

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC)
PLENARY MEETING | THURSDAY, FEBRUARY 29, 2024
MINUTES**

I. CALL TO ORDER

The meeting was called to order by Chairman Jonathan Quan at 12:01 PM.

II. PROOF OF DUE NOTICE OF MEETING

Chairman Quan noted that public notices of the meeting were published pursuant to the Open Government Law and are included in the meeting packet.

III. DETERMINATION OF QUORUM

CLRC Research Assistant Rennae Meno called the roll.

CLRC Members:

Hon. Jonathan R. Quan, Present, Judiciary of Guam
Hon. Maria T. Cenzone, Present, Judiciary of Guam
Hon. Anita A. Sukola, Present on Zoom, Tumon
Atty. William Bucky Brennan, Present, Judiciary of Guam
Department of Corrections Director Fred Bordallo, Present, Judiciary of Guam
Chief of Police Designee Lt. Ron Taitano, (No response during roll call)
Atty. Joseph B. McDonald, Present, Judiciary of Guam
Atty. F. Randall Cunliffe, (Later indicated presence on Zoom after roll call)
Mr. Monty McDowell, (Later indicated presences on Zoom after roll call)
Public Defender Designee Atty. John Morrison, Present on Zoom, Office in Sinajana
Attorney General Designee AAG Steven Coaty, Present on Zoom from AG's Office
Atty. Mike Phillips, (No response during Roll Call)
Miss Valerie Reyes, (No response during Roll Call)
Atty. Christine Tenorio, Present on Zoom, from AG's Office
Atty. Phillip Tydingco, Present, Judiciary of Guam

Ex-Officio, Non-Voting Members,
Executive Director Andrew S. Quenga, Present, Judiciary of Guam
Compiler of Laws Geraldine Cepeda, Present, Judiciary of Guam

Chairman Quan acknowledged a quorum present.

IV. DISPOSAL OF MINUTES: October 5, 2023, and December 7, 2023

The minutes from previous Plenary Meetings on October 5, 2023, and December 7, 2023, were approved without objection.

V. OLD BUSINESS

A. Fourth Quarter Report

Executive Director Serge Quenga informed members that the Fourth Quarter report (months of October to December 2023) was submitted on February 1st and is posted on the CLRC webpage for review.

B. Subcommittee on Drugs & Other Criminal Offenses: Continued Discussion of Proposed 9 GCA § 90106 (Correctional Medical Clinics) for Consideration and Approval

Former DOCO Chair Judge Elizabeth Barrett-Anderson presented the Subcommittee's recommendation to add a new 9 GCA § 90106 - Correctional Medical Clinics (Attachment 1, pp. 1-4).

Discussion:

Judge Barrett-Anderson stated this Commission's enabling legislation allows the Commission to propose new provisions in addition to recommending amendments and repeals of existing statutes. Judge Barrett-Anderson provided the historical background of this proposed section. She stated this section is not new, that it was the product of the 2015 DOC Task Force put together by herself as the AG of Guam and Lt. Governor Ray Tenorio in response to a judgment by District Court Judge Munson in District Court of Guam Case No. CIV91-00020 and a consent decree entered in that case when she was the AG of Guam in 1991. The Task Force formulated medical clinics at DOC which have been operational under a memorandum of understanding and which this proposed legislation will codify.

DOC Director Fred Bordallo disclosed that he was the on this 2015 Task Force when he was the Chief of Police. He stated GMH and Behavioral Health are under a memorandum of understanding with DOC but that this proposed legislation is a game changer.

Attorney Kathy Fokas Siguenza stated she was the attorney of record in this District Court case where the U.S. justifiably sued the Government of Guam for inadequate practices at DOC. The Task Force worked intensively and the U.S. dismissed the case.

Attorney Randy Cunliffe stated he supports this important matter and that he has worked since the 80's on getting more medical services for DOC. He suggested looking for medical equipment from clinics when they upgrade to new equipment.

Attorney McDonald stated he is in support but questioned the funding for this provision. Judge Barrett-Anderson replied that under the current arrangement DOC is responsible for seeking budget appropriations for payment to GMH.

Chairman Quan stated it seems the process is working but that a statute will finalize it and prevent modification. He sees no issue with this being addressed by the Commission as the statute allows the Commission to repeal, amend or propose suggested legislation and DOC's operations are contained in Title 9.

Judge Maria Cenzone stated there is an executive order resulting in the MOU and agreed the provision should be contained in statute rather than an executive order or MOU that can expire or change. She noted Behavior Health's long time difficulty hiring psychiatrists.

Attorney Philip Tydingco noted language referencing cooperative agreements and asked if such agreements are necessary if services are mandated.

Judge Maria Cenzone stated a cooperative agreement would be best practice so that obligations are in writing and suggested permissive language.

Executive Director Andrew Quenga suggested adding "may be" before "set forth" in subsection (b).

Compiler of Laws Geraldine Cepeda suggested adding the word "any" before "cooperative agreement."

Judge Cenzone noted "cooperative agreement" is in subsection (a).

Chairman Quan called for a motion to accept the proposed section 90106 with "as may be set forth" added to subsection (b) and the word "any" added to subsections (a), (b) and (c). The motion was made and seconded. With no objection the proposed section 90106 was moved to the final reading file.

C. Subcommittee on Crimes Relating to Property: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommittee Chair Attorney Phillip Tydingco introduced member Attorney William Brennan to give the presentation.

Attorney Brennan continued the discussion of offense grading recommendations from the August 31, 2023 Plenary Meeting, covering 9 GCA Chapters 43, 34, 46, 32 and 70. He reported that the Subcommittee met with Attorney McDonald on questions raised on Chapter 70. To address concerns raised at the August 31, 2023 meeting on grading offense recommendations, the Subcommittee surveyed three states: New Jersey (Model Penal Code state), California (common-law), and Hawaii (mixed).

Attorney Brennan presented updates and outlined proposed revisions and recommendations in a PowerPoint presentation (Attachment 2).

- 9 GCA Chapter § 43.20 (Theft; Defined & Punishment Classified). Amend grading offense values for theft as shown in table (Attachment 2, p. 4).

Discussion:

Comparisons made to N.J., California and Hawaii theft grading values. Recommendation is to increase offense grading values only. No change is recommended for theft of statutorily specific items (firearm, credit card, motor vehicle).

- 9 GCA § 34.60 (Criminal Mischief; Punished). Deletion of § 34.60(a) and amend grading offense values for criminal mischief as shown in table (Attachment 2, p. 7).

