



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

31-11-318

March 9, 2011

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

3-10-11
3:20 pm
M.

2011 MAR 11 AM 7:35
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Dear Speaker Won Pat:

Transmitted herewith is Bill No. 41-31 (COR) "AN ACT TO AMEND §§19.69 AND 19.70 OF CHAPTER 19, AND §61.20 OF CHAPTER 61; TO ADD A NEW §61.20 OF CHAPTER 61; TO ADD A NEW §61.20.1 TO CHAPTER 61, AND NEW §§28.90, 28.100 AND 28.101 TO CHAPTER 28, ALL OF TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND §3112.1 OF ARTICLE 1, CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO BULLYING, CYBERBULLYING AND SEXTING", which I signed into law on March 9, 2011 as Public Law 31-09.

Senseramente,

EDDIE BAZA CALVO

Attachment: copy of Bill

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 41-31 (COR)**, "AN ACT TO *AMEND* §§ 19.69 AND 19.70 OF CHAPTER 19, AND §61.20 OF CHAPTER 61; TO *ADD* A NEW § 61.20.1 TO CHAPTER 61, AND NEW §§ 28.90, 28.100 AND 28.101 TO CHAPTER 28, ALL OF TITLE 9, GUAM CODE ANNOTATED; AND TO *AMEND* §3112.1 OF ARTICLE 1, CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO BULLYING, CYBERBULLYING AND SEXTING", was on the 24th day of February, 2011, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

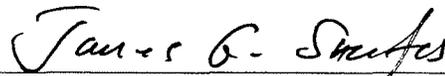
Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 25th day of Feb, 2011, at

7:14 o'clock 7 .M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date:

MAR 09 2011

Public Law No. 31-09

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 41-31 (COR)

As amended on the Floor.

Introduced by:

B. J.F. Cruz
T. R. Muña Barnes
Judith T. Won Pat, Ed.D.
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Duenas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A.Yamashita, Ph.D.

AN ACT TO *AMEND* §§ 19.69 AND 19.70 OF CHAPTER 19, AND §61.20 OF CHAPTER 61; TO *ADD* A NEW § 61.20.1 TO CHAPTER 61, AND NEW §§ 28.90, 28.100 AND 28.101 TO CHAPTER 28, ALL OF TITLE 9, GUAM CODE ANNOTATED; AND TO *AMEND* §3112.1 OF ARTICLE 1, CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO BULLYING, CYBERBULLYING AND SEXTING.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that there is both a concern and alarm among families, parents, children, and our
4 community about the growing contemporary problem of not only actual physical

1 assault, but also emotional harassment, intimidation, and mistreatment of weaker
2 or vulnerable children or minors by others. This bullying is reported to be on the
3 rise, and in this electronic, digital, or computer age it is occurring more commonly
4 and frequently on the Internet and transmitted onto cellular phones and computers,
5 which is now called “cyberbullying.” *I Liheslaturan Guåhan* finds that bullying
6 and cyberbullying as forms of harassment and stalking can be addressed by
7 updating and amending our current related criminal laws.

8 *I Liheslaturan Guåhan* also finds that “sexting” has become a more evident
9 problem within our juvenile community as a result of the easy accessibility of
10 electronic devices among our youth community. The teenage practices of sexting
11 and posting sexual images online are nationwide problems that have perplexed
12 parents, school administrators, and law enforcement officials. Prosecutors in
13 several states have charged teenagers who have engaged in these behaviors with
14 criminal offenses, including distribution of child pornography. Sexting, which is a
15 new term of art, refers to “the use of a cell phone to send sexually suggestive texts
16 or emails with nude or nearly nude photos.” Sexting has been on the increase in
17 our community, and has not only resulted in problems in and of itself, but it has
18 been linked to other problems and crimes within our youth community, such as
19 bullying, cyberbullying, assault, harassment, and even criminal sexual conduct.
20 Like the rest of the nation, Guam has had to charge juveniles with other more
21 serious criminal offenses, including distribution of child pornography. The
22 *National Campaign to Prevent Teen and Unplanned Pregnancy* conducted
23 research that shows the following statistics with respect to sexting: thirty-nine
24 percent (39%) of all teens have sent sexually suggestive texts; forty-eight percent
25 (48%) of teens say they have received such messages; seventy-one percent (71%)
26 of teen girls and sixty-seven percent (67%) of teen boys who have sent or posted
27 sexually suggestive content say they have sent or posted this content to a boyfriend

1 or girlfriend; twenty-one percent (21%) of teen girls and thirty-nine percent (39%)
2 of teen boys say they have sent such content to someone they wanted to date or
3 “hook up” with; thirty-eight percent (38%) of teens say they have had sexually
4 suggestive text messages, originally meant for someone else, shared with them;
5 and twenty-five percent (25%) of teen girls and thirty-three percent (33%) of teen
6 boys say they have had semi-nude or nude images, originally meant for someone
7 else, shared with them. In an attempt to battle this growing problem, *I*
8 *Liheslaturan Guåhan* enacts this legislation addressing two (2) different forms of
9 sexting among our youth: Illegal Use of a Computer or Telecommunications
10 Device to Disseminate Prohibited Materials Involving a Minor.

11 *I Liheslaturan Guåhan* further finds that there is a need to create a
12 diversionary program for first-time offending juveniles who can be charged for
13 sexting or posting of sexual images via electronic devices as a preventive measure
14 and means to educate juveniles about the severity of this type of behavior, and the
15 possible consequences for such a crime. *I Liheslaturan Guåhan* wishes to establish
16 an educational program that is intended to be an alternative to prosecution for
17 juveniles who are charged with a criminal offense for posting sexually suggestive
18 or sexually explicit photographs, usually on the Internet. The educational program
19 would include juveniles who engage in the behavior commonly known as sexting,
20 in which sexually suggestive or explicit pictures are transmitted via cell phones.

21 The Act would require the Office of the Attorney General, Family Division,
22 or whichever designated division of the Office of the Attorney General that
23 addresses matters involving juveniles in the community of Guam, to incorporate
24 such a diversionary program under its current services. Such diversionary program
25 would be similar to or incorporated under the current Pre-Adjudicatory
26 Diversionary Program that the Office of the Attorney General currently utilizes.
27 The program would require that the Office of the Attorney General develop an

1 educational program for juveniles who commit an eligible offense as defined in
2 this Act. The Office of the Attorney General *shall* then consult with the Judiciary
3 of Guam, Juvenile Probation Division, to discuss and implement such educational
4 program, to include the same or similar conditions as the current Pre-Adjudicatory
5 Diversionary Program between the Office of the Attorney General and Judiciary of
6 Guam, Juvenile Probation Division. The Office of the Attorney General *shall* be
7 the sole agency responsible for the determination as to whether a minor may be
8 admitted into the diversionary program. A juvenile who successfully completes
9 the program would have the opportunity to avoid prosecution, and any records
10 relating to such an offense, upon completion of the program, would be dismissed
11 and expunged.

12 Admission to the program would be limited to juveniles who: (1) have *not*
13 previously been adjudicated delinquent for or convicted of a criminal offense; (2)
14 were *not* aware that their actions could constitute, and did *not* have the intent to
15 commit, a criminal offense; (3) may be harmed by the imposition of criminal
16 sanctions; and (4) would likely be deterred from engaging in similar conduct in the
17 future by completing the program.

18 *I Liheslaturan Guåhan* finds that such educational program will be
19 beneficial to the community of Guam, and more so in the best interests of the
20 youth in our community, as such program is designed to provide information
21 concerning: the legal consequences of and penalties for sexting or posting sexual
22 pictures online, including the applicable local and federal statutes; the non-legal
23 consequences of sexting or posting such pictures, including, but *not* limited to, the
24 effect on relationships, loss of educational and employment opportunities, and
25 being barred or removed from school programs and extracurricular activities; how
26 the unique characteristics of cyberspace and the Internet can produce long-term
27 and unforeseen consequences for sexting and posting such photographs; and the

1 connection between bullying and cyber-bullying and juveniles sexting or posting
2 sexual images.

3 *I Liheslaturan Guåhan* further finds that the need to impose upon retail
4 stores which sell cellular telephone equipment or cellular telephone equipment
5 service contracts, the responsibility of providing informational brochures about
6 sexting to customers who purchase such equipment or contracts, is vital in the
7 prevention and education of sexting. The need for active participation from these
8 particular retail stores in providing such informational brochures will ensure that
9 purchasers of these devices are educated up front about the illegal use of these
10 devices and the consequences of such illegal actions. This Act supplements
11 Guam's consumer fraud act making it an unlawful practice for any retail mercantile
12 establishment to sell cellular telephone equipment or to sell or renew cellular
13 telephone service contracts, *unless* the store encloses an informational brochure
14 with such equipment or contracts, that describes the dangers of sexting, the
15 criminal penalties that may be associated with sexting, and the names, addresses,
16 and telephone numbers of qualified organizations that can provide information to
17 the customer concerning responsible cellular telephone usage.

18 This Act directs the Office of the Attorney General, Consumer Protection
19 Division, to notify stores which sell cellular telephone equipment and cellular
20 telephone equipment service contracts about the Act's requirements by advertising
21 it in Guam local newspapers. In addition, this Act requires that *I Liheslaturan*
22 *Guåhan* provide funding to the Office of the Attorney General to advertise such
23 information on a yearly basis, as well as adequate funding for the Office of the
24 Attorney General to prepare and distribute information brochures about sexting to
25 stores throughout Guam for distribution to customers who purchase such
26 equipment or contracts from the stores.

