



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
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HON. KATHERINE A. MARAMAN
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) PLENARY MEETING | THURSDAY, JUNE 25, 2026 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chair Jonathan R. Quan at 12:07 PM. The meeting was held in person in the Judge Joaquin V. Manibusan Sr. Memorial Courtroom at the Judicial Center and via Zoom. The session was livestreamed on the Judiciary of Guam's YouTube channel.

II. PROOF OF DUE NOTICE OF MEETING

The Chair confirmed due notice of the meeting in compliance with the Open Government Law. Notices were published in local newspapers and included in the meeting packet.

III. DETERMINATION OF QUORUM

Roll call was conducted by Administrative Assistant Lisa Ibanez. Eleven members were confirmed present, establishing a quorum.

Hon. Jonathan R. Quan – Present, Judiciary of Guam
Hon. Maria T. Cenzone – No response
Hon. Anita A. Sukola – Present, California
Atty. William B. Brennan – Present, Agaña
DOC Designee Maj. Antone Aguon – Present, Mangilao
Chief of Police Designee Sgt. Michael Elliott – Present, Tiyan
Atty. Joseph McDonald – Present, Judiciary of Guam
Atty. Randall Cunliffe – Present, Agaña
Mr. Monty McDowell – Present, Harmon
Public Defender Designee Atty. John Morrison – Present, Judiciary of Guam
Attorney General Designee Atty. Valerie Nuesa – No response
Attorney Michael Phillips- No response
Miss Valerie Reyes – No response
Attorney Christine Tenorio – Present, Agaña
Atty. Phillip Tydingco – Present, Agaña

Ex-Officio (Non-Voting Members):

Executive Director Serge Quenga – Present, Judiciary of Guam

Compiler of Laws Geri Cepeda – Present, Judiciary of Guam

Chair Quan acknowledged that a quorum was present and welcomed all attendees and observers.

IV. DISPOSAL OF MINUTES: April 9, 2026

The minutes of the April 9, 2026, plenary meeting were approved without objection.

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director.

1. The 2026 1st Quarter Report 2026 report was submitted to the Legislature in May and is posted on the CLRC webpage.
2. Bill 232-38, adopting CLRC recommendations, was withdrawn and replaced with Bill 317 by the Legislature. CLRC staff is working with Legislative staff on finalizing Bill 317.

B. Report on Legislation Affecting Sections Reviewed or Under Review.

1. Continuing our practice of tracking legislation that could affect our review of criminal statutes, as shown in Attachment 1, Slides 1-2, recently enacted PL 38-128 adds a new section to Chapter 70 which was covered in our interim report. We will ensure that our recommendations in Bill 317 are consistent with such legislation.

VI. NEW BUSINESS

A. Subcommittee on Crimes Against Persons. Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

This agenda item IV.C. was taken out of order by Chairman at the request of the Executive Director.

- 9 GCA Chapter 64 (Gambling), Article 2 (Authorized Activities)
 - § 64.40. (Legal Cockfight Gambling Permitted). No Change as shown in Attachment 2, Slide 3.

- Discussion: Section was presented at a previous meeting and tabled for further consideration. Upon reconsideration, Subcommittee took no position based on the pragmatic view that the statute was unlikely to be enforced. No change recommended.
- 9 GCA Chapter 49 (Governmental Bribery, Other Unlawful Influence & Related Offenses).
 - § 49.90. (Official Misconduct; Defined and Punished). Attachment 2, Slides 3-6.
 - Discussion: Section was presented at a previous meeting and tabled for further consideration. Recommendation to increase misdemeanor to a third degree felony. Concern was raised on classifying all official misconduct as a third degree felony. Tabled for further research on how other jurisdictions handle gradation of official misconduct.

Chairman Quan called for a motion to approve the subcommittee's recommendation of no change for § 64.40. Motion made by Attorney McDonald. Seconded by Attorney Morrison. Approved without objection.

B. Ad Hoc Subcommittee: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

- 9 GCA Chapter 80 (Disposition of Offenders).
 - § 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape. Attachment 3, Slides 3-4.
 - Discussion: Section was tabled at the last plenary meeting for research on the earnings distribution provisions. Concern was raised on current language giving Director broad authority to withhold an inmate's earnings for confinement costs as deemed appropriate and reasonable. Proposed language limits such withholding to amounts authorized by department rule.

Concern was raised on existing language requiring the entire remaining balance to the Criminal Injuries Compensation Fund and that the inmate gets nothing for use upon release. Tabled for further research and reconsideration of the statute as a whole.

- § 80.60. Standards for Imposing or Withholding Probation. Amend as shown in Attachment 3, Slide 5.
 - Discussion: Non-substantive grammatical edits and correction of habitual offender statute citation.
- § 80.62. Conditions Which Court May Attach to Probation. Amend as shown in Attachment 3, Slide 6.
 - Discussion: Non-substantive grammatical edit in (b)(4). The term “instrument” added in (b)(7) for consistency with the definition of “Dangerous Instrument” in 9 GCA § 58.10(e). The term “dangerous weapon” is from the Model Penal Code and is not specifically defined in Title 9.
- § 80.64. Term of Probation: Modification of Probation. Amend as shown in Attachment 3, Slide 7.
 - Discussion: Non-substantive reorganization of (b) for clarity. Subsection (d) moved here from the § 80.66(c), which is more relevant to this section and cites directly to this section.
- § 80.66. Revocation of Probation: When Permitted. Amend as shown in Attachment 3, Slides 8-9.
 - Discussion: Non-substantive grammatical and capitalization edits for clarity and consistency. Subsection (c) moved to § 80.66(d) for better relevancy and consistency. Deletion of (d) as it is no longer necessary. However, (d) will be referenced in a Compiler of Laws annotation to this section.
- § 80.68. Hearing Required; Release Permitted; Confinement Provided for. Amend as shown in Attachment 3, Slides 10.
 - Discussion: Correction of chapter title and deletion of unnecessary language.
- § 80.70. When Parole Permitted. Attachment 3, Slides 17-18.
 - Discussion: Non-substantive clarifications. (a)(1) moved to new 80.70(g). (a)(2) consolidated with 80.72(a)(2) and moved to 80.70.1(l). Concern raised on parole requirements if part of a “fixed sentence” is suspended and whether “prison term” should be considered instead. Tabled for further research.

