



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT

Received By J. Lee

Time 11:10

Date 12/6/95

DEC 05 1995

The Honorable Ted S. Nelson  
Acting Speaker  
Twenty-Third Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

Office of  
VICE-SPEAKER TED S. NELSON

Received by

D. Lee lac

Print Name Initial

Date: 12.6.95 Time: 10:02

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

Enclosed please find a copy of Bill No. 295 (LS), "AN ACT TO CREATE A NEW CHAPTER 88 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT, AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM", which I have signed into law today as **Public Law No. 23-60**.

This legislation addresses the pervasive use of illegal drugs and alcohol abuse as a significant factor in the commission of many crimes. It provides a forum for various government branches and departments and agencies to come together and create a program for testing persons under the jurisdiction of the criminal justice system for the use of illegal drugs and alcohol and to devise treatment programs which may be accessed by these persons wherever they may be in the criminal justice system: under arrest, under the jurisdiction of the court, in prison, on probation, or on parole.

Bill No. 295 calls together the Superior Court of Guam, the Department of Corrections, the Territorial Parole Board, the Guam Police Department, and the Department of Mental Health and Substance Abuse to develop and implement procedures to assess the use of controlled substances and

alcohol and to provide treatment to individuals which includes random testing for these substances.

Bill No. 205 concentrates on testing and treating those persons who are convicted of crimes involving the abuse of illegal drugs and alcohol. Persons convicted of felonies after the effective date of this legislation are required to submit to random drug testing, and treatment or sanctions will then occur based on the results.

We must apply whatever resources are available to close in on the wave of illegal drug usage contributing to the commission of crimes on our island. This legislation will assist in this effort by helping those persons who are drug users to rehabilitate their lives.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment

**230892**

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 295 (LS), "AN ACT TO CREATE A NEW CHAPTER 88 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT, AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM," was on the 22nd day of November, 1995, duly and regularly passed.

*Don Parkinson*

\_\_\_\_\_  
DON PARKINSON  
Speaker

Attested:

*Judith Won Pat-Borja*

\_\_\_\_\_  
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 29th day of November, 1995, at  
4:55 o'clock P.M.

*M. Winterh*

\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

*Carl T. C. Gutierrez*  
\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: 12-5-95

Public Law No. 23-60

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 295 (LS)

Introduced by:

M. Forbes  
A. C. Lamorena V  
E. Barrett-Anderson  
T. S. Nelson  
T. C. Ada  
J. P. Aguon  
A. C. Blaz  
J. M. S. Brown  
F. P. Camacho  
M. C. Charfauros  
H. A. Cristobal  
C. Leon Guerrero  
L. Leon Guerrero  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO CREATE A NEW CHAPTER 88 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT, AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM.

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



1 offender for the presence of controlled substances or alcohol as  
2 deemed appropriate by the agency which has supervision of the  
3 particular offender (hereinafter called the "supervising agency").  
4 The assessment procedure developed pursuant to this paragraph  
5 shall provide an evaluation of the extent of an offender's abuse of  
6 substances, if any, and recommend treatment which is  
7 appropriate to the needs of the particular offender.

8 (2) A system of programs for education and treatment of  
9 abuse of substances which can be utilized by offenders who are  
10 placed on probation, incarcerated with the Department of  
11 Corrections, placed on parole, or placed in community  
12 corrections. The programs developed pursuant to this paragraph  
13 shall be as flexible as possible so that such programs may be  
14 utilized by each particular offender to the extent appropriate to  
15 that offender. The programs developed pursuant to this  
16 paragraph shall be structured in such manner that the programs  
17 provide a continuum of education and treatment programs for  
18 each offender as he proceeds through the criminal justice system  
19 and may include, but shall not be limited to, attendance at self-  
20 help groups, group counseling, individual counseling, outpatient  
21 treatment, inpatient treatment, day care, or treatment in a  
22 therapeutic community. Also, such programs shall be developed  
23 in such a manner that, to the extent possible, the programs may be  
24 accessed by all offenders in the criminal justice system. Any  
25 programs developed pursuant to this paragraph shall include a  
26 system of periodic or random chemical testing for the presence of  
27 controlled substances or alcohol, or such other testing as provided

1 in paragraph (1) of this subsection (a). The frequency of such  
2 testing shall be that which is appropriate to the particular  
3 offender in accordance with the offender's assessment performed  
4 pursuant to paragraph (1) of this subsection (a).

5 (3) A system of punitive sanctions for offenders who test  
6 positive for the use of substances subsequent to the initial test and  
7 after being placed in an education or treatment program. The  
8 sanctions developed pursuant to this paragraph should allow for  
9 appropriate responses by the criminal justice system to each  
10 occurrence of a positive test by an offender, each of which shall  
11 become a permanent part of the offender's record.

12 (b) The procedures for assessment, treatment, and sanctions required to  
13 be developed by subsection (a) of this section shall be implemented only to the  
14 extent moneys are available in the Drug Treatment and Enforcement Fund,  
15 provided that, in all cases, persons referred or ordered to receive assessment,  
16 treatment, or sanctions shall do so at their own expense, unless they are  
17 indigent.

18 (c) The Superior Court of Guam, the Department of Corrections, the  
19 Territorial Parole Board, the Guam Police Department, and the Department  
20 of Mental Health and Substance Abuse shall cooperate to develop a schedule  
21 of fees sufficient to cover the costs of assessment, testing, and treatment as  
22 required by this section. All persons referred or ordered to receive  
23 assessment, testing, or treatment shall be made to pay for such, in accordance  
24 with the fee schedule, except in such cases where the person is determined to  
25 be indigent.

26 **§88.30. Substance Abuse Assessment Required for Convicted Felons and**  
27 **Controlled Substance Offenders.**

1 (a) Each person convicted of a felony committed on or after the effective  
2 date of this Act who is to be considered for probation, shall be required, as  
3 part of the presentence or probation investigation, to submit to an assessment  
4 for the use of controlled substances or alcohol developed pursuant to  
5 §88.20(a)(1). The Court shall order such person to comply with the  
6 recommendations of such assessment as a condition of probation, at the  
7 person's own expense, unless such person is indigent.

8 (b) Each person convicted of a misdemeanor involving the abuse of any  
9 substance, the abuse of which is considered illegal under Guam law, which  
10 was committed on or after the effective date of this Act shall be required to  
11 submit to an alcohol and drug evaluation. The Court shall order such person  
12 to comply with the recommendations of such evaluation, at the person's own  
13 expense unless such person is indigent. If such person is sentenced to  
14 probation, such person shall be ordered to comply with the recommendations  
15 as a condition of probation at such person's own expense, unless such person  
16 is indigent.

