

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN  
OFFICE OF THE GOVERNOR OF GUAM

**Transmitted via email to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)**

July 12, 2023

**HONORABLE THERESE M. TERLAJE, Speaker**

*I Mina'trentai Siette Na Liheslaturan Guåhan*

37<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

**Re: Bill No. 20-37 (COR), "AN ACT TO AMEND §§ 2103 AND 2104 OF ARTICLE 1, AND §§ 2701, 2702, 2703, AND 2705 OF ARTICLE 7; AND TO ADD A NEW SUBSECTION (d) TO § 2201 OF ARTICLE 2, AND A NEW § 2706 TO ARTICLE 7, ALL OF CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO RESTORING ACCESS TO FEDERAL PUBLIC ASSISTANCE FOR OTHERWISE ELIGIBLE INDIVIDUALS WITH FELONY DRUG CONVICTIONS**

*Håfa Adai* Madame Speaker,

Today, I sign Bill No. 20-27 (COR) into law as **Public Law No. 37-24**. This bill restores access to federal public assistance programs to individuals with felony drug convictions. With this bill, Guam joins the vast majority of states that have lifted the lifetime ban on federal public assistance programs for individuals with felony drug convictions.

In 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA"), otherwise referred to as the Welfare Reform Act, codified as 21 U.S.C. 862a. PRWORA imposed a lifetime disqualification on federal public assistance programs for those convicted of federal or state drug felonies, but also allowed states to opt-out or develop modified versions of the ban. PRWORA, notably, was motivated by the "war on drugs" and only contemplated felony drug offenses.

In the nearly 30 years since PRWORA was passed, a felony conviction in Guam involving the possession, sale, or distribution of a controlled substance rendered a person permanently ineligible for federal public assistance. Other than Guam, the state of South Carolina is the only other U.S. jurisdiction in which people with felony drug convictions are permanently ineligible for public assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF). Nearly all states and territories have either opted out of the ban or implemented a modified ban, noting that such an extreme approach does not foster rehabilitation, and instead, often leads to recidivism. These jurisdictions have also

To: Therese M. Terlaje, *Speaker*, 37<sup>th</sup> Guam Legislature  
Fr: Lourdes A. Leon Guerrero, *Governor of Guam*  
Date: July 12, 2023  
Re: Bill No. 20-37 (COR) nka P.L. 37-24

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acknowledged that such an extreme stance does not advance the general objectives of welfare reform.

While I support that Bill No. 20-37 opens up eligibility to individuals with drug felonies, unfortunately, the bill also mandates random drug testing for *all* formerly convicted felons, including individuals with non-drug felony convictions who were previously eligible for the assistance and not previously required to submit to testing. Just over a dozen states have mandated some form of drug testing as a condition to receiving public benefits. From a public policy standpoint, drug testing has the potential to stigmatize individuals with substance abuse disorders, and discourage individuals from disclosing their addiction in order to seek treatment for fear they could lose benefits. It could also negatively impact children, our most vulnerable, as households stand to see a reduction in public assistance if a family member tests positive for drug use. Further, Bill No. 20-37's drug-testing mandate contains some technical flaws, including its failure to define the drugs to be tested for, prescribe how random drug testing is to be administered, and explain if one who tests positive is subject to a lifetime disqualification of benefits. Finally, drug testing is a costly mandate, and there is no data to support whether this legislation will reduce program costs or serve as a deterrent.

Our Administration fully supports the provisions of Bill No. 20-37 that lift the lifetime ban and authorize the restoration of access to federal public assistance programs upon an individual's completion or compliance with supervised release conditions. While I am signing Bill No. 20-37 into law to enable these vulnerable individuals and their families to avail themselves of these critical government resources, again, I vehemently disagree with the bill's provisions conditioning public benefit eligibility on drug screening for *all* individuals with felonies.

As individuals convicted of crime reenter society and reestablish support systems, it is crucial to their success that our government provide them access to food security and financial support during their period of reentry. Access to food security and financial assistance provides these individuals and their families hope, dignity, and a meaningful chance at a fresh start.