- § 80.70.1 Definitions. Amend as shown in Attachment 3, Slides 18-19.
 - Discussion: The two terms “Rated Capacity” and “Prison Population” only appear in the definitions section, and therefore should be removed. § 80.71 functionally a definition of Guam Parole Board, moved to subsection (m), with language modified to mirror § 80.70.1 as a whole. “Violent crime” moved and consolidated from § 80.70 and § 80.72 to subsection (l), since functionally a chapter wide definition. Introductory language modified to match the rest of the definitions section. As per (l)(4), there is no aggravated assault in the first degree, amended to highest available level of aggravated assault, second degree.
- § 80.71. Definition of Board as Guam Parole Board. Repealed and Reenacted as shown in Attachment 3, Slide 20.
 - Discussion: § 80.71 functionally a definition of Guam Parole Board, moved to subsection 80.70.1(m), with language modified to mirror § 80.70.1 as a whole.
- § 80.72. Exception for Parole Eligibility. Attachment 3, Slides 20-22.
 - Discussion: Gender references made uniformly singular masculine; aligns with CLRC edits to 1 GCA §1.12 “Rules of Construction” making singular masculine refer to plural and feminine. § 80.72(a)(1-2) identical to previous § 80.70(a)(1-2). (2) Consolidated and moved into Definitions section, § 80.70.1(l) and § (a)(1) moved to separate subsection 80.72(c). Non-substantive edits to align with rest of Article 5. Same concerns as in § 80.70 on parole requirements if part of a “fixed sentence” is suspended and whether “prison term” should be considered instead. Tabled for further research.
- § 80.74. Preparing Prisoner for Parole Hearing. Amend as shown in Attachment 3, Slide 22.
 - Discussion: No substantive change, corrections to capitalize the letter ‘b’ in Board
- § 80.76. Standards Governing Release on Parole. Amend as shown in Attachment 3, Slides 23.
 - Discussion: No substantive change, corrections to capitalize the letter ‘b’ in Board.

- § 80.78. Records to Be Made Available to Board. Attachment 3, Slide 23.
 - Discussion: Removal of reference to an institution other than DOC. Tabled to consider preserving language for inmates held in off-island facilities.
- § 80.80. Conditions of Parole. Amend as shown in Attachment 3, Slide 24.
 - Discussion: Corrections to capitalize the letter 'b' in Board and "Certificate of Parole". Other non-substantive recommendations by Parole.
- § 80.82. Sanctions for Violation of Parole. Amend as shown in Attachment 3, Slide 25.
 - Discussion: Non-substantive edits at the suggestion of Parole Services to clarify existing roles and statutory capabilities.
- § 80.84. Revocation Hearing Required: Standards for Revocation of Parole. Amend as shown in Attachment 3, Slide 26.
 - Discussion: Non-substantive capitalization to comport with Article convention.
- § 80.86. Prison Term After Revocation: Current Prisoners Provided for. Amend as shown in Attachment 3, Slide 26.
 - Discussion: Effective date of Section long since passed, from Government Code era. Transition provision (c) recommended for repeal.
- § 80.88. Discretionary And Mandatory Release from Parole. Amend as shown in Attachment 3, Slide 27.
 - Discussion: Non-substantive capitalization to comport with Article convention.
- § 80.90. Definitions. Amend as shown in Attachment 3, Slide 11.
 - Discussion: Non-substantive amendments for appropriateness, consistency, and to clarify that the offender can gain from community service only as provided in this Article.

- § 80.91. Sentence Alternatives Service, Restitution as Sentence; Restrictions. Amend as shown in Attachment 3, Slide 12.
 - Discussion: Non-substantive amendments for clarification. The exclusion in the opening paragraph is consolidated into the last sentence with other exclusions.
- § 80.92. Time for Completion of Work, Alternative Fine or Imprisonment. No Change as shown in Attachment 3, Slide 13.
 - Discussion: No change.
- § 80.93. Waiver of Liability. Amend as shown in Attachment 3, Slide 13.
 - Discussion: Amendments for consistency and clarification.
- § 80.94. Minimum Wage; Restitution for Actual Amount Lost. Amend as shown in Attachment 3, Slides 14-15.
 - Discussion: Amendments to (b) for consistency with a sentencing judge's require approval throughout this Article, and non-substantive reorganization/renumbering for added clarity. Subsection (c) moved to a new § 80.95 for better organization and clarity. Correction of citation in (d).
- § 80.95. Amount of Restitution Disputed. Add as shown in Attachment 3, Slide 16.
 - Discussion: This new § 80.95 replaces § 80.94(c) with an amendment to the arbitration language. Reference to sections in the Civil Procedure Code is deleted as that code does not exist. The binding decision requirement has been removed in deference to arbitration provisions under Guam law (generally Title 7 GCA).

Chairman Quan called for a motion to table §§ 80.48, 80.70, 80.72, and 80.78, and to approve all other sections. Motion by Attorney Tydingco. Seconded by Attorney Cunliffe. Approved without objection.

C. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Tabled by Chairman.

VII. COMMUNICATIONS

- C. Subcommission on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
Tabled by Chairman.

VII. COMMUNICATIONS

None.

VIII. PUBLIC COMMENT

None.

