


I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. *96* -35 (*CR*)

Introduced by:

James. C. Moylan 

AN ACT TO AMEND §25.15, §25.20, §25.25, AND §25.30,
ALL OF CHAPTER 25, TITLE 9, GUAM CODE
ANNOTATED, RELATIVE TO THE MINIMUM
SENTENCES OF FIRST, SECOND, THIRD, AND
FOURTH DEGREE CRIMINAL SEXUAL CONDUCT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
3 that a stronger message needs to be sent out to offenders when it comes to illegal
4 activity, specifically with the minimum time served for certain crimes against the
5 most vulnerable. As a community we are seeing an unfortunate increase in
6 criminal sexual conduct, specifically with those criminals preying on minors. It is
7 critical that the government review the mandates in Guam's laws to assure that
8 those convicted of such a heinous crime don't see the outsides of the confines of a
9 prison for a great number of years.

10 When an individual becomes a victim of an act of criminal sexual conduct,
11 they are scarred for a lifetime. Statistics, including those by "The National Bureau
12 of Economic Research" has simply summarized that "the law requiring longer
13 sentences has been more effective in lowering crime. Within three years, crimes
14 covered by the law fell an estimated 8 percent. Seven years after the law changed,
15 these crimes were down 20 percent". In recent years, almost every state has

1 adopted some form of "sentence enhancements" as a way to fight crime. When it
2 comes to Criminal Sexual Conduct, a strong message must be sent to the
3 community that 1). The offender shall see the confines of prison for at least 25
4 years if found guilty of a First, Second or Third Degree charge, and 2). That the
5 government supports the victims of these crimes.

6 Unfortunately with plea agreements, an individual can agree to a Fourth
7 Degree charge of Criminal Sexual Conduct, which presently, if one is a first time
8 offender, can be a charge of a misdemeanor. It is vital that even at this charge that
9 the minimum prison time be set at 15 years. Amending sentencing laws is just one
10 of several priorities in addressing this problem, and much more must be done by
11 the government and communities in helping the most vulnerable, however this is
12 an important start.

13 **Section 2.** § 25.15 of Chapter 25, Title 9, Guam Code Annotated is hereby
14 *amended* to read as follows:

15 **§ 25.15. First Degree Criminal Sexual Conduct.**

16 (a) A person is guilty of criminal sexual conduct in the first degree if
17 he or she engages in sexual penetration with the victim and if any of the
18 following circumstances exists:

19 (1) the victim is under fourteen (14) years of age;

20 (2) the victim is at least fourteen (14) but less than sixteen (16)
21 years of age and the actor is a member of the same household as the
22 victim, the actor is related to the victim by blood or affinity to the
23 fourth degree to the victim, ~~or~~ the actor is in a position of authority
24 over the victim and used this authority to coerce the victim to submit,
25 or the actor does not know the victim but coerced the victim to
26 submit;

1 (3) sexual penetration occurs under circumstances involving the
2 commission of any other felony;

3 (4) the actor is aided or abetted by one or more other persons
4 and either of the following circumstances exists:

5 (A) the actor knows or has reason to know that the victim
6 is mentally defective, mentally incapacitated or physically
7 helpless; or

8 (B) the actor uses force or coercion to accomplish the
9 sexual penetration.

10 (5) the actor is armed with a weapon or any article used or
11 fashioned in a manner to lead the victim to reasonably believe it to be
12 a weapon;

13 (6) the actor causes personal injury to the victim and force or
14 coercion is used to accomplish sexual penetration; and

15 (7) the actor causes personal injury to the victim, and the actor
16 knows or has reason to know that the victim is mentally defective,
17 mentally incapacitated or physically helpless.

18 (b) Criminal sexual conduct in the first degree is a felony in the first
19 degree. Any person convicted of criminal sexual conduct under § 25.15(a)
20 shall be sentenced to a minimum of twenty five ~~fifteen~~ (2+5) years
21 imprisonment, and may be sentenced to a maximum of life imprisonment
22 without the possibility of parole. The term imposed shall not be suspended,
23 as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall work
24 release or educational programs outside the confines of prison be granted;
25 nor shall the provisions under § 80.31 of Article 2, Chapter 80, Title 9 GCA
26 apply. Any such sentence shall include a special parole term of not less than
27 three (3) years in addition to such time of imprisonment.

1 (c) Any person convicted of criminal sexual conduct under § 25.15(a)
2 subsequent to a first conviction of criminal sexual conduct under § 25.15(a)
3 shall be sentenced to a minimum of twenty-five (25) years imprisonment,
4 and may be sentenced to life imprisonment without the possibility of parole.
5 Said term shall not be suspended as indicated in § 80.60 of Article 4,
6 Chapter 80, Title 9 GCA; nor shall parole, work release or educational
7 programs outside the confines of prison be granted.

8 **Section 3.** § 25.20 of Chapter 25, Title 9, Guam Code Annotated is hereby
9 *amended* to read as follows:

10 **§ 25.20. Second Degree Criminal Sexual Conduct.**

11 (a) A person is guilty of criminal sexual conduct in the second degree
12 if the person engages in sexual contact with another person and if any of the
13 following circumstances exists:

14 (1) the victim ~~that other person~~ is under fourteen (14) years of
15 age;

16 (2) the victim ~~that other person~~ is at least fourteen (14) but less
17 than sixteen (16) years of age and the actor is a member of the same
18 household as the victim, or is related by blood or affinity to the fourth
19 degree to the victim, ~~or~~ is in a position of authority over the victim
20 and the actor used this authority to coerce the victim to submit, or the
21 actor does not know the victim but coerced them to submit;

22 (3) sexual contact occurs under circumstances involving the
23 commission of any other felony;

24 (4) the actor is aided or abetted by one or more other persons
25 and either of the following circumstances exists:

1 (A) the actor knows or has reason to know that the victim
2 is mentally defective, mentally incapacitated or physically
3 helpless; or

4 (B) the actor uses force or coercion to accomplish the
5 sexual contact.