*Senseramente,*



**LOURDES A. LEON GUERRERO**

*Maga'hāgan Guāhan*

Governor of Guam

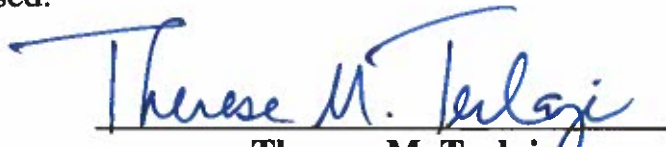
Enclosure: Bill No. 20-37 (COR) nka P.L. 37-24

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'lāhen Guāhan*, Lt. Governor of Guam  
Compiler of Laws

**I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN**  
**2023 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN**

This is to certify that **Bill No. 20-37 (COR), "AN ACT TO AMEND §§ 2103 AND 2104 OF ARTICLE 1, AND §§ 2701, 2702, 2703, AND 2705 OF ARTICLE 7; AND TO ADD A NEW SUBSECTION (d) TO § 2201 OF ARTICLE 2, AND A NEW § 2706 TO ARTICLE 7, ALL OF CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO RESTORING ACCESS TO FEDERAL PUBLIC ASSISTANCE FOR OTHERWISE ELIGIBLE INDIVIDUALS WITH FELONY DRUG CONVICTIONS,"** was on the 30<sup>th</sup> day of June 2023, duly and regularly passed.

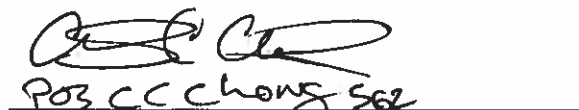
  
**Therese M. Terlaje**  
**Speaker**

Attested:

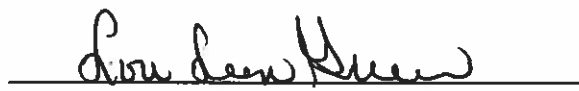
  
**Amanda L. Shelton**  
**Legislative Secretary**

.....

This Act was received by *I Maga'hågan Guåhan* this 30<sup>th</sup> day of June,  
2023, at 6:57 o'clock P.M.

  
**Assistant Staff Officer**  
**Maga'håga's Office**

APPROVED:

  
**Lourdes A. Leon Guerrero**  
***I Maga'hågan Guåhan***

Date: 7/12/2023

Public Law No. 37-24

RCVD AT CENTRAL  
JUL 2 '23 AM 10:52

2023-19466

Jessica Dydasco

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

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**Bill No. 20-37 (COR)**

As amended by the Committee on  
Health, Land, Justice, and Culture; and  
further amended on the Floor.

Introduced by:

William A. Parkinson  
Therese M. Terlaje  
Roy A.B. Quinata  
Dwayne T.D. San Nicolas  
Chris Barnett  
Tina Rose Muña Barnes  
Joe S. San Agustin  
Amanda L. Shelton  
Frank Blas, Jr.  
Joanne Brown  
Christopher M. Dueñas  
Thomas J. Fisher  
Jesse A. Lujan  
Sabina Flores Perez  
Telo T. Taitague

**AN ACT TO AMEND §§ 2103 AND 2104 OF ARTICLE 1,  
AND §§ 2701, 2702, 2703, AND 2705 OF ARTICLE 7; AND  
TO ADD A NEW SUBSECTION (d) TO § 2201 OF  
ARTICLE 2, AND A NEW § 2706 TO ARTICLE 7, ALL  
OF CHAPTER 2, TITLE 10, GUAM CODE  
ANNOTATED, RELATIVE TO RESTORING ACCESS  
TO FEDERAL PUBLIC ASSISTANCE FOR  
OTHERWISE ELIGIBLE INDIVIDUALS WITH  
FELONY DRUG CONVICTIONS.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3        that whereas restrictions or limitations to rights, benefits, and opportunities as a

1 consequence of criminal convictions often serve a legitimate public safety or regulatory  
2 function and are directly related to a particular crime, one such collateral sanction that  
3 applies to Guam residents without regard to the relationship between the crime and  
4 opportunity being restricted is the lifetime ban on public assistance for drug felonies  
5 enforced under the federal Personal Responsibility and Work Opportunity  
6 Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, Section 115, 110 Stat.  
7 2015.