IX. ADJOURNMENT

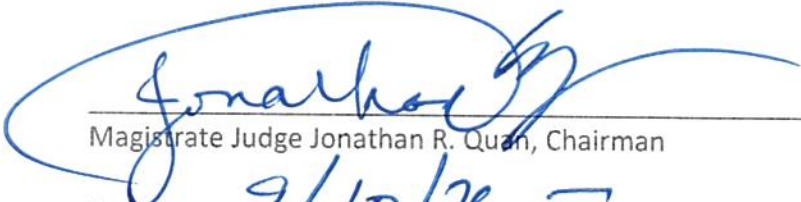
There being no further business, Chair Quan adjourned the meeting at approximately 1:10 PM. The next meeting date is to be announced.

Respectfully submitted this 10th day of September 2026.



Andrew S. Quenga, Executive Director

As set out above, the minutes of June 25th, 2026, plenary meeting were approved by the CLRC at its next plenary meeting.



Magistrate Judge Jonathan R. Quan, Chairman

Date: 9/10/26

ATTACHMENT 1

REPORT ON LEGISLATION AFFECTING CLRC REVIEW

PRESENTATION
JUNE 25, 2026



Recently Enacted Laws Affecting Criminal Statutes

Bill No.	Introduced	Enacted	Title 9 Section(s) Affected	Affect on Bill 317
PL 38-070 Bill 137-38	5/8/25	10/17/25	Add a new §§ 25.50, 19.82 (interfering with reporting of CSC)	These new sections are in Bill 317.
PL 38-094 Bill 138-38	5/8/25	2/11/26.	Amends § 7.58 (intoxication)	Chap 7 not covered in Bill 317. Amended section added to pending review.
PL 38-083 Bill 157-38	6/26/25	12/20/25	Amends § 25.25 (penalties for 3rd degree CSC)	This § 25.25 must be updated in Bill 317 on the floor.
PL 38-096 Bill 162-38	6/26/25	2/11/26	Amends § 19.50 (terroristic conduct)	These amendments are in Bill 317.
PL 38-078 Bill 167-38	7/3/25	12/16/25	Amends § 34.70 (penalties for graffiti)	These amendments are in Bill 317.
PL 28-128 Bill 191-38	9/18/25	6/3/26	Adds a new § 70.460 (drones over corrections facilities)	New section is in Bill 317.
PL 38-186:XII:67 (p. 199) Bill 1 (10-S) FY2027 Appropriation Act	8/4/26	Lapsed 8/28/26	Adds a new § 55.75 (tampering with Customs & Quarantine seals).	Chap 55 covered in Bill 317. However, new § 55.75 enacted after Bill 317 was introduced and is not in Bill 317. This § 55.75 must be added to Bill 317 on the floor.



Pending Bills Potentially Affecting Criminal Statutes

Bill No.	Introduced	Status as of 9/2/26	Title 9 Section(s) Affected	Affect on Bill 317
Bill 105-38	4/10/25	Pending as of 9/2/26	Amends § 80.70(a) (parole for violent crimes)	Chap 80 not covered in Bill 317. Amended section subject to review if bill is passed.
Bill 140-38	5/9/25	Pending as of 9/2/26	Adds a new § 90.16.2 to article 1 of chapter 90 (compensation for corrections officers)	Chap 90 is covered in Bill 317. If Bill 140 is passed, new § 90.16.2 will have to be added on the floor.
Bill 171-38	7/10/25	Pending as of 9/2/26	Adds a new chapter 28A (nonconsensual intimate depictions). Amends Ch. 25, adding new § 25.10(a)(12) and new section § 25.50	New Chapter 28A is not in Bill 317. Chap 25 is covered in Bill 317. If Bill 171 is passed, new §§ 25.10(a)(12) and 25.50 must be added to Bill 317 on the floor.
Bill 271-38	2/9/26	Pending as of 9/2/26 but will likely be withdrawn as § 55.75 was approved in the FY27 Budget Law.	Add § 55.75 (tampering with Guam Customs seals)	Section 55.75 was enacted in PL 38-186 (FY27 Budget Law) on 8/28/26. Bill 271 still appears in the legis website.
Bill 280-38	2/23/26	Pending as of 9/2/26	Amend § 52.10 and add §§ 52.70, 55.70 (interfering with judicial and peace officers)	Chap 52 covered in Bill 317. If Bill 280 is passed, these sections must be added on the floor.
Bill 315-38	5/11/26	Pending as of 9/2/26	Adds a new article 6 to 9 GCA Chapter 7 (no consent harm or death in sexual activity)	Chapter 7 not covered in Bill 317. Not covered
Bill 338-38	6/30/26	Pending as of 9/2/26	Adds a new § 70.470 (drones over Port Authority).	Chap 70 is covered in Bill 317. If this new § 70.470 is enacted, it must be added on the floor.

ATTACHMENT 2

REPORT OF THE SUBCOMMISSION ON CRIMES AGAINST PERSONS

PRESENTATION
JUNE 25, 2026



Report of the Crimes Against Persons Subcommission

Criminal Law And Procedure Review Commission

Plenary Meeting

June 25, 2026

CRIMES AGAINST PERSONS SUBCOMMISSION

Sgt. M. Elliot, Member, GPD

Attorney C. Tenorio, Member, OAG

Mag. Hon. S. Brown, Member, JOG

Attorney J. Morrison, V. Chair, PDSC

Attorney J. McDonald, Member, Chair



Presented Today

Title 9

Chapter 64. Gambling. § 64.40

Chapter 49. Governmental Bribery, Other Unlawful
Influence And Related Offenses. § 49.90



Subcommission Report

9 GCA § 64.40 Legal
Cockfight Gambling
Permitted: vote taken to
report out no changes
recommended.

9 GCA § 49.90 Official
Misconduct: vote taken
3-1 to recommend
increasing penalties.

3



§ 49.90. Official Misconduct; Defined & Punished.

