


I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
97-35 (COR)	James C. Moylan	AN ACT TO AMEND §40.10, §40.20, AND §40.30, ALL OF CHAPTER 40, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE MINIMUM AND MAXIMUM SENTENCES OF FIRST, SECOND, AND THIRD DEGREE ROBBERY.	4/22/19 9:07 a.m.						

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

Bill No. *97* -35 (*CR*)

Introduced by:

James. C. Moylan 

**AN ACT TO AMEND §40.10, §40.20, AND §40.30, ALL OF
CHAPTER 40, TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO THE MINIMUM AND MAXIMUM
SENTENCES OF FIRST, SECOND, AND THIRD
DEGREE ROBBERY.**

2019 APR 22 AM 9:07 *ja*

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 community. Unfortunately our small island community is seeing a rash increase in
6 robberies, especially with criminals bringing deadly weapons and stirring fear in
7 island residents in the process. Recently there was an incident in Dededo where
8 the robber hid behind the side entrance of a business, and surprised the exiting
9 employees by pointing a gun at them while demanding their belongings. A
10 situation that would scar any individual for life. A day prior, and in broad
11 daylight, another criminal approached two tourists and pointed a gun at their heads,
12 while demanding for their wallets. Fortunately the individual involved in the latter
13 crime was soon apprehended by the Guam Police Department.

14 The National Bureau of Economic Research has simply summarized that
15 "the law requiring longer sentences has been more effective in lowering crime.

1 Within three years, crimes covered by the law fell an estimated 8 percent. Seven
2 years after the law changed, these crimes were down 20 percent". In recent years,
3 almost every state has adopted some form of "sentence enhancements" as a way to
4 fight crime. Therefore it is vital for similar action to be conducted on Guam.
5 Many public safety experts relate the increase in robberies with the rise in a drug
6 epidemic, thus it is vital that longer sentences be equipped with opportunities to
7 seek professional help for those with drug addictions, to provide them the chance
8 to live productively upon their release.

9 Currently Guam's laws identify that a robbery where the criminal is armed
10 with a deadly weapon, be charged with "Robbery in the Second Degree". It is
11 important to amend this to a charge as a "Robbery in the First Degree" to
12 categorize its severity. Another concern is that Guam's laws don't have minimum
13 or maximum sentences established for "Robbery in the Third Degree", thus with
14 the possibly of plea agreements in place, one who holds a gun at a victim, may end
15 up agreeing to a Third Degree Robbery charge and receiving only a few years in
16 prison. Therefore it is important to send a strong message that robbery in general
17 shall carry a stiff penalty regardless of the degree of the conviction. Criminal
18 reform is critical, however protecting our community is the greater priority.

19 While stiffer penalties and sentences will result in both an increase of
20 prisoners at the Department of Corrections, along with additional costs, the safety
21 of the community is paramount. Criminal reform and reducing recidivism needs to
22 continue to be a key objective of the government, however just as important is
23 assuring that shorter sentences don't result in a convicted individual committing a
24 similar crime again upon release. National statistics have shown that offenders of
25 crimes involving guns are 68% more likely to end up being arrested again. About
26 45% of federal inmates are rearrested within 5 years of release. The individual

1 who pointed a gun at the two tourists was released from prison for a similar crime
2 in late 2018.

3 When our island residents are getting robbed at work, parking lots, or even
4 at their cars, this means that the government needs to do more, as we can no longer
5 create a fear for our community to wonder if they are even safe in their own
6 homes. When a tourist is robbed, they take that story back with them on their
7 flight home, and share with family and friends, or even on social media, hence
8 creating a black eye for Guam's image as a safe destination. This robs our people
9 of a positive economic engine of an industry which employs over 20,000 island
10 residents and represents almost 1/3rd of our Gross Domestic Product. At some
11 point, this government needs to send a strong message to criminals, and in this case
12 those committing robbery, and that message is, "Enough is Enough". If you are
13 caught and convicted, you will be seeing a great number of years behind prison
14 bars.

15 **Section 2.** § 40.10 of Chapter 40, Title 9, Guam Code Annotated is hereby
16 *amended* to read as follows:

17 **§ 40.10. First Degree Robbery; Defined & Punished.**

18 (a) A person is guilty of *robbery in the first degree* if, in the course of
19 committing a theft, he:

20 (1) attempts to kill another; or

21 (2) intentionally inflicts or attempts to inflict serious bodily
22 injury upon another; or;

23 (3) is armed with or displays what appears to be explosives or a
24 deadly weapon. "Deadly Weapon" has the meaning provided by §
25 16.10.

26 (b) Robbery in the first degree is a felony of the first degree. In the
27 case of robbery in the first degree, the court *shall* impose a sentence of

1 imprisonment of a minimum term of ~~twenty ten~~ (2+0) years and may impose
2 a maximum of up to ~~fifty twenty-five~~ (250) years; the minimum term
3 imposed shall not be suspended nor probation be imposed in lieu of said
4 minimum term nor shall parole, work release or educational programs
5 outside the confines of prison be granted before completion of the minimum
6 term. The sentence *shall* include a special parole term of *not less than* three
7 (3) years in addition to such time of imprisonment.

8 **Section 3.** § 40.20 of Chapter 40, Title 9, Guam Code Annotated is hereby
9 *amended* to read as follows:

10 **§ 40.20. Second Degree Robbery; Defined & Punished.**

11 (a) A person is guilty of *robbery in the second degree* if, in the course
12 of committing a theft, he:

13 (1) inflicts serious bodily injury upon another; or

14 (2) threatens another with or intentionally puts him in fear of
15 immediate serious bodily injury; ~~or~~

16 ~~(3) is armed with or displays what appears to be explosives or a~~
17 ~~deadly weapon. "Deadly Weapon" has the meaning provided by §~~
18 ~~16.10.~~

19 (b) Robbery in the second degree is a felony of the second degree. In
20 the case of robbery of the second degree as a felony of the second degree,
21 the court *shall* impose a sentence of imprisonment of a minimum term of
22 ~~fifteen five~~ (15) years and *may* impose a maximum term of up to ~~thirty ten~~
23 (3+0) years; the minimum term imposed *shall not* be suspended nor may
24 probation be imposed in lieu of the minimum term nor *shall* parole or work
25 release be granted before completion of the minimum term. The sentence
26 *shall* include a special parole term of not less than three (3) years in addition
27 to such term of imprisonment.

1 **Section 4.** § 40.30 of Chapter 40, Title 9, Guam Code Annotated is hereby
2 *amended* to read as follows:

3 **§ 40.30. Third Degree Robbery; Defined & Punished.**

4 (a) A person is guilty of robbery in the third degree if, in the course of
5 committing a theft, he:

6 (1) uses force against another with intent to overcome his
7 physical resistance or physical power of resistance; or

8 (2) threatens another with or intentionally puts him in fear of
9 the imminent use of force against the person of anyone with intent to
10 compel acquiescence to the taking of or escaping with property.

11 (b) Robbery in the third degree is a felony of the third degree. In the
12 case of robbery of the third degree as a felony of the third degree, the court
13 shall impose a sentence of imprisonment of a minimum term of ten (10)
14 years and may impose a maximum term of up to twenty (20) years; the
15 minimum term imposed shall not be suspended nor may probation be
16 imposed in lieu of the minimum term nor shall parole or work release be
17 granted before completion of the minimum term. The sentence shall include
18 a special parole term of not less than three (3) years in addition to such term
19 of imprisonment.

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

25 **Section 6. Effective Date.** The Act shall become effective upon enactment.