

September 7, 2015; Bill 99 Puts Cart Before Horse (Chemical Castration)

Last Thursday, the Guam Legislature passed Bill 99-33, known as the “Chemical Castration for Sex Offenders Act.” Under the bill, the Department of Corrections (DOC) is required to establish a pilot program to treat sex offenders with certain hormones or anti-androgen drugs. These drugs are designed to decrease the offender’s deviant sex drive.

As a result, hopefully there will be a lower rate of repeat sexual offenses. As this column goes to print, the bill sits on the Governor’s desk awaiting his approval or disapproval.

Briefly, here is how the bill appears to work. Under the test program, DOC must do the following:

- Screen inmates convicted of sex crimes who are eligible for release from prison within six months to determine if they are suitable for treatment.
- Refer those inmates most likely to benefit from treatment to a physician for a medical evaluation.
- Refer those who pass the medical evaluation to a physician for hormonal treatment.

Inmates who fail to cooperate, or who take drugs to counter the effect of the hormone treatment, will be in violation of their parole terms and can be ordered back to prison. To avoid participation in this program, an inmate can instead opt to undergo permanent surgical castration.

DOC is required to adopt rules to implement and enforce this program. At a minimum, these rules must include:

- A requirement that the inmate be informed of possible side effects from the treatment program.
- A requirement that the inmate acknowledge receipt of the side-effect warnings.
- Procedures to monitor the inmate’s compliance with the treatment plan.
- Procedures to test for attempts to take drugs to counteract the treatment.
- Within three years, develop criteria to evaluate the effectiveness of the pilot program and submit an evaluation to the Parole Board and to the Guam Legislature.

DOC is also required to contract with local doctors, laboratories, or medical service providers to administer the treatment program. The offender is required to either reimburse or pay for the costs associated with conducting the program. The pilot program will end in four years unless the Legislature votes to continue the program.

Present the positives

To be candid, I find the bill confusing and, at least from my perspective, missing a number of key elements. My first criticism is aimed at the bill’s name itself, “Chemical

Castration for Sex Offenders Act." While reference to "chemical castration" may sound good to a senator who wishes to portray himself as a no nonsense, law and order politician, I can't imagine the name will motivate offenders to elbow their way to the front of the treatment line. Arguably, the program stands a better chance of succeeding if inmates can be convinced that it has positive benefits for them and isn't merely an extension of their punishment.

Also, the bill seems to place the cart in front of the horse. DOC has three years to develop evaluation criteria and to evaluate the pilot program effectiveness. Shouldn't the evaluation criteria be developed BEFORE the program is implemented? With the criteria set, procedures can then be developed to make sure that treatment program is appropriately designed to meet established goals. Without advance notice of what "success" looks like, how can DOC steer the program in the right direction?

What exactly is the source for funding this program? The bill provides that participants in the program must "pay or reimburse all costs of the treatment program." That doesn't appear to be a very reliable source for funding. After all, these participants will be convicted felons, listed on the sex registry, and undergoing chemical castration. That's not the type of potential employee most employers are looking for. The participants' chances for employment are bleak at best.

Has any qualified person or entity conducted research on Guam that will serve as the benchmark for the pilot program's success or failure? In other words, does DOC currently know the rate of recidivism for convicted and released sex offenders? If so, what is the span of time covered by any research? How valid is the research? Without this information, the program's achievements will be elusive.

Before this matter gets dumped into the laps of DOC and the Parole Board, let's be sure that they have sufficient information and resources to succeed.