A public servant commits ~~a misdemeanor~~ third degree felony if, with intent to benefit himself or another person or to harm another person or to deprive another person of a benefit;

(a) he commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or

(b) he knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

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§ 49.90 Official Misconduct

- Most jurisdictions (25/33) treat it as a misdemeanor.
- Official misconduct usually paired with a more serious crime, e.g. Blue House. Other jurisdictions follow this approach.
- Legislative history shows that Bill 127-36 increasing the penalty to misdemeanor never passed. AG appeared to be in favor of keeping it as a misdemeanor.
- Legislative history also shows Bill 30-307 including the penalty of Gov Guam employment ineligibility was vetoed by the Governor because of concerns over ambiguous language.

5



§ 49.90 Official Misconduct

Recommendation is to increase the penalty to at least a 3rd Degree Felony. Consider the following hypotheticals which are not subject to criminal sanction:

- (a) Law enforcement officer refusing to act on an investigation and intentionally thwarting it because of personal or family reasons.
- (b) Law enforcement officer intentionally creating a *Miranda* or Fourth Amendment violation.
- (c) Tax official instructing CIB not to investigate fraud connected to a very large tax because of political reasons.
- (d) School safety officer looking the other way during a gang fight that resulted in serious bodily injury.
- (e) Sec. 8 program officer refusing to approve applicant because applicant will not rent relative's real property.
- (f) Other *ultra vires* or refusal to act in an official capacity that is not a bribe because it benefits a third party or gratuity because it is not pecuniary.

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ATTACHMENT 3

REPORT OF THE DOCO/AD HOC SUBCOMMISSION

PRESENTATION
JUNE 25, 2026



Report of the DOCO / Ad Hoc Subcommittee

June 25, 2026

Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Members: COL Geraldine Cepeda, Atty Valerie Nuesa, Atty Kristine Borja, Atty Kristina Baird; Atty Mary Hill; Chief Parole Officer Michael P. Quinata; Chief Probation Officer Rossanna Villagomez-Aguon; Probation Officer Supervisor Jeremiah J.A. Cruz; Marshal Kennedy G. Robinson; Marshal Dodd Siegfred V. Mortera, Jr.



Presented Today

9 GCA Chapter 80. Disposition of Offenders

- § 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape. (Tabled April 09, 2026)
- Article 4. Probation.
- Article 5. Parole.
- Article 6. Alternative Community Service.



§ 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape.

(a) Except as otherwise provided by law, either the court at the time of sentencing or the Director of Corrections after the offender has been placed in custody, may extend the limits of ~~his~~ the offender's confinement to permit the ~~offender-him~~ to continue in his regular employment or educational program, ~~or~~ if the prisoner ~~offender~~ does not have regular employment or a regular educational program, to secure employment or education. ...

(b) The earnings of the offender may be collected by the Director of Corrections. From such earnings, the Director may deduct such costs incident to the offender's confinement ~~as the Director deems appropriate and reasonable only as authorized by Department of Corrections rules and regulations~~. The Director may also deduct payments for the support of the offender's dependents and forward such payments to them. The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund.

...

DOCO/Ad Hoc Recommendation: Non-substantive amendments in (a) for clarification and consistency. Amendments to (b) limit deduction of an inmate's earnings as permitted by existing DOC rules, and consolidate related language regarding work release from (f).



§ 80.48. Continued

~~(e) Except for inmates participating in the Work and Educational Programs, all inmates sentenced to the custody of the Department of Corrections and in the Adult Correctional Facility shall be issued uniforms which they shall wear at all times they are outside the facility. The uniform shall be prominently marked to indicate that the person wearing it is an inmate. The uniforms shall at the least have the letter "P" permanently marked on the front and back of the shirt or top portion of the uniform. All inmates including those in the Work and Educational Programs shall have as many haircuts as necessary to maintain a short style so that hair does not extend over the ear or over the shirt collar of the uniform. No beards shall be worn by inmates.~~

~~(f) The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund (the "Fund"). After complying with subsection (b) of this Section, associated with support of dependents and debts, the remaining balance shall be deposited in the Fund.~~

(g) Termination of Eligibility; Work and Education Programs.

(1) Notwithstanding Subsection (c) of this Section, any inmate who has been placed under the ~~W~~ork and ~~E~~ducational ~~P~~rograms must comply with the conditions laid down for the inmate's conduct while enjoying the benefits of the program. Any violations of the conditions, such as failure of the offender to return to the place of confinement within the time pursuant to the terms and conditions of the programs, shall suspend the offender's eligibility ~~to~~ for the ~~P~~rograms ~~as outlined below~~.

...

DOCO/Ad Hoc Recommendation: Repeal in (e) entirely as inmate uniforms should be at Director's discretion, haircut and shaving requirements raise constitutional-religious issues (*See Holt v. Hobbs*, 574 U.S. 352 (2015) (prison's grooming policy prohibiting a Muslim inmate from growing a short beard violated his religious rights)). Non-substantive amendments in (g) for clarity.



Article 4 - Probation

9 GCA § 80.60. Standards for Imposing or Withholding Probation.

(a) When Sentence May Not Require Prison Term.

...

(2) "Minimum," wherever it appears in this Code, means, for purposes of imposing punishment upon a person convicted of a crime, that the court shall impose the entire term of confinement, the full amount of the fine and the complete requirement of community service prescribed by law. The court shall not suspend in full or in part any punishment described as minimum, specifically, for the crimes enumerated in ~~the habitual offender statute (P.L. 32-049, codified as § 80.50 of Article 2 of this Chapter 9)~~ 9 GCA § 80.37.2 (Habitual Offenders), and all other violent offenses that carry a minimum punishment.

(3) When used for the purpose of describing or requiring a sentence of incarceration imposed pursuant to this Code, the terms "minimum," "mandatory," "minimum mandatory," "mandatory minimum," "minimum sentence of," "a sentence of not less than," "a sentence of at least," and any derivative thereof, shall be construed as being synonymous.