17 (c) The assessment required by subsection (a) of this section or the  
18 evaluation required by subsection (b) of this section shall be at the expense of  
19 the person assessed or evaluated, unless such person is indigent.

20 **§88.35. Sentencing of Felons: Parole of Felons: Treatment and Testing**  
21 **Based Upon Assessment Required.**

22 (a) Each person sentenced by the court for a felony committed on or  
23 after the effective date of this Act shall be required, as part of any sentence to  
24 probation, community corrections, or incarceration with the Department of  
25 Corrections, to undergo periodic testing and treatment for substance abuse  
26 which is appropriate to such person based upon the recommendations of the  
27 assessment made pursuant to §88.30 of this Act, or based upon any subsequent



1 recommendations by the Department of Corrections or the Superior Court of  
2 Guam, whichever is appropriate. Any such testing or treatment shall be at  
3 such person's own expense, unless such person is indigent.

4 (b) Each person placed on parole by the Territorial Parole Board on or  
5 after the effective date of this act, shall be required, as a condition of such  
6 parole, to undergo periodic testing and treatment for substance abuse which  
7 is appropriate to such person based upon the recommendations of the  
8 assessment made pursuant to §88.30 of this Act, or any assessment or  
9 subsequent reassessment made regarding such person during his  
10 incarceration or any period of parole. Any such testing or treatment shall be  
11 at such person's own expense, unless such person is indigent.

12 **§88.40. Departments Develop Testing Programs: Punitive Sanctions.**

13 (a) The Superior of Guam, the Department of Mental Health and  
14 Substance Abuse, the Department of Corrections, and the Territorial Parole  
15 Board, shall cooperate to develop programs for the periodic testing of  
16 offenders under the jurisdiction of each agency and programs for the periodic  
17 reassessment of appropriate treatment and testing made in the initial  
18 substance abuse assessment required by §88.30 of this Act, or any subsequent  
19 reassessment.

20 (b) Any offender who tests positive for the use of alcohol or controlled  
21 substances subsequent to the initial test required by §88.30 of this Act shall be  
22 subjected to a punitive sanction. The Superior Court of Guam, the  
23 Department of Corrections, and the Territorial Parole Board shall cooperate  
24 to develop and make public a range of punitive sanctions for those offenders  
25 under the jurisdiction of each agency which are appropriate to the offenders  
26 supervised by each particular agency. Such punitive sanctions shall be  
27 formulated in such a way as to promote fairness and consistency in the

1 treatment of offenders and may include, but shall not be limited to, increases  
2 in the level of an offender's supervision, increases in the use of electronic  
3 monitoring of an offender, loss of earned time granted pursuant to any  
4 appropriate local law or program, and referral of the offender to the court or  
5 the Territorial Parole Board for re-sentencing or revocation of probation or  
6 parole. It is the intent of the legislature that any offender's test which is  
7 positive for the use of controlled substances or alcohol shall result in an  
8 intensified level of testing, treatment, supervision, or other sanctions  
9 designed to control abuse of substances for such offender.

10 (c) The Superior Court, the Department of Corrections, the Territorial  
11 Parole Board, and the Department of Mental Health and Substance Abuse  
12 shall cooperate to develop a range of incentives for offenders under the  
13 jurisdiction of each particular agency to discontinue abuse of alcohol or  
14 controlled substances.

15 (d) No later than six (6) months after the effective date of this Act, the  
16 Territorial Parole Board shall develop and make public guidelines for the  
17 revocation of parole due to the abuse of alcohol or controlled substances in  
18 violation of this act.

19 **§88.50. Samples for Testing of Offenders.** Any type of sample for the  
20 chemical testing of any offender for the presence of controlled substances or  
21 alcohol pursuant to this Act may be collected from such offender by his  
22 probation officer, parole officer, case manager within the Department of  
23 Corrections, or any contract provider of testing services.

24 **§88.51. Drug Treatment and Enforcement Fund.** There is established a  
25 Drug Treatment and Enforcement Fund, which shall be maintained by the  
26 Department of Administration separately from the General Fund or any  
27 other fund of the government of Guam. All funds collected from fines levied

1 against offenders convicted of any offense involving the illegal possession,  
2 illegal possession with the intent to distribute, illegal importation or illegal  
3 manufacture of any controlled substance as defined in 9 GCA Chapter 97,  
4 shall be deposited in this fund.

5       **§88.60. Report to the Legislature.** On or before September 1, 1996, the  
6 Superior Court of Guam, the Department of Corrections, the Territorial  
7 Parole Board, the Guam Police Department, and the Department of Mental  
8 Health and Substance Abuse shall jointly make a report to a committee  
9 meeting of the Guam Legislature's standing committee with appropriate  
10 oversight (as designated by the Legislative Committee on Rules) regarding  
11 the implementation of this Act; the results of the programs created by this Act,  
12 including any reduction in substance abuse by offenders while incarcerated;  
13 the standardized procedures developed pursuant to this act; and the number  
14 and kinds of punitive sanctions imposed upon offenders pursuant to this Act."

**TWENTY-THIRD GUAM LEGISLATURE**  
 1995 (FIRST) Regular Session

6

Date: 11/22/95

**VOTING SHEET**

Bill No. 295

Resolution No. \_\_\_\_\_

Question: On the passage

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, -MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.				✓
UNPINGCO, Antonio R.				✓
WONPAT-BORJA, Judith	✓			

TOTAL 19 0 0 2

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
 Recording Secretary

PV 23-60

# Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

September 21, 1995

SPEAKER DON PARKINSON  
Twenty-Third Guam Legislature  
155 Hesler St.  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 295**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 295** - "AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM."

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The voting record is as follows:

TO PASS	<u>11</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

  
MARK C. CHARFAUROS

Attachments

# Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

September 25, 1995

## MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 295** - "AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

1. Original Bill 295;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

Your attention and cooperation in this matter is greatly appreciated.

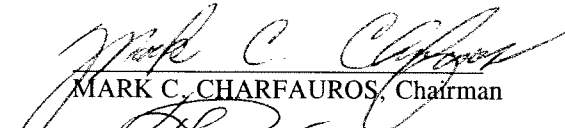
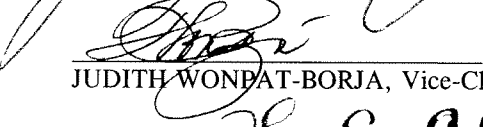
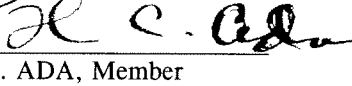






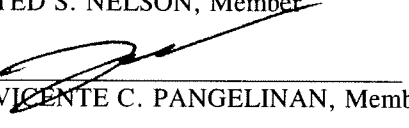

  
MARK C. CHARFAUROS

Attachments.

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND ENVIRONMENTAL  
AFFAIRS**

**23rd Guam Legislature  
VOTING RECORD**

**Bill No. 295, -"AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM."**

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT-BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
ELIZABETH BARRETT-ANDERSON, Member	—	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
 ANTHONY C. BLAZ, Member	✓	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
 LOU LEON GUERRERO, Member	✓	—	—	—
 TED S. NELSON, Member	✓	—	—	—
 VICENTE C. PANGELINAN, Member	✓	—	—	—
ANGEL L.G. SANTOS, Member	—	—	—	—
 DON PARKINSON, Ex-Officio Member	✓	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL  
JUSTICE AND ENVIRONMENTAL  
AFFAIRS

*Twenty-Third Guam Legislature*

COMMITTEE REPORT

on

Bill No. 295

“AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM.”

SEPTEMBER 20, 1995



## I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on September 20, 1995 at 9:30 p.m. at the Legislative Public Hearing Room. Public notice was announced on the September 19, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman

Senator Ben Pangelinan

Senator Ted Nelson

Senator Judith WonPat-Borja

Senator Hope Cristobal

Senator Angel L.G. Santos

Senator Tom Ada

Senator Lou Leon Guerrero

Senator Alberto Lamorena

Senator Mark Forbes, nonmember

Appearing before the Committee to testify on the bill were:

Mr. Charles Stake, Chief Prosecutor, Department of Law, **written.**

Mr. Calvin Holloway, Attorney General, Department of Law, **written.**

## II. SUMMARY OF TESTIMONY

Mr. Charles Stake, Chief Prosecutor, Department of Law, testified in support of Bill 295; written; **attached**.

Mr. Martin P. Santos, Acting Chief Probation Officer, Superior Court of Guam, testified in support of Bill 295; written; **attached**.

### III. FINDING AND RECOMMENDATION

The Committee finds that substance abuse is a major problem in the criminal justice system of the Territory of Guam. The Committee further finds that this abuse is a significant factor in the commission of crimes and in impeding the rehabilitation of persons convicted of crimes which results in an increased rate of recidivism.

The Committee further finds that this Bill would have a significant impact on the sanctions imposed on persons who test positive.

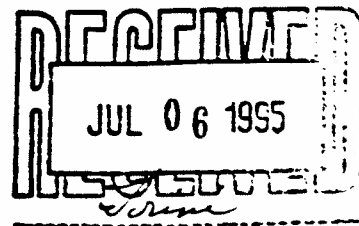
Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 295**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 295**,—"AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM."

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RB-



# COMMITTEE ON RULES

Twenty-Third Guam Legislature  
155 Hesler St., Agana, Guam 96910



July 5, 1995

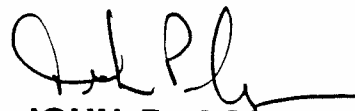
## MEMORANDUM

TO: Chairman, Committee on Judiciary, Criminal Justice  
and Environmental Affairs

FROM: Acting Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 295

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

  
JOHN P. AGNON

Attachment:

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 295  
Introduced by:

M. Forbes  
A. C. Lamorena  
E. Barrett-Anderson

AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM .

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2

3 Section 1. A new Chapter 88 is added to 9 GCA to read:  
4

5 "CHAPTER 88  
6 CRIMINAL JUSTICE SUBSTANCE ABUSE ACT  
7

8 § 88. 10. Short Title. This act may be cited as the "Criminal Justice System  
9 Substance Abuse Act of 1995."

10 § 88. 11. Legislative Declaration. The Legislature hereby declares that  
11 substance abuse, specifically the abuse of alcohol and controlled substances, is a  
12 major problem in the criminal justice system of the Territory of Guam and in the  
13 entire Territory. Substance abuse is a significant factor in the commission of crimes  
14 and it is a significant factor in impeding the rehabilitation of persons convicted of  
15 crimes which results in an increased rate of recidivism. Therefore, the Legislature

1 hereby resolves to curtail the disastrous effects of substance abuse in the criminal  
2 justice system and to improve and standardize substance abuse treatment for  
3 offenders at each stage of the criminal justice system and to provide punitive  
4 measures for offenders who refuse to cooperate with and respond to substance abuse  
5 treatment while such offenders are involved with the criminal justice system.

6 **§ 88. 20. Substance Abuse Assessment: Standardized Procedure.**

7 (a) The Superior Court of Guam, the Department of Corrections, the  
8 Territorial Parole Board, the Guam Police Department and the Department of  
9 Mental Health and Substance Abuse shall cooperate to develop and implement the  
10 following:

11 (1) A standardized procedure for the assessment of the use of controlled  
12 substances by offenders, which procedure shall include the administration of a  
13 chemical test of such offender for the presence of controlled substances or such other  
14 test of the offender for the presence of controlled substances or alcohol as deemed  
15 appropriate by the agency which has supervision of the particular offender  
16 (hereinafter called the "supervising agency"). The assessment procedure developed  
17 pursuant to this paragraph shall provide an evaluation of the extent of an offender's  
18 abuse of substances, if any, and recommend treatment which is appropriate to the  
19 needs of the particular offender.

20 (2) A system of programs for education and treatment of abuse of substances  
21 which can be utilized by offenders who are placed on probation, incarcerated with  
22 the Department of Corrections, placed on parole, or placed in community  
23 corrections. The programs developed pursuant to this paragraph shall be as flexible  
24 as possible so that such programs may be utilized by each particular offender to the  
25 extent appropriate to that offender. The programs developed pursuant to this  
26 paragraph shall be structured in such manner that the programs provide a  
27 continuum of education and treatment programs for each offender as he proceeds  
28 through the criminal justice system and may include, but shall not be limited to,  
29 attendance at self-help groups, group counseling, individual counseling, outpatient  
30 treatment, inpatient treatment, day care, or treatment in a therapeutic community.  
31 Also, such programs shall be developed in such a manner that, to the extent  
32 possible, the programs may be accessed by all offenders in the criminal justice  
33 system. Any programs developed pursuant to this paragraph shall include a system  
34 of periodic or random chemical testing for the presence of controlled substances or  
35 alcohol, or such other testing as provided in paragraph (1) of this subsection (a). The  
36 frequency of such testing shall be that which is appropriate to the particular offender

1 in accordance with the offender's assessment performed pursuant to paragraph (1)  
2 of this subsection (a).

