

**9 GCA CRIMES AND CORRECTIONS
CH. 83 YOUTH CORRECTIONS ACT**

**CHAPTER 83
YOUTH CORRECTION ACT**

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COMMENT: The Youth Corrections Act found in Chapter 83 has been transferred directly from Title XVI of the Penal Code, § 1725 through § 1743 with no changes. To the knowledge of this Compiler, this Act has never been implemented due to lack of facilities for such youth offenders.

COURT DECISIONS: The Act was created in 1965 by Public Law 8-49 but has never been implemented. See, 9 G.C.A. Chapter 83, at comment. Rules necessary to carry out the intent of the Act and to enable the Territorial Parole Board to exercise powers and duties under the Act, see, 9 GCA § 83.30, were never executed. Additionally, no Director of the Department of Corrections has ever certified that proper and adequate treatment, facilities, and personnel have been provided under the Act. See, id., at § 83.45. Therefore, it is impossible at the present time to sentence Defendant pursuant to the Act. *People v. Chargualaf*, D.C.Guam App.Div, Cr. No. 88-68A (1989). *People vs. Ibanez*, D.C.Guam App. Div. Cr. No. 90-00062A (1990)

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§ 83.10. Title.

This Chapter may be cited and referred to as the *Youth Correction Act*.

§ 83.15. Definitions.

Unless the context otherwise requires, the definitions set forth in this Section govern the construction of this Chapter:

(a) *Board* means the Territorial Parole Board.

(b) *Department* means the Department of Corrections.

(c) *Director* means the Director of the Department of Corrections.

(d) *Youth offender* means a person of at least eighteen years of age and under the age of twenty-five at the time of conviction. It also means any person certified by the juvenile court for prosecution under 19 GCA § 5105. It shall not mean a person convicted on an offense punishable by life imprisonment.

(e) *Committed youth offender* is one committed for treatment hereunder to the custody of the Director pursuant to Subsection (b) of § 83.35.

(f) *Treatment* means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders.

(g) *Conviction* means the judgment on a verdict or finding of guilty or a plea of guilty, or a plea of nolo contendere.

§ 83.20. Parole Board to Have Jurisdiction Over Chapter; Duties.

The Board shall hold meetings to consider problems of treatment and correction, to consult with, and make recommendations to the Director with respect to general treatment and correction policies for committed youth offenders, and to enter orders directing the release of such youth offenders conditionally under supervision and the unconditional discharge of such youth offenders, and take such further action and enter such other orders as may be necessary or proper to carry out the purpose of this Chapter.

§ 83.25. Governor to Appoint Personnel to Administer Chapter: Board Responsibilities for Youths on Conditional Release.

The Governor shall appoint such supervisory and other officers and employees as may be necessary to carry out the purposes of this Chapter.

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Probation officers shall perform such duties with respect to youth offenders on conditional release as the Board shall request.

§ 83.30. Board to Make Rules & Regulations.

The Board shall, with the approval of the Governor, make such rules as it deems necessary to carry out the intent of the provisions of this Chapter and to enable it to exercise the powers and perform the duties conferred upon it.

§ 83.35. Sentence Options for Youth Offenders.

(a) If a court is of the opinion that a youth offenders does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation.

(b) If the court shall find that a convicted person is youth offender, and the offense is punishable by imprisonment under applicable provisions of law other than this Subsection, the court may, in lieu of the penalty of imprisonment otherwise provided by law, sentence the youth offender to the custody of the Director for treatment and supervision pursuant to this chapter until discharged by the Board as provided in Subsection (c) of § 83.70, or

(c) If the court shall find that the youth offender will not derive benefit from treatment under Subsection (b), then the court may sentence the youth offender under any other applicable penalty provision.

(d) If the court desires additional information as to whether a youth offender will derive benefit from treatment under Subsection (b), it may order that he be committed to the custody of the Director for observation and study. Within sixty days from the date of the order, or such additional period as the court may grant, the Director shall report to the court his findings.

§ 83.40. Youth Offenders Not Conditional Released to Serve in Correctional Institution.

Committed youth offenders not conditionally released shall undergo treatment in a correctional institution providing the essential varieties of treatment.

§ 83.45. Director Must Certify Adequate Conditions for Youths in Prisons.

No youth offender shall be committed to the Director under this Chapter until the Director shall certify to the court that proper and adequate treatment facilities and personnel have been provided.