...

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

...

DAH Comment: Non-substantive grammatical edits and correction of habitual offender statute citation.



§ 80.62. Conditions Which Court May Attach to Probation.

(a) If the court suspends the imposition of sentence or places an offender on probation, it shall attach such reasonable conditions, authorized by this Section, as it deems appropriate to assist him to lead a law-abiding life.

(b) The court, as a condition of its order, may require the offender:

...

(4) to pursue a prescribed secular course of study or vocational training;

...

(7) to refrain from possessing any firearm or other dangerous instrument or weapon;

...

DAH Comment: Non-substantive grammatical edit in (b)(4). The term "instrument" added in (b)(7) for consistency with the definition of "Dangerous Instrument" in 9 GCA § 58.10(e). The term "dangerous weapon" is from the Model Penal Code and is not specifically defined in Title 9.



§ 80.64. Term of Probation: Modification of Probation.

(a) If the court has suspended imposition of sentence or has placed an offender on probation, the period of the suspension or probation shall not exceed five (5) years for a felony, two (2) years for a misdemeanor or petty misdemeanor and one (1) year for a violation.

(b) ~~(No text)~~(1) At any time during the period of suspension or probation, upon a showing that such action will best satisfy the ends of justice and the best interests of the public and the offender, the court may modify or terminate the conditions to which the offender is presently subject. ~~(2)~~ Prior to modification or termination, the offender shall be given notice and a reasonable opportunity to be heard regarding any change in the conditions. All changes in conditions shall be given to the offender in writing.

...

(d) Notwithstanding any other provisions of the law, the Court may, upon good cause shown, extend probation beyond the terms set forth in subsection (a) of this section up to a maximum additional term of one (1) year for petty misdemeanors and misdemeanors, and a maximum additional term of two (2) years for felonies.

DAH Comment: Non-substantive reorganization of (b) for clarity. Subsection (d) moved here from the § 80.66(c), which is more relevant to this section and cites directly to this section.



§ 80.66. Revocation of Probation: When Permitted.

(a) At any time before the discharge of the offender or the termination of the period of suspension or probation:

(1) ~~U~~ Upon a showing of probable cause that an offender has violated a condition of his suspension or probation, the court may summon the offender to appear before it or may issue a warrant for his arrest. The warrant or summons shall be served in the manner provided by 8 GCA § 15.70 (Criminal Procedure). The offender may be arrested without a warrant only in those circumstances where such an arrest is otherwise permitted by law_;

(2) ~~T~~The ~~C~~Court, if satisfied that the offender has inexcusably failed to comply with a substantial requirement imposed as a condition of the order_, may revoke the suspension or probation and sentence or re-sentence the offender. Violation of a condition shall not result in revocation, however, unless the court determines that revocation under all the circumstances then existing will best satisfy the ends of justice and the best interests of the public_;

(3) Upon a showing of probable cause before the Court, pursuant to Subsection (a)(1), a summons or warrant shall issue and the period of probation shall thereby be tolled pending the hearing upon the motion and the decision of the Court_;

(A) The period of tolling shall start on the date the summons or warrant is filed by the Clerk of Court and shall end on the date the Clerk of Court files a judge's written decision or the judge issues an oral decision in open Court, whichever first occurs, on whether the defendant violated a condition of probation.

(B) Unless otherwise ordered by the Court, the defendant's term of probation shall be extended for the number of days the time is tolled.



§ 80.66. [Continued]

(C) During the period the time is tolled, the defendant shall remain subject to all conditions of probation.

(4) In the event the Court, following a hearing, is satisfied that the defendant's failure to comply with the conditions of probation was excusable, the Court may order that the defendant ~~may~~ be credited with the tolled period for purposes of computation of the remaining probation, if any. However, if the defendant fails to comply with the terms of probation during the tolled period, another affidavit of probable cause or petition for revocation may be filed and time may be tolled again.

(b) When the ~~e~~Court revokes a suspension or probation, it may impose on the offender any sentence that might have been imposed originally for the crime of which he was convicted.

~~(c) Notwithstanding any other provisions of the law, the Court may, upon good cause shown, extend probation beyond the terms set forth in § 80.64(a) up to a maximum additional term of one (1) year for petty misdemeanors and misdemeanors, and a maximum additional term of two (2) years for felonies.~~

~~(d) The amendments made in Subsections (a) and (c) of this Section shall apply prospectively to criminal acts committed after the effective date of this Section. [8/14/1998]~~

DAH Comment: Non-substantive grammatical and capitalization edits for clarity and consistency. Subsection (c) moved to § 80.64(d) for better relevancy and consistency. Deletion of (d) as it is no longer necessary. However, (d) will be referenced in a Compiler of Laws annotation to this section.



§ 80.68. Hearing Required; Release Permitted; Confinement Provided for.

(a) The court shall not revoke a suspension or probation or increase the requirements imposed thereby on the offender except after a hearing upon written notice to the offender of the grounds on which such action is proposed. The offender shall have the right to hear and controvert the evidence against him, to offer evidence in his defense and to be represented by counsel.

(b) Pending the hearing required by Subsection (a), the offender may be released in the manner and subject to the conditions prescribed by ~~Title~~ 8 GCA Chapter 40 (~~Criminal Procedure Release~~) (~~commencing with § 40.10~~). However, if there is probable cause to believe that the offender has committed another crime or if he has been held to answer therefor, the court may commit him without bail, pending a determination of the charge by the court having jurisdiction thereof.

DAH Comment: Correction of chapter title and deletion of unnecessary language.



Article 6 – Alternative Community Service 9 GCA § 80.90. Definitions.

