



Territory of Guam

Territorio de Guam

OFFICE OF THE GOVERNOR
UFISINAN I MAGALAHI
AGANA, GUAM 96910 U.S.A.

October 19, 1989

Rec'd
Sooy
J



The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 939, which I have signed into law this date as
Public Law 20-111.

Sincerely,

JOSEPH F. ADA
Governor

Enclosure

200567



TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

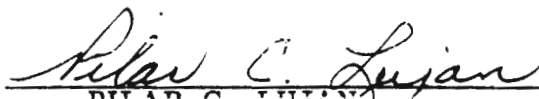
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 939 (COR), "AN ACT TO AMEND TITLES 8 AND 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO PRE-TRIAL RELEASE IN CRIMINAL CASES AND TO APPROVE A LAND EXCHANGE," was on the 2nd day of October, 1989, duly and regularly passed.



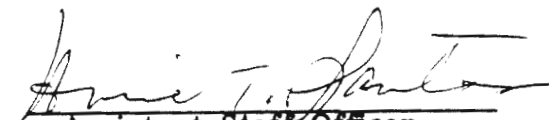
JOE T. SAN AGUSTIN
Speaker

Attested:



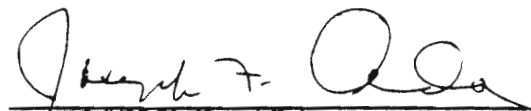
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 11 day of Oct., 1989,
at 4:48 o'clock .m.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: October 19, 1989

Public Law No. 20-111

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 939 (COR)

Introduced by:

P. C. Lujan
T. S. Nelson
J. P. Aguon

E. P. Arriola
J. G. Bamba
M. Z. Bordallo
D. F. Brooks
H. D. Dierking
E. R. Duenas
E. M. Espaldon
C. T. C. Gutierrez
G. Mailloux
M. D. A. Manibusan
D. Parkinson
F. J. A. Quitugua
E. D. Reyes
M. C. Ruth
J. T. San Agustin
F. R. Santos
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AMEND TITLES 8 AND 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
PRE-TRIAL RELEASE IN CRIMINAL CASES
AND TO APPROVE A LAND EXCHANGE.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. §40.15 of Title 8, Guam Code Annotated is hereby amended
3 to read:

4 "§40.15. 'Release and Recognizance' defined; when
5 permitted. (a) As used in this section, 'release and recognizance'
6 means release of the person charged without bail and upon his written
7 agreement to appear in court at all required times and places and to
8 fully comply with any other court ordered conditions and restrictions.
9 (b) The judge shall order the person charged to be released on
10 recognizance, unless the judge determines, in his discretion, on the
11 basis of available information that such a release will not reasonably
12 assure the appearance of the person as required.

1 (c) In determining whether there is a substantial risk of
 2 nonappearance, the judge shall consider the following factors
 3 concerning the person:

4 (1) the length of his residence on Guam;

5 (2) his employment status and history and his financial
 6 condition;

7 (3) his family ties and relationships;

8 (4) his reputation, character and mental condition;

9 (5) his prior criminal record; if any, including any record
 10 of prior release on recognizance or on bail;

11 (6) the identity of the reasonable members of the community
 12 who will vouch for his reliability;

13 (7) the nature of the offense charged, the apparent
 14 possibility of conviction and the likely sentence insofar as these
 15 factors are relevant to the risk of nonappearance;

16 (8) the danger the person would pose to the community or
 17 to any individual member thereof if released; and

18 (9) any other factors which bear on the risk of willful
 19 failure to appear.

20 (d) Nothing in this section shall be construed as modifying or
 21 limiting the presumption of innocence."

22 Section 2. A new §80.37.5 is added to Title 9, Guam Code Annotated,
 23 to read:

24 "§80.37.5. Felony committed on release. (a) Whoever commits a
 25 felony punishable under the laws of Guam while on release on a felony
 26 charge pursuant to Chapter 40 (Criminal Procedure) of Title 8, Guam
 27 Code Annotated, shall, in addition to the sentence imposed for the
 28 crime committed while on release, be imprisoned for a term of not less
 29 than five (5) years nor more than twenty-five (25) years.

30 (b) A sentence imposed under subsection (a) of this section
 31 shall include a special parole term of not less than three (3) years nor
 32 more than five (5) years in addition to the term of imprisonment. No
 33 person convicted and sentenced under this section shall be eligible for
 34 parole or probation until he serves at least five (5) years in prison.

1 (c) The term required to be imposed under this section shall run
2 consecutive to any term of imprisonment imposed for the commission of
3 any other felony."