Discussion:

Comparisons made to N.J., California and Hawaii theft grading values. Recommendation is to increase offense grading values only.

Motion made by Attorney Tenorio to remove the category of violation with petty misdemeanor to be valued from \$0 to \$499. Attorney Tydingco seconded. Motion carried with two members opposed.

- 9 GCA § 46.30. Issuance of Dishonored Checks.
 - Amend grading offense values for dishonored checks as shown in table (Attachment 2, p. 11).
 - Discussion: no further recommendations on this.
- 9 GCA § 46.35. Fraudulent Use of Credit Cards; Defined and Punished.
 - Amend grading offense values for fraudulent use of a credit card as shown in table (Attachment 2, p. 12).
 - Discussion: tabled for further review.
- 9 GCA § 46.80. Impersonation; Identity Theft; Defined and Punished.
 - Amend grading offense values for impersonation and identity theft crimes as shown in table (Attachment 2, p. 13).
 - Discussion: tabled for further review.
- 9 GCA § 46.102. Mortgage Fraud; § 46.103. Classification of Offense.
 - Amend to classify a violation of § 46.102 (mortgage fraud) only as a second degree felony and remove all other grading offense values in § 46.103 as shown in Attachment 2, pp. 14-15).
 - Discussion: Subcommittee could not envision fact pattern where values would be that low. Should all be encompassed as a second degree felony.
- 9 GCA Chapter 32. Financial Exploitation of the Elderly and Individuals with Disabilities.
 - Repeal chapter. (Attachment 2, p. 16).
 - Discussion: tabled for further review.
- 9 GCA Chapter 70. Miscellaneous Crimes. Article 1. Protecting Animal Welfare and Safety Act
 - § 70.15(h) definition of “officer.” Amend to delete “by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.” (Attachment 2, p. 17).
 - Discussion: Remove restriction on authorization of “officer.” It should be whatever is authorized by law.
 - § 70.20. Animal Neglect. Amend (a) to remove recklessly. Amend (b) and (c) to clarify that animal neglect is a “violation” and to remove the fine amount (Attachment 2, p. 18)

- Discussion: Recklessness has a more of a civil aspect. Amendments clarify that the offense is a “violation.” Fine for a “violation” is in 9 GCA §80.50(d).
- § 70.25. Animal Abuse. Amend (a) to remove “recklessly or with criminal negligence.” (Attachment 2, p. 19).
 - Discussion: Removed *mens rea* of recklessly or with criminal negligence. Believe purpose was to punish intentional and knowing animal abuse conduct.
- § 70.35. Animal Fighting. Amend (a) to delete last sentence. Amend (d) to remove penalties. (Attachment 2, p. 20).
 - Discussion: Amendment to (a) addresses the federal ban on cockfighting. Amendment to (d) is consistent with the effort to make criminal penalties consistent with 9 GCA Chapter 80 (Disposition of Offenders). Seizure process to be reviewed by Criminal Procedure Subcommittee.
- § 70.50. Animal Abandonment. Amend (b) to remove fine. (Attachment 2, p. 21).
 - Discussion: Fine covered in the general statute.
- § 70.55. Failure of a Motorist to Render Aid to an Injured Animal (Attachment 2, p. 22). Repeal section.
 - Discussion: Questioned whether this has ever been prosecuted. Dangerous to render assistance on a highway.
- § 70.60. Leaving Animals Unattended in Motor Vehicles; Penalty; Authority of Officers. Amend (a)(2) to delete “or outside.” (Attachment 2, p. 23).
 - Discussion: Language “or outside” makes no sense.
- § 70.65. Defenses; Exceptions. Amend to delete (g)(2) in its entirety. Amend (g)(3) to delete “except for dogs and cats.” (Attachment 2, p. 24).
 - Discussion: Cockfighting banned under federal law. Dogs and cats are consumed by some cultures.
- § 70.80. Sentencing Provisions. Amend (b)(1) replace “shall” with “may.” (Attachment 2, p. 25).
 - Discussion: Ordering a psychological exam should be at the court’s discretion.
- § 70.320. Intoxication of Persons Under the Age of Twenty-One. Amend (c)(1) to define the offense as a misdemeanor. (Attachment 2, p. 26).
 - Discussion: Clarification.
- § 70.330. Possession of Cannabis by Persons Under Twenty-Years of Age. Amend to define the offense as a violation. (Attachment 2, p. 27).
 - Discussion: For consistency with possession statute. Recommend to move this section to controlled substances.
- § 70.420. Jet Ski Operation, Tumon Bay and Pago Bay. Amend to remove exception for entry and exit through channel. (Attachment 2, p. 28).
 - Discussion: Inconsistent to allow entry and exit but prohibit use inside the bays.
- § 70.430. Unlawful Use of Telephone; Defined & Punished. Repeal section. (Attachment 2, p. 29).
 - Discussion: Section regarding party lines is obsolete.
- § 70.450. Blacklisting Employees. Repeal criminal parts (a) and (b). (Attachment 2, p. 30).
 - Discussion: Questioned the need for the criminal provisions. Remove only (a) and (b). Move (c)-(i) to civil statutes.

Chairman Quan called for a motion to accept the recommended changes with the exception of the tabled sections. Without objection the motion carried and was moved to the final reading file.

VI. NEW BUSINESS

A. Subcommittee on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval.

Subcommittee Chair Attorney McDonald presented updates and outlined proposed revisions and recommendations in a PowerPoint presentation (Attachment 3).

- Subcommittee reports “no action” for Chapters 93, 91, 71, 40, and § 31.30. (Attachment 3, pp. 3-13).
 - Discussion: Summarized the Subcommittee’s review and scrutiny of these chapters. Review included considering other jurisdictions, policy questions and possible amendments. Subcommittee ultimately recommends no action.
- § 19.60. Terrorizing. Amend (a). (Attachment 3, p. 14)
 - Discussion: Tabled for further review.

Chairman Quan called for a motion to accept the recommended changes with the exception of the tabled section. Without objection the motion carried and was moved to the final reading file.

B. Notice of next meeting: Thursday, April 8, 2024, Noon (Tentative)

Chairman Quan informed Members that the next meeting is Thursday, April 4th, 2024, at noon.

VII. Communications

None.

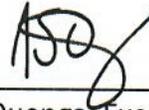
VIII. Public Comment

None.