As used in this Article:

(a) “Alternative Community Service” means repayment of the general public for the expenses incurred incidental to the crime. Repayment shall be by donation of time by doing public service work at entities or for persons so as to benefit the general public which includes: charitable agencies, governmental subdivisions, educational institutions, the ~~handicapped~~ disabled, the elderly, the ecology, the church of the offender’s choice, and any other agencies that the sentencing judge deems reasonably rehabilitative to the offender. ~~However,~~ However, no work service shall result in gain to any private individual or corporation, other than the ~~defendant~~ offender as authorized in this Article.

(b) “Self-Improvement and Rehabilitative Programs” shall include, but are not limited to, educational and vocational school, classes in public or private schools, alcohol education/alcohol treatment, ~~alcoholics~~ anonymous meetings, vocational/health education and rehabilitation, employment counseling, or any other self-improvement activities that the sentencing judge deems ~~reasonable~~ reasonable rehabilitative and beneficial to the offender.

DAH Comment: Non-substantive amendments for appropriateness, consistency, and to clarify that the offender can gain from community service only as provided in this Article.



§ 80.91. Sentence ~~Alternatives~~ ~~Service~~ ~~Restitution as Sentence~~; Restrictions.

In lieu of, or in addition to a fine, confinement, or probation, a judge, in any felony case ~~where in~~ which force or violence is not an element of the offense of which the defendant stands convicted, or in any misdemeanor, petty misdemeanor, ~~or violation case, including or~~ juvenile cases, ~~but excluding every case in which the offense of which the defendant stands convicted carries a mandatory sentence of confinement or involves damage to property of the victim,~~ may impose a sentence that ~~contains~~ includes any or all of the following ~~elements~~:

- (a) Restitution as provided for in this Chapter ~~80 of the Criminal and Correctional Code~~;
- (b) Alternative ~~e~~Community ~~s~~Service; or
- (c) Participation in a self-improvement and rehabilitative program.

This provision shall not apply to any case in which the crime of which the defendant stands convicted carries a mandatory sentence of confinement, involves damage to the property of a victim, or is punishable by fine only.

DAH Comment: Non-substantive amendments for clarification. The exclusion in the opening paragraph is consolidated into the last sentence with other exclusions.



§ 80.92. Time for Completion of Work, Alternative Fine or Imprisonment.

(a) Any sentence imposed under this Article shall contain the time necessary for the completion of the sentence and shall include the penalties of a fine or confinement that will be imposed in the event that such sentence is not completed.

(b) In the event that the offender fails to complete a sentence imposed under this Article, the sentencing judge shall give proportional credit for any portion of such sentence completed by deducting part of the fine or confinement, or in all cases where fine and confinement have been stated as a penalty, the percentage shall be deducted from both the fine and the term of confinement.

DAH Comment: No change.

§ 80.93. Waiver of Liability.

(a) Guam and its political subdivisions shall not be liable in any way for any personal injury, civil damages, worker's compensation, or unemployment compensation as a result of any injury while the ~~person~~ offender is doing ~~a~~Alternative ~~e~~Community ~~s~~Service.

(b) All work service sentences imposed hereunder shall be deemed public service without monetary compensation and shall not be deemed employment by any of the cooperating agencies, individuals or non-profit corporations that receive the work service.

DAH Comment: Amendments for consistency with recommendations above.



§ 80.94. Minimum Wage; Restitution for Actual Amount Lost.

(b) ~~With the approval of the sentencing judge, R~~estitution to a crime victim shall ~~be consist of~~ either:

~~(1) in~~ monetary payment for damages ~~and should not to~~ exceed the victim's actual amount lost; ~~or~~

~~(2) repair of the damage by~~ the offender ~~may repay the crime victim by repairing the damages~~ with the consent and agreement of the crime victim; or

~~(3) the offender may repay the crime victim with the consent and agreement of the crime victim. other services, labor, replacement property, or agreed compensation reasonably related to the victim's loss, with the consent and agreement of the crime victim.~~

~~(c) [No text]~~

~~(1) In the event that there is a dispute between the crime victim and the offender as to the amount of the loss, the judge shall set an amount that adequately and fairly compensates the crime victim; , however, the crime victim may pursue his claim in a civil action, or be mutually agreed upon arbitration under the provisions of §§ 2110 through 2120 inclusive of the Civil Procedure Code of Guam, and any decision rendered by such court or arbitrator shall be binding upon the offender, the sentencing judge, and the crime victim.~~

~~(2) The amount of restitution set by the sentencing judge hereunder shall not limit whatever other civil remedies the crime victim may have.~~

DAH Comment: Amendments to (b) for consistency with a sentencing judge's required approval throughout this Article, and non-substantive reorganization/renumbering for added clarity. Subsection (c) moved to a new § 80.95 for better organization and clarity.



(~~dc~~) The sentencing judge shall give consideration to any community service that benefits the public and is beneficial to the offender.

(1) Any charity, governmental agency or public cause that qualifies for a tax deduction to any donor under United States income tax laws or the tax laws of Guam shall be deemed beneficial to the public.

(2) Any person convicted of ~~Driving Under the Influence~~ Driving While Impaired, as defined by 9 GCA § 92102 ~~92101(a) et seq.~~, shall serve at least one-half (1/2) of that person's community service, working in the litter cleaning program created by 9 GCA § 81.10, unless the Court determines that the defendant is prevented from working in said program by mental or physical infirmity.

DAH Comment: Correction of citation in (d).



§ 80.95. Amount of Restitution Disputed.

(a) In the event that there is a dispute between the crime victim and the offender as to the amount of the loss, the judge shall set an amount that adequately and fairly compensates the crime victim. However, the crime victim may pursue a claim by civil action, or by mutually agreed upon arbitration under the laws of Guam.

(b) The amount of restitution set by the sentencing judge hereunder shall not limit whatever other civil remedies the crime victim may have.

DAH Comment: This new § 80.95 replaces § 80.94(c) with an amendment to the arbitration language. Reference to sections in the Civil Procedure Code is deleted as that code does not exist. The binding decision requirement has been removed in deference to arbitration provisions under Guam law (generally Title 7 GCA).



