

I MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015(SECOND) Regular Session

Bill No. 265-33 (LS)

Introduced by:

V. Anthony Ada 


Frank F. Pao, Jr. 
Benjamin Cruz 
Mary C. Torres 

AN ACT TO ADD A NEW RULE 414 AND TO AMEND
RULE 415 ALL OF CHAPTER 6 DIVISION 1 OF 6GCA
(GUAM RULES OF EVIDENCE) RELATIVE TO
ADOPTING THE PROVISIONS OF RULE 414 OF THE
FEDERAL RULES OF EVIDENCE INTO THE GUAM
RULES OF EVIDENCE.

2016 FEB 17 AM 11:00 

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that in
3 1995, in accordance with section 320935 of the *Violent Crime Control and Law*
4 *Enforcement Act of 1994* (Pub.L. No. 103-322) Rules 413, 414 and 4 15 were added
5 to the *Federal Rules of Evidence* 'FRE'. These new Rules allowed that admission of
6 evidence from prior criminal acts of "Sexual Assault," "Child Molestation," and "Civil
7 Cases Involving Sexual Assault and Child Molestation." When Guam adopted FRE
8 413 and 415, the reference to "Sexual Assault" was changed to "Criminal Sexual
9 Conduct." Because the definition in Public Law of "Criminal Sexual Conduct (Ch25
10 of 9GCA)" included the sexual assault of children, Guam did not adopt FRE 414.

11

12 Subsequent to Guam's adoption of Rule 413, *I Liheslatura* enacted the *Family Violence*
13 *Act* (Ch 30 of 9GCA), the *Solicitation of Children and Child Pornography Act* (Ch
14 25A of 9GCA) and the *Human Trafficking and Child Exploitation Act of 2009* (Ch 26
15 of 9GCA). Crimes covered in these laws as well as Guam's Child Abuse law (Ch13 of

1 19GCA) are criminal acts covered by *18 U.S.C. chapter 110* that are proscribed in FRE
2 414 but not in FRE 413.

3
4 It is the intent of *Lihe slatura* to adopt the provisions FRE 414 as it relates to crimes
5 against children involving Family Violence, Solicitation of Children and Child
6 Pornography, Human Trafficking and Child Exploitation and Child Abuse as defined
7 in Public Law and Federal Law.

8
9 **Section 2.** A new Rule 414 is *added* to the Guam Rules of Evidence to read as follows:

10
11 **"Rule 414. Evidence of Similar Crimes in Solicitation of Children and Child**
12 **Pornography; Human Trafficking and Criminal Exploitation of a Child; Family**
13 **Violence Against a Child and Child Abuse.**

14
15 (a) In a criminal case in which the defendant is accused of an offense Crimes in
16 Solicitation of Children and Child Pornography, Human Trafficking and Criminal
17 Exploitation of a Child, Family Violence Against a Child and Child Abuse; evidence
18 of the defendant's commission of another offense or offenses of Crimes in Solicitation
19 of Children and Child Pornography, Human Trafficking and Criminal Exploitation of a
20 Child, Family Violence Against a Child and Child Abuse are admissible, and may be
21 considered for its bearing on any matter to which it is relevant.

22 (b) In a case in which the Government intends to offer evidence under this rule, the
23 attorney for the Government shall disclose the evidence to the defendant, including
24 statements of witnesses or a summary of the substance of any testimony that is
25 expected to be offered, at least fifteen (15) days before the scheduled date of trial or at
26 such later time as the court may allow for good cause.

27 (c) This rule shall not be construed to limit the admission or consideration of
28 evidence under any other rule.

1 (d) For purposes of this rule and Rule 415 "child" means a person under the age of
2 eighteen (18).

3 For purposes of this rule and Rule 415, An offense of Crimes in Solicitation of
4 Children and Child Pornography, Human Trafficking and Criminal Exploitation of a
5 Child, Family Violence Against a Child and Child Abuse mean crimes under Federal
6 law, Guam law, or State law (as "state" is defined in section 513 of title 18, United
7 States Code) that involved:

8 (1) any conduct proscribed by Chapter 25A of Title 9, Guam Code Annotated
9 committed against a child;

10 (2) any conduct proscribed by Chapter 26 of Title 9, Guam Code Annotated
11 committed against a child;

12 (3) any conduct proscribed by Chapter 30 of Title 9, Guam Code Annotated
13 committed against a child;

14 (4) any conduct proscribed by Chapter 13 of Title 19, Guam Code Annotated;

15 (5) any conduct proscribed by chapter 110 of Title 18, United States Code; or

16 (6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-
17 (5)."

18

19 **Section 3.** Rule 415 of the Guam Rules of Evidence is *amended* to read as follows:

20

21 **"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Criminal Sexual**
22 **Conduct, Crimes in Solicitation of Children and Child Pornography, Human**
23 **Trafficking and Criminal Exploitation of a Child, Family Violence Against a**
24 **Child and Child Abuse.**

25 (a) In a civil case in which a claim for damages or other relief is predicated on a
26 party's alleged commission of conduct constituting criminal sexual conduct, evidence
27 of that party's commission of another offense or offenses of criminal sexual conduct
28 and Crimes in Solicitation of Children and Child Pornography, Human Trafficking and

1 Criminal Exploitation of a Child, Family Violence Against a Child and Child Abuse is
2 are admissible and may be considered as provided in Rule 413 and Rule 414 of these
3 rules.

4 (b) A party who intends to offer evidence under this rule shall disclose the evidence
5 to the party against whom it will be offered, including statements of witnesses or a
6 summary of the substance of any testimony that is expected to be offered, at least
7 fifteen days before the scheduled date of trial or at such later time as the court may
8 allow for good cause.

9 (c) This rule shall not be construed to limit the admission or consideration of
10 evidence under any other rule."

11