8 Capturing the national zeitgeist of the time, PRWORA was signed into law by  
9 then-President Clinton as a consequence of the Congress' welfare reform priorities  
10 during the "war on drugs" era. The omnibus measure included Section 115, a floor  
11 amendment that duly passed with minimal discussion which proposed a lifetime ban  
12 permanently disqualifying otherwise eligible individuals from receiving public benefits  
13 provided by the Supplemental Nutrition Assistance Program (SNAP) and the  
14 Temporary Assistance for Needy Families Program (TANF) if they have been  
15 convicted of a federal or state felony offense involving the possession, use, or  
16 distribution of a controlled substance, as defined in Section 102 of the Federal  
17 Controlled Substances Act, 21 U.S.C. 802(6), for conduct occurring on or after August  
18 22, 1996.

19 Inasmuch as the permanent disqualification from receipt of public assistance  
20 under PRWORA was rationalized as a means to deter drug use and reduce incidences  
21 of welfare fraud, *I Liheslaturan Guåhan* finds this collateral sanction is both  
22 underinclusive because it does not apply to drug users who have been convicted of non-  
23 drug related felonies, and overinclusive because it permanently disallows public  
24 assistance to people who have never engaged in fraudulent use of government benefits.

25 The American Bar Association's (ABA) *Standards for Criminal Justice*  
26 regarding collateral consequences and discretionary disqualifications of convicted  
27 persons proscribes automatic sanctions that render persons ineligible to participate in

1 government programs providing necessities of life, including food, clothing, and  
2 housing; or those that “without justification, [] frustrate a convicted person’s chances  
3 of successfully reentering society.” Placing a heavy burden of justification on  
4 legislatures, the ABA explicitly prohibits jurisdictions from imposing collateral  
5 consequences on a person convicted of an offense “unless [] the conduct constituting  
6 that particular offense provides so substantial a basis for imposing the sanction that the  
7 legislature cannot reasonably contemplate any circumstances in which imposing the  
8 sanction would not be justified.” Accordingly, *I Liheslaturan Guåhan* finds that the  
9 possession, use, or distribution of a controlled substance constituting a felony drug  
10 offense does not justify the categorical imposition of a lifetime ban of public assistance  
11 on otherwise eligible individuals based solely on a drug-related felony conviction.

12 It is, therefore, the intent of *I Liheslaturan Guåhan*, under the authority of  
13 subsection (d)(1)(A) of 21 U.S.C. § 862a, to lift the federal ban under PRWORA as a  
14 collateral sanction against Guam residents by electing to opt out of the provisions of 21  
15 U.S.C. §§ 862a(a)(1) and (2) relative to the categorical ineligibility of individuals with  
16 felony drug convictions to receive federally funded public assistance.

17 **Section 2.** § 2103 of Article 1, Chapter 2, Title 10, Guam Code Annotated, is  
18 hereby *amended* to read as follows:

19 **“§ 2103. Duties Generally.**

20 It shall be the duty of the Director to:

21 (a) administer public assistance and child welfare services in  
22 Guam, and in accord therewith to adopt such rules and regulations subject  
23 to the approval of the Governor, as may be necessary or desirable;

24 (b) cooperate with the federal government in carrying out the  
25 purposes of the Social Security Act in matters pertaining to public welfare,  
26 public assistance, and child welfare services;

1 (c) pay medical claims of indigent persons as they are defined  
2 in and in accordance with the guidelines and the cost-sharing program  
3 developed pursuant to Article 9 of this Chapter; and

4 (d) exercise the opt out provision in Section 115 of the Federal  
5 Personal Responsibility and Work Opportunity Reconciliation Act of  
6 1996, 21 U.S.C. § 862a(d)(1)(A).”

7 **Section 3.** § 2104 of Article 1, Chapter 2, Title 10, Guam Code Annotated, is  
8 hereby *amended* to read as follows:

9 **“§ 2104. Federal Grants.**

10 The Director shall comply with all federal requirements pertaining to  
11 methods and standards of administration and shall make such rules and  
12 regulations and follow such procedure as may be required for the receipt from  
13 the federal government of grants or grants-in-aid for public assistance and such  
14 administrative costs as are provided in connection therewith.