IX. Adjournment

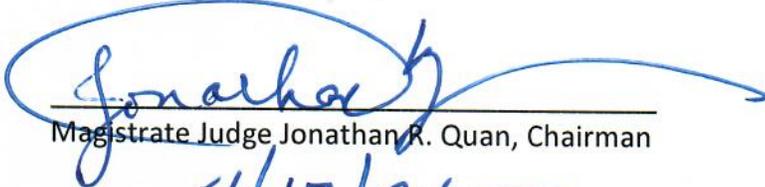
Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 4th day of April, 2024.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the February 29, 2024 meeting were approved by the CLRC at the April 4, 2024 meeting.



Magistrate Judge Jonathan R. Quan, Chairman

Dated: 4/17/24

ATTACHMENT 1 - DOCO PRESENTATION



Report of the Subcommittee on Drugs and Other Criminal Offenses

Proposed 9 GCA § 90106
Correctional Medical Clinics

Members: Hon. Maria T. Cenzone (Chair), Hon. Elizabeth Barrett-Anderson, Compiler of Laws Geri Cepeda, DOC Director Fred Bordallo, Atty Mike Phillips, Ms. Valerie Reyes, Atty Kat Siguenza

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Suggested new provision

9 GCA § 90106. Correctional Medical Clinics.

There are hereby established facilities within the Department of Corrections (DOC) designated as the "Correctional Medical and Dental Clinic" and the "Correctional Behavioral Health Clinic" to address and respond to the medical, dental and mental health needs of all inmates and detainees within the prison population based on standards and procedures recognized by the National Commission on Correctional Health Care and consistent with community standards of care to further ensure the constitutional rights of inmates and detainees to proper health care.

(a) All outpatient medical and dental clinical operations at the DOC Correctional Medical Clinic shall be under the general cognizance and authority of the Guam Memorial Hospital Authority (GMHA) to ensure delivery of services including, but not limited to providing a medical director; physician and nurse practitioner services; nursing services; clinic staff; pharmaceutical services; medical records services; medical supplies; and training, to the extent necessary to satisfy this section those services set forth in a cooperative agreement between GMHA and DOC.

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Suggested new provision

(b) All outpatient mental health services operations at the DOC Correctional Behavioral Health Clinic shall be under the general cognizance and authority of Guam Behavioral Health & Wellness Center (GBHWC) to ensure delivery of services including, but not limited to providing a mental health director, psychiatric physician and clinical psychology services, nursing services; clinic staff; records services; supplies; and training, to the extent necessary to satisfy this section those services set forth in a cooperative agreement between GBHWC and DOC.

(c) The DOC, GMHA, and GBHWC shall annually submit sufficient budgetary justification and appropriation requests to fund all operations pursuant to the continuing cooperative agreements between the DOC and GMHA.

(d) DOC and GBHWC. GMHA and GBHWC shall deliver health care services at the Correctional Medical Clinic and Correctional Behavioral Health Clinic, respectively, at the most economical costs, implement best practices, and promote financial accountability to DOC.



Suggested new provision

(1) GMHA and GBHWC shall provide written reports to DOC one month after each fiscal quarter detailing services rendered and supplies used during the previous quarter, including applicable costs and administrative fees. The system for payment by DOC to GMHA and GBHWC shall be established with the Governor's Office, the Bureau of Budget Management & Research (BBMR), and the Department of Administration (DOA) to ensure GMHA and GBHWC has a regular commitment of funding secured solely and exclusively for paying GMHA and GBHWC on time for health care services, medical supplies, and for the timely payment to pharmaceutical vendors to prevent any future risks of credit hold.

(2) Allotments shall be made to GMHA and GBHWC in advance of services rendered and medical and pharmaceutical supplies, based on the previous fiscal year budget, and adjusted for any under-utilization or over-utilization from the previous fiscal year. Quarterly allotments shall be released on October 1, January 1, April 1, and July 1, of each fiscal year.

(3) GMHA and GBHWC shall submit to DOC expenditures statements post fiscal year that certify funds were spent in accordance with actual allocations.

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Subcommission on Drugs & Other Criminal Offenses - Feb. 29, 2024						
Chapter number, name	Section	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	NEW
90 - Corrections						
(New proposed Criminal Correctional Clinics)	90106					New

ATTACHMENT 2 - CRIMES RELATING TO PROPERTY PRESENTATION



Subcommittee on Crimes Relating to Property Update

Guam Criminal Law Review and Procedure Commission
February 29, 2024

Subcommittee Chairperson: Phillip J. Tydingco, Esq.
Subcommittee Members: F. Randall Cunliffe, Esq., Mr. Monty McDowell, William B. Brennan, Esq.

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Preliminary Review Completed (by Chapter)

- 9 GCA Chapter 32 (Financial Exploitation of Elderly)
- 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)
- 9 GCA Chapter 37 (Burglary)
- 9 GCA Chapter 40 (Robbery)
- 9 GCA Chapter 43 (Theft and Related Offenses)
- 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)
- 9 GCA Chapter 47 (Trademark Counterfeiting Act)
- 9 GCA Chapter 48 (Notification of Breaches of Personal Information)
- 9 GCA Chapter 70 (Miscellaneous Crimes)

Chapters Remaining

- 9 GCA Chapter 4 (General Principles of Liability)
- 9 GCA Chapter 13 (Attempt, Solicitation, Conspiracy)
- 9 GCA Chapter 49 (Government Bribery, Other Unlawful Influence and Related Offenses)
- 9 GCA Chapter 69 (Antitrust Law)
- 10 GCA Chapter 60 (Firearms)

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Items for Today

- **Offense Grading Recommendations from August 31, 2023 Meeting**
- **9 G.C.A. Chapter 70 Recommendations**

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9 GCA Chapter 43 Theft Grading

Offense Level (Guam)	Existing Statute	Recommended Change	Current Sentence (enhancements in other statutes), fines, probation/parole, restitution also governed by statute
Violation			
Petty Misdemeanor	\$0 - \$49.99	\$0-\$499.99	0-60 days
Misdemeanor	\$50.01-\$499.99	\$500.00-\$2,499.99	0-1 year
1 st Degree Felony	\$500.01-\$1,499.99	\$2,500.00-\$4,999.99	0-5 years (9 GCA 80.30), first offender 0-3 years (80.31)
2 nd Degree Felony	> \$1,500.00	> \$5,000.00	5-10 years (9 GCA 43.20), mandatory minimum except for first time felony and theft offender in which case 0-5 years

