



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

OFFICE OF THE GOVERNOR
CENTRAL FILES

RECEIVED BY
J. Dela Rosa
TIME 11:28 AM DATE 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

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I MINA TRENDAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 195-32 (COR)**, "AN ACT TO ADD A NEW CHAPTER 91 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO PROTECTING INFANTS WHO ARE BORN ALIVE AS A RESULT OF AN ABORTION, THROUGH THE ESTABLISHMENT OF THE "INFANT CHILD'S RIGHT TO LIFE ACT", was on the 12th day of November 2013, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 15th day of Nov.,
2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 195-32 (COR)

Introduced by:

FRANK B. AGUON, JR.
T. C. Ada
V. Anthony Ada
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW CHAPTER 91 TO TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO
PROTECTING INFANTS WHO ARE BORN ALIVE AS A
RESULT OF AN ABORTION, THROUGH THE
ESTABLISHMENT OF THE “INFANT CHILD’S RIGHT
TO LIFE ACT.”**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that a proposal was previously introduced in a prior legislature that would protect
4 the life of a child who is brought into this world through the abortion process, and
5 who upon extraction from the mother’s womb is found to still be alive. *I*
6 *Liheslaturan Guåhan* recognizes that a child in this situation who is found to be

1 alive must be preserved and every effort be made to protect the child’s life.
2 Therefore, it is the intent of *I Liheslaturan Guåhan* to enact legislation that would
3 require that in such cases whereupon an infant that, through an abortion process, is
4 found to still be alive, that life must be recognized as a human being and thus must
5 be extended the right to life.

6 **Section 2. Establishment of the “Infant Child’s Right to Life Act.”** A
7 new Chapter 91 is hereby *added* to Title 9 of the Guam Code Annotated to read as
8 follows:

9 **“CHAPTER 91**

10 **INFANT CHILD'S RIGHT TO LIFE ACT**

11 **§ 91.01. Title.**

12 This Act may be known and cited as the “Infant Child’s Right to Life
13 Act.”

14 **§ 91.02. Legislative Findings and Purpose.**

15 (a) *I Liheslaturan Guåhan* finds that:

16 (1) All children, no matter their age, have the right to
17 life. Guam has a paramount interest in protecting all human life.

18 (2) *If* an abortion results in the live birth of an infant,
19 the infant is a legal person for all purposes under the laws of
20 Guam.

21 (3) Guam must assert its interest in protecting an
22 infant whose live birth occurred as the result of an abortion.

23 (4) Without proper legal protection, newly-born
24 infants who survive abortions could be denied proper life-
25 saving or life-sustaining medical treatment and left to die.

26 (b) Accordingly, it is the purpose of this Act to ensure the
27 protection and promotion of the health and wellbeing of all infants

1 born alive in Guam. Therefore, this Act mandates that healthcare
2 providers give medically appropriate and reasonable life-saving and
3 life-sustaining medical care and treatment to all born alive infants.

4 **§ 91.03. Definitions.**

5 For the purposes of this Act only:

6 (a) *Abortion* means the termination of a human pregnancy
7 with an intention other than to produce a live birth or to remove a
8 dead fetus.

9 (b) *Born alive or live birth* means the complete expulsion or
10 extraction of an infant from his or her mother, regardless of the state
11 of gestational development, that, after expulsion or extraction,
12 whether or not the umbilical cord has been cut or the placenta is
13 attached, and regardless of whether the expulsion or extraction occurs
14 as a result of natural or induced labor, cesarean section, or induced
15 abortion, shows any evidence of life, including, but *not* limited to, one
16 or more of the following:

- 17 (1) breathing;
- 18 (2) a heartbeat;
- 19 (3) umbilical cord pulsation; or
- 20 (4) definite movement of voluntary muscles.

21 (c) *Consent* means knowledge of and explicit or implicit
22 agreement to or instruction to perform a violation of this Act.

23 (d) *Facility or medical facility* means any public or private
24 hospital, clinic, center, medical school, medical training institution,
25 healthcare facility, physician's office, infirmary, dispensary,
26 ambulatory surgical treatment center, or other institution or location
27 wherein medical care is provided to any person.

1 (e) *Infant*, for the purposes of this Act, and as used in this
2 Act, means a child of the species *homo sapiens* that has been
3 completely expelled or extracted from its mother, regardless of the
4 stage of gestational development, until the age of thirty (30) days post
5 birth. An *infant* is also a human being for purposes of Chapter 16 of
6 Title 9, Guam Code Annotated.

7 (f) *Premature* or *preterm* means occurring prior to the thirty-
8 seventh (37th) week of gestation.

9 **§ 91.04. Requirements and Responsibilities.**

10 (a) A person *shall not* deny or deprive an infant of
11 nourishment with the intent to cause or allow the death of the infant
12 for any reason.

13 (b) A person *shall not* deprive an infant of medically
14 appropriate and reasonable medical care and treatment or surgical
15 care.

16 (c) The requirements of this Section *shall not* be construed to
17 prevent an infant's parent(s) or guardian(s) from refusing to give
18 consent to medical treatment or surgical care which is *not* medically
19 necessary or reasonable, including care or treatment which either:

20 (1) is *not* necessary to save the life of the infant;

21 (2) has a potential risk to the infant's life or health that
22 outweighs the potential benefit to the infant of the treatment or
23 care; or

24 (3) is treatment that will do *no more* than prolong the
25 act of dying when death is imminent.