Article 5 – Parole

9 GCA § 80.70. When Parole Permitted.

(a) ~~When Parole Permitted.~~ An offender sentenced to a term of imprisonment may be released conditionally on parole upon completion of two-thirds (2/3) of his fixed sentence or thereafter in accordance with the provisions of this Article, provided that in the case of an offender sentenced to a term of imprisonment for the commission of a ~~v~~iolent ~~e~~crime § as defined in 80.70.1(l), such offender may be released conditionally on parole upon completion of eighty-five percent (85%) of his fixed sentence or thereafter in accordance with the provisions of this Article.

~~(1) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

~~(2) For the purposes of this Section, a “violent crime” is defined as one (1) or more of the following:~~

- ~~(A) aggravated murder, as defined in 9 GCA § 16.30;~~
- ~~(B) murder, as defined in 9 GCA § 16.40;~~
- ~~(C) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;~~
- ~~(D) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the first second degree;~~
- ~~(E) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;~~
- ~~(F) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;~~
- ~~(G) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;~~
- ~~(H) aggravated arson, as defined in 9 GCA § 34.20;~~
- ~~(I) first degree robbery, as defined in 9 GCA § 40.10; or~~
- ~~(J) second degree robbery, as defined in 9 GCA § 40.20.~~

DAH Comment: Redundant to restate the title. (a)(1) moved to new 80.70(g). (a)(2) moved to definitions section, 80.70.1(l)



§ 80.70 [Continued]

(e) Notwithstanding any other provision of law to the contrary, all sentenced and incarcerated first offenders who have been convicted and sentenced to a prison term for non-violent or non-drug offense(s) shall be eligible for parole after serving fifty percent (50%) of their prison term. All procedures for applying for parole, reviewing and granting parole under this ~~s~~ection, except as stated herein, shall be governed by the provisions of this Article ~~5 of this Chapter.~~

~~(g) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

DAH Comment: Non-substantive clarifications. (a)(1) moved to new 80.70(g).

§ 80.70.1 Definitions.

For purposes of Article 5 of this Chapter:

~~(b) “Rated Capacity” shall mean the total number of inmates who can be safely incarcerated in the Prison or any portion of the Prison as established by the Federal Bureau of Prisons or other Federal agency of the United States qualified to provide a rating or maximum number for a safe and controllable population for the Prison or any of its subunits.~~

~~(d) “Prison Population” shall mean the total number of incarcerated persons confined within the Prison or within a subunit of the Prison.~~

DAH Comment: These two terms only appear in the definitions section.



§ 80.70.1 Definitions. [Continued]

...

(l) For the purposes of this Section, a “Violent eCrime” is defined as one (1) or more of the following shall mean:

- (1) aggravated murder, as defined in 9 GCA § 16.30;
- (2) murder, as defined in 9 GCA § 16.40;
- (3) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;
- (4) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the ~~first~~ second degree;
- (5) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;
- (6) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;
- (7) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;
- (8) aggravated arson, as defined in 9 GCA § 34.20;
- (9) first degree robbery, as defined in 9 GCA § 40.10; or
- (10) second degree robbery, as defined in 9 GCA § 40.20.

(m) As used in this Article, “Bboard” shall means the Guam Parole Board

DAH Comment: § 80.71 functionally a definition of Guam Parole Board, moved to subsection (m), with language modified to mirror § 80.70.1 as a whole. “Violent crime” moved and consolidated from § 80.70 and § 80.72 to subsection (l), since functionally a chapter wide definition. Introductory language modified to match the rest of the definitions section. As per (l)(4), there is no aggravated assault in the first degree.



~~§ 80.71. Definition of Board as Guam Parole Board~~

~~As used in this Article, “board” shall means the Guam Parole Board~~

DAH Comment: § 80.71 functionally a definition of Guam Parole Board, moved to subsection 80.70.1(m), with language modified to mirror § 80.70.1 as a whole.

§ 80.72. Exception for Parole Eligibility.

(a) Unless otherwise provided by law, every person in a Guam penal or correctional institution shall be eligible for release on parole at any time after the service of two-thirds (2/3) of his/~~her~~ fixed sentence or after a greater time set by the court, which shall state reasons therefore, provided that in the case of an offender sentenced to a term of imprisonment for the commission of a ~~v~~Violent eCrime § as defined in 80.70.1(l), such offender may be released conditionally on parole upon completion of eighty-five percent (85%) of his ~~or her~~ fixed sentence or after a greater time set by the Court, which shall state reasons therefor, or in the case of a person sentenced to life imprisonment, after such person has been confined for twenty-five (25) years.

DAH Comment: Gender references made uniformly singular masculine; aligns with CLRC edits to 1 GCA §1.12 “Rules of Construction” making singular masculine refer to plural and feminine.



§ 80.72. Exception for Parole Eligibility. [Continued]

(a)...

~~(1) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

~~(2) For the purposes of this Section, a "violent crime" is defined as one or more of the following:~~

~~(A) aggravated murder, as defined in 9 GCA § 16.30;~~

~~(B) murder, as defined in 9 GCA § 16.40;~~

~~(C) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;~~

~~(D) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the first degree;~~

~~(E) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;~~

~~(F) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;~~

~~(G) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;~~

~~(H) aggravated arson, as defined in 9 GCA § 34.20;~~

~~(I) first degree robbery, as defined in 9 GCA § 40.10; or~~

~~(J) second degree robbery, as defined in 9 GCA § 40.20.~~

DAH Comment: § 80.72(a)(1-2) identical to previous § 80.70(a)(1-2). (2) Consolidated and moved into Definitions section, § 80.70.1(l) and § (a)(1) moved to separate subsection 80.72(c).