1 **Section 2.** §19.69 of Chapter 19, Title 9, Guam Code Annotated, is hereby
2 *amended* to read:

3 **“§19.69. Definitions.**

4 Unless otherwise indicated, as used in § 19.70:

5 (a) *Harasses* or *harassment* means a knowing and willful course of
6 conduct, whether physical, verbal, written, electronic, telephonic, via or by
7 use of a computer, computer network, computer system, telephone network,
8 data network, text message, instant message, or otherwise, directed at a
9 specific person which alarms, annoys, or distresses the person, and which
10 serves no legitimate purpose. Such course of conduct must be of a nature to
11 cause a reasonable person to suffer substantial emotional distress, and must
12 cause substantial emotional distress.

13 (b) *Course of conduct* means a pattern of conduct composed of a
14 series of acts over a period of time, however short, evidencing continuity of
15 purpose. Constitutionally and statutorily protected activity, including, but
16 *not* limited to, picketing as a result of a labor dispute, is *not* included in this
17 definition.

18 (c) *Credible threat* means any threat, physical or verbal, overtly or
19 subtly manifested, constituting a threat with the intent and apparent ability to
20 carry out the threat with the person who is the target of the threat to
21 reasonably fear for his or her safety or the safety of his or her immediate
22 family. Such threatening advance must be against the life of, or a threat to
23 cause bodily injury to, the person threatened or to a member of his or her
24 immediate family.

25 (d) *Computer* means any electronic, magnetic, optical,
26 electrochemical, *or* other high-speed data processing device performing
27 logical, arithmetic, *or* storage functions, and includes all computer

1 equipment connected *or* related to such a device in a computer system *or*
2 computer network, but *shall not* include an automated typewriter or
3 typesetter, a portable hand-held calculator, *or* other similar device.

4 (e) *Computer network* means two (2) or more computers or
5 computer systems interconnected by communication lines, including
6 microwave, electronic, or any other form of communication.

7 (f) *Computer system* means a set of interconnected computer
8 equipment intended to operate as a cohesive system.”

9 **Section 3.** §19.70 of Chapter 19, Title 9, Guam Code Annotated, is hereby
10 *amended* to read:

11 “**§19.70. Stalking.** (a) A person is guilty of simple stalking if he
12 or she willfully, maliciously, and repeatedly, follows or harasses another
13 person or who makes a credible threat with intent to place that person or a
14 member of his or her immediate family in fear of death or bodily injury.

15 (b) A person is guilty of advanced stalking if he or she violates
16 Subsection (a) of this Section when there is a temporary restraining order or
17 an injunction or both or any other court order in effect prohibiting the
18 behavior described in that Subsection against the same party.

19 (c) A person is guilty of advanced stalking if he or she violates
20 Subsection (a) of this Section a second or subsequent time against the same
21 victim, within seven (7) years of a prior conviction under that Subsection,
22 and involving an harassment or a credible threat of violence, as defined in
23 §19.69 of this Chapter.

24 (d) Simple stalking is a felony of the third degree.

25 (e) Advanced stalking is a felony of the second degree.

26 (f) This Section *shall not* apply to conduct which occurs during
27 labor picketing.”

1 **Section 4.** §61.20 of Chapter 61, Title 9, Guam Code Annotated, is hereby
2 *amended* to read:

3 “**§61.20 Harassment; Defined & Punished.** A person commits a
4 petty misdemeanor if, with intent to harass another, he:

5 (a) makes, or causes to be made, a communication anonymously or
6 at extremely inconvenient hours, or in offensively coarse language, or any
7 other manner likely to cause annoyance or alarm;

8 (b) subjects another to striking, kicking, shoving or other offensive
9 touching, or threatens to do so; or

10 (c) engages in any other course of alarming conduct or of
11 repeatedly committed acts which alarm or seriously annoy such other person
12 serving no legitimate purpose of the defendant.

13 (d) Every person who with intent to annoy, telephones, telefaxes,
14 or communicates by use of any telephone network, data network, text
15 message, instant message, computer, computer network, or computer system
16 with another person and addresses to or about such other person any obscene
17 language is guilty of a misdemeanor.

18 (e) Every person who makes a telephone call, telefax transmission,
19 or any transmission by use of a telephone network, data network, text
20 message, instant message, computer, computer network, or computer system
21 with intent to annoy and without disclosing his true identity to the person
22 answering the telephone or receiving the telefax transmission or
23 transmission received from any telephone network, data network, text
24 message, instant message, computer, computer network, or computer
25 system, whether or not conversation or return transmission ensues from
26 making the telephone call or the transmission, is guilty of a misdemeanor.

1 (f) Any offense committed by use of a telephone, telefax machine,
2 or any telephone network, data network, text message, instant message,
3 computer, computer network, or computer system as set out in this Section
4 may be deemed to have been committed at either the place at which the
5 telephone calls, telefax transmissions, or any transmission by use of a
6 telephone network, data network, text message, instant message, computer,
7 computer network, or computer system were made or received. In the event
8 that a customer of a telephone service provider, wireless service provider, or
9 an internet service provider receives harassing telephone calls or
10 transmissions received via or by use of a telephone network, data network,
11 text message, instant message, computer, computer network, or computer
12 system, such customer may file an injunction complaint under the name of
13 John Doe, although the telephone service provider may release the name,
14 address, and telephone number of the plaintiff to the Superior Court of
15 Guam. The telephone service provider, wireless service provider, or an
16 internet service provider *shall* disconnect all telephone services or computer
17 or wireless services to any subscriber who has violated the provisions of this
18 Section *more than one* (1) time.

19 (g) Subsections (d) or (e) of this Section are violated when the
20 person acting with intent to annoy makes a telephone call, telefax
21 transmission, or any transmission by use of a telephone network, data
22 network, text message, instant message, computer, computer network, or
23 computer system requesting a return call or return transmission and performs
24 the acts prohibited under such Subsections upon receiving the return call or
25 transmission.”

26 **Section 5.** A new §61.20.1 is hereby *added* to Chapter 61 of Title 9, Guam
27 Code Annotated, to read as follows:

1 **“§61.20.1. Definitions.**

2 Unless otherwise indicated, as used in §61.20:

3 (a) *Computer* means any electronic, magnetic, optical,
4 electrochemical, *or* other high-speed data processing device performing
5 logical, arithmetic, *or* storage functions, and includes all computer
6 equipment connected *or* related to such a device in a computer system *or*
7 computer network, but *shall not* include an automated typewriter or
8 typesetter, a portable hand-held calculator, *or* other similar device.

9 (b) *Computer network* means two (2) or more computers or
10 computer systems, interconnected by communication lines, including
11 microwave, electronic, or any other form of communication.

12 (c) *Computer system* means a set of interconnected computer
13 equipment intended to operate as a cohesive system.”

14 **Section 6.** A new §28.90 is hereby *added* to Article 2, Chapter 28 of Title
15 9, Guam Code Annotated, to read as follows:

16 **“§28.90. Obscene, Anonymous, Harassing and Threatening**
17 **Communications by Computer; Defined and Punished.**

18 (a) It is unlawful for any person, with the intent to harass or abuse
19 another person, to use a computer to:

20 (1) make contact via the internet with another without
21 disclosing his or her identity with the intent to harass or abuse;

22 (2) make contact via the internet with a person after being
23 requested by the person to desist from contacting them;

24 (3) threaten via the internet to commit a crime against any
25 person or property; or cause obscene material to be delivered or
26 transmitted via the internet to a specific person after being requested
27 to desist from sending such material; or

1 (4) publish via the internet a webpage or posting on a
2 newsgroup untrue statements about another person which are false
3 and designed to entice or encourage other people to ridicule or
4 perpetuate the untruth about that person.

5 For purposes of this Article and Sections therein, "obscene material"
6 means material that:

7 (A) An average person, applying contemporary adult
8 community standards, would find, taken as a whole, appeals to
9 the prurient interest, is intended to appeal to the prurient
10 interest, or is pandered to a prurient interest;

11 (B) An average person, applying contemporary adult
12 community standards, would find, depicts or describes, in a
13 patently offensive way, sexually explicit conduct consisting of
14 an ultimate sexual act, normal or perverted, actual or simulated,
15 an excretory function, masturbation, lewd exhibition of the
16 genitals or sadomasochistic sexual abuse; and

17 (C) A reasonable person would find, taken as a whole,
18 lacks literary, artistic, political or scientific value.

19 (b) It is unlawful for any person to knowingly permit a computer
20 under his or her control to be used for any purpose prohibited by this
21 Section.

22 (c) Any offense committed under this Section may be determined
23 to have occurred at the place at which the contact originated or the place at
24 which the contact was received or intended to be received.

25 (d) Any person who violates a provision of this Section is guilty of
26 a misdemeanor and, upon conviction thereof, *shall be fined not more than*

1 One Thousand Dollars (\$1,000) or imprisoned for *not more than* one (1)
2 year, or both.”

3 **Section 7.** A new §28.100 is hereby *added* to Article 2, Chapter 28 of Title
4 9, Guam Code Annotated, to read as follows:

5 **“§28.100. Illegal Use of a Computer or Telecommunications**
6 **Device to Disseminate Prohibited Materials Involving a Minor- Sexting;**
7 **Crime Defined and Punished.**

8 (a) A minor is guilty of an offense of Illegal Use of a Computer
9 Telecommunications Device Involving a Minor, otherwise known as
10 Sexting, if the minor, by use of a computer or any telecommunications
11 device, recklessly or knowingly creates, receives, exchanges, sends,
12 disseminates, transmits or possesses a photograph, video, depiction or other
13 material that shows himself or herself, or of another minor, in a state of
14 nudity.

15 (b) It is *no* defense to a charge under this Section that the minor
16 creates, receives, exchanges, sends, or possesses a photograph, video, or
17 other material that shows themselves in a state of nudity.

18 (c) Applicability. This Section *shall not* apply to the use of a
19 computer or a telecommunications device to transmit or distribute a
20 photograph or other depiction involving sexual intercourse, deviate sexual
21 intercourse, sadism, masochism or masturbation. This Section *does not*
22 prohibit a person guilty under this Section to be charged with other
23 chargeable criminal sex offenses under Guam law.

24 (d) An offense under this Section constitutes a “status offense”.
25 Any minor found to commit an offense under this Section *shall* be found
26 guilty of illegal use of a telecommunications device involving a minor in a

1 state of nudity, a delinquent act that would be a misdemeanor if it could be
2 committed as an adult.

3 (e) A minor who violates this Section is guilty of a separate offense
4 for each separate photograph, video, or other material that shows a minor in
5 a state of nudity which is created, received, exchanged, sent, or possessed.

6 (f) Any minor who is convicted of a violation of this Section *shall*
7 be ordered in addition to the sentence ordered by the Court, as part of his or
8 her sentence, to participate in the educational program similar to that
9 discussed under Subsection (g) of this Section.

10 (g) A juvenile or minor who commits the offense of Illegal Use of
11 a Computer or Telecommunications Device to Disseminate Prohibited
12 Materials Involving a Minor- Sexting, may be eligible for a diversionary
13 program.

14 (1) As used herein, 'eligible offense' means an offense
15 chargeable under this Section where:

16 (A) the facts of the case involve the creation,
17 exhibition or distribution without malicious intent of a
18 photograph depicting nudity as defined in that section through
19 the use of a telecommunications device or a computer; and

20 (B) the creator and subject of the photograph are
21 juveniles or were juveniles at the time of its making.

22 (2) The Office of the Attorney General, Family Division, or
23 whichever designated division of the Office of the Attorney General
24 that addresses matters involving juveniles in the community of Guam,
25 will incorporate such a diversionary program under its current
26 services. Such diversionary program would be similar to or
27 incorporated under the current Pre-Adjudicatory Diversionary

1 Program that the Office of the Attorney General currently utilizes.
2 The program would require the Office of the Attorney General to
3 develop an educational program for juveniles who commit an eligible
4 offense as defined in this Act. The Office of the Attorney General
5 *shall* then consult with the Judiciary of Guam, Juvenile Probation
6 Division, to discuss and implement such educational program, to
7 include the same or similar conditions as the current Pre-Adjudicatory
8 Diversionary Program in place between the Office of the Attorney
9 General and Judiciary of Guam, Juvenile Probation Office. The
10 Office of the Attorney General *shall* be the sole agency responsible
11 for the determination as to whether a minor may be admitted into the
12 diversionary program. A juvenile who successfully completes the
13 program would have the opportunity to avoid prosecution, and any
14 records relating to such an offense, upon completion of the program,
15 would be dismissed and expunged.

16 (3) Admission to the program *shall be limited* to juveniles
17 who:

18 (A) have *not* previously been adjudicated delinquent
19 for or convicted of a criminal offense under Title 9 of the Guam
20 Code Annotated that constitutes a third degree felony or
21 greater;

22 (B) were *not* aware that their actions could constitute
23 and did *not* have the intent to commit a criminal offense;

24 (C) *may* be harmed by the imposition of criminal
25 sanctions; and

26 (D) would likely be deterred from engaging in similar
27 conduct in the future by completing the program.

1 (4) The educational program *shall* provide information
2 concerning:

3 (A) the legal consequences of and penalties for sharing
4 sexually suggestive or explicit materials, including applicable
5 local and federal statutes;

6 (B) the non-legal consequences of sharing sexually
7 suggestive or explicit materials including, but *not* limited to, the
8 effect on relationships, loss of educational and employment
9 opportunities, and being barred or removed from school
10 programs and extracurricular activities;

11 (C) how the unique characteristics of cyberspace and
12 the Internet, including searchability, replicability, and an
13 infinite audience, can produce long-term and unforeseen
14 consequences for sharing sexually suggestive or explicit
15 materials; and

16 (D) the connection between bullying and cyberbullying
17 and juveniles sharing sexually suggestive or explicit materials.

18 (5) The Attorney General *may* promulgate guidelines to
19 effectuate the provisions of this Section.”

20 **Section 8.** A new §28.101 is hereby *added* to Article 2, Chapter 28 of Title
21 9, Guam Code Annotated, to read as follows:

22 **“§28.101. Illegal Use of a Computer or Telecommunications**
23 **Device to Disseminate Prohibited Materials Involving a Minor- Sexting;**
24 **Mandatory Distribution of Information Brochure about Sexting by**
25 **Retail Stores Who Sell Cellular Telephone Equipment or Cellular**
26 **Telephone Equipment Service Contracts.**

27 (a) Definitions. As used in this Section:

1 (1) *Cellular telephone equipment or equipment* means a
2 wireless telephone handset used in conjunction with wireless
3 telephone service.

4 (2) *Wireless telephone service* means commercial mobile
5 radio service, as defined in Subsection (d) of Section 332 of the
6 Communications Act of 1934 (47 U.S.C. s.332).

7 (3) *Sexting* is defined in §28.100(a) of Title 9, Guam Code
8 Annotated.

9 (4) *Store or other retail mercantile establishment or store*
10 means a place where merchandise is displayed, held, stored or sold or
11 offered to the public for sale on Guam.

12 (b) It *shall* be an unlawful practice for any store or other retail
13 mercantile establishment to sell cellular telephone equipment to an
14 individual, or to sell a contract for cellular telephone equipment service to an
15 individual, or to renew a contract for cellular telephone equipment service
16 with an individual, *unless* the store encloses an informational brochure with
17 such equipment or contract that informs the individual about the dangers of
18 the practice known as sexting.

19 (1) The informational brochure required pursuant to this
20 Subsection (b) *shall* include, but *not* be limited to, an explanation of
21 the types of criminal penalties that may be imposed on an individual
22 who engages in sexting, as well as a list of the names, telephone
23 numbers, and addresses of agencies qualified and available to answer
24 questions related to sexting, such as the Office of the Attorney
25 General, Consumer Protection Division, or any other government or
26 nonprofit organizations that is dedicated to educating communities

1 about safety and self-responsibility when using cellular telephone
2 equipment.

3 (2) The Office of the Attorney General, Consumer Protection
4 Division, the Guam Police Department, and the Department of
5 Revenue and Taxation *shall* notify all stores that sell cellular
6 telephone equipment or cellular telephone equipment service
7 contracts, of the requirements of this Act by advertising in local
8 newspapers of general circulation on Guam, and *shall* prepare an
9 information brochure on sexting and make copies available to all such
10 stores.

11 (3) The Office of the Attorney General *shall* annually report
12 to *I Liheslatura* on the effectiveness of the brochure preparation and
13 distribution required by this Subsection.

14 (c) The owners of any store or other retail mercantile establishment
15 which violates Subsection (b) *shall* be subject to a penalty *not to exceed* One
16 Thousand Dollars (\$1,000.00) per each violation, and if applicable be
17 subject to the sentence imposed for corporations under §80.16 of Title 9
18 G.C.A.”

19 **Section 9.** §3112.1 of Article 1, Chapter 3 of Title 17, Guam Code
20 Annotated, is hereby *amended* to read:

21 **“§3112.1. Same: Policy Against Bullying.**

22 (a) As used in this Section:

23 (1) ‘at school’ means in a classroom, elsewhere on or
24 within school fences or at a school-sponsored activity or event
25 whether or not it is held on school premises.

26 (2) ‘harassment, intimidation, or bullying’ means any
27 gesture or written, verbal, or physical act that a reasonable

1 person under the circumstances should know will have the
2 effect of harming a pupil or damaging his or her property or
3 placing a pupil in reasonable fear of harm to his or her person
4 or damage to his or her property, or that has the effect of
5 insulting or demeaning any pupil or group of pupils in such a
6 way as to disrupt or interfere with the school's educational
7 mission or the education of any pupil. 'Harassment,
8 intimidation, or bullying' includes, but is *not* limited to, such a
9 gesture or written, verbal, or physical act that is reasonably
10 perceived as being motivated by a pupil's religion, race, color,
11 national origin, age, sex, sexual orientation, disability, height,
12 weight, or socioeconomic status, or by any other distinguishing
13 characteristic.

14 (3) "Cyberbullying" means the use of any electronic
15 communication device to harass, intimidate or bully as defined
16 in the above Subsection (2).

17 (b) The Guam Education Board (Board) *shall* adopt a policy
18 prohibiting "harassment, intimidation, or bullying" and
19 "cyberbullying" at school. The content of the policy *shall* be
20 determined by the Board but *shall* contain *at least* the components in
21 Subsection (c). The policy *shall* be adopted through a process that
22 includes representation of parents or guardians, pupils, teachers, staff,
23 administrators, volunteers, and community representatives.

24 (c) The policy *shall* include *at least* each of the following
25 components:

26 (1) A statement prohibiting "harassment, intimidation,
27 or bullying" and "cyberbullying" of a pupil.

1 (2) A definition of “harassment, intimidation, or
2 bullying” and “cyberbullying” that includes at least the acts
3 described in the definition in this Section.

4 (3) A description of the type of behavior expected
5 from each pupil.

6 (4) Consequences and appropriate remedial action for
7 a person who commits an act of “harassment, intimidation, or
8 bullying” and “cyberbullying”.

9 (5) A procedure for reporting an act of “harassment,
10 intimidation, or bullying” and “cyberbullying”, including a
11 provision that permits a person to report an act of “harassment,
12 intimidation, or bullying” and “cyberbullying” anonymously.
13 However, this Subsection *shall not* be construed to permit
14 formal disciplinary action solely on the basis of an anonymous
15 report.

16 (6) A procedure for prompt investigation of reports of
17 violations and complaints, identifying either the principal or the
18 principal’s designee as the person responsible for the
19 investigation.

20 (7) The range of ways in which a school will respond
21 once an incident of “harassment, intimidation, or bullying” and
22 “cyberbullying” is identified.

23 (8) A statement that prohibits reprisal or retaliation
24 against any person who reports an act of “harassment,
25 intimidation, or bullying” and “cyberbullying”, and the
26 consequences and appropriate remedial action for a person who
27 engages in that type of reprisal or retaliation.

1 (9) Consequences and appropriate remedial action for
2 a person found to have falsely accused another as a means of
3 retaliation or as a means of “harassment, intimidation, or
4 bullying” and “cyberbullying”.

5 (10) A statement of how the policy is to be publicized,
6 including notice that the policy applies to participation in
7 school-sponsored activities.

8 (11) A school employee, pupil, or volunteer *shall not*
9 engage in reprisal, retaliation, or false accusation against a
10 victim, witness, or one with reliable information about an act of
11 “harassment, intimidation, or bullying” and “cyberbullying”.

12 (12) A school employee or volunteer who has
13 witnessed, or has reliable information that a pupil has been
14 subjected to “harassment, intimidation, or bullying” and
15 “cyberbullying”, whether verbal or physical, *shall* report the
16 incident to the appropriate school official designated by the
17 Board policy.

18 (13) A school employee who promptly reports an
19 incident of “harassment, intimidation, or bullying” and
20 “cyberbullying” to the appropriate school official designated by
21 the Board policy, and who makes this report in compliance with
22 the procedures in the policy prohibiting “harassment,
23 intimidation, or bullying” and “cyberbullying” is *not* liable for
24 damages arising from any failure to remedy the reported
25 incident.

1 (d) The Board *shall* adopt the policy under this Section and
2 transmit a copy of its policy to the Superintendent of Education by
3 June 30, 2011.

4 (e) The Board *shall* ensure that notice of the policy under
5 this Section is included in any publication that sets forth the
6 comprehensive rules, procedures, and standards of conduct for all
7 schools, and in its pupil handbooks.

8 (f) Public schools are required to form “bullying” and
9 “cyberbullying” prevention task forces; implement prevention,
10 intervention, and remediation programs; and explore other initiatives
11 that involve the school community, law enforcement, assistance
12 organizations, and community members. School community is
13 defined as parents or guardians, pupils, teachers, staff, and
14 administrators.

15 (g) Each school *shall* do all of the following:

16 (1) provide training on the school’s “harassment,
17 intimidation, or bullying” and “cyberbullying” policies to the
18 school community and volunteers who have significant contact
19 with pupils; and

20 (2) develop a process for discussing the “harassment,
21 intimidation, or bullying” and “cyberbullying” policy with
22 pupils as part of the curriculum.

23 (h) A school *shall* incorporate information regarding its
24 policy against “harassment, intimidation, or bullying” and
25 “cyberbullying” into its employee training program.

1 (i) This Section does *not* prevent a victim from seeking
2 redress under any other available law, either civil or criminal. This
3 Section does *not* create or alter any tort liability.

4 (j) The Board *shall* establish rules for appropriate
5 disciplinary action for the Department of Education personnel who do
6 *not* comply with the policy prohibiting “harassment, intimidation, or
7 bullying” and “cyberbullying”.

8 (k) “Harassment, Intimidation, or Bullying” and
9 “Cyberbullying” are CRIMINAL IN NATURE and any of these
10 actions can constitute a criminal offense that is chargeable under
11 Guam law.”

12 **Section 10. Severability.** *If* any provision of this law or its application to
13 any person or circumstance is found to be invalid or contrary to Law, such
14 invalidity *shall not* affect other provisions or applications of this law which can be
15 given effect without the invalid provisions or application, and to this end the
16 provisions of this Law are severable.

17 **Section 11. Effective Date.** This Act *shall* be effective upon enactment.

6

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 2/24/11

VOTING SHEET

Bill No. 41-31 (COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Thirty-First
Guam Legislature

COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

February 16, 2011

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'Trentai Unu na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairman, Committee on Rules *[Signature]*
RE : Committee Report – Bill No. 41-31 (COR).

2011 FEB 21 AM 9:00 *[Signature]*

The Committee on Public Safety, Law Enforcement and Judiciary, to which was referred, **BILL NO. 41-31 (COR) "AN ACT TO AMEND §§ 19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§ 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND § 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING,"** hereby reports out with the recommendation **TO PASS**.

Committee Votes are as follows:

<u>11</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>0</u>	TO REPORT OUT ONLY
<u>0</u>	ABSTAIN
<u>0</u>	INACTIVE FILE

Sincerely,
[Signature]
ADOLPHO B. PALACIOS, MPA, BS/CJA
Chairman

Attachments

Committee Members:

- Senator Thomas C. Ada
Vice Chairman
- Speaker Judith T. Won Pat, Ph.D.
Member
- Senator Tina R. Muna-Barnes
Member
- Senator Judith P. Guthertz, DPA
Member
- Senator Rory J. Respicio
Member
- Senator Dennis G. Rodriguez, Jr.
Member
- Senator V. Anthony Ada
Member
- Senator Christopher M. Duenas
Member
- Senator Mana Silva-Tajerón
Member
- Senator Alinc A. Yamashita, Ph.D.
Member

Other Committee Membership:

- Vice Chairman, Committee on Utilities, Transportation, Public Works and Veterans Affairs
- Vice Chairman, Committee on Health and Human Services, Senior Citizens, Economic Development and Election Reform
- Member, Committee on Rules, Federal, Foreign & Micronesian Affairs and Human & Natural Resources
- Member, Committee on Education and Public Libraries
- Member, Committee on Guam Military Buildup and Homeland Security
- Member, Committee on Municipal Affairs, Tourism, Housing and Recreation

Office/Mailing Address: 155 Hesler Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

COMMITTEE REPORT
ON
BILL NO. 41-31 (COR)
By Vice Speaker Benjamin J. F. Cruz

AN ACT TO AMEND §§ 19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§ 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND § 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING.

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Thirty-First
Guam Legislature

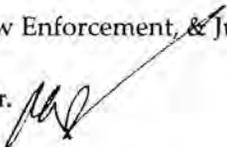
COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

February 14, 2011

MEMORANDUM

TO: ALL MEMBERS
Committee on Public Safety, Law Enforcement, & Judiciary

FROM: Senator Adolpho B. Palacios, Sr. 
Committee Chairman

SUBJECT: Committee Report on Bill No. 41-31 (COR).

Transmitted herewith for your consideration is the Committee Report on Bill No. 41-31 (COR) – An act to amend §§ 19.69, 19.70, and 61.20 of Title 9, Guam Code Annotated; to add new §§ 61.20.1, 28.90, 29.100, and 28.101 to Title 9, Guam Code Annotated; and to amend § 3112.1 of Title 17, Guam Code Annotated; relative to bullying, cyberbullying, and sexting.– by Vice Speaker Benjamin J. F. Cruz.

This report includes the following:

- Committee Voting Sheet
- Committee Report Digest
- Copy of Bill No. 41-31 (COR) as introduced
- Public Hearing Sign-in Sheets
- Copies of testimony submitted and supporting documents
- Copy of COR Referral of Bill No. 41-31 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Miscellaneous related documents

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please contact this office.

Si Yu'os ma'ase!

Committee Members:

Senator Thomas C. Ada
Vice Chairman

Speaker Judith T. Won Pat, Ph.D.
Member

Senator Tina R. Muña Barnes
Member

Senator Judith P. Gurfertz, DPA
Member

Senator Rory J. Respicio
Member

Senator Dennis G. Rodriguez, Jr.
Member

Senator V. Anthony Ada
Member

Senator Christopher M. Duenas
Member

Senator Mana Silva-Tajerón
Member

Senator Aline A. Yamashita, Ph.D.
Member

*Other Committee
Membership:*

Vice Chairman, Committee on
Utilities, Transportation, Public
Works and Veterans Affairs

Vice Chairman, Committee on
Health and Human Services,
Senior Citizens, Economic
Development and Election
Reform

Member, Committee on Rules,
Federal, Foreign & Micronesian
Affairs and Human & Natural
Resources

Member, Committee on
Education and Public Libraries

Member, Committee on Guam
Military Buildup and Homeland
Security

Member, Committee on
Municipal Affairs, Tourism,
Housing and Recreation

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

VOTING SHEET ON:

Bill No. 41-31 (COR) - An act to amend §§ 19.69, 19.70, and 61.20 of Title 9, Guam Code Annotated; to add new §§ 61.20.1, 28.90, 29.100, and 28.101 to Title 9, Guam Code Annotated; and to amend § 3112.1 of Title 17, Guam Code Annotated; relative to bullying, cyberbullying, and sexting.

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman		2/15/11				
Thomas C. Ada Vice Chairman		2/15/11				
Tina R. Muña-Barnes Member		2/15/11				
Judith P. Guthertz, DPA Member		2/15/11				
Rory J. Respicio Member		2/15/11				
Dennis G. Rodriguez, Jr. Member		2/16/11				
Judith T. Won Pat, Ed.D. Member		02/15/11				
V. Anthony Ada Member		2/15/11				
Christopher M. Duenas Member		2/15				
Mana Silva Tajeron Member		2/16/11				
Aline A. Yamashita, Ph.D. Member		2/15/11				



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

COMMITTEE REPORT DIGEST

Bill No. 41-31 (COR) – “An act to *amend* §§ 19.69, 19.70, and 61.20 of Title 9, Guam Code Annotated; to add new §§ 61.20.1, 28.90, 29.100, and 28.101 to Title 9, Guam Code Annotated; and to *amend* § 3112.1 of Title 17, Guam Code Annotated; relative to bullying, cyberbullying, and sexting.” – by Vice Speaker Benjamin J. F. Cruz.

I. OVERVIEW

The Committee on Public Safety, Law Enforcement and Senior Citizens convened the public hearing on February 7, 2011 at 9:03 a.m. in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of Bill No. 41-31 (COR) - “An act to *amend* §§ 19.69, 19.70, and 61.20 of Title 9, Guam Code Annotated; to add new §§ 61.20.1, 28.90, 29.100, and 28.101 to Title 9, Guam Code Annotated; and to *amend* § 3112.1 of Title 17, Guam Code Annotated; relative to bullying, cyberbullying, and sexting,” sponsored by Vice Speaker Benjamin J. F. Cruz.

Public Hearing Requirements

Notices of the hearing were disseminated via facsimile and email to all senators and all main media broadcasting outlets on January 28, 2011 (5-day Notice) and on February 2, 2011 (48-Hour notice) pursuant to meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature’s website.

Senators Present

Senator Adolpho B. Palacios, Sr., Chairman

Senator Thomas C. Ada, Vice Chairman

Speaker Judith T. Won Pat, Ed.D., Member

Senator Rory J. Respicio, Member

Senator Tina Muna-Barnes, Member

Senator Anthony V. Ada, Member

Senator Aline A. Yamashita, Ph.D., Member

Senator Mana Silva Taijeron, Member

Individual(s) Registered for oral or written testimony:

Mr. Phil Tydingco, Deputy Attorney General, Office of the Attorney General, oral testimony, in favor of Bill.

Ms. Carol Hinkle-Sanchez, Office of the Attorney General, oral testimony, in favor of Bill.

Mr. Chris Anderson for Nerissa Bretania Underwood, Ph.D., Superintendent, Department of Education, written testimony in favor of Bill.

Ms. Arlene Unpingco, Department of Education, written testimony, in favor.

Mr. Richard C. Brown, Guam System of Care Council, oral testimony, in favor of Bill.

Ms. Kathryn Davis-Finch, private citizen, oral testimony, in favor of Bill.

Mr. Arthur San Agustin, Department of Public Health and Social Services, oral and written testimony in favor of Bill.

Cpt. Steve Ignacio, Guam Police Department, oral testimony, in favor of Bill.

Alicia A.G. Limtiaco, U.S. Attorney, written testimony in favor of Bill.

Adonis J. Mendiola, Acting Director, Department of Youth Affairs, written testimony in favor of Bill.

Ms. Ovita Perez, MSW, President, Guam Chapter, National Association of Social Workers, written testimony in favor of Bill.

II. SUMMARY OF TESTIMONIES

Chairman Adolpho B. Palacios, Sr. convened the public hearing for the Committee on Public Safety, Law Enforcement, and Judiciary at 9:03 a.m., read the title of the bill and allowed Senator Tina R. Muna-Barnes to introduce the bill and summarize its content.

Deputy Attorney General Phil Tydingco stated that Carol Hinkle-Sanchez worked in conjunction with then Attorney General Limtiaco and current Attorney General Rapadas to bring the bill forward. He stated that the existing law needs to be updated for the newer technologies. He said that there is a need to update the statutes regarding cyberbullying and addressing sexting appropriately for young offenders. He further suggested that additional education is needed among the youth.

Carol Hinkle-Sanchez agreed with Mr. Tydingco. She stated that cyberbullying is the most commonly utilized form of bullying. She pointed out the changes to the different statutes. She said that the intent of the sexting provision is to help young men and women to understand that sexting often results in child pornography and allows for the diversion of youth offenders. The Attorney General's Office supports this bill.

Chris Anderson stated that the Department of Education supports the bill. He read the testimony of Dr. Nerissa Bretania-Underwood. (*See attached written testimony.*)

Richard Brown, Guam System of Care Council, stated that the human brain does not fully mature into the early twenties (20s). He suggests that juvenile status should be extended to a higher age.

Arthur San Agustin gave a brief summary of his written testimony. (*See attached written testimony.*)

Senator Muna-Barnes asked about search and seizure and Mr. Tydingco stated that there would have to be probable cause. He stated that the Attorney General's Office and investigators are trying to improve their responses to crimes that are committed online or by electronic communications.

Ms. Hinkle-Sanchez stated that often an investigator would interact with federal agencies and forward concerns to a social networking site and get the activity stopped. Mr. Tydingco stated that the current law does not address electronic communications. He stated that the bill would allow online harassment to be stopped.

Senator Rory Respicio made a joke about Mr. San Agustin's pending confirmation. He is glad that U.S. Attorney Limtiaco has submitted testimony in support of the bill. Senator Respicio raised his concern about underage offenders which have committed the sexting offense being placed on the Sex Offender Registry. Mr. Tydingco stated that the Attorney General's Office has used their discretion to keep juvenile offenders off the Sex Offender Registry. Senator Respicio raised his concern that it does not address hate crimes. Mr. Tydingco stated that it includes harassment, but not hate crimes, in particular.

Speaker Judith T. Won Pat asked about the responsibility of the school outside of school grounds but within the school's purview. Mr. Anderson stated concerns that the bill may increase the school system's liability for off-campus conduct of students.

Senator Mana Silva Tajeron asked what kind of protections are available so that sexters are held accountable. Ms. Hinkle-Sanchez replied that often sexting messages are transferred to other media which are able to be shared for enforcement purposes. Senator Tajeron asked whether the media is saved by cell providers and Ms. Hinkle-Sanchez responded that it may be if there is memory on the phone.

Captain Steve Ignacio raised concerns about the violation of the law and the disconnection of wireless service. Phil Tydingco stated that it is generally considered upon conviction unless it is subject to administrative forfeiture. Captain Ignacio feels that it would be very effective for a requirement that labels be placed on the cellphone

packaging warning about cyberbullying or sexting, much like warnings are placed on packages of cigarettes.

Chairman Adolpho B. Palacios, Sr., declared that Bill No. 41-31(COR) is duly heard. The Chairman concluded the hearing and requests that written testimony be submitted within the next ten (10) days. He adjourned the hearing at 1:23 p.m.

III. WRITTEN TESTIMONIES

Nerissa Bretania Underwood, Ph.D., Superintendent, Department of Education

Dr. Underwood supports the bill. She believes that retail stores should be required to provide information on cyberbullying and sexting to its customers and that the definition of school responsibility should be limited to within the perimeter fences of a school or school sponsored activities outside school grounds. *(See attached written testimony.)*

Arthur U. San Agustin, MHR, Acting Director, Department of Public Health and Social Services. Mr. San Agustin supports Bill 41. He stated that many young people do not understand the magnitude of their actions and their impacts on others. He agrees that those who sell cellular phones or contracts should provide informational brochures on sexting. *(See attached written testimony.)*

Alicia A.G. Limtiaco, U.S. Attorney. Ms. Limtiaco supports attempts to combat bullying and cyberbullying. "The Department of Justice is committed to protecting the civil rights of our students." *(See attached written testimony.)*

Adonis J. Mendiola, Acting Director, Department of Youth Affairs. Mr. Mendiola stated DYA's support for Bill 41. He believes passage of the bill will serve as a deterrent and protection of children. *(See attached written testimony.)*

Ovita Perez, MSW, President, Guam Chapter, National Association of Social Workers. Ms. Perez stated her support of Bill 41, which she believes embodies the value of social justice. *(See attached written testimony.)*

Mary Weakley, BSW, Program Director, Latte Treatment Center, LLC. Ms. Weakley submitted written testimony on February 16, 2011 in support of Bill 41. Latte Treatment Center supports the concern of this growing problem that leads to physical assault, emotional harassment, intimidation and mistreatment of the weaker and vulnerable children or minors within the community.

No additional further written testimony received within the ten (10) day period after the public hearing.

IV. FINDINGS AND RECOMMENDATIONS

The Committee on Public Safety, Law Enforcement and Judiciary hereby reports out **Bill No. 41-31 (COR), as introduced**, with the recommendation **TO PASS**.

I MINA' TRENTAI UNO NA LIHESLATURAN GUÅHAN
2011 First (Regular) Session

Bill No. 41-31 (COR)

Introduced by:

B.J.F. Cruz
T.R. Muna Barnes

2011 JUN 20 PM 1:22

AN ACT TO AMEND §§ 19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§ 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND § 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING.

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

3 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
4 finds that there is both a concern and alarm among families, parents,
5 children, and our community about the growing contemporary problem of
6 not only actual physical assault but also emotional harassment, intimidation,
7 and mistreatment of weaker or vulnerable children or minors by others. This
8 bullying is reported to be on the rise and, in this electronic, digital, or
9 computer age is occurring more commonly and frequently on the Internet
10 and transmitted onto cellular phones and computers, which is now called
11 “cyberbullying.” *I Liheslaturan Guåhan* finds that bullying and
12 cyberbullying as forms of harassment and stalking can be addressed by
13 updating and amending our current related criminal laws.

14 *I Liheslaturan Guåhan* also finds that “sexting” has become a more
15 evident problem within our juvenile community as a result of the easy

1 accessibility of electronic devices among our youth community. The
2 teenage practices of sexting and posting sexual images online are nationwide
3 problems that have perplexed parents, school administrators, and law
4 enforcement officials. Prosecutors in several states have charged teenagers
5 who have engaged in these behaviors with criminal offenses, including
6 distribution of child pornography. Sexting, which is a new term of art, refers
7 to “the use of a cell phone to send sexually suggestive texts or emails with
8 nude or nearly nude photos.” Sexting has been on the increase in our
9 community, and has not only resulted in problems of itself, but it has been
10 linked to other problems and crimes within our youth community like
11 bullying, cyberbullying, assault, harassment, and even criminal sexual
12 conduct. Like the rest of the nation, Guam has had to charge juveniles with
13 other more serious criminal offenses like distribution of child pornography.
14 *The National Campaign to Prevent Teen and Unplanned Pregnancy*
15 conducted research that shows the following statistics with respect to
16 sexting: 39 percent of all teens have sent sexually suggestive texts; 48
17 percent of teens say they have received such messages; 71 percent of teen
18 girls and 67 percent of teen boys who have sent or posted sexually
19 suggestive content say they have sent or posted this content to a
20 boyfriend/girlfriend; 21 percent of teen girls and 39 percent of teen boys say
21 they have sent such content to someone they wanted to date or “hook up”
22 with; 38 percent of teens say they have had sexually suggestive text
23 messages, originally meant for someone else, shared with them; and 25
24 percent of teen girls and 33 percent of teen boys say they have had semi-
25 nude or nude images, originally meant for someone else, shared with them.
26 In an attempt to battle this growing problem, *I Liheslaturan Guåhan* enacts
27 this legislation addressing two different forms of sexting among our youth:

1 Illegal Use of a Computer or Telecommunications Device to Disseminate
2 Prohibited Materials Involving a Minor.

3 *I Liheslaturan Guåhan* further finds that there is a need to create a
4 diversionary program for first-time offending juveniles who can be charged
5 for sexting or posting of sexual images via electronic devices as a preventive
6 measure and means to educate juveniles about the severity of this type of
7 behavior, and the possible consequences for such a crime. *I Liheslaturan*
8 *Guåhan* wishes to establish an educational program that is intended to be an
9 alternative to prosecution for juveniles who are charged with a criminal
10 offense for posting sexually suggestive or sexually explicit photographs,
11 usually on the Internet. The educational program would include juveniles
12 who engage in the behavior commonly known as Sexting, in which sexually
13 suggestive or explicit pictures are transmitted via cell phones.

14 The bill would require the Office of the Attorney General, Family
15 Division, or whichever designated division of the Office of the Attorney
16 General that addresses matters involving juveniles in the community of
17 Guam, to incorporate such a diversionary program under its current services.
18 Such diversionary program would be similar to or incorporated under the
19 current Pre-Adjudicatory Diversionary Program that the Office of the
20 Attorney General currently utilizes. The program would require that the
21 Office of the Attorney General develop an educational program for juveniles
22 who commit an eligible offense as defined in this Act. The Office of the
23 Attorney General shall then consult with the Judiciary of Guam, Juvenile
24 Probation Division, to discuss and implement such educational program, to
25 include the same or similar conditions as the current Pre-Adjudicatory
26 Diversionary Program between the Office of the Attorney General and
27 Judiciary of Guam, Juvenile Probation Division. The Office of the Attorney

1 General shall be the sole agency responsible for the determination as to
2 whether a minor may be admitted into the diversionary program. A juvenile
3 who successfully completes the program would have the opportunity to
4 avoid prosecution, and any records relating to such an offense, upon
5 completion of the program, would be dismissed and expunged.

6 Admission to the program would be limited to juveniles who: (1) have
7 not previously been adjudicated delinquent for or convicted of a criminal
8 offense; (2) were not aware that their actions could constitute and did not
9 have the intent to commit a criminal offense; (3) may be harmed by the
10 imposition of criminal sanctions; and (4) would likely be deterred from
11 engaging in similar conduct in the future by completing the program.

12 *I Liheslaturan Guåhan* finds that such educational program will be
13 beneficial to the community of Guam, and more so, in the best interests of
14 the youth in our community as such program is designed to provide
15 information concerning: the legal consequences of and penalties for sexting
16 or posting sexual pictures online, including the applicable local and federal
17 statutes; the non-legal consequences of sexting or posting such pictures,
18 including, but not limited to, the effect on relationships, loss of educational
19 and employment opportunities, and being barred or removed from school
20 programs and extracurricular activities; how the unique characteristics of
21 cyberspace and the Internet can produce long-term and unforeseen
22 consequences for sexting and posting such photographs; and the connection
23 between bullying and cyber-bullying and juveniles sexting or posting sexual
24 images.

25 *I Liheslaturan Guåhan* further finds that the need to impose upon
26 retail stores which sell cellular telephone equipment or cellular telephone
27 equipment service contracts, the responsibility of providing informational

1 brochures about sexting to customers who purchase such equipment or
2 contracts, is vital in the prevention and education of sexting. The need for
3 active participation from these particular retail stores in providing such
4 informational brochures will ensure that purchasers of these devices are
5 educated up front about the illegal use of these devices and the consequences
6 of such illegal actions. This bill supplements Guam's consumer fraud act
7 making it an unlawful practice for any retail mercantile establishment to sell
8 cellular telephone equipment or to sell or renew cellular telephone service
9 contracts, unless the store encloses an informational brochure with such
10 equipment or contracts, that describes the dangers of sexting, the criminal
11 penalties that may be associated with sexting, and the names, addresses, and
12 telephone numbers of qualified organizations that can provide information to
13 the customer concerning responsible cellular telephone usage.

14 The bill directs the Office of the Attorney General, Consumer
15 Protection Division, to notify stores which sell cellular telephone equipment
16 and cellular telephone equipment service contracts, about the bill's
17 requirements by advertising it in Guam local newspapers. In addition, the
18 bill requires that *I Liheslaturan Guåhan* provide funding to the Office of the
19 Attorney General to advertise such information on a yearly basis, as well as
20 adequate funding for the Office of the Attorney General to prepare and
21 distribute information brochures about sexting to stores throughout Guam
22 for distribution to customers who purchase such equipment or contracts from
23 the stores.

24 **Section 2.** Section 19.69 of Title 9, Guam Code Annotated, is hereby
25 *amended* to read:

26 “§ 19.69. **Definitions.**

27

1 Unless otherwise indicated, as used in § 19.70:

2 (a) *Harasses* or *harassment* means a knowing and willful
3 course of conduct, whether physical, verbal, written, electronic,
4 telephonic, ~~written~~, via or by use of a computer, computer network,
5 computer system, telephone network, data network, test message,
6 instant message, or otherwise, directed at a specific person which
7 alarms, annoys, or distresses the person, and which serves no
8 legitimate purpose. Such course of conduct must be of a nature to
9 cause a reasonable person to suffer substantial emotional distress, and
10 must cause substantial emotional distress.

11 (b) *Course of conduct* means a pattern of conduct composed of
12 a series of acts over a period of time, however short, evidencing
13 continuity of purpose. Constitutionally and statutorily protected
14 activity, including but not limited to picketing as a result of a labor
15 dispute, is not included in this definition.

16 (c) *Credible threat* means any threat, physical or verbal, overtly
17 or subtly manifested, constituting a threat with the intent and apparent
18 ability to carry out the threat with the person who is the target of the
19 threat to reasonably fear for his or her safety or the safety of his or her
20 immediate family. Such threatening advance must be against the life
21 of, or a threat to cause bodily injury to, the person threatened or to a
22 member of his or her immediate family.

23 (d) Computer means any electronic, magnetic, optical,
24 electrochemical, or other high-speed data processing device
25 performing logical, arithmetic, or storage functions, and includes, all
26 computer equipment connected or related to such a device in a
27 computer system or computer network, but shall not include an

1 automated typewriter or typesetter, a portable hand-held calculator, or
2 other similar device.

3 (e) Computer network means two (2) or more computers or
4 computer systems, interconnected by communication lines, including
5 microwave, electronic, or any other form of communication.

6 (f) Computer system means a set of interconnected computer
7 equipment intended to operate as a cohesive system.”

8 **Section 3.** Section 19.70 of Title 9, Guam Code Annotated, is hereby
9 *amended* to read:

10 **“§ 19.70. Stalking.**

11 (a) A person is guilty of simple stalking if he or she willfully,
12 maliciously, and repeatedly, follows or ~~harasses~~ **harasses** another person or
13 who makes a credible threat with intent to place that person or a member of
14 his or her immediate family in fear of death or bodily injury.

15 (b) A person is guilty of advanced stalking if he or she violates
16 subsection (a) of this section when there is a temporary restraining order or
17 an injunction or both or any other court order in effect prohibiting the
18 behavior described in that subsection against the same party.

19 (c) A person is guilty of advanced stalking if he or she violates
20 subsection (a) of this section a second or subsequent time against the same
21 victim, within seven (7) years of a prior conviction under that subsection,
22 and involving an harassment or a credible threat of violence, as defined in
23 this § 19.69 of this Chapter.

24 (d) Simply stalking is a felony of the third degree.

25 (e) Advanced stalking is a felony of the second degree.

26 (f) This section shall not apply to conduct which occurs during labor
27 picketing.”

1 **Section 4.** Section 61.20 of Title 9, Guam Code Annotated, is hereby
2 *amended* to read:

3 **“§ 61.20 Harassment; Defined & Punished.**

4 A person commits a petty misdemeanor if, with intent to harass
5 another, he:

6 (a) makes, or causes to be made, a communication
7 anonymously or at extremely inconvenient hours, or in offensively
8 coarse language, or any other manner likely to cause annoyance or
9 alarm;

10 (b) subjects another to striking, kicking, shoving or other
11 offensive touching, or threatens to do so; or

12 (c) engages in any other course of alarming conduct or of
13 repeatedly committed acts which alarm or seriously annoy such other
14 person serving no legitimate purpose of the defendant.

15 (d) Every person who with intent to annoy, telephones, ~~or~~
16 telefaxes, or communicates by use of any telephone network, data
17 network, text message, instant message, computer, computer network,
18 or computer system with another person and addresses to or about
19 such other person any obscene language is guilty of a misdemeanor.

20 (e) Every person who makes a telephone call, ~~or~~
21 telefax transmission, or any transmission by use of a telephone network, data
22 network, text message, instant message, computer, computer network,
23 or computer system with intent to annoy and without disclosing his
24 true identity to the person answering the telephone or receiving the
25 telefax transmission or transmission received from any telephone
26 network, data network, text message, instant message, computer,
27 computer network, or computer system, whether or not conversation

1 or return transmission ensues from making the telephone call or the
2 transmission, is guilty of a misdemeanor.

3 (f) Any offense committed by use of a telephone, ~~or~~ telefax
4 machine, or any telephone network, data network, text message,
5 instant message, computer, computer network, or computer system as
6 set out in this section may be deemed to have been committed at
7 either the place at which the telephone calls, ~~or~~ telefax transmissions
8 , or any transmission by use of a telephone network, data network,
9 text message, instant message, computer, computer network, or
10 computer system were made or received. In the event that a customer
11 of a telephone service provider, wireless service provider, or an
12 internet service provider receives harassing telephone calls or
13 transmissions received via or by use of a telephone network, data
14 network, text message, instant message, computer, computer network,
15 or computer system, such customer may file an injunction complaint
16 under the name of John Doe, although the telephone service provider
17 may release the name, address, and telephone number of the plaintiff
18 to the Superior Court of Guam. The telephone service provider,
19 wireless service provider, or an internet service provider shall
20 disconnect all telephone services or computer or wireless services to
21 any subscriber who has violated the provisions of this section more
22 than one (1) time.

23 (g) Subsections (d) or (e) of this section are violated when the
24 person acting with intent to annoy makes a telephone call, ~~or~~ telefax
25 transmission, or any transmission by use of a telephone network, data
26 network, text message, instant message, computer, computer network,
27 or computer system requesting a return call or return transmission and

1 performs the acts prohibited under such subsections upon receiving
2 the return call or transmission.”

3 **Section 5.** A new Section 61.20.1 is hereby *added* to Chapter 61 of
4 Title 9, Guam Code Annotated to read as follows:

5 **“§ 61.20.1 Definitions.**

6 Unless otherwise indicated, as used in § 61.20:

7 (a) *Computer* means any electronic, magnetic, optical,
8 electrochemical, *or* other high-speed data processing device
9 performing logical, arithmetic, *or* storage functions, and includes, all
10 computer equipment connected *or* related to such a device in a
11 computer system *or* computer network, but *shall not* include an
12 automated typewriter or typesetter, a portable hand-held calculator, *or*
13 other similar device.

14 (b) *Computer network* means two (2) or more computers or
15 computer systems, interconnected by communication lines, including
16 microwave, electronic, or any other form of communication.

17 (c) *Computer system* means a set of interconnected computer
18 equipment intended to operate as a cohesive system.”

19 **Section 6.** A new Section 28.90 is hereby added to Article 2, Chapter
20 28 of Title 9, Guam Code Annotated, to read as follows:

21 **“§ 28.90. Obscene, anonymous, harassing and threatening**
22 **communications by computer; Defined & Punished.**

23 (a) It is unlawful for any person, with the intent to harass or
24 abuse another person, to use a computer to:

25 (1) Make contact via the internet with another without
26 disclosing his or her identity with the intent to harass or abuse;

1 (2) Make contact via the internet with a person after being
2 requested by the person to desist from contacting them;

3 (3) Threaten via the internet to commit a crime against any
4 person or property; or Cause obscene material to be delivered or
5 transmitted via the internet to a specific person after being requested
6 to desist from sending such material.

7 (4) Publish via the internet a webpage or posting on a
8 newsgroup untrue statements about another person which are false
9 and designed to entice or encourage other people to ridicule or
10 perpetuate the untruth about that person.

11 For purposes of this Article and sections therein, “obscene
12 material” means material that:

13 (A) An average person, applying contemporary adult
14 community standards, would find, taken as a whole, appeals to
15 the prurient interest, is intended to appeal to the prurient
16 interest, or is pandered to a prurient interest;

17 (B) An average person, applying contemporary adult
18 community standards, would find, depicts or describes, in a
19 patently offensive way, sexually explicit conduct consisting of
20 an ultimate sexual act, normal or perverted, actual or simulated,
21 an excretory function, masturbation, lewd exhibition of the
22 genitals or sadomasochistic sexual abuse; and

23 (C) A reasonable person would find, taken as a whole,
24 lacks literary, artistic, political or scientific value.

25 (b) It is unlawful for any person to knowingly permit a
26 computer under his or her control to be used for any purpose
27 prohibited by this section.

1 (c) Any offense committed under this section may be
2 determined to have occurred at the place at which the contact
3 originated or the place at which the contact was received or intended
4 to be received.

5 (d) Any person who violates a provision of this section is guilty
6 of a misdemeanor and, upon conviction thereof, shall be fined not
7 more than \$1,000 or imprisoned for not more than one year, or both.”

8 **Section 7.** A new Section 28.100 is hereby *added* to Article 2,
9 Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

10 **“§28.100. Illegal Use of a Computer or Telecommunications**
11 **Device to Disseminate Prohibited Materials Involving a Minor-**
12 **Sexting; Crime Defined and Punished.**

13 (a) A minor is guilty of an offense of Illegal Use of a Computer
14 Telecommunications Device Involving a Minor, otherwise known as
15 Sexting, if the minor, by use of a computer or any telecommunications
16 device, recklessly or knowingly creates, receives, exchanges, sends,
17 disseminates, transmits or possesses a photograph, video, depiction or
18 other material that shows himself or herself, or of another minor, in a
19 state of nudity.

20 (b) It is no defense to a charge under this section that the minor
21 creates, receives, exchanges, sends, or possesses a photograph, video,
22 or other material that shows themselves in a state of nudity.

23 (c) Applicability.--This section shall not apply to the use of a
24 computer or a telecommunications device to transmit or distribute a
25 photograph or other depiction involving sexual intercourse, deviate
26 sexual intercourse, sadism, masochism or masturbation. This section

1 does not prohibit a person guilty under this section to be charged with
2 other chargeable criminal sex offenses under Guam law.

3 (d) An offense under this section constitutes a “status offense”.
4 Any minor found to commits an offense under this section shall be
5 found guilty of illegal use of a telecommunications device involving a
6 minor in a state of nudity, a delinquent act that would be a
7 misdemeanor if it could be committed as an adult.

8 (e) A minor who violates this section is guilty of a separate
9 offense for each separate photograph, video, or other material that
10 shows a minor in a state of nudity which is created, received,
11 exchanged, sent, or possessed.

12 (f) Any minor who is convicted of a violation of this section,
13 shall be ordered in addition to the sentence ordered by the Court, as
14 part of his or her sentence, to participate in the educational program
15 similar to that discussed under subsection (g) of this Section.

16 (g) A juvenile or minor who commits the offense of Illegal Use
17 of a Computer or Telecommunications Device to Disseminate
18 Prohibited Materials Involving a Minor- Sexting, may be eligible for a
19 diversionary program.

20 (1) As used herein, “eligible offense” means an offense
21 chargeable under this Section where:

22 (A)the facts of the case involve the creation,
23 exhibition or distribution without malicious intent of a
24 photograph depicting nudity as defined in that section
25 through the use of a telecommunications device or a
26 computer; and

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(B) the creator and subject of the photograph are juveniles or were juveniles at the time of its making.

(2) The Office of the Attorney General, Family Division, or whichever designated division of the Office of the Attorney General that addresses matters involving juveniles in the community of Guam, will incorporate such a diversionary program under its current services. Such diversionary program would be similar to or incorporated under the current Pre-Adjudicatory Diversionary Program that the Office of the Attorney General currently utilizes. The program would require the Office of the Attorney General to develop an educational program for juveniles who commit an eligible offense as defined in this Act. The Office of the Attorney General shall then consult with the Judiciary of Guam, Juvenile Probation Division, to discuss and implement such educational program, to include the same or similar conditions as the current Pre-Adjudicatory Diversionary Program in place between the Office of the Attorney General and Judiciary of Guam, Juvenile Probation Office. The Office of the Attorney General shall be the sole agency responsible for the determination as to whether a minor may be admitted into the diversionary program. A juvenile who successfully completes the program would have the opportunity to avoid prosecution, and any records relating to such an offense, upon completion of the program, would be dismissed and expunged.

(3) Admission to the program shall be limited to juveniles who:

1 (A) have not previously been adjudicated
2 delinquent for or convicted of a criminal offense under
3 Title 9 of the Guam Code Annotated that constitutes a
4 third degree felony or greater;

5 (B) were not aware that their actions could
6 constitute and did not have the intent to commit a
7 criminal offense;

8 (C) may be harmed by the imposition of criminal
9 sanctions; and

10 (D) would likely be deterred from engaging in
11 similar conduct in the future by completing the program.

12 (4) The educational program shall provide information
13 concerning:

14 (A) the legal consequences of and penalties for
15 sharing sexually suggestive or explicit materials,
16 including applicable local and federal statutes;

17 (B) the non-legal consequences of sharing sexually
18 suggestive or explicit materials including, but not limited
19 to, the effect on relationships, loss of educational and
20 employment opportunities, and being barred or removed
21 from school programs and extracurricular activities;

22 (C) how the unique characteristics of cyberspace
23 and the Internet, including searchability, replicability, and
24 an infinite audience, can produce long-term and
25 unforeseen consequences for sharing sexually suggestive
26 or explicit materials; and

1 (D) the connection between bullying and
2 cyberbullying and juveniles sharing sexually suggestive
3 or explicit materials.

4 (5) The Attorney General may promulgate guidelines to
5 effectuate the provisions of this Section.

6 **Section 8.** A new Section 28.101 is hereby *added* to Article 2,
7 Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

8 **“§ 28.101. Illegal Use of a Computer or Telecommunications**
9 **Device to Disseminate Prohibited Materials Involving a Minor-**
10 **Sexting; Mandatory Distribution of Information Brochure about**
11 **Sexting by Retail Stores Who Sell Cellular Telephone Equipment**
12 **or Cellular Telephone Equipment Service Contracts.**

13 (a) Definitions. As used in this Section:

14 (1) “Cellular telephone equipment” or “equipment” means
15 a wireless telephone handset used in conjunction with wireless
16 telephone service.

17 (2) “Wireless telephone service” means commercial
18 mobile radio service, as defined in subsection (d) of section 332
19 of the Communications Act of 1934 (47 U.S.C. s.332).

20 (3) Sexting is defined in §28.100(a) of Title 9 G.C.A.

21 (4) “Store or other retail mercantile establishment” or
22 “store” means a place where merchandise is displayed, held,
23 stored or sold or offered to the public for sale on Guam.

24 (b) It shall be an unlawful practice for any store or other retail
25 mercantile establishment to sell cellular telephone equipment to an
26 individual, or to sell a contract for cellular telephone equipment
27 service to an individual, or to renew a contract for cellular telephone

1 equipment service with an individual, unless the store encloses an
2 informational brochure with such equipment or contract that informs
3 the individual about the dangers of the practice known as sexting.

4 (1) The informational brochure required pursuant to
5 subsection (b) shall include, but not be limited to, an
6 explanation of the types of criminal penalties that may be
7 imposed on an individual who engages in sexting, as well as a
8 list of the names, telephone numbers, and addresses of agencies
9 qualified and available to answer questions related to sexting,
10 such as the Office of the Attorney General, Consumer
11 Protection Division, or any other government or nonprofit
12 organizations that is dedicated to educating communities about
13 safety and self-responsibility when using cellular telephone
14 equipment.

15 (2) The Office of the Attorney General, Consumer
16 Protection Division, the Guam Police Department, and the
17 Department of Revenue and Taxation shall notify all stores that
18 sell cellular telephone equipment or cellular telephone
19 equipment service contracts, of the requirements of this Act by
20 advertising in local newspapers of general circulation on Guam,
21 and shall prepare an information brochure on sexting and make
22 copies available to all such stores.

23 (3) The Office of the Attorney General shall annually
24 report to the Legislature on the effectiveness of the brochure
25 preparation and distribution required by subsection c. of this
26 section.

1 (c) The owners of any store other retail mercantile
2 establishment which violates subsection (b) shall be subject to the
3 penalty of fines not to exceed \$1,000.00 per each violation, and if
4 applicable be subject to the sentence imposed for corporations under
5 §80.16 of Title 9 G.C.A.”

6 **Section 9.** Section 3112.1 of Title 17, Guam Code Annotated, is
7 hereby *amended* to read:

8 **“§ 3112.1. Same: Policy Against Bullying.**

9 (a) As used in this Section:

10 (1) ‘at school’ means in a classroom, elsewhere on or
11 immediately adjacent to school premises, on a school bus or
12 other school-related vehicle, at an official school bus stop, or at
13 a school-sponsored activity or event whether or not it is held on
14 school premises.

15 (2) ‘harassment, intimidation, or bullying’ means any
16 gesture or written, verbal, or physical act that a reasonable
17 person under the circumstances should know will have the
18 effect of harming a pupil or damaging his or her property or
19 placing a pupil in reasonable fear of harm to his or her person
20 or damage to his or her property, or that has the effect of
21 insulting or demeaning any pupil or group of pupils in such a
22 way as to disrupt or interfere with the school’s educational
23 mission or the education of any pupil. ‘Harassment,
24 intimidation, or bullying’ includes, but is not limited to, such a
25 gesture or written, verbal, or physical act that is reasonably
26 perceived as being motivated by a pupil’s religion, race, color,
27 national origin, age, sex, sexual orientation, disability, height,

1 weight, or socioeconomic status, or by any other distinguishing
2 characteristic.

3 (3) “Cyberbullying” means the use of any electronic
4 communication device to harass, intimidate or bully as defined
5 in the above subsection (2).

6 (b) The Guam Education Policy Board (the ‘Board’) shall
7 adopt a policy prohibiting “harassment, intimidation, or
8 bullying” and “cyberbullying” at school. The content of the
9 policy shall be determined by the Board but shall contain at
10 least the components in Subsection (3). The policy shall be
11 adopted through a process that includes representation of
12 parents or guardians, pupils, teachers, staff, administrators,
13 volunteers, and community representatives.

14 (c) The policy shall include at least each of the following
15 components:

16 (1) A statement prohibiting “harassment,
17 intimidation, or bullying” and “cyberbullying” of a pupil.

18 (2) A definition of “harassment, intimidation, or
19 bullying” and “cyberbullying” that includes at least the
20 acts described in the definition in this Section.

21 (3) A description of the type of behavior expected
22 from each pupil.

23 (4) Consequences and appropriate remedial action
24 for a person who commits an act of “harassment,
25 intimidation, or bullying” and “cyberbullying”.

26 (5) A procedure for reporting an act of
27 “harassment, intimidation, or bullying” and

1 “cyberbullying”, including a provision that permits a
2 person to report an act of “harassment, intimidation, or
3 bullying” and “cyberbullying” anonymously. However,
4 this Subsection shall *not* be construed to permit formal
5 disciplinary action solely on the basis of an anonymous
6 report.

7 (6) A procedure for prompt investigation of reports
8 of violations and complaints, identifying either the
9 principal or the principal's designee as the person
10 responsible for the investigation.

11 (7) The range of ways in which a school will
12 respond once an incident of “harassment, intimidation, or
13 bullying” and “cyberbullying” is identified.

14 (8) A statement that prohibits reprisal or retaliation
15 against any person who reports an act of “harassment,
16 intimidation, or bullying” and “cyberbullying”, and the
17 consequences and appropriate remedial action for a
18 person who engages in that type of reprisal or retaliation.

19 (9) Consequences and appropriate remedial action
20 for a person found to have falsely accused another as a
21 means of retaliation or as a means of “harassment,
22 intimidation, or bullying” and “cyberbullying”.

23 (10) A statement of how the policy is to be
24 publicized including notice that the policy applies to
25 participation in school-sponsored activities.

26 (11) A school employee, pupil, or volunteer shall
27 not engage in reprisal, retaliation, or false accusation

1 against a victim, witness, or one with reliable information
2 about an act of “harassment, intimidation, or bullying”
3 and “cyberbullying”.

4 (12) A school employee or volunteer who has
5 witnessed, or has reliable information that a pupil has
6 been subjected to “harassment, intimidation, or bullying”
7 and “cyberbullying”, whether verbal or physical, *shall*
8 report the incident to the appropriate school official
9 designated by the Board policy.

10 (13) A school employee who promptly reports an
11 incident of “harassment, intimidation, or bullying” and
12 “cyberbullying” to the appropriate school official
13 designated by the Board policy, and who makes this
14 report in compliance with the procedures in the policy
15 prohibiting “harassment, intimidation, or bullying” and
16 “cyberbullying” is not liable for damages arising from
17 any failure to remedy the reported incident.

18 (d) The Board shall adopt the policy under this Section
19 and transmit a copy of its policy to the Superintendent of
20 Education by February 28, 2004.

21 (e) The Board shall ensure that notice of the policy under
22 this Section is included in any publication that sets forth the
23 comprehensive rules, procedures, and standards of conduct for
24 all schools, and in its pupil handbooks.

25 (f) Public schools are required to form “bullying” and
26 “cyberbullying” prevention task forces; implement prevention,
27 intervention, and remediation programs; and explore other

1 initiatives that involve the school community, law enforcement,
2 assistance organizations, and community members. School
3 community is defined as parents or guardians, pupils, teachers,
4 staff, and administrators.

5 (g) Each school shall do all of the following:

6 (1) Provide training on the school's "harassment,
7 intimidation, or bullying" and "cyberbullying" policies to
8 the school community and volunteers who have
9 significant contact with pupils.

10 (2) Develop a process for discussing the
11 "harassment, intimidation, or bullying" and
12 "cyberbullying" policy with pupils as part of the
13 curriculum.

14 (h) A school shall incorporate information regarding its
15 policy against "harassment, intimidation, or bullying" and
16 "cyberbullying" into its employee training program.

17 (i) This Section does not prevent a victim from seeking
18 redress under any other available law, either civil or criminal.
19 This Section does not create or alter any tort liability.

20 (j) The Board shall establish rules for appropriate
21 disciplinary action for the Department of Education personnel
22 who do not comply with the policy prohibiting harassment,
23 intimidation, or bullying.

24 (k) "Harassment, Intimidation, or Bullying" and
25 "Cyberbullying" are CRIMINAL IN NATURE and any of
26 these actions can constitute a criminal offense that is chargeable
27 under Guam Law."

1 **Section 10. Severability.** If any provision of this Law or its
2 application to any person or circumstance is found to be invalid or contrary
3 to law, such invalidity shall not affect other provisions or applications of this
4 Law which can be given effect without the invalid provisions or application,
5 and to this end the provisions of this Law are severable.

6 **Section 11. Effective Date.** This Act shall be effective upon
7 enactment.

8



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

Monday, February 7, 2011

Bill No. 41-31 (COR) – AN ACT TO AMEND §§19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING. – by Vice Speaker B. J. F. Cruz

NAME (Please Print)	AGENCY/ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR
✓ Phil Tydingco	AEO		✓		✓	
✓ Carol Hulse-Sanchez	ACU		✓		✓	
✓ Chris Anderson	DOE		✓	✓	✓	
✓ Arlene Napiergo	DOE			✓	✓	
✓ RICHARD C. BROWN	GSOCC		✓		✓	
Left → Kathryn Davis-Finch	Private		✓			
✓ Arthur San Agustin	DATA3		✓	✓	✓	



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

Monday, February 7, 2011

Bill No. 41-31 (COR) – AN ACT TO AMEND §§19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING. – by Vice Speaker B. J. F. Cruz

NAME (Please Print)	AGENCY/ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR
✓ Steve Ignacio	GPD	482-7130	✓		✓	



DEPARTMENT OF EDUCATION OFFICE OF THE SUPERINTENDENT

www.gdoe.net

P.O. Box D.E., Hagatña, Guam 96932

Telephone: (671)475-0457 or 300-1547/1536 • Fax: (671)472-5003

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Nerissa Bretania Underwood, Ph.D.
Superintendent of Education

February 07, 2011

The Honorable B. J. Cruz
Senator, 31st Guam Legislature
155 Hesler Place
Hagatna, Guam

Testimony on Bill 41-31 Relative to Bullying, Cyber Bullