services which the defendant  
10 stole or attempted to steal. Whether or not they have been  
11 issued or delivered, written instruments not having a readily  
12 ascertained market value shall be evaluated as follows:

13 (1) The value of an instrument constituting an  
14 evidence of debt, such as a check, draft or promissory  
15 note, shall be the amount due or collectible thereon or  
16 thereby, that figure ordinarily being the face amount  
17 of the indebtedness less any portion thereof which has  
18 been satisfied.

19 (2) The value of any other instrument that creates,  
20 releases, discharges or otherwise affects any valuable  
21 legal right, privilege or obligation shall be deemed  
22 the greatest amount of economic loss which the owner of  
23 the instrument might reasonably suffer by virtue of the  
24 loss of the instrument.

25 (f) Amounts involved in thefts committed pursuant to  
26 one scheme or course of conduct, whether from the same person  
27 or several persons or amount involved in thefts by a servant,  
28 agent or employee from his principal or employer in any  
29 period of twelve (12) consecutive months, may be aggregated  
30 in determining the grade of the offense."

1           Section 9. Section 89.10 of the Criminal and Correctional  
2 Code is repealed and reenacted to read:

3           "Section 89.10. (a) Unless otherwise provided by  
4 law, the court may suspend the imposition of sentence of a  
5 person who has been convicted of a crime in accordance with  
6 Section 89.60, may order him to be committed in lieu of  
7 sentence in accordance with Section 89.20 or may sentence  
8 him as follows:

9                     (1) to imprisonment for a term required by law;

10                    (2) to imprisonment and to an additional parole;

11                    (3) to pay a fine or make restitution as authorized  
12 by law;

13                    (4) to be placed on probation as authorized by  
14 law; or

15                    (5) to pay a fine, to make restitution and to be  
16 placed on probation; to make restitution and imprison-  
17 ment or to pay a fine and imprisonment.

18           (b) Where the judgment of conviction includes more  
19 than one crime, the sentences imposed shall run concurrently  
20 except as provided in Sections 89.38, 89.40 and 89.42.

21           (c) The court may suspend the imposition of sentence  
22 on a person who has been convicted of a violation or may  
23 sentence him to pay a fine or make restitution as authorized  
24 by Section 89.50.

25           (d) Nothing in this Code deprives the court of any  
26 authority otherwise conferred by law to decree or forfeiture  
27 of property, suspend or cancel the license, remove a person  
28 from office or impose any other civil penalty, such a  
29 judgment or order may be included in the sentence."



1 Section 16. Section 80.30 of the Criminal and Correctional  
2 Code is repealed and reenacted to read:

3 "Section 80.30. Except as otherwise provided by law,  
4 a person who has been convicted of a felony may be sentenced  
5 to imprisonment as follows:

6 (a) In the case of a felony of the first degree,  
7 the court shall impose a sentence of not less than five  
8 (5) years and not more than twenty (20) years;

9 (b) In the case of a felony of the second degree,  
10 the court shall impose a sentence of not less than  
11 three (3) years and not more than ten (10) years; and

12 (c) In the case of a felony of the third degree,  
13 the court may impose a sentence of not more than five  
14 (5) years."

15 Section 11. Section 80.31 is added to the Criminal and  
16 Correctional Code to read:

17 "Section 80.31. In the cases to which Section 80.30 is  
18 applicable as to the sentencing of the person, a person who  
19 has not previously been convicted of a criminal offense and  
20 has been convicted of a felony for the first time may be  
21 sentenced to imprisonment as follows:

22 (a) In the case of a felony of the first degree,  
23 the court shall impose a sentence of not less than  
24 three (3) years and not more than fifteen (15) years;

25 (b) In the case of a felony of the second degree,  
26 the court shall impose a sentence of not less than one  
27 (1) year and not more than eight (8) years; and

28 (c) In the case of felony of the third degree, the  
29 court may impose a sentence of not more than three (3)  
30 years."

1 Section 12. Section 80.32 of the Criminal and Correctional  
2 Code is repealed and reenacted to read:

3 "Section 80.32. In the cases designated in Sections  
4 80.50 and 80.52, a person who has been convicted of a felony  
5 may be sentenced to an extended term of imprisonment as  
6 follows:

7 (a) In the case of a felony of the first degree,  
8 for a sentence of life imprisonment;

9 (b) In the case of a felony of the second degree,  
10 the court may impose a sentence of not less than five (5)  
11 years and not more than twenty (20) years; or

12 (c) In the case of a felony of the third degree,  
13 the court may impose a sentence of not less than three  
14 (3) years and not more than ten (10) years."

15 Section 13. Section 80.48(a) of the Criminal and Correctional  
16 Code is repealed and reenacted to read:

17 "(a) Except as otherwise provided by law, either the  
18 court at the time of sentencing or the Director of Correc-  
19 tions after the offender has been placed in his custody, may  
20 extend the limits of his confinement to permit the offender  
21 to continue in his regular employment or educational program  
22 or if the prisoner does not have regular employment or a  
23 regular educational program, to secure employment or educa-  
24 tion. Any employment or education so secured must be suit-  
25 able for the offender. Such employment or educational pro-  
26 gram if such educational program includes earnings by the  
27 offender, must be at a wage at least as high as the pre-  
28 vailing wage for similar work in the territory and in  
29 accordance with the prevailing working conditions in the  
30 territory. In no event may any such employment or educational

1 program involving earnings by the offender be permitted where  
2 there is a labor dispute in the establishment in which the  
3 offender is or is to be employed or educated. Whenever the  
4 offender is not employed or being educated and between the  
5 hours or periods of employment or education, he shall be  
6 confined in such facility designated by the court or Director  
7 of Corrections."