26 (d) The physician performing an abortion must take all
27 medically appropriate and reasonable steps to preserve the life and

1 health of an infant. *If* an abortion performed in a hospital results in a
2 live birth, the physician attending the abortion *shall* provide
3 immediate medical care to the infant, inform the mother of the live
4 birth, and request the transfer of the infant to a resident, on-duty or
5 emergency care physician, who *shall* provide medically-appropriate
6 and reasonable medical care and treatment to the infant. *If* an abortion
7 performed in a facility other than a hospital results in a live birth, a
8 physician attending the abortion *shall* provide immediate medical care
9 and treatment to the infant and call 9-1-1 for an emergency transfer of
10 the infant to a hospital that *shall* provide medically-appropriate and
11 reasonable care and treatment to the infant.

12 (e) *If* the physician described in Subsection (d) of this
13 Section is unable to perform the duties in that Subsection because he
14 is assisting the woman on whom the abortion was performed, then an
15 attending physician's assistant, nurse, or other licensed healthcare
16 provider must assume the duties outlined in that Subsection.

17 (f) Any infant, including one born in the course of an
18 abortion procedure, *shall* be treated as a legal person under the laws of
19 Guam, with the same rights to medically-appropriate care and
20 treatment, and birth and death (if death occurs) certificates *shall* be
21 issued accordingly.

22 (g) *If*, before the abortion, the mother and the father have
23 stated in writing that they *do not* wish to keep the infant in the event
24 that the abortion results in a live birth, and this writing is *not* retracted
25 before the abortion, the infant, if born alive, *shall* immediately upon
26 birth become a ward of Guam.

1 (h) No person *may* use any infant for any type of scientific
2 research or other kind of experimentation *except* as necessary to
3 protect or preserve the life and health of the premature born alive
4 infant.

5 **§ 91.05. Criminal Penalties.**

6 (a) Any physician, nurse, or other licensed healthcare
7 provider who intentionally with premeditation, or intentionally, or
8 knowingly, or recklessly, or by criminal negligence fails to provide
9 reasonable and medically-appropriate and reasonable care and
10 treatment to an infant in the course of an abortion *shall* be guilty of a
11 criminal homicide, as defined in Chapter 16 of Title 9, Guam Code
12 Annotated, and may be punished in accordance with that Chapter. The
13 mother will *not* be liable, criminally or civilly, for actions of a
14 physician, nurse, or other licensed healthcare provider, in violation of
15 this Act to which she did *not* give her consent.

16 (b) Any violation of §91.04(h) of this Act concerning the
17 research use of a born-alive infant is a felony of the first degree, and
18 upon conviction *may* be punished in accordance with Article 2,
19 Chapter 80 of Title 9, Guam Code Annotated.

20 **§ 91.06. Civil and Administrative Action.**

21 In addition to whatever remedies are available under the common or
22 statutory laws of Guam, failure to comply with the requirements of this Act
23 *shall*:

24 (a) provide a basis for a civil action for compensatory and
25 punitive damages. Any conviction under this Act *shall* be admissible
26 in a civil suit as *prima facie* evidence of a failure to provide medically
27 appropriate and reasonable care and treatment to a born-alive infant.

1 Any civil action *may* be based on a claim that the death of or injury to
2 the born-alive infant was a result of simple negligence, gross
3 negligence, wantonness, willfulness, intentional conduct, or another
4 violation of the legal standard of care;

5 (b) provide a basis for professional disciplinary action for the
6 suspension or revocation of any license of physicians, licensed and
7 registered nurses, or other licensed or regulated persons. Any
8 conviction of any person for any failure to comply with the
9 requirements of this Act *shall* result in the automatic suspension of his
10 or her license for a period of *at least* one year, and *shall* be reinstated
11 after that time *only* under such conditions as *shall* be required to
12 ensure compliance with this Act; and

13 (c) provide a basis for recovery for the parent(s) of the
14 infant, or the parent(s) or guardian(s) of the mother *if* the mother is a
15 minor, for the wrongful death of the infant whether or not the infant
16 was viable at the time abortion was performed.”

17 **Section 3. Construction.**

18 (a) Nothing in this Act *shall* be construed to affirm, deny,
19 expand, or contract any legal status or legal right applicable to any
20 member of the species *homo sapiens* at any point prior to being born
21 alive, as defined in this Act.

22 (b) Nothing in this Act *shall* be construed to affect existing
23 federal or Guam laws regarding abortion.

24 (c) Nothing in this Act *shall* be construed as creating or
25 recognizing a right to abortion.

26 (d) Nothing in this Act *shall* be construed to alter generally
27 accepted medical standards.

1 **Section 4. Severability.** Any provision of this Act held to be invalid
2 or unenforceable by its terms, or as applied to any person or circumstance, *shall* be
3 construed so as to give it the maximum effect permitted by law, unless such
4 holding *shall* be one of utter invalidity or unenforceability, in which event such
5 provision *shall* be deemed severable here from and *shall not* affect the remainder
6 hereof or the application of such provision to other persons not similarly situated or
7 to other, dissimilar circumstances.

8 **Section 5. Effective Date.** The provisions contained herein *shall* be
9 effective upon enactment of this Act.