§ 83.50. Director May Contract With Private Agencies for Custody, etc., of Youth Offenders.

The Director may with the approval of the Board contract with any appropriate public or private agency not under his control for the custody, care, subsistence, education, treatment, and training of committed youth offenders within the territory of Guam.

§ 83.55. Institution Must Make Full Study of Report.

The correctional institution shall make a complete study of each committed youth offender, including a mental and physical examination, to ascertain in personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, any mental or physical defect or other factors contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The institution shall promptly forward to the Director and to the Board a report of its findings with respect to the youth offender and its recommendations as to his treatment. At least one member of the Board shall, as soon as practicable after commitment, interview the youth offender, review all reports concerning him, and make such recommendations to the Director and to the Board as may be indicated.

§ 83.60. Options of Director Upon Receipt of Report.

On receipt of the report and recommendations from the correctional institution, the Director may with the approval of the Board:

- (a) Release the committed youth conditionally under supervision;
- (b) Allocate and direct the transfer of the committed youth offender to an agency or institution for treatment;
- (c) Order the committed youth offender confined and afforded treatment under such conditions as he believes best designed for the protection of the public; or
- (d) Transfer at any time a committed youth offender from one agency or institution to any other agency or institution.

§ 83.65. Reexaminations of Youth Offenders Required.

The Director shall cause periodic examinations and re-examinations to be made of all committed youth offenders and shall report to the Board as to each such offender as the Board may require.

The probation officers and supervisory agencies shall likewise report to the Board respective youth offenders under their supervision as the Board may direct.

§ 83.70. Discretion of Director & Board Relative to Conditional and Final Release of Youth Offenders.

(a) The Board may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender. When, in the judgment of the Director a committed youth offender should be released conditionally, he shall so report and recommend to the Board.

(b) The Board may discharge a committed youth offender unconditionally at the expiration of one year from the date of conditional release.

(c) A youth offender committed under Subsection (b) of § 83.35 shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction.

(d) Any other provision of law notwithstanding, a youth offender shall be discharged unconditionally on or before the expiration of the maximum sentence provided by law for the offense for which the youth offender is convicted or certified for prosecution.

§ 83.75. Revocation of Prior Orders of Board Permissible, Except for Order of Final Discharge.

The Board may revoke or modify any of its previous orders respecting a committed youth offender except an order of unconditional discharge.

§ 83.80. Persons Who May Supervise Youth Order of Final Offenders: Regulations Governing.

Committed youth offenders permitted to remain at liberty under supervision or conditionally released shall be under the supervision of the probation officers, supervisory agents appointed by the Governor, and voluntary supervisory agents approved by the Board. The Board is authorized to encourage the formation of voluntary organizations composed of members who will serve without compensation as voluntary supervisory agents and sponsors. The power and duties of voluntary supervisory agents and sponsors shall be limited and defined by regulations adopted by the Board.

§ 83.85. Board May Return Youth Offender to Custody.

If, at any time before the unconditional discharge of a committed youth offender, the Board is of the opinion that such youth offender will be benefited by further treatment in an institution or other facility the Board

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may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youth offender and cause such warrant to be executed by a probation officer, an appointed supervisory agent or any officer of the Department. Upon return to custody, such youth offender shall be given an opportunity to appear before the Board. The Board may then at its discretion revoke the order of conditional release.

§ 83.90. Setting Aside of Conviction Upon Unconditional Release Before Expiration of Maximum Sentence.

Upon the unconditional discharge by the Board of a committed youth offender before the expiration of the maximum sentence imposed upon him, the conviction shall be automatically set aside and the Board shall issue to the youth offender a certificate to that effect.

§ 83.95. Chapter Not Affecting Chapter 80; Juvenile Court Jurisdiction or Treatment of Non-Youth Offenders.

(a) Nothing in this Chapter shall limit or affect the power of a court to suspend the imposition or execution of any sentence or to place a youth offender on probation pursuant to Chapter 80 (commencing with § 80.00).

(b) Nothing in this Chapter shall be construed in any way to amend, repeal, or affect the provisions of 19 GCA Chapter 5, or limit the jurisdiction of the Juvenile Court in the administration and enforcement of that Chapter.

(c) Nothing in this Chapter shall be construed as repealing or modifying the duties, powers, or authority of the Territorial Parole Board with respect to the parole of prisoners not held to be committed youth offenders.