§ 80.72. Exception for Parole Eligibility. [Continued 2]

(b) The Board shall consider the desirability of parole of each inmate at least sixty (60) days prior to his/~~her~~ first eligibility.

...

- (i) that if a person imprisoned for the commission of a ~~v~~violent ~~e~~crime has been denied parole by the Board for two (2) consecutive years, the Board shall set the next consideration four (4) years from the date of the previous consideration.

...

(c) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.

DAH Comment: Non-substantive edits to align with rest of Article 5. Subsection (a)(1) relocated to (c).

§ 80.74. Preparing Prisoner for Parole Hearing

(a) Each prisoner in advance of his parole hearing shall be requested to prepare a parole plan, setting forth the manner of life he intends to lead if released on parole, including such specific information as to where and with whom he will reside and what occupation or employment he will follow. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of his plan and in securing information for submission to the ~~b~~Board.

(b) A prisoner shall be permitted to advise with any persons whose assistance he reasonably desires, including his own legal counsel, in preparing for a hearing before the ~~b~~Board.

DAH Comment: No substantive change, corrections to capitalize the letter 'b' in Board, to occur throughout Article in line with Definitions Section.



§ 80.76. Standards Governing Release on Parole.

(a) Whenever the ~~B~~board considers the release of a prisoner for parole, the ~~B~~board shall order his release, if it is of the opinion after review of the records mandated in 9 GCA § 80.78, that:

...

(b) In making its determination regarding a prisoner's release on parole, the ~~B~~board may consider, to the extent relevant, the following factors:

...

DAH Comment: No substantive change, corrections to capitalize the letter 'b' in Board.

§ 80.78. Records to Be Made Available to Board.

Before making a determination regarding a prisoner's release on parole, the ~~B~~board shall cause to be brought before it, and it shall be the responsibility of the Department of Corrections, ~~or administrative head of the institution in which an offender is held~~ and the Clerk of Court of the Superior Court of Guam to furnish such of the following records and information regarding the prisoner as may be available:

...

DAH Comment: Corrections to capitalize the letter 'b' in Board; Parole reports this phrase is unnecessary.



§ 80.80. Conditions of Parole.

(a) If a prisoner is released on parole, the ~~b~~Board shall require as a condition of his parole that he refrain from engaging in criminal conduct. The ~~b~~Board may also require,

...

(3) remain within the geographic limits fixed in his ~~e~~Certificate of ~~p~~Parole, unless granted written permission to leave such limits;

...

(5) reside at any place fixed in his ~~e~~Certificate of ~~p~~Parole and notify his parole officer of any change in his address or employment;

...

(10) pay a fine, ~~restitution or other applicable courts costs~~ imposed by the court as provided in this Chapter;

(11) satisfy any other conditions ~~ordered by the Board~~ reasonably related to his rehabilitation ~~enhancing or to the~~ public safety and security.

(b) Before release on parole, a parolee shall be provided with a ~~e~~Certificate of ~~p~~Parole setting forth the conditions of his parole, and shall sign a statement agreeing to such conditions.

DAH Comment: Corrections to capitalize the letter 'b' in Board and "Certificate of Parole". Other non-substantive recommendations by Parole.



§ 80.82. Sanctions for Violation of Parole.

(b)...

(1) The parolee shall thereupon be detained on the written order of ~~the parole office~~ the Parole Services Division or warrant of the Guam Parole Board in a local jail, lockup, or other detention facility, pending action by the Guam Parole Board of Parole.

(2) Immediately after such arrest and detention, the parole officer concerned shall notify the Bboard and submit a written report of the reason for such arrest.

(3) Thereupon the Bboard may order the release of the parolee or take such action as is authorized in Subsection (a) with respect to parolees arrested under its warrant.

(c) [No text]

(1)...

(2) If a parolee fails to complete or is terminated from the Guam Adult Reentry Court Program, the parolee shall be referred to the Parole Office ~~or~~ and the Parole Board for disposition.

DAH Comment: Non-substantive edits proposed by Parole. 25



§ 80.84. Revocation Hearing Required: Standards for Revocation of Parole.

(b) The BBoard may by majority vote of its members order revocation of parole if it is satisfied that:

...

(c) The failure by the BBoard to hold a hearing within sixty days, as required by Subsection (a), shall not be a ground for release of the offender, but his right to such a hearing may be enforced by a judge of the superior court by court order after a hearing.

DAH Comment: Non-substantive capitalization to comport with Article convention.

§ 80.86. Prison Term After Revocation: Current Prisoners Provided for.

(a) A parolee whose parole is revoked for violation of the conditions of parole shall be recommitted for the term provided by Subsection (c) of § 80.70 after credit thereon for the period served on parole prior to the violation.

(b) A parole whose parole has been revoked may be considered by the board for re-parole at any time. He shall be considered for re-parole not more than six months after reconfinement.

~~(c) Persons recommitted for violation of parole prior to the effective date of this Section shall, with their consent, have their maximum term of imprisonment recomputed in accordance with Subsection (a), or set at six months following the operative date of this Section, whichever period shall be longer. All such persons shall be considered by the board for re-parole in accordance with Subsection (b). The remaining period of incarceration eliminated from the person's sentence shall constitute a term of parole.~~

DAH Comment: Effective date of Section long since passed, from Government Code era. Transition provision recommended for repeal.



§ 80.88. Discretionary and Mandatory Release from Parole.

(a) The ~~h~~Board may, by written order, relieve a prisoner on parole from making further report to his parole officer, and may, in writing, permit such prisoner to leave Guam and reside elsewhere if satisfied that such change of residence is for the best interest of society and the welfare of the prisoner. Any such permission may be revoked by the ~~h~~Board in its discretion.

...

(c) A parolee's discharge from parole or from recommitment for violation of parole becomes mandatory upon completion of the maximum parole term.

DAH Comment: Non-substantive capitalization to comport with Article convention.