3 (3) A system of punitive sanctions for offenders who test positive for the use  
4 of substances subsequent to the initial test and after being placed in an education or  
5 treatment program. The sanctions developed pursuant to this paragraph should  
6 allow for appropriate responses by the criminal justice system to each occurrence of  
7 a positive test by an offender, each of which shall become a permanent part of the  
8 offender's record.

9 (b) The procedures for assessment, treatment, and sanctions required to be  
10 developed by subsection (a) of this section shall be implemented only to the extent  
11 moneys are available in the Drug Treatment and Enforcement Fund, provided that  
12 in all cases persons referred or ordered to receive assessment, treatment or sanctions  
13 shall do so at their own expense, unless they are indigent.

14 (c) The Superior Court of Guam, the Department of Corrections, the  
15 Territorial Parole Board, the Guam Police Department and the Department of  
16 Mental Health and Substance Abuse shall cooperate to develop a schedule of fees  
17 sufficient to cover the costs of assessment, testing and treatment as required by this  
18 section. All persons referred or ordered to receive assessment, testing or treatment  
19 shall be made to pay for such, in accordance with the fee schedule, except in such  
20 cases where the person is determined to be indigent.

21 **§ 88. 30. Substance Abuse Assessment Required for Convicted Felons and**  
22 **Controlled Substance Offenders.**

23 (a) Each person convicted of a felony committed on or after the effective date  
24 of this act who is to be considered for probation, shall be required, as part of the  
25 presentence or probation investigation, to submit to an assessment for the use of  
26 controlled substances or alcohol developed pursuant to Section 3 (a) (1). The Court  
27 shall order such person to comply with the recommendations of such assessment as  
28 a condition of probation, at the person's own expense, unless such person is  
29 indigent.

30 (b) Each person convicted of a misdemeanor involving the abuse of any  
31 substance, the abuse of which is considered illegal under Guam law, which was  
32 committed on or after the effective date of this act shall be required to submit to an  
33 alcohol and drug evaluation. The Court shall order such person to comply with the  
34 recommendations of such evaluation, at the person's own expense unless such  
35 person is indigent. If such person is sentenced to probation, such person shall be

1 ordered to comply with the recommendations as a condition of probation at such  
2 person's own expense, unless such person is indigent.

3 (c) The assessment required by subsection (a) of this section or the evaluation  
4 required by subsection (b) of this section shall be at the expense of the person  
5 assessed or evaluated, unless such person is indigent.

6 **§ 88. 35. Sentencing of Felons: Parole of Felons: Treatment and Testing**  
7 **Based Upon Assessment Required.**

8 (a) Each person sentenced by the court for a felony committed on or after the  
9 effective date of this act shall be required, as part of any sentence to probation,  
10 community corrections, or incarceration with the Department of Corrections, to  
11 undergo periodic testing and treatment for substance abuse which is appropriate to  
12 such person based upon the recommendations of the assessment made pursuant to  
13 Section 4 of this act, or based upon any subsequent recommendations by the  
14 Department of Corrections or the Superior Court of Guam, whichever is  
15 appropriate. Any such testing or treatment shall be at such person's own expense,  
16 unless such person is indigent.

17 (b) Each person placed on parole by the Territorial Parole Board on or after the  
18 effective date of this act, shall be required, as a condition of such parole, to undergo  
19 periodic testing and treatment for substance abuse which is appropriate to such  
20 person based upon the recommendations of the assessment made pursuant to  
21 Section 4 of this act, or any assessment or subsequent reassessment made regarding  
22 such person during his incarceration or any period of parole. Any such testing or  
23 treatment shall be at such person's own expense, unless such person is indigent.

24 **§ 88. 40. Departments Develop Testing Programs: Punitive Sanctions.**

25 (a) The Superior Court of Guam, the Department of Mental Health and  
26 Substance Abuse, the Department of Corrections, and the Territorial Parole Board,  
27 shall cooperate to develop programs for the periodic testing of offenders under the  
28 jurisdiction of each agency and programs for the periodic reassessment of  
29 appropriate treatment and testing made in the initial substance abuse assessment  
30 required by Section 4 of this act, or any subsequent reassessment.

31 (b) Any offender who tests positive for the use of alcohol or controlled  
32 substances subsequent to the initial test required by Section 4 of this act shall be  
33 subjected to a punitive sanction. The Superior Court of Guam, the Department of  
34 Corrections and the Territorial Parole Board shall cooperate to develop and make  
35 public a range of punitive sanctions for those offenders under the jurisdiction of  
36 each agency which are appropriate to the offenders supervised by each particular



1 agency. Such punitive sanctions shall be formulated in such a way as to promote  
2 fairness and consistency in the treatment of offenders and may include, but shall not  
3 be limited to, increases in the level of an offender's supervision, increases in the use  
4 of electronic monitoring of an offender, loss of earned time granted pursuant to any  
5 appropriate local law or program, and referral to the offender to the court or the  
6 Territorial Parole Board for re-sentencing or revocation of probation or parole. It is  
7 the intent of the legislature that any offender's test which is positive for the use of  
8 controlled substances or alcohol shall result in an intensified level of testing,  
9 treatment, supervision, or other sanctions designed to control abuse of substances  
10 for such offender.

11 (c) The Superior Court, the Department of Corrections, the Territorial Parole  
12 Board, and the Department of mental Health and Substance Abuse shall cooperate  
13 to develop a range of incentives for offenders under the jurisdiction of each  
14 particular agency to discontinue abuse of alcohol or controlled substances.

15 (d) No later than six (6) months after the effective date of this act, the  
16 Territorial Parole Board shall develop and make public guidelines for the  
17 revocation of parole due to the abuse of alcohol or controlled substances in  
18 violation of this act.

19 § 88. 50. **Samples for Testing of Offenders.** Any type of sample for the  
20 chemical testing of any offender for the presence of controlled substances or alcohol  
21 pursuant to this act may be collected from such offender by his probation officer,  
22 parole officer, case manager within the Department of Corrections, or any contract  
23 provider of testing services.

