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CH. 93 CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT

CHAPTER 93
CRIMINAL SEXUAL CONDUCT ASSESSMENT AND
REHABILITATION ACT

SOURCE: Entire Chapter added by P.L. 35-071:1 (Feb. 13, 2020).

- § 93.10. Short Title.
- § 93.11. Legislative Declaration.
- § 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure.
- § 93.30. Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders.
- § 93.35. Sentencing of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required.
- § 93.40. Development of Testing Programs.
- § 93.50. Report to the Legislature.

§ 93.10. Short Title.

This Act may be cited as the “Criminal Sexual Conduct Assessment and Rehabilitation Act.”

§ 93.11. Legislative Declaration.

(a) The Legislature hereby declares that criminal sexual conduct and repeat offenses are a major problem within the criminal justice system of Guam. The Legislature hereby resolves to curtail the risk of further harm from persons accused or convicted of criminal sexual conduct through the implementation of standardized procedures for the assessment of those individuals for dangerousness and risk for recidivism. The courts should assess the dangerousness and risk of recidivism before release on probation, pre-sentence or parole. Persons convicted of criminal sexual conduct felonies who do not complete treatment and rehabilitation as recommended by a court, the Parole Board, or a Department of Corrections official based on the assessment should not be eligible for early release.

(b) The Legislature finds that psycho-physiological testing is essential in the assessment of sex offenders. Physiologic test results should only be used in conjunction with a thorough

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psychiatric evaluation, comprehensive sexual history, and clinical expertise. Because effective control and treatment of deviant sexual behaviors depend on identification and understanding of the underlying dysfunction, assessment techniques that provide insight into the etiology of a behavior are critical to reducing sexual predator crimes. More accurate and reliable assessment techniques may improve treatment outcomes and decrease the rate of sexual victimization and may provide more reliable means.

2020 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 93.20.Criminal Sexual Conduct Assessment: Standardized Procedure.

(a) 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 (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

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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 determined to be 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

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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: Treatment and Testing Based Upon Assessment Required.

(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

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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.

§ 93.40. Development of Testing Programs.

(a) The Superior Court of Guam, the Guam Behavioral Health and Wellness Center, the Department of Corrections, and the Guam Parole Board *shall* cooperate to develop programs for the periodic assessment of criminal sexual conduct offenders under the jurisdiction of each agency, and programs for the periodic reassessment of appropriate treatment and rehabilitation made in the initial assessment required by § 93.30 of this Chapter, or any subsequent reassessment.

(b) The Department of Corrections *shall* promulgate Disciplinary Rules and Regulations for those incarcerated criminal sexual conduct offenders who fail to submit to the assessment, treatment or rehabilitation recommendations. Disciplinary Rules and Regulations *shall* promote fairness and consistency in the treatment of offenders and may include, but *shall* not be limited to, an increased level of supervision, the use of electronic monitoring, loss of work credit time granted pursuant to 9 GCA § 81.10, and referral of the offender to the court to update the sentence to reflect such loss of work credit, or other sanctions designed to prevent further harm from such offender. Any offender who does not cooperate with assessments and complete the treatment or rehabilitation program *shall not* be eligible for parole.

(c) The Superior Court *shall* immediately revoke probation or release due to failure to submit to an assessment, treatment or rehabilitation made a condition of probation, pre-sentence release or release.

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(d) The Guam Parole Board *shall* immediately revoke parole due to failure to submit to an assessment, treatment or rehabilitation made a condition of parole.

§ 93.50. Report to the Legislature.

Upon enactment of this Act, 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.