15 In accordance with 21 U.S.C. § 862a(d)(1)(A), Guam elects to opt out of  
16 the application of the provisions of 21 U.S.C. § 862a to individuals who have  
17 been convicted of any felony offense under the Guam Uniform Controlled  
18 Substances Act, or any comparable federal or state criminal law, that has as an  
19 element the possession, use or distribution of a controlled substance, as defined  
20 in Section 102(6) of the Federal Controlled Substances Act, 21 U.S.C. § 802(c),  
21 for conduct occurring on or after August 22, 1996.”

22 **Section 4.** A new Subsection (d) is *added* to § 2201 of Article 2, Chapter 2,  
23 Title 10, Guam Code Annotated, to read as follows:

24 **“§ 2201. Applications for Public Assistance.**

25 “(d) Pursuant to the authorization provided in the Federal Personal  
26 Responsibility and Work Opportunity Reconciliation Act of 1996, 21 U.S.C.  
27 § 862a(d)(1)(A), the Director shall exempt applicants domiciled in Guam from

1 the provisions of 21 U.S.C. §§ 862a(a)(1) and (2) to ensure eligibility for public  
2 assistance.”

3 **Section 5.** § 2701 of Article 7, Chapter 2, Title 10, Guam Code Annotated, is  
4 hereby *amended* to read as follows:

5 **“§ 2701. Definitions.**

6 For the purposes of this Article:

7 (a) *Department* means the Department of Public Health  
8 and Social Services;

9 (b) *Food* means any food or food product for human  
10 consumption except alcoholic beverages and tobacco and shall  
11 include seeds and plants for use in gardens to produce food for the  
12 personal consumption for the eligible household;

13 (c) *Food coupons* means any coupon, stamp or type of  
14 certificate used under the Federal Food Stamp Act of 1977;

15 (d) *Food stamp program* means a program under the  
16 Food Stamp Act of 1977 (since renamed the Supplemental  
17 Nutrition Assistance Program (SNAP) by the Federal Food and  
18 Nutrition Act of 2008), which provides financial assistance  
19 intended to raise levels of nutrition among low-income households;

20 (e) *SNAP benefits* means the value of supplemental  
21 nutrition assistance provided to a household by means of an  
22 Electronic Benefit Transfer (EBT) under the Food and Nutrition  
23 Act of 2008, or other means of provided assistance, as determined  
24 by the United States Department of Agriculture (USDA); and

25 (f) *Temporary Assistance for Needy Families (TANF)*  
26 means the federally grant funded, time limited program, to assist  
27 families with children when the parents or other responsible



1 relatives cannot provide for the family's basic needs pursuant to  
2 Subtitle B, Chapter II of 45 U.S.C.”

3 **Section 6.** § 2702 of Article 7, Chapter 2, Title 10, Guam Code Annotated, is  
4 hereby *amended* to read as follows:

5 **“§ 2702. Authorization.**

6 The Department of Public Health and Social Services, through the  
7 Division of Social Services, is authorized to implement the food stamp  
8 program locally in accordance with the provisions of the Federal Personal  
9 Responsibility and Work Opportunity Reconciliation Act of 1996 and the  
10 Food and Nutrition Act of 2008:

11 (a) Householders determined by the Department to be  
12 eligible for assistance under the food stamp program may obtain  
13 SNAP benefits or other means of provided assistance as determined  
14 by the USDA;

15 (b) SNAP benefits shall be used to purchase food from  
16 retail food stores which have been approved for the participation in  
17 the food stamp program.”