6 (5) the actor is armed with a weapon or any article used or
7 fashioned in a manner to lead a person to reasonably believe it to
8 be a weapon;

9 (6) the actor causes personal injury to the victim and force or
10 coercion is used to accomplish the sexual contact; and

11 (7) the actor causes personal injury to the victim and the actor
12 knows or has reason to know that the victim is mentally defective,
13 mentally incapacitated or physically helpless.

14 (b) Criminal sexual conduct in the second degree is a felony in the
15 first degree.; Any person convicted of criminal sexual conduct under §
16 25.20(a) shall be sentenced to a minimum of twenty five (25) years
17 imprisonment, and may be sentenced to a maximum of life imprisonment
18 without the possibility of parole. ~~but a~~ A person convicted of criminal
19 sexual conduct in the second degree who receives a sentence of
20 imprisonment *shall not* be eligible for work release or educational programs
21 outside the confines of prison. The term imposed shall not be suspended, as
22 indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor probation be
23 imposed in lieu of said minimum term; nor shall parole be granted; nor shall
24 the provisions under § 80.31 of Article 2, Chapter 80, Title 9 GCA apply.
25 Any such sentence shall include a special parole term of not less than three
26 (3) years, in addition to such time of imprisonment.

1 (c) Any person convicted of criminal sexual conduct under § 25.20(a)
2 subsequent to a first conviction of criminal sexual conduct under § 25.15(a),
3 which involves sexual penetration, shall be sentenced to a minimum of
4 twenty-five (25) years imprisonment, and may be sentenced to life
5 imprisonment without the possibility of parole. Said term shall not be
6 suspended; nor probation be imposed in lieu of said term, as indicated in §
7 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release
8 or educational programs outside the confines of prison be granted.

9 **Section 4.** § 24.25 of Chapter 25, Title 9, Guam Code Annotated is hereby
10 *amended* to read as follows:

11 **§ 25.25. Third Degree Criminal Sexual Conduct.**

12 (a) A person is guilty of criminal sexual conduct in the third degree if
13 the person engages in sexual penetration with another person and if any of
14 the following circumstances exists:

15 (1) that other person is at least fourteen (14) years of age and
16 under sixteen (16) years of age;

17 (2) force or coercion is used to accomplish the sexual
18 penetration; and

19 (3) the actor knows or has reason to know that the victim is
20 mentally defective, mentally incapacitated or physically helpless.

21 (b) Criminal sexual conduct in the third degree is a felony of the
22 second degree. Any person convicted of criminal sexual conduct under §
23 25.25(a) shall be sentenced to a minimum of twenty five (25) years
24 imprisonment, and may be sentenced to a maximum of life imprisonment
25 without the possibility of parole. A person convicted of criminal sexual
26 conduct in the third degree who receives a sentence of imprisonment shall
27 not be eligible for work release or educational programs outside the confines

1 of prison. The term imposed shall not be suspended, as indicated in § 80.60
2 of Article 4, Chapter 80, Title 9 GCA; nor probation be imposed in lieu of
3 said minimum term; nor shall parole be granted; nor shall the provisions
4 under § 80.31 of Article 2, Chapter 80, Title 9 GCA apply. Any such
5 sentence shall include a special parole term of not less than three (3) years,
6 in addition to such time of imprisonment.

7 **Section 5.** § 24.30 of Chapter 25, Title 9, Guam Code Annotated is hereby
8 *amended* to read as follows:

9 **§ 25.30. Fourth Degree Criminal Sexual Conduct.**

10 (a) A person is guilty of criminal sexual conduct in the fourth degree
11 if he or she engages in sexual contact with another person and if either of the
12 following circumstances exists:

13 (1) force or coercion is used to accomplish the sexual contact;

14 (2) the actor knows or has reason to know that the victim is
15 mentally defective, mentally incapacitated or physically helpless.

16 (b) Criminal sexual conduct in the fourth degree is a felony of the
17 third degree, except for first time offenders it is a fourth degree felony
18 misdemeanor. Any person convicted of criminal sexual conduct as a fourth
19 degree felony under § 25.30(a) shall be sentenced to a minimum of fifteen
20 (15) years imprisonment, and may be sentenced to a maximum of thirty (30)
21 years imprisonment. A person convicted of criminal sexual conduct in the
22 fourth degree who receives a sentence of imprisonment shall not be eligible
23 for work release or educational programs outside the confines of prison. The
24 term imposed shall not be suspended, as indicated in § 80.60 of Article 4,
25 Chapter 80, Title 9 GCA; nor probation be imposed in lieu of said minimum
26 term; nor shall parole be granted; nor shall the provisions under § 80.31 of
27 Article 2, Chapter 80, Title 9 GCA apply. Any such sentence shall include a

1 special parole term of not less than three (3) years, in addition to such time
2 of imprisonment.

3 **Section 6. Severability.** If any provision of this Act or its application to
4 any person or circumstance is found to be invalid or contrary to law, such
5 invalidity *shall not* affect other provisions or applications of this Act that can be
6 given effect without the invalid provision or application, and to this end the
7 provisions of this Act are severable.

8 **Section 7. Effective Date.** The Act shall become effective upon enactment.