4 Section 3. (a) Notwithstanding any other provision of law, the
5 Governor of Guam is authorized to exchange with the owner(s) of Lot No.
6 5083, Tumon, Dededo, Guam, a portion of an existing bull cart trail,
7 containing an area of 762.69⁺ square meters, situated between Lot No.
8 5079-1-1, Tumon, Dededo, Guam and said Lot No. 5083, with an equal area
9 of land along the northernmost boundary of said Lot No. 5083; provided,
10 that in addition, such owner(s) shall dedicate and grant in perpetuity an
11 irrevocable easement and right-of-way effective at the time of the exchange,
12 of not less than six feet (6') in width giving public access twenty-four (24)
13 hours per day from San Vitores Road to the highwater line of Tumon Bay
14 through Lots Nos. 5079-1-1 and 5083, which grant of easement and
15 right-of-way shall contain the following covenants running with the land for
16 the benefit of the public in perpetuity:

17 (i) That the easement and right-of-way shall be clearly and
18 permanently marked and designated as a public right of way;

19 (ii) That the easement and right-of-way shall be paved and
20 provided with appropriate lighting facilities;

21 (iii) That those members of the public wishing to use the easement
22 and right-of-way to the beach shall be entitled to use the private
23 parking on Lots Nos. 5079-1-1 and 5083; and

24 (iv) That the expense of constructing and maintaining the
25 facilities described in items (i), (ii), and (iii) above shall be borne in
26 perpetuity by the owner(s) of Lot No. 5083.

27 (b) The Director of Land Management and the Attorney General shall
28 take whatever action is necessary to effectuate such land exchange and the
29 dedication of the easement, right-of-way, and perpetual access. The
30 Governor shall execute all documents and instruments necessary to carry
31 out the provisions of this section, including an acceptance of the
32 dedication. The lessee(s) of the property involved shall also execute
33 appropriate documents to effectuate the exchange and grant of perpetual
34 easement.

1 (c) The provisions of Section 3 of Public Law 12-61, as amended,
2 shall not apply to the land exchange authorized by this section.
3 (d) Notwithstanding any other provision of law, the exchange and
4 dedication authorized in paragraph (a) of this section are hereby approved
5 by the Legislature."

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 939

Date: 10/2/89

Resolution No. _____

QUESTION: _____

		<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. P. Aguon	#			✓	
E. P. Arriola			✓		
J. G. Bamba		✓			
M. Z. Bordallo		✓			
D. F. Brooks	+	✓			
H. D. Dierking		✓			
E. R. Duenas		✓			
E. M. Espaldon		✓			
C. T. C. Gutierrez		✓			
P. C. Lujan		✓			
G. Mailloux		X		✓	
M. D. A. Manibusan		✓			
T. S. Nelson		✓			
D. Parkinson		✓			
F. J. A. Quitugua		✓			
E. D. Reyes		✓			
M. C. Ruth		✓			
J. T. San Agustin		✓			
F. R. Santos		✓			
T. V. C. Tanaka			✓		
A. R. Unpingco			✓		

16 3 2

Introduced

SEP 26 '89

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 939 (COR)

Introduced by:

P.C. LUJAN *PCJ*

AN ACT TO AMEND TITLES 8 AND 9 OF
THE GUAM CODE ANNOTATED RELATIVE
TO PRE-TRIAL RELEASE IN CRIMINAL
CASES

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

2 Section 1. 8 GCA §40.15 is amended to read:

3 "§40.15. 'Release and Recognizance' Defined;
4 When Permitted.

5 (a) As used in this section, 'release and
6 recognizance' means release of the person charged without
7 bail and upon his written agreement to appear in court at
8 all required times and places and to fully comply with any
9 other court ordered conditions and restrictions.

10 (b) The judge shall order the person charged to be
11 released on recognizance, unless the judge determines, in
12 his discretion, on the basis of available information that
13 such a release will not reasonably assure the appearance of
14 the person as required.

1 (c) In determining whether there is a substantial risk
2 of nonappearance, the judge shall consider the following
3 factors concerning the person:

4 (1) the length of his residence on Guam;

5 (2) his employment status and history and his
6 financial condition;

7 (3) his family ties and relationships;

8 (4) his reputation, character and mental
9 condition;

10 (5) his prior criminal record; if any, including
11 any record of prior release on recognizance or on bail;

12 (6) the identity of the reasonable members of the
13 community who will vouch for his reliability;

14 (7) the nature of the offense charged, the
15 apparent possibility of conviction and the likely
16 sentence insofar as these factors are relevant to the
17 risk of nonappearance;

18 (8) the danger the person would pose to the
19 community or to any individual member thereof if
20 released; and

21 (9) any other factors which bear on the risk of
22 willful failure to appear.

23 (d) Nothing in this section shall be construed as
24 modifying or limiting the presumption of innocence."

25 Section 2. A new §80.37.5 is added to Title 9 of the
26 Guam Code Annotated to read:

27 "§80.37.5. Felony Committed on Release.

28 (a) Whoever commits a felony punishable under the laws
29 of Guam while on release on a felony charge pursuant to
30 Chapter 40 (Criminal Procedure) of Title 8, Guam Code
31 Annotated, shall, in addition to the sentence imposed for
32 the crime committed while on release, be imprisoned for a

1 term of not less than five (5) years nor more than
2 twenty-five (25) years.

3 (b) A sentence imposed under Subsection (a) of this
4 Section shall include a special parole term of not less than
5 three (3) years nor more than five (5) years in addition to
6 the term of imprisonment. No person convicted and sentenced
7 under this section shall be eligible for parole or probation
8 until he serves at least five (5) years in prison.

9 (c) The term required to be imposed under this Section
10 shall run consecutive to any term of imprisonment imposed
11 for the commission of any other felony."