18 **Section 7.** § 2703 of Article 7, Chapter 2, Title 10, Guam Code Annotated, is  
19 hereby *amended* to read as follows:

20 **“§ 2703. Duties of the Department.**

21 The Department of Public Health and Social Services, through the  
22 Division of Social Services, shall:

23 (a) adopt rules and regulations necessary to carry out the  
24 food stamp program;

25 (b) cooperate with the federal government and do all  
26 things necessary to continue eligibility under the food stamp  
27 program;

1 (c) comply with the requirements of the Federal Food and  
2 Nutrition Act of 2008; and

3 (d) exempt individuals domiciled in Guam from the  
4 application of Section 115 of the Federal Personal Responsibility  
5 and Work Opportunity Reconciliation Act of 1996, 21 U.S.C.  
6 §§ 862a(a)(1) and (2), by allowing payment of SNAP and TANF  
7 benefits to an otherwise eligible individual who has been convicted  
8 of a felony offense under federal, state or Guam criminal law which  
9 has as an element the possession, use or distribution of a controlled  
10 substance, as defined in Section 102(6) of the Federal Controlled  
11 Substances Act, 21 U.S.C. § 802(c), if (1) the individual has  
12 successfully completed probation, parole, community corrections,  
13 a reentry court program, or any other post-conviction monitoring  
14 program ordered by a court; or (2) the individual is successfully  
15 complying with conditions of probation, parole, or community  
16 corrections, the terms of participation in a reentry court program,  
17 or the requirements of any other post-conviction monitoring  
18 program ordered by a court.”

19 **Section 8.** § 2705 of Article 7, Chapter 2, Title 10, Guam Code Annotated, is  
20 hereby *amended* to read as follows:

21 **“§ 2705. Penalties.**

22 A person is guilty:

23 (a) of a felony of the third degree if he knowingly makes  
24 a false statement for the purpose of influencing the action of the  
25 Department in connection with its responsibilities under the  
26 Federal Food and Nutrition Act of 2008, with respect to the  
27 certification of households applying for participation in the food

1 stamp program and the issuance under such program of SNAP and  
2 TANF benefits to households;

3 (b) of a misdemeanor if he knowingly uses, transfers,  
4 acquires, alters, or possesses SNAP and TANF benefits or  
5 authorization-to-participate cards in any manner not authorized by  
6 the Federal Food and Nutrition Act of 2008 or the federal or local  
7 regulations issued pursuant to this Act and the face value of the  
8 SNAP benefits or the authorization-to-participate card is One  
9 Hundred Dollars (\$100.00) or less;

10 (c) of a felony of the third degree if he knowingly uses,  
11 transfers, acquires, alters, or possesses SNAP and TANF benefits  
12 or authorization-to-participate cards in any manner not authorized  
13 by the Federal Food and Nutrition Act of 2008, or the federal or  
14 local regulations issued pursuant to this Act and the face value of  
15 the SNAP and TANF benefits or the authorization-to-participate  
16 card exceeds One Hundred Dollars (\$100.00);

17 (d) of a felony of the third degree if he knowingly uses,  
18 transfers, acquires, alters, or possesses a blank authorization-to-  
19 participate card of the Department in any manner not authorized by  
20 the Department;

21 (e) of a felony of the third degree if he knowingly  
22 counterfeits, forges, or alters any authorization-to-participate card  
23 issued by the Department in connection with its responsibilities  
24 under the Federal Food and Nutrition Act of 2008; or

25 (f) of a felony of the third degree if he knowingly alters,  
26 publishes, or puts into circulation any counterfeited, forged, or  
27 altered authorization-to-participate cards.”

1           **Section 9.** A new § 2706 is hereby *added* to Article 7 of Chapter 2, Title 10,  
2 Guam Code Annotated, to read as follows:

3           “§ 2706.    **Random Drug Testing.**

4           Formerly convicted felons eligible to receive SNAP and or TANF benefits  
5 under this Article shall be subject to random drug testing for the duration of their  
6 eligibility for SNAP and or TANF benefits. Two (2) consecutive positive drug tests  
7 shall automatically disqualify such individual(s) from continuing to receive SNAP  
8 and or TANF benefits.”

9           **Section 10. Effective Date.** This Act shall be effective upon enactment.

10          **Section 11. Severability.** If any provision of this Act or its application to any  
11 person or circumstance is found to be invalid or inorganic, such invalidity shall not  
12 affect other provisions or applications of this Act that can be given effect without  
13 the invalid provision or application, and to this end the provisions of this Act are  
14 severable.