California Theft (Cal Penal Code § 484-502.9)
Grand Theft – (487) (a) money, labor, real property or personal property taken is of a value exceeding \$950.00, except: also grand theft specific circumstances/items regardless of value
Petty Theft – value less than \$950.00

Offense Level (Ca)	Sentencing Factor	Sentence by statute (with separate provisions for aggravating and mitigating sentence)
489 and 1170(b)		
Grand Theft	If theft involves firearm	16 months, two or three years
Grand Theft	Certain animal carcasses	Not exceeding one year, fine of \$5,000 or both
Grand Theft	All others	Jail not exceeding one year if misdemeanor or if felony – 16 months, two years or three years jail
Petty Theft	Less than \$950	Up to six (6) months jail, \$1,000.00

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9 GCA Chapter 43 Theft Grading

Offense Level (Guam)	Existing Statute	Recommended Change	Current Sentence (enhancements in other statutes), fines, probation/parole, restitution also governed by statute
Violation			
Petty Misdemeanor	\$0 - \$49.99	\$0-\$499.99	0-60 days
Misdemeanor	\$50.01-\$499.99	\$500.00-\$2,499.99	0-1 year
3 rd Degree Felony	\$500.01-\$1,499.99	\$2,500.00-\$4,999.99	0-5 years (9 GCA 80.30), first offender 0-3 years (80.31)
2 nd Degree Felony	≥ \$1,500.00	≥ \$5,000.00	5-10 years (9 GCA 43.20), mandatory minimum except for first time felony and theft offender in which case 0-5 years

Hawaii - By Degree

Offense Level (HI)	Sentencing Factor	Sentence by statute (statutory, with separate provisions for aggravating and mitigating sentence) (Title 37 Section 706 Disposition of convicted Defendants)
1st Degree (708-830.5)	Property or services exceeds \$20,000.00, a firearm, dynamite or other explosive, property or services during emergency period, property from person 60 or older, property or services value exceeds \$750 from person 60 or older, motor vehicle (Class B Felony)	10 years
2 nd Degree (708-831)	Theft of property from another, or value of property or services exceeds \$750, other specific products (Class C Felony), first offender minimum sentence plus restitution	5 years
3 rd Degree (708-832)	Theft of property or services exceed \$250, or gas, diesel other petroleum value not exceeding \$750 (misdemeanor)	1 year
4 th Degree (708-833)	Theft of property or services not in excess of \$250 (petty misdemeanor)	30 days
Shoplifting	Shoplifting also incurs statutory civil liability	

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9 GCA Chapter 43 Theft Grading

Offense Level (Guam)	Existing Statute	Recommended Change	Current Sentence (enhancements in other statutes), fines, probation/parole, restitution also governed by statute
Violation			
Petty Misdemeanor	\$0 - \$49.99	\$0-\$499.99	0-60 days
Misdemeanor	\$50.01-\$499.99	\$500.00-\$2,499.99	0-1 year
3 rd Degree Felony	\$500.01-\$1,499.99	\$2,500.00-\$4,999.99	0-5 years (9 GCA 80.30), first offender 0-3 years (80.31)
2 nd Degree Felony	≥ \$1,500.00	≥ \$5,000.00	5-10 years (9 GCA 43.20), mandatory minimum except for first time felony and theft offender in which case 0-5 years

New Jersey - By Degree

Offense Level (NJ)	Sentencing Factor	Sentence by statute (statutory, with separate provisions for aggravating and mitigating sentence) (2C:43-6)
2C:20		
Second degree	Value greater than \$75,000.00, human remains, CS greater than 1 kg	5-10 years, up to \$150,000.00
Third degree	\$500-\$75,000.00, or firearm, motor vehicle, vessel, boat, horse, domestic companion animal, airplane, CS value less than \$75,000.00, public instrument, access device, other specific items	3-5 years, up to \$15,000.00 fine
Fourth degree	\$200-\$499.99	Not to exceed 18 months, up to \$10,000.00 fine
*restitution and specific civil and criminal liability statute for shoplifting (shoplifting – less than \$200 disorderly offense, \$200-\$500 fourth degree, \$500-\$75,000.00 third degree, excess of \$75,000.00 second degree + civil liability)		

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9 GCA Chapter 34 Criminal Mischief Grading

- Recommend deletion of Subsection 34.60(a) to clarify punishment is based on offense grading value only
- Recommend amendment to offense grading value for Criminal Mischief:

Offense Level	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.00 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.00 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	≥ \$500.00	\$2,500.00 - \$4,999.99
2 nd Degree Felony	-	≥ \$5,000.00

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9 GCA Chapter 34 Criminal Mischief Grading

Offense Level (Gu)	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.00 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.00 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	≥ \$500.00	\$2,500.00 - \$4,999.99
2 nd Degree Felony	-	≥ \$5,000.00

California – value of damage - Cal Pen Code 594

Offense Level (Ca)	Sentencing Factor	Sentence by statute (with separate provisions for aggravating and mitigating sentence)
Felony	Damage \$400 or more	16 months, one, two or three years, fine not more than \$10k, or if damage more than \$10k, fine up to \$50k
Misdemeanor	Damage less than \$400	One year in jail, fine of \$1,000
Misdemeanor	Damage less than \$400 but prior vandalism conviction or affixing graffiti	One year in jail, fine of not more than \$5,000

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9 GCA Chapter 34 Criminal Mischief Grading

Offense Level (Gu)	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.00 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.00 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	≥ \$500.00	\$2,500.00 - \$4,999.99
2 nd Degree Felony	-	> \$5,000.00

Hawaii - 708-823 (criminal property damage) - By Degree

Offense Level (HI)	Sentencing Factor	Sentence by statute (statutory, with separate provisions for aggravating and mitigating sentence) (Title 37 Section 706 disposition of convicted Defendants)
1 st Degree (708-820)	Property of another by means other than fire, value exceeding \$20k, property during emergency, or certain equipment in excess of \$1500 (Class B Felony)	10 years
2 nd Degree (708-821)	Damage property of another in amount exceeding \$1500 to \$20k, specific property in value exceeding \$500 - \$1500 (Class C Felony)	5 years
3 rd Degree (708-822)	Damage property of another in amount exceeding \$500 to \$1499, or by widely dangerous means, or specific types of property (misdemeanor)	1 year
4 th Degree (708-823)	Damage property of another without consent (petty misdemeanor)	30 days
Agg Crim Property Damage (708-823.5)	Two convictions of first or second, separate misdemeanor, damages property of another without consent (misdemeanor)	1 year
Graffiti (708-823.6)	In addition to property damage crimes, sentenced to remove graffiti within 30 days of sentencing, community service for two years removing graffiti!	