24 § 88. 51. **Drug Treatment and Enforcement Fund.** There is established a Drug  
25 Treatment and Enforcement Fund, which shall be maintained by the Department of  
26 Administration separately from the General Fund or any other fund of the  
27 government of Guam. All funds collected from fines levied against offenders  
28 convicted of any offense involving the illegal possession, illegal possession with  
29 the intent to distribute, illegal importation or illegal manufacture of any controlled  
30 substance as defined in Chapter 97, 9 GCA, shall be deposited in this fund.

31 § 88. 60. **Report to the Legislature .** On or before September 1, 1996, the  
32 Superior Court of Guam, the Department of Corrections, the Territorial Parole  
33 Board, the Guam Police Department and the Department of Mental Health and  
34 Substance Abuse shall jointly make a report to a committee meeting of the Guam  
35 Legislature's standing committee with appropriate oversight (as designated by the  
36 Legislative Committee on Rules) regarding the implementation of this act, the

1 results of the programs created by this act including any reduction in substance  
2 abuse by offenders while incarcerated, the standardized procedures developed  
3 pursuant to this act, and the number and kinds of punitive sanctions imposed upon  
4 offender pursuant to this act. "



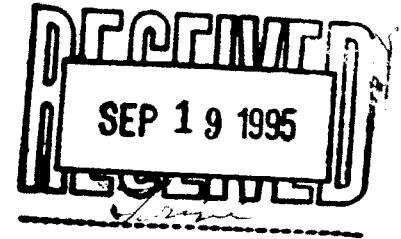


Calvin E. Holloway, Sr.  
*Attorney General*

Gus F. Diaz  
*Chief Deputy Attorney General*

Office of the Attorney General  
Territory of Guam

Phone: (671) 475-3324  
Telefax: (671) 472-2493



September 19, 1995

The Honorable Mark C. Charfauros  
Chairman, Committee on Judiciary, Criminal  
Justice and Environmental Affairs  
Twenty-Third Guam Legislature  
Ada's Commercial & Professional Center  
138 East Marine Drive, Suite 101C-Annex  
Agana, Guam 96910

Re: Bill Nos. 263, 295, 300, 313, and 363

Dear Senator Charfauros:

Hafa Adai!

Thank you for your letter of September 13, 1995, concerning the Public Hearing on Wednesday, September 20, 1995, regarding subject bills.

Mr. Charles Stake, our Chief Prosecutor will testify on those bills which concern our Prosecution Division...Bill Nos. 263, 295, 300, and 313. Mr. Eric Heisel will provide testimony on Bill No. 363. Our written comments on each of the subject bills is enclosed.

If there are any questions, please call me.

With thanks in anticipation of your consideration.



Commonwealth Now!

Ltr. to Sen. Mark Charfauros  
September 19, 1995  
Page 2

Dangkolo Na Agradesimento - Thank You Very Much!

With best regards,



CALVIN E. HOLLOWAY, SR.  
Attorney General

Enclosures

cc: Chief Prosecutor, Prosecution Division  
Eric Heisel, Assistant Attorney General, Civil Division

senmacha.of5  
CEH.jrc



Commonwealth Now!



GOVERNMENT OF GUAM  
AGANA GUAM 96910

September 18, 1995

Intra-Department Memorandum

To: Attorney General *[Signature]* 9/19/95  
Via: Chief Deputy Attorney General *[Signature]* 9/19/95  
From: Chief Prosecutor  
Subject: Comments on Bills 263, 295, 300 and 313

RECEIVED  
SEP 18 1995  
*Carmer*  
ATTORNEY GENERAL'S OFFICE

Set out below, please find the comments you requested on Bills 263, 295, 300, and 313.

**Bill No. 263**

p. 2, LL: 30-31 I would seek to have the exception read:

"and has been convicted of a felony for the first time relative to the possession of ~~crystal methamphetamine~~ any controlled substance . . . ."

p. 2, L: 33 A mandatory fine of \$5,000.00 may work against one of the concerns noted in the findings, the economic hardship that ice use causes families. There should be a hardship exception which the court can apply at its discretion.

Page 3- I like the idea of fines going into a drug treatment and enforcement fund. It should be noted that the drug that contributes most to crime on Guam is alcohol. It may be appropriate to suggest that, if the legislature is serious about curbing crime and substance abuse, that the alcohol tax be increased and the additional revenues placed in this fund.

This Bill, **Bill No. 295**, and the entirety 9 GCA Chapter 67, would benefit from several broad ranging provisions:

A section that clarifies that residual amounts of controlled substances qualify for purposes of "possession".

A provision that equates use with possession, by including in the definition of possession, the possession



Intra-Dept. Memo to A.G.

Subj: Comments on Bills 263, 295, 300 and 313

September 18, 1995

Page 2

in one's bloodstream of the drug (or a similar formula). The statute could make the presence of metabolites (in blood or urine) expressly admissible as evidence of possession in the bloodstream. This could also be accomplished by having a provision that directly penalizes USE of controlled substances.

**Bill No. 295**

As noted above, this Bill would be improved by a provision making clear that knowing use necessarily incorporates knowing possession. This would have a significant impact on the sanctions imposed on folks who test positive. Rather than the administrative provisions discussed in section 88.40, they could also be prosecuted. Prisoners would be liable for Possession and for Promoting Prison Contraband. Folks on Parole or Probation could be processed for revocation as well as outright prosecution. It is important that the Bill NOT limit sanctions imposable so as to preclude prosecution.

Consideration should be given to adding a provision that mandates urine testing for all persons ARRESTED for any felony. [This last idea flows from a federal program goal from some years back. It's constitutionality should be researched before it receives serious consideration. It may be possible to institute such a program if it is appropriately limited and the legislation is carefully worded.]

**Bill No. 300** This provision should be enacted post haste.

**Bill No. 313** This Bill looks good on its face. Its intent is to comply with federal grant requirements and we support this objective.

Submitted for your information.

  
CHARLES D. STAKE



Division of  
Probation Services

## SUPERIOR COURT OF GUAM

Guam Judicial Center • 120 West O'Brien Drive • Agana, Guam 96910

**Martin P. Santos**  
**Chief Probation Officer, Acting**

Telephone (671) 475-3448  
Fax (671) 477-4944

September 20, 1995

The Honorable Mark Charfauros  
Senator & Chairman  
Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty Third Guam Legislature  
155 Hesler Street  
Agana, Guam 96919

Dear Mr. Chairman,

### **Criminal Justice Substance Abuse Act**

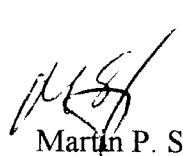
Hafa Adai my name is Martin P. Santos, Acting Chief Probation Officer for the Division of Probation Services of the Superior Court of Guam. Thank you for the opportunity to testify for this proposed legislation.