8 Section 14. A new Section 80.00 is added to the Criminal  
9 and Correctional Code to read:

10 "Section 80.00. All terms of imprisonment in Guam Codes  
11 imposed upon conviction of an offense shall be fixed terms,  
12 having a determined termination date set at the time of  
13 sentencing by the court, except as provided for extension of  
14 terms of imprisonment under Sections 80.32 and 80.36 of  
15 this Code."

16 Section 15. Section 80.60(a) of the Criminal and Correctional  
17 Code is amended to read:

18 "Section 80.60(a). The court, in its discretion, may  
19 make disposition in respect to any person who has been  
20 convicted of a crime without imposing sentence of imprisonment  
21 unless a minimum term is made mandatory by a provision of  
22 Guam Codes."

23 Section 16. The following subsections of Section 80.60(c)  
24 of the Criminal and Correctional Code are repealed:

25 (3), (5), (8), (9) and (11).

26 The remaining subsections shall be renumbered accordingly.

27 Section 17. Sections 80.70(a) and 80.70(b) of the Criminal  
28 and Correctional Code are repealed and reenacted to read:

29 "(a) An offender sentenced to a term of imprisonment  
30 may be released conditionally on parole upon completion of

1 two-thirds (2/3) of his fixed sentence or thereafter in  
2 accordance with the provisions of this article.

3 (b) A sentence to a fixed term of imprisonment includes,  
4 as a separate portion of the sentence, a term of parole or  
5 of recommitment for violation of the conditions of parole  
6 which governs the duration of parole or recommitment after  
7 the offender's first conditional release on parole. The  
8 term is three (3) years unless the conviction was for a mis-  
9 demeanor in which case it is one (1) year."

10 Section 18. Section 80.72 of the Criminal and Correctional  
11 Code is repealed and reenacted to read:

12 "Section 80.72. (a) Unless otherwise provided by law,  
13 every person confined in a territorial penal or correctional  
14 institution shall be eligible for release on parole at any  
15 time after the service of two-thirds (2/3) of his fixed  
16 sentence or after a greater time set by the court, which  
17 shall state reasons therefor or in the case of a person  
18 sentenced to life imprisonment, after such person has been  
19 confined for fifteen (15) years.

20 (b) The Board shall consider the desirability of  
21 parole of each inmate at least sixty (60) days prior to his  
22 first eligibility. Following such consideration, the Board  
23 shall issue a formal order granting or denying parole. If  
24 parole is denied, the Board shall state in its order the  
25 reasons therefor and the approximate date of next considera-  
26 tion, which shall not be more than one (1) year from the  
27 date of the previous consideration. The Board need not  
28 state any reasons for denial if to do so would impair a  
29 course of rehabilitative treatment of the inmate."

1 Section 19. This Act shall become operative on October 1,  
2 1978. Except as otherwise provided in this section, this Act  
3 does not apply to offenses committed prior to its effective date  
4 and prosecutions for such offenses shall be governed by the prior  
5 law which is continued in effect for that purpose as if this Act  
6 were not in force. For the purposes of this section, an offense  
7 was committed after the operative date of this Act if any of the  
8 elements of the offense occurred subsequent thereto. Provisions  
9 of this Act governing the treatment and the release or discharge  
10 of prisoners, probationers and parolees shall not apply to  
11 persons under sentence for offenses committed prior to the opera-  
12 tive date of this Act who shall be governed by the law in effect  
13 with respect to each at the time of his sentencing which is  
14 continued in effect for that purpose as if this Act were not in  
15 force.

16 Section 20. Section 47100.2 is added to the Government Code  
17 to read:

18 "47100.2. (a) The Department of Commerce shall make  
19 available to all air and sea carriers serving Guam a form to  
20 be completed by all passengers arriving on Guam. (Much like  
21 the agricultural form). This form shall read:

22 'The importation of controlled substances into  
23 Guam is a felony of the first degree. The punishment  
24 for violation of the appropriate sections of the  
25 Criminal and Correctional Code is a minimum mandatory  
26 prison sentence of ten (10) years without suspension,  
27 probation, parole or work release privileges. Con-  
28 trolled substances may be deposited in a contraband box  
29 prior to passenger inspection.

30 \_\_\_\_\_  
31 Signature of Passenger

\_\_\_\_\_ Date

\_\_\_\_\_ Tit. No.

\_\_\_\_\_ Carrier

1           (5) The Department shall provide a container into  
2 which controlled substances may be deposited by debarking  
3 passengers prior to passenger inspection. Notwithstanding  
4 any provisions of law to the contrary, no person shall be  
5 criminally liable for an offense under Article 6 of Chapter  
6 67 of the Criminal and Correctional Code if such person  
7 deposits a controlled substance in such container after  
8 debarking from an air or sea carrier."