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9 GCA Chapter 34 Criminal Mischief Grading

Offense Level (Gu)	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.00 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.00 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	≥ \$500.00	\$2,500.00 - \$4,999.99
2 nd Degree Felony	-	≥ \$5,000.00

New Jersey (2C-17-3) – by pecuniary loss

- Purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other dangerous means listed . . . or
- Purposely, knowingly or recklessly tampers with tangible property of another so as to endanger person or property, including the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings.

Offense Level (NJ) 2C-20-2	Sentencing Factor	Sentence by statute (statutory, with separate provisions for aggravating and mitigating sentence) (2C-43-6)
Second degree		5-10 years, up to \$150,000.00
Third degree	Pecuniary loss of \$2000 or more, or other specific property damage	3-5 years, up to \$15,000.00 fine
Fourth degree	Pecuniary loss of \$500 to \$2000, or other specific property damage	Not to exceed 18 months, up to \$10,000.00 fine

*Graffiti also order for restitution, community service including removing

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9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for dishonored checks (Section 46.30)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	≥ \$250.00	≥ \$500.00
Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
3 rd Degree Felony	> \$1,000.00	\$2,500.00 - \$9,999.99
2 nd Degree Felony	-	≥ \$10,000.00

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9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment of offense grading values for fraudulent use of credit card Section 46.35(d):

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	≥ \$500.00
Misdemeanor	≤ \$500	\$500.01 - \$2,499.99
3 rd Degree Felony	> \$500	\$2,500.00 - \$9,999.99
2 nd Degree Felony	-	≥ \$10,000.00

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9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for Impersonation and Identity Theft crimes Section 46.80(c)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	≥ \$500.00
Misdemeanor	-	\$500.01 - \$2,499.99
3 rd Degree Felony	< \$5,000.00	\$2,500.00 - \$9,999.99
2 nd Degree Felony	≥ \$5,000.00	≥ \$10,000.00

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9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to Section 46.103 to update offense grading values for Mortgage Fraud.

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	-
Misdemeanor	\$300.01 - \$1,000.00	-
3 rd Degree Felony	\$1,000.00 - \$4,999.99	-
2 nd Degree Felony	≥ \$5,000.00	Mortgage Fraud

14



9 GCA Chapter 46 (Mortgage Fraud)

- Recommend amendment to Sections 46.102 and 46.103 to update offense grading for Mortgage Fraud to Second Degree Felony.

46.102 Mortgage Fraud.

- (a) A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:
- knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - files or causes to be filed with the Department of Land Management any document that the person knows contains a material misstatement, misrepresentation, or omission; or
 - receives any proceeds or any compensation in connection with a mortgage loan that the person knows resulted from a violation of this Section.

(b) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates Section 46.102(a) is guilty of a second degree felony.

46.103 Mortgage Fraud.

(a) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates 46.102(a) of this Chapter is guilty of a:

- ~~(1) misdemeanor when the value is or exceeds Three Hundred Dollars (\$300) but is less than One Thousand Dollars (\$1,000);~~
- ~~(2) third degree felony when the value is or exceeds One Thousand Dollars (\$1,000) but is less than Five Thousand Dollars (\$5,000);~~
- ~~(3) second degree felony when the value is or exceeds Five Thousand Dollars (\$5,000);~~
- (4) second degree felony when the object or purpose of the commission of an act of mortgage fraud is other than the obtaining of something of monetary value; and
- (5) second degree felony when the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.

(c) The determination of the degree of any offense under this Subsection (a) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of 46.102(a) of this Chapter, except as provided in Subsections 46.102(a)(4) and (5).

(b) Each residential or commercial property transaction offense under this part constitutes a separate violation.

15



9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

Previously recommended repeal of entire Chapter

- Subcommittee Concerns: vulnerable victim sentencing enhancement and theft statute provide sufficient criminal prohibition; conflicting *mens rea* language throughout statute.

Update February 2024:

- Subcommittee reviewing additional source and background material
- Potential Civil Cause of Action?
- Recommend to table this item pending further review

16



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.15(h) in definition section of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law."

Section 70.15(h)

(h) Officer means a member of the Guam Police Department, a Mayor of Guam, an Animal Control Officer, a Conservation Officer, or any other person authorized by law by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.

17



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.20(b) and 70.15(j) of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law" to clarify animal neglect is a violation as distinguished from "animal abuse" on next slide.

Section 70.20 Animal Neglect

- (a) A person commits the offense of Animal Neglect if, except as otherwise authorized by § 70.65 of this Article, the person (1) intentionally or knowingly, or recklessly fails to provide minimum care for an animal in the person's possession, or (2) recklessly or with criminal negligence causes physical injury to an animal in the person's possession.
- (b) Animal Neglect is a violation n-offense punishable by a fine of not more than Five Hundred Dollars (\$500) per offense.
- (c) Each act or omission in violation of Subsection (a) of this Section shall constitute a separate offense violation.

Recommend and clarifying "physical injury" definition in 70.15(j):

70.15(j)
Physical injury means physical trauma, impairment of condition, or pain or illness produced by violence or by a thermal or chemical agent, and includes, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infestation.

18



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.20(b) of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law" to clarify animal neglect on previous slide is a violation as distinguished from "animal abuse".

Section 70.25 Animal Abuse

- (a) A person commits the crime of Animal Abuse if, except as otherwise authorized by § 70.65 of this Article, the person intentionally, or knowingly, recklessly, or with criminal negligence:
- (1) causes physical injury to an animal;
 - (2) causes serious physical injury to an animal; or
 - (3) causes the death of an animal.
- (b) Animal Abuse under Subsection (a)(1) of this Section is a misdemeanor. Animal Abuse under Subsection (a)(2) or (a)(3) of this Section is a third degree felony.
- (c) Each act or omission in violation of Subsection (a) of this Section shall constitute a separate offense.

19



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.35 of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law".

§ 70.35. Animal Fighting

- (a) No person shall cause, sponsor, aid, abet, arrange, hold, or encourage any animal to fight, menace, or injure another animal for the purpose of sport, amusement, or pecuniary gain. ~~This Section does not apply to cockfighting that is authorized by law.~~
- (c) Any violation of Subsection (a) of this Section shall constitute Animal Fighting, which is a third degree felony.
- (d) ~~Notwithstanding any other provision of law, the penalty for a violation of Subsection (a) of this Section shall be confinement in a correctional facility in accordance with Article 2 of 9 GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Fifteen Thousand Dollars (\$15,000), or both, per violation. Additionally, a~~ Any person convicted of any violation of this Section may be subject to seizure of any personal property, including vehicles, and real property at which the animal fight was staged.