Attached, you will find the statistics of the criminal referrals regarding substance abuse and the total amount of clients placed on probation.

As you can see the steady increase of substance abuse is reflected in the amount of referrals this Division receives. It is satisfying to see that this legislature will take a position to treat this social epidemic and is willing to create legislation to curb the substance abuse problem.

Under the urging of the Judicial Council, Judges of the Superior Court of Guam, GPD's Crime Lab, and the Division of Probation has implemented a Urinalysis Testing Procedure for criminal referrals. This allows Court Probation Officers the ability to randomly test court ordered clients. This Division also conducts the Alcohol Treatment Program for all DUI referrals as part of their conditions of probation.

I realize that the Court Probation's program only touches the surface of the problem and this legislation will call for a larger group of dedicated public servants to try to implement policy. It is a step in the right direction and with your support we can manage this problem.

  
Martin P. Santos



**Division of Probation Services**  
**Referrals**

Adult Section (1990-1995)						
Type	1990	1991	1992	1993	1994	1995
Felony	122	92	152	254	292	
Misdeamor	269	245	727	1019	759	
<b>Total</b>	<b>430</b>	<b>341</b>	<b>879</b>	<b>1273</b>	<b>1051</b>	<b>625</b>

Juvenile Section (1990-1995)						
Type	1990	1991	1992	1993	1994	1995
Felony	281	207	286	370	258	
Misdeamor	366	395	288	352	377	
Status Offense	107	127	106	101	89	
<b>Total</b>	<b>677</b>	<b>729</b>	<b>680</b>	<b>823</b>	<b>724</b>	<b>296</b>

Pre-Trial Section (1990-1995)						
Type	1990	1991	1992	1993	1994	1995
Felony	203	288	403	422		
Misd/Cited	374	379	399	178		
<b>Total</b>	<b>617</b>	<b>667</b>	<b>802</b>	<b>600</b>		

Alternative Sentencing Office Case Load (1990-1994)						
Type	1990	1991	1992	1993	1994	1995
Repeat	307	373	493	700		
Programs	774	968	1678	2081		
<b>Total</b>	<b>1081</b>	<b>1341</b>	<b>2171</b>	<b>2781</b>		

### Substance Abuse Statistics 1990-1994

Year	1990	1991	1992	1993	1994
<b>Adult</b>					
Felony	7	7	13	18	38
DUI w/ Injuries	15	1	6	7	12
DUI	79	201	350	386	546
Reckless Driving	16	13	125	74	104
<b>Juveniles</b>					
Felony	4	8	9		6
Consuming Alcohol	13	10	6		5
Possession	11	5	23		20
DUI	0	6	3		1

JUL 27 1995

BBB-P2

Bill No. 295  
Amendatory Bill

YES  NO

Date Received 7/14/95  
Date Reviewed 7/24/95

Department/Agency Affected: Superior Court & Agencies in the program area of Public Safety/  
Department/Agency Head: Presiding Judge Alberto Lamorena  
Total FY Appropriation to Date: \$15,029,760.00

Bill Title (preamble) : An act to create a new Chapter 88 to 9 GCA relative to establishing a program of substance abuse testing, assessment and treatment for persons convicted and involved in the Guam Criminal Justice System, as a means of reducing recidivism, addressing offenders as a high risk group, and reducing substance abuse and its deleterious effects in Territory of Guam.

Change in Law: An act to create a new chapter 88

Bill's Impact on Present Program Funding:  
 Increase     Decrease     Reallocation     No Change

Bill is for:  Operations     Capital Improvement     Other (\_\_\_\_\_)

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
Public Safety/Public Health & Welfare	_____	_____	1/_____

FUND	ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						TOTAL
	1st	2nd	3rd	4th	5th		
GENERAL FUND	_____	_____	_____	_____	_____	_____	
OTHER	_____	_____	_____	_____	_____	_____	
TOTAL	1/_____	_____	_____	_____	_____	_____	

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ \_\_\_\_\_  
AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

FUND	ESTIMATED POTENTIAL MULTI-YEAR REVENUES						TOTAL
	1st	2nd	3rd	4th	5th		
GENERAL FUND	_____	_____	_____	_____	_____	_____	
OTHER	_____	_____	_____	_____	_____	_____	
TOTAL	_____	_____	_____	_____	_____	_____	

ANALYST Christine Flores DATE 7/25/95 DIRECTOR Joseph E. Rivera, Acting DATE 7/27 1995

FOOTNOTES: Please See Attachment

Bill No. 295 proposes to improve and standardize substance abuse treatment for offenders at each stage of the Criminal Justice System and to provide punitive measures for offenders. The proposed legislation addresses the following: the administration of a chemical test of such offender for the presence of a controlled substance or alcohol, educational and treatment programs in substance abuse by offenders who are placed on probation, incarcerated with DepCor, placed on parole or placed in community corrections, and a system of periodic or random chemical testing. The proposed legislation addresses that procedures for assessment, treatment, and sanctions required be developed only to the extent moneys are available in the Drug Treatment & Enforcement Fund, (collected from fines levied against offenders convicted of any offense involving illegal possession, distribution, importation or manufacture) provided that in all cases persons referred or ordered to receive assessment, treatment or sanctions shall do so at their own expense, unless they are indigent. The proposed legislation further addresses the development of a fee schedule sufficient to cover costs of assessment, testing and treatment. The proposed legislation will have a fiscal impact on the general fund relative to the agencies involved in the program area of public safety as well as public health & welfare, however, the impact cannot be quantified at such time.



