

# I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

## 2021 (FIRST) Regular Session

### VOTING RECORD

<b>Bill No. 111-36 (COR)</b> <small>As amended by the Committee on Health, Land, Justice, and Culture.</small>	<b>Speaker Antonio R. Unpingco Legislative Session Hall</b> <b>Guam Congress Building</b> <b>October 4, 2021</b>					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes					✓	✓
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres					✓	✓

**TOTAL**

**13**

**0**

**2**

**2**

Aye

Nay

Not  
Voting/  
Abstained

Out  
During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



RENNAE V. C. MENO  
Clerk of the Legislature

I = Pass

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*  
**2021 (FIRST) Regular Session**

**Bill No. 111-36 (COR)**

As amended by the Committee Health,  
Land, Justice and Culture.

\*

Introduced by:

Amanda L. Shelton  
Mary Camacho Torres  
Tina Rose Muña Barnes  
Telena Cruz Nelson  
Therese M. Terlaje

**AN ACT TO AMEND § 120.60 OF ARTICLE 1, CHAPTER  
120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE  
TO REQUIRING TESTING FOR HUMAN  
IMMUNODEFICIENCY VIRUS (HIV) OF THOSE  
CHARGED WITH CRIMINAL SEXUAL ABUSE OR  
CONDUCT AT THE REQUEST OF VICTIMS.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that a victim of a criminal offense that involves the transmission of body fluids, or  
4 involves certain sexual offenses in which the victim is a minor, disabled adult, or  
5 elderly person, is entitled to know at the earliest possible opportunity whether the  
6 person charged with the offense has tested positive for human immunodeficiency  
7 virus (HIV) infection.

8           *I Liheslatura* further finds that to deny victims access to HIV test results  
9 causes unnecessary mental anguish in persons who have already suffered trauma;  
10 and, because medical science now recognizes that early diagnosis is a critical factor

1 in the treatment of hepatitis and HIV infection, both the victim and the person  
2 charged with or alleged by petition for delinquency to have committed the offense  
3 benefit from prompt disclosure of hepatitis and HIV test results. HIV testing is  
4 beneficial to the parties involved, but it also serves to protect the health, safety, and  
5 welfare of the community in general.

6 *I Liheslatura* further finds that the Bureau of Women’s Affairs and the Federal  
7 Programs Office recently received a Nine Hundred Thousand Dollar (\$900,000)  
8 grant from the Office on Violence Against Women to employ six (6) more nurses  
9 trained to administer forensic sexual assault exams under the Improving Criminal  
10 Justice Responses (ICJR) to Domestic Violence, Dating Violence, Sexual Assault,  
11 and Stalking Grant Program. A condition of this grant is that the jurisdiction must  
12 meet the requirements under 34 U.S.C. § 10461(d) concerning HIV testing of  
13 individuals charged with sexual assault; and, if requirements are not met, five  
14 percent (5%) of grant funds will be withheld.

15 It is, therefore, the intent of *I Liheslaturan Guåhan* to further the care and  
16 treatment of victims of sexual assault by providing them with critical medical  
17 information about their assailants through the provision of an additional statutory  
18 mechanism whereby a court may order HIV testing of individuals who are charged  
19 with committing certain sexual offenses.

20 **Section 2.** § 120.60 of Article 1, Chapter 120, Title 8, Guam Code  
21 Annotated, is hereby *amended* to read:

22 **“§ 120.60. Medical Examinations of Those Convicted of Criminal**  
23 **Sexual Abuse and Services to Victims of Criminal Sexual Conduct.**

24 (a) Any person convicted of criminal sexual conduct shall submit to  
25 the necessary medical examinations for determining whether such convicted  
26 person is infected with the human immunodeficiency virus (HIV) or with any  
27 other sexually transmitted disease such as, but not limited to, the examination

1 of such convicted person's blood, urine, genital discharge, or lesions. The  
2 Department of Public Health and Social Services shall administer and analyze  
3 such necessary medical examinations in accordance with standard medical  
4 procedures and HIPAA confidentiality and privacy laws and regulations.

5 The court shall furnish the results of such examinations to the victim,  
6 or parent of a minor victim, or guardian of the victim of such conduct, and to  
7 the convicted person, and comply with HIPAA confidentiality and privacy  
8 laws and regulations as required within the criminal justice system.

9 (b) Upon the victim's request, the prosecutor shall petition for an  
10 order requiring the person charged with an offense of criminal sexual conduct  
11 under Chapter 25 of Title 9, Guam Code Annotated, to submit to a medical  
12 examination for human immunodeficiency virus (HIV). Upon a finding that  
13 there is probable cause that the alleged sexual contact or sexual penetration  
14 involved in the offense would pose a risk of transmission of HIV, the court  
15 shall order the defendant to submit to the necessary medical examinations for  
16 determining whether such person is infected with the HIV. An examination  
17 for HIV of a defendant's blood, urine, genital discharge, or lesions shall be  
18 administered no later than forty-eight (48) hours after the date on which the  
19 formal indictment is presented and the defendant is in custody or has been  
20 served with the indictment. The Department of Public Health and Social  
21 Services shall administer and analyze medical examinations, including  
22 follow-up testing, in accordance with standard medical procedures, and  
23 HIPAA confidentiality and privacy laws and regulations.

24 Upon reasonable request, the court may authorize testing at a private  
25 clinic. Any and all costs of such testing at a private clinic shall be borne by  
26 the defendant. The test results from the private clinic must be provided to the  
27 court as well as to the defendant.

1           The court shall furnish the results of such examinations to the victim,  
2 or parent of the minor victim, or guardian of the victim, and to the defendant,  
3 and comply with HIPAA confidentiality and privacy laws and regulations as  
4 required within the criminal justice system.

5           (c)    The Department of Public Health and Social Services with the  
6 assistance of the Sexual Abuse and Rape Crisis Center shall provide services  
7 to victims of criminal sexual conduct. Such services to the victim shall be free  
8 of charge, and shall include, but are not limited to:

9                   (1)   pre and post-HIV testing, counseling on HIV prevention  
10                   and other sexually transmitted diseases (STD), and ensuring that the  
11                   victim understands the implications of HIV and STD testing, their  
12                   benefits and results of the test(s); HIV or any other sexually transmitted  
13                   disease testing in accordance with standard medical procedures and  
14                   applicable law; and

15                   (2)   providing referrals for appropriate health care and support  
16                   services.

17           Such treatment shall not be construed to interfere with or diminish any  
18 medical support already provided by any health insurer, agency or office; nor  
19 shall provision of the services or treatment required by this Section relieve  
20 any health insurer of its duty to provide coverage.”