20



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.50 of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law".

§ 70.50. Animal Abandonment

- (a) A person commits the offense of Animal Abandonment if the person intentionally, knowingly, or recklessly leaves a domestic animal at a location without providing for the animal's minimum care as defined in § 70.10.1(g) of this Article.
- (b) Animal Abandonment is a violation that shall be subject to a fine of not more than Five Hundred Dollars (\$500).
- (c) Each act in violation of Subsection (a) of this Section shall constitute a separate offense.

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9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Repeal of 7 GCA Section 70.55 of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law".

§ 70.55. Failure of a Motorist to Render Aid to an Injured Animal.

A person commits the offense of Animal Abandonment if the person intentionally, knowingly, or recklessly leaves a domestic animal at a location without providing for the animal's minimum care as defined in § 70.10.1(g) of this Article.

- (a) A person who, while operating a motor vehicle, knowingly injures or kills a cat, dog, or livestock, excluding chickens, shall stop and render such assistance as may be possible and safe to provide, and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, or it is unsafe to make contact with the animal's owner, the operator of the motor vehicle shall immediately report the accident and location to a peace officer or animal control officer.
- (b) A violation of Subsection (a) of this Section shall be punishable by a fine of not more than Three Hundred Dollars (\$300) per offense.

22



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to of 7 GCA Section 70.60(a)(2) of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law".

§ 70.60. Leaving Animals Unattended in Motor Vehicles; Penalty; Authority of Officers.

- (a) For the purposes of this Section:
 - (1) Vehicle means a car, truck, camper, trailer, or other form of transportation in which an animal can be transported.
 - (2) Extreme temperature means an extremely cold or high temperature, inside or outside of a vehicle, that could endanger an animal's health, safety, or well-being.

23



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to of 7 GCA Section 70.65(g)(2) and (3) of the "Protecting Animal Welfare and Safety (PAWS) Act or Pugua's Law".

§ 70.65. Defenses; Exceptions

- (g) Sections 70.10 to 70.85 of this Article shall not apply to:
 - (2) cockfighting in a manner and at such times and places as are authorized by law;
 - (3) the proper killing of animals used for food, except for dogs and cats, in accordance with the law;

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9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to of 7 GCA Section 70.80 of the "Protecting Animal Welfare and Safety (PAWS) Act or Puguá's Law".

§ 70.80. Sentencing Provisions.

(g) Sections 70.10 to 70.85 of this Article shall not apply to:

(b) Evaluation & Treatment.

(1) In addition to any other sentence it may impose, the court ~~shall~~ may order the defendant convicted of a felony crime under this Article to undergo a psychiatric, psychological, or mental health evaluation, and if warranted by the condition of the defendant, ~~shall~~ may order the defendant to undergo appropriate care or treatment.

25



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to of 7 GCA Section 70.320(c)(1) of the The Guam Social Host Act And Possession Of Cannabis By Persons Under Twenty-one (21) Years Of Age

§ 70.320. Intoxication of Persons Under the Age of Twenty-One.

(c) Any person who violates this Section:

(1) shall be ~~guilty of a misdemeanor, punished by a fine of not more than Two Thousand Dollars (\$2,000) or by imprisonment for not more than one (1) year or both;~~

26



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.330 of The Guam Social Host Act And Possession Of Cannabis By Persons Under Twenty-one (21) Years Of Age

§ 70.330. Possession of Cannabis by Persons Under Twenty one (21) Years of Age.

Any person under twenty-one (21) years of age possessing cannabis shall be guilty of a ~~violation~~ petty misdemeanor and subject to a One Hundred Dollar (\$100.00) fine ~~and suspension of their driver's license for twelve (12) months for the first offense and a Two Hundred-Fifty Dollar (\$250.00) fine and suspension of their driver's license for an additional twelve (12) months for each subsequent possession. Suspension of one's driver's license may be waived by the court and replaced with one hundred (100) hours of community service for each possession if the guilty individual can demonstrate financial or personal hardship resulting from the loss of his or her driving privileges. The violation of this Section and the resulting penalties prescribed herein are in addition to other violations of public law related to cannabis possession.~~

27



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Amendment to 7 GCA Section 70.420

§ 70.420. Jet Ski Operation, Tumon Bay and Pago Bay.

No person shall operate a jet ski or water ski within the reef along Tumon Bay and Pago Bay ~~except that a jet ski may be operated in the channel to enter or exit Tumon Bay and Pago Bay.~~ This prohibition shall not apply to the use of jet ski for emergency rescue or for law enforcement purposes. Any person who violates this Section is guilty of a misdemeanor.

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9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Repeal of 9 GCA Section 70.430

§ 70.430. Unlawful Use of Telephone; Defined & Punished.

(a) A person is guilty of unlawfully using a telephone when he:

(1) refuses to relinquish immediately a party line or public telephone when informed that the party line or public telephone is needed for an emergency call to the Department of Public Safety, Armed Services Police, Air Sea Rescue or for medical aid or ambulance service; or

(2) secures the use of a party line or public telephone by falsely stating that such line or telephone is needed for an emergency.

(b) As used in this Section, party line means a subscriber's telephone circuit consisting of two (2) or more named telephone stations connected therewith, each station having a distinctive ring or telephone number.

(c) As used in this Section, public telephone means a telephone available for public use.

(d) As used in this Section, emergency means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

(e) Unlawfully using a telephone, as defined in Paragraph (1) of Subsection (a) of this Section, is a misdemeanor. Otherwise, it is a violation.



9 GCA Chapter 70 (Miscellaneous Crimes)

Recommend Repeal of 9 GCA Section 70.450

§ 70.450. Blacklisting Employees.

(a) If any person, agent, company, corporation, public official, or governmental agency, after having discharged any employee from his or its service, shall prevent or attempt to prevent by word or writing of any kind of untrue statement, or, in any manner, conspires or contrives, by correspondence or otherwise by means of an untrue statement, to prevent such discharged employee from obtaining employment with any other person, company, corporation or governmental agency, such person, agent, corporation or public official is guilty of a petty misdemeanor and shall be punished by a fine not exceeding five Hundred Dollars (\$500.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, or governmental agency shall be liable in civil penal damages to such discharged person, to be recovered by civil action. This Section shall not be construed as prohibiting any person or agent of any company or corporation from furnishing in writing, upon request, to any other person, company or corporation to whom such discharged person or employee has applied for employment, a truthful statement of the reason for such discharge.