## Notice of Public Hearing

23rd Guam Legislature

Senator

**Mark C. Charfauros**

Chairman, Committee on Judiciary, Criminal Justice and  
Environmental Affairs

- Bill No. 263:** AN ACT TO ADD A NEW §80.30.1, A NEW §80.31.1 AND A NEW §67.62.1 TO 9 GCA RELATIVE TO MANDATORY SENTENCING FOR THE POSSESSION OF CRYSTAL METHAMPHETAMINE, AND THE CREATION OF A SPECIAL FUND TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT, FOR THE PURPOSES OF COMBATING THE INCREASING ABUSE OF CRYSTAL METHAMPHETAMINE, OTHERWISE KNOWN AS "ICE", IN THE TERRITORY OF GUAM AND TO PROTECT THE YOUTH OF GUAM FROM THE DANGERS OF THIS ILLEGAL SUBSTANCE;
- Bill No. 295:** AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM FOR SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM;
- Bill No. 300:** AN ACT TO AMEND PUBLIC LAW 22-116 TO INCLUDE JUVENILES CONVICTED OF SEXUAL ASSAULT UPON ANOTHER PERSON TO UNDERGO MANDATORY TESTING FOR HIV OR OTHER SEXUAL DISEASES;
- Bill No. 307 as substituted:** AN ACT TO ADD A NEW SECTION 70.26 TO CHAPTER 70 OF TITLE 9 GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE USE OF MOTORIZED VESSELS IN AREAS WHERE NO RECREATIONAL WATER USE MASTER PLAN EXISTS;
- Bill No. 313:** AN ACT TO AMEND CHAPTER 86 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CRIMINAL INJURIES COMPENSATION COMMISSION;
- Bill No. 316:** AN ACT TO REQUIRE THE GUAM JUDICIAL COUNCIL TO ADOPT STANDARD JUDICIAL FORMS FOR PURPOSES OF FILING CIVIL AND CRIMINAL LITIGATIONS, SPECIAL PROCEEDINGS, PETITIONS, MOTIONS, NOTICES, ORDERS AND REQUESTS THAT MAY BE FILED IN COURT;
- Bill No. 334:** AN ACT TO REPEAL AND REENACT §8106 OF TITLE 7 GCA RELATIVE TO AUTHORIZING MARSHALS OF THE SUPERIOR COURT OF GUAM TO ISSUE TRAFFIC CITATIONS;
- Bill No. 356:** AN ACT TO AMEND SUBSECTION (f) OF §5.55 OF TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE DEFINITION OF "PEACE OFFICER" FOR THE CUSTOMS AND QUARANTINE AGENCY;
- Bill No. 363:** AN ACT TO AMEND §3401.0(h) OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING GOVERNMENT SECURITY PERSONNEL TO ENFORCE STATUTES CONCERNING ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES;
- Bill No. 364:** AN ACT TO ADD A NEW SUBSECTION (H) TO SECTION 3339 AND AMEND SECTION 3315 ALL TO TITLE 16 GUAM CODE ANNOTATED RELATIVE TO TRAFFIC SIGNALS.

**Date:** Wednesday, September 20, 1995

**Time:** 9:30 a.m.

**Place:** Public Hearing Room,

Guam Legislature Temporary Bldg., Agana, Guam

**The Public is invited to participate**

**Introduced**

AUG 03 1995

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 295 (LG)  
Introduced by:

M. Forbes *[Signature]*  
A. C. Lamorena *[Signature]*  
E. Barrett-Anderson *[Signature]*

---

AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM OF SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM CRIMINAL JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM .

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

2  
3 Section 1. A new Chapter 88 is added to 9 GCA to read:

4  
5 **"CHAPTER 88**  
6 **CRIMINAL JUSTICE SUBSTANCE ABUSE ACT**  
7

8 § 88. 10. **Short Title.** This act may be cited as the "Criminal Justice System  
9 Substance Abuse Act of 1995."

10 § 88. 11. **Legislative Declaration.** The Legislature hereby declares that  
11 substance abuse, specifically the abuse of alcohol and controlled substances, is a  
12 major problem in the criminal justice system of the Territory of Guam and in the  
13 entire Territory. Substance abuse is a significant factor in the commission of crimes  
14 and it is a significant factor in impeding the rehabilitation of persons convicted of  
15 crimes which results in an increased rate of recidivism. Therefore, the Legislature

1 hereby resolves to curtail the disastrous effects of substance abuse in the criminal  
2 justice system and to improve and standardize substance abuse treatment for  
3 offenders at each stage of the criminal justice system and to provide punitive  
4 measures for offenders who refuse to cooperate with and respond to substance abuse  
5 treatment while such offenders are involved with the criminal justice system.

6 **§ 88. 20. Substance Abuse Assessment: Standardized Procedure.**

7 (a) The Superior Court of Guam, the Department of Corrections, the  
8 Territorial Parole Board, the Guam Police Department and the Department of  
9 Mental Health and Substance Abuse shall cooperate to develop and implement the  
10 following:

11 (1) A standardized procedure for the assessment of the use of controlled  
12 substances by offenders, which procedure shall include the administration of a  
13 chemical test of such offender for the presence of controlled substances or such other  
14 test of the offender for the presence of controlled substances or alcohol as deemed  
15 appropriate by the agency which has supervision of the particular offender  
16 (hereinafter called the "supervising agency"). The assessment procedure developed  
17 pursuant to this paragraph shall provide an evaluation of the extent of an offender's  
18 abuse of substances, if any, and recommend treatment which is appropriate to the  
19 needs of the particular offender.

20 (2) A system of programs for education and treatment of abuse of substances  
21 which can be utilized by offenders who are placed on probation, incarcerated with  
22 the Department of Corrections, placed on parole, or placed in community  
23 corrections. The programs developed pursuant to this paragraph shall be as flexible  
24 as possible so that such programs may be utilized by each particular offender to the  
25 extent appropriate to that offender. The programs developed pursuant to this  
26 paragraph shall be structured in such manner that the programs provide a  
27 continuum of education and treatment programs for each offender as he proceeds  
28 through the criminal justice system and may include, but shall not be limited to,  
29 attendance at self-help groups, group counseling, individual counseling, outpatient  
30 treatment, inpatient treatment, day care, or treatment in a therapeutic community.  
31 Also, such programs shall be developed in such a manner that, to the extent  
32 possible, the programs may be accessed by all offenders in the criminal justice  
33 system. Any programs developed pursuant to this paragraph shall include a system  
34 of periodic or random chemical testing for the presence of controlled substances or  
35 alcohol, or such other testing as provided in paragraph (1) of this subsection (a). The  
36 frequency of such testing shall be that which is appropriate to the particular offender

1 in accordance with the offender's assessment performed pursuant to paragraph (1)  
2 of this subsection (a).

3 (3) A system of punitive sanctions for offenders who test positive for the use  
4 of substances subsequent to the initial test and after being placed in an education or  
5 treatment program. The sanctions developed pursuant to this paragraph should  
6 allow for appropriate responses by the criminal justice system to each occurrence of  
7 a positive test by an offender, each of which shall become a permanent part of the  
8 offender's record.

9 (b) The procedures for assessment, treatment, and sanctions required to be  
10 developed by subsection (a) of this section shall be implemented only to the extent  
11 moneys are available in the Drug Treatment and Enforcement Fund, provided that  
12 in all cases persons referred or ordered to receive assessment, treatment or sanctions  
13 shall do so at their own expense, unless they are indigent.

14 (c) The Superior Court of Guam, the Department of Corrections, the  
15 Territorial Parole Board, the Guam Police Department and the Department of  
16 Mental Health and Substance Abuse shall cooperate to develop a schedule of fees  
17 sufficient to cover the costs of assessment, testing and treatment as required by this  
18 section. All persons referred or ordered to receive assessment, testing or treatment  
19 shall be made to pay for such, in accordance with the fee schedule, except in such  
20 cases where the person is determined to be indigent.

21 **§ 88. 30. Substance Abuse Assessment Required for Convicted Felons and**  
22 **Controlled Substance Offenders.**

23 (a) Each person convicted of a felony committed on or after the effective date  
24 of this act who is to be considered for probation, shall be required, as part of the  
25 presentence or probation investigation, to submit to an assessment for the use of  
26 controlled substances or alcohol developed pursuant to Section 3 (a) (1). The Court  
27 shall order such person to comply with the recommendations of such assessment as  
28 a condition of probation, at the person's own expense, unless such person is  
29 indigent.

30 (b) Each person convicted of a misdemeanor involving the abuse of any  
31 substance, the abuse of which is considered illegal under Guam law, which was  
32 committed on or after the effective date of this act shall be required to submit to an  
33 alcohol and drug evaluation. The Court shall order such person to comply with the  
34 recommendations of such evaluation, at the person's own expense unless such  
35 person is indigent. If such person is sentenced to probation, such person shall be



1 ordered to comply with the recommendations as a condition of probation at such  
2 person's own expense, unless such person is indigent.

3 (c) The assessment required by subsection (a) of this section or the evaluation  
4 required by subsection (b) of this section shall be at the expense of the person  
5 assessed or evaluated, unless such person is indigent.

6 **§ 88. 35. Sentencing of Felons: Parole of Felons: Treatment and Testing**  
7 **Based Upon Assessment Required.**

8 (a) Each person sentenced by the court for a felony committed on or after the  
9 effective date of this act shall be required, as part of any sentence to probation,  
10 community corrections, or incarceration with the Department of Corrections, to  
11 undergo periodic testing and treatment for substance abuse which is appropriate to  
12 such person based upon the recommendations of the assessment made pursuant to  
13 Section 4 of this act, or based upon any subsequent recommendations by the  
14 Department of Corrections or the Superior Court of Guam, whichever is  
15 appropriate. Any such testing or treatment shall be at such person's own expense,  
16 unless such person is indigent.

17 (b) Each person placed on parole by the Territorial Parole Board on or after the  
18 effective date of this act, shall be required, as a condition of such parole, to undergo  
19 periodic testing and treatment for substance abuse which is appropriate to such  
20 person based upon the recommendations of the assessment made pursuant to  
21 Section 4 of this act, or any assessment or subsequent reassessment made regarding  
22 such person during his incarceration or any period of parole. Any such testing or  
23 treatment shall be at such person's own expense, unless such person is indigent.

24 **§ 88. 40. Departments Develop Testing Programs: Punitive Sanctions.**

25 (a) The Superior Court of Guam, the Department of Mental Health and  
26 Substance Abuse, the Department of Corrections, and the Territorial Parole Board,  
27 shall cooperate to develop programs for the periodic testing of offenders under the  
28 jurisdiction of each agency and programs for the periodic reassessment of  
29 appropriate treatment and testing made in the initial substance abuse assessment  
30 required by Section 4 of this act, or any subsequent reassessment.

31 (b) Any offender who tests positive for the use of alcohol or controlled  
32 substances subsequent to the initial test required by Section 4 of this act shall be  
33 subjected to a punitive sanction. The Superior Court of Guam, the Department of  
34 Corrections and the Territorial Parole Board shall cooperate to develop and make  
35 public a range of punitive sanctions for those offenders under the jurisdiction of  
36 each agency which are appropriate to the offenders supervised by each particular

1 agency. Such punitive sanctions shall be formulated in such a way as to promote  
2 fairness and consistency in the treatment of offenders and may include, but shall not  
3 be limited to, increases in the level of an offender's supervision, increases in the use  
4 of electronic monitoring of an offender, loss of earned time granted pursuant to any  
5 appropriate local law or program, and referral to the offender to the court or the  
6 Territorial Parole Board for re-sentencing or revocation of probation or parole. It is  
7 the intent of the legislature that any offender's test which is positive for the use of  
8 controlled substances or alcohol shall result in an intensified level of testing,  
9 treatment, supervision, or other sanctions designed to control abuse of substances  
10 for such offender.

11 (c) The Superior Court, the Department of Corrections, the Territorial Parole  
12 Board, and the Department of mental Health and Substance Abuse shall cooperate  
13 to develop a range of incentives for offenders under the jurisdiction of each  
14 particular agency to discontinue abuse of alcohol or controlled substances.

15 (d) No later than six (6) months after the effective date of this act, the  
16 Territorial Parole Board shall develop and make public guidelines for the  
17 revocation of parole due to the abuse of alcohol or controlled substances in  
18 violation of this act.

19 **§ 88. 50. Samples for Testing of Offenders.** Any type of sample for the  
20 chemical testing of any offender for the presence of controlled substances or alcohol  
21 pursuant to this act may be collected from such offender by his probation officer,  
22 parole officer, case manager within the Department of Corrections, or any contract  
23 provider of testing services.

24 **§ 88. 51. Drug Treatment and Enforcement Fund.** There is established a Drug  
25 Treatment and Enforcement Fund, which shall be maintained by the Department of  
26 Administration separately from the General Fund or any other fund of the  
27 government of Guam. All funds collected from fines levied against offenders  
28 convicted of any offense involving the illegal possession, illegal possession with  
29 the intent to distribute, illegal importation or illegal manufacture of any controlled  
30 substance as defined in Chapter 97, 9 GCA, shall be deposited in this fund.

31 **§ 88. 60. Report to the Legislature .** On or before September 1, 1996, the  
32 Superior Court of Guam, the Department of Corrections, the Territorial Parole  
33 Board, the Guam Police Department and the Department of Mental Health and  
34 Substance Abuse shall jointly make a report to a committee meeting of the Guam  
35 Legislature's standing committee with appropriate oversight (as designated by the  
36 Legislative Committee on Rules) regarding the implementation of this act, the

1 results of the programs created by this act including any reduction in substance  
2 abuse by offenders while incarcerated, the standardized procedures developed  
3 pursuant to this act, and the number and kinds of punitive sanctions imposed upon  
4 offender pursuant to this act. "