(b) An employer, employee or other person, by threats of injury, intimidation or force, alone or in combination with others, may not prevent a person from entering into, continuing in or leaving the employment of any person, firm, governmental office/agency or corporation. Any person who violates this paragraph is guilty of a misdemeanor and shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, governmental agency shall be liable in civil penal damages to such discharged person, to be recovered by civil action.



The Subcommittee on Crimes Related to Property continues its work and will finalize submit its finalized recommendations and worksheets for Commission Review.

Thank you

Subcommittee Chairperson: Phil Tydingco

Subcommittee Members: F. Randall Cunliffe, Monty McDowell, William (Bucky) Brennan



Subcommission on Crimes Relating to Property - Feb. 29, 2024

Chapter number, name	Section	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	TABLE
43 - Theft and Related Offenses						
(grading values)	43.20		Amend			
34 - Criminal Mischief						
(grading values)	34.60(a)			Repeal		
	34.60		Amend			
46 - Forgery, etc.						
(dishonored checks grading values)	46.30		Amend			
(fraudulent credit card grading values)	46.35		Amend			
(impersonation, etc. grading values)	46.80		Amend			
	46.102		Amend			
(mortgage fraud grading values, etc.)	46.103		Amend			
32 - Financial Exploitation Elderly						Table
70 - Miscellaneous Crimes						
	70.15		Amend			
	70.20		Amend			
	70.25		Amend			
	70.35		Amend			
	70.50		Amend			
	70.55			Repeal		
	70.60		Amend			
	70.62		Amend			
	70.65		Amend			
	70.80		Amend			
	70.320		Amend			
	70.330		Amend			
	70.420		Amend			
	70.430			Repeal		
	70.450			Repeal		

ATTACHMENT 3 - CRIMES AGAINST PERSONS PRESENTATION



Crimes Against Persons Subcommittee Criminal Law & Procedure Review Commission

Members and ex officio members
GPD Chief Steve Ignacio
GPD Major Manny Chong
GPD Lt. Ron Taitano
Public Defender Steve Hattori
Dep. Public Defender John Morrison
Assistant Attorney General Christine Tenorio
Assistant Attorney General Sean Brown
Attorney Joseph B. McDonald

RECOMMENDATIONS FOR 9 GCA CHAPTERS 93, 91, 71, 40, 31, 19
PRESENTATION BY J. McDONALD
SEVENTH PLENARY MEETING
FEB. 29, 2024

1



Crimes against Persons Subcommittee Update

- Seriatim communications to facilitate meetings
- Gloria Duenas assisting with research
- GPD Lt. Ron Taitano designated by Police Chief Steve Ignacio to replace Major Manny Chong
- Chapter by chapter review at each meeting

2



OVERVIEW

Chapter	Sections	Recommendation
93	CSC Assessment and Rehabilitation Act	No action
91	Infant Child's Right to Life Act	No action
71	Gun Free School Zone Act	No action
40	Robbery	No action
31	31.30 Child Abuse	No action
19	19.60 Terrorizing	Amend

3



Chapter 93 CSC Assessment and Rehabilitation Act

No action reported out. However, these statutes were scrutinized:

- § 93.20 Standardized Procedure
- § 93.30 Assessment Required
- § 93.35 Treatment and Testing Required
- § 93.50 Report to the Legislature

4



§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure

(a) The Superior Court of Guam shall be the lead agency along with the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center (the Assessment Team) shall cooperate to develop and implement the following: (1) A standardized procedure for the assessment of individuals accused or convicted of sexual offenses for dangerousness and risk for recidivism. The assessment may include the use of physiological testing, in conjunction with a thorough psychiatric evaluation, comprehensive sexual history, and clinical expertise or such other test of the offender as deemed appropriate by the Assessment Team. The assessment procedure developed pursuant to this Section shall recommend treatment or rehabilitation that is appropriate to the needs of the particular offender and which is aimed at reducing dangerousness and risk of recidivism or shall indicate whether no treatment or rehabilitation is known or predictable that will reduce dangerousness or risk of recidivism. (2) A system of programs for treatment and rehabilitation of individuals convicted of criminal sexual conduct offenses which can be utilized by offenders who are placed on probation, incarcerated at the Department of Corrections, placed on parole, or placed in community corrections, or released on probation or parole, or discharged from prison.

(b) The procedures for treatment and rehabilitation required to be developed by Subsection (a) of this Section shall be implemented only to the extent monies are available; provided that, in all cases, persons referred or ordered to receive treatment or rehabilitation shall do so at their own expense, unless such person is indigent.

(c) The Superior Court of Guam, the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center shall cooperate to develop a schedule of fees sufficient to cover the costs of assessment, testing, and treatment as required by this Section. All persons referred or ordered to receive assessment, testing, or treatment shall be made to pay for such, in accordance with the fee schedule, except in such cases where the person is determined to be indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.



§ 93.30. Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders.

(a) A person convicted of a criminal sexual conduct felony committed on or after the effective date of this Act who is to be considered for probation, pre-sentence release, sentencing, or parole shall be required, as part of the pre-sentence or probation investigation, to submit to an assessment developed pursuant to §93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment as a condition of probation, pre-sentence release, or parole, and as part of the sentence, at the person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct misdemeanor committed on or after the effective date of this Act shall be required to submit to an assessment developed pursuant to § 93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment at the person's own expense, unless such person is indigent. If such person is sentenced to probation, such person shall be ordered to comply with the recommendations as a condition of probation at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(c) The assessment required by Subsection (a) of this Section or the assessment required by Subsection (b) of this Section shall be at the expense of the person assessed, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.



§ 93.35. Sentencing and Parole of Felons: Parole of Felons

(a) Each person sentenced by the court for a criminal sexual conduct felony committed on or after the effective date of this Act shall be required, as part of any sentence, to undergo periodic assessment, treatment, and rehabilitation which is appropriate to such person based upon the recommendations of the assessment made pursuant to § 93.30 of this Chapter, or based upon any subsequent recommendations by the Department of Corrections, the Probation Office, the Parole Board or the Superior Court of Guam, whichever is appropriate. Any such testing or treatment shall be at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct felony who is placed on parole by the Guam Parole Board on or after the effective date of this Act, shall be required, as a condition of such parole, to undergo periodic testing and treatment that is appropriate to such person based upon the recommendations of the assessment made pursuant to § 93.30 of this Chapter, or any assessment or subsequent reassessment made regarding such person during his or her incarceration or any period of parole. Any such testing or treatment shall be at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.



§ 93.50. Report to the Legislature

Upon enactment of this Act, the Assessment team led by the Superior Court of Guam, the Department of Corrections, the Guam Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center shall jointly make and transmit an annual report to the Speaker of the Guam Legislature regarding the implementation of this Act; the standardized procedures developed pursuant to this Act; and the results of the programs created by this Act, including expected and actual effectiveness of the assessment, treatment, and rehabilitation in reducing levels of dangerousness or risk of recidivism of criminal sexual conduct offenders while incarcerated and on release



Chapter 91 Infant Child Right to Life Act

- No action recommended.
 - Not what is on appeal to US SCT
 - Legislative policy call
- § 91.02. Legislative Findings and Purpose.
- § 91.03. Definitions.
- § 91.04. Requirements and Responsibilities.
- § 91.05. Criminal Penalties.
- § 91.06. Civil and Administrative Action.

9



Chapter 71 Gun-Free School Zone Act

No action reported out: Legislative policy call.

These were our comments that leaned repeal:

- Already a proscription on weapons in government buildings
- Charged only in connection with other crimes, upon accidental discovery of or commission with, a gun
- Will not deter gun violence in schools

§ 71.20. Definitions. §

71.30. Person Not Allowed to Possess Firearms.

§ 71.40. Prohibition on Discharge of Firearm.

§ 71.50. Firearms Prohibited on University or College Property.

§ 71.60. Punishment.

§ 71.61. Information for Sentencing.

§ 71.70. What Constitutes a Loaded Firearm.

§ 71.80. Notice. § 71.81. Not Applicable to Peace Officers and Military.

§ 71.82. Not Applicable to Security Guards.

§ 71.83. Not Applicable to Existing Shooting Ranges.

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Chapter 40 Robbery

- No action recommended.
 - No adverse case law.
- § 40.10. 1st Degree Robbery
- § 40.20. 2nd Degree
- § 40.30. 3rd Degree
- § 40.40. Definition of an Act.
- § 40.50. No Defense of "Claim of Right"

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§ 31.30 Child Abuse

Report out: no action.

§ 31.30. Child Abuse; Defined & Punished. (a) A person is guilty of child abuse when: (1) he subjects a child to cruel mistreatment; or (2) having a child in his care or custody or under his control, he: (A) deserts that child with intent to abandon him; (B) subjects that child to cruel mistreatment; or (C) unreasonably causes or permits the physical or, emotional health of that child to be endangered.

(b) Child abuse is a felony of the third degree when it is committed under circumstances likely to result in death or serious bodily injury. Otherwise, it is a misdemeanor.

(c) Voluntary surrender of physical custody of a newborn infant by a mother to authorized Safe Haven personnel pursuant to the provisions of the Newborn Infant Safe Haven Act, 19 GCA, Chapter 13, Article 5, is an absolute defense to prosecution for child abuse as a result of deserting that child with intent to abandon that child under Subsection (a)(2)(A) of this Section. (1) For purposes of this Subsection, "authorized Safe Haven personnel" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(a). (2) For purposes of this Subsection, "mother" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(d). (3) For purposes of this Subsection, "newborn infant" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(e).

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§ 31.30 Child Abuse

§ 31.30. Child Abuse; Defined & Punished. (a) A person is guilty of child abuse when: (1) he subjects a child to cruel mistreatment; or (2) ~~he willfully causes or permits any child to suffer; (3) he inflicts upon a child unjustifiable physical pain or mental suffering; or (34) having a child in his care or custody or under his control, he: (A) deserts that child with intent to abandon him; (B) subjects that child to cruel mistreatment; unreasonably causes or permits the physical or emotional health of that child to be endangered or unreasonably causes or permits that child to be placed in a situation where the child or child's health may be endangered; or (C) he neglects that child; unreasonably causes or permits the physical or emotional health of that child to be endangered.~~

(b) Child abuse is a felony of the third degree when it is committed under circumstances likely to result in death or serious bodily injury. Otherwise, it is a misdemeanor.

(c) Voluntary surrender of physical custody of a newborn infant by a mother to authorized Safe Haven personnel pursuant to the provisions of the Newborn Infant Safe Haven Act, 19 GCA, Chapter 13, Article 5, is an absolute defense to prosecution for child abuse as a result of deserting that child with intent to abandon that child under Subsection (a)(2)(A) of this Section. (1) For purposes of this Subsection, "authorized Safe Haven personnel" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(a). (2) For purposes of this Subsection, "mother" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(d). (3) For purposes of this Subsection, "newborn infant" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(e).

(d) Neglect of a child shall consist in any of the following acts, by anyone having the custody or control of the child: (1) willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home, or (2) failure to do or permit to be done any act necessary for the child's physical or moral well-being.

13



§ 19.60 Terrorizing

Upheld and not vague People v. T'fong, 2021 Guam 13. However, poorly worded and confusing.

(a) A person is guilty of terrorizing if he communicates to any person a threat to commit or to cause to be committed a crime of violence dangerous to human life, against the person to whom the communication is made or another, and the natural and probable consequence of such a threat, is to place the person to whom the threat is communicated or the person threatened in reasonable fear that crime will be committed. (b) Terrorizing is a felony of the third degree.

Recommend amending for plain language:

(a) A person is guilty of terrorizing if he communicates ~~to any person~~ a threat to commit ~~or to cause to be committed~~ a crime of violence dangerous to human life, ~~against the person to whom the communication is made or another~~, to any person and the natural ~~and probable~~ consequence of such a threat, is to place the person to whom the threat is communicated ~~or the person threatened~~ in reasonable fear that crime will be committed.

(b) Terrorizing is a felony of the third degree.

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Thank you!

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Subcommission on Crimes Against Persons - Feb. 29, 2024						
Chapter number, name	Section	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	TABLE
19 - Terrorizing						
	19.60		Amend			
31 - Child Abuse		No-Change				
	31.30		Amend			
40 - Robbery		No-Change				
71 - Gun Free School Zone Act		No-Change				
91 - Infant Child's Right to Life Act		No-Change				
93- CSC Assessment and Rehab Act		No-Change				
	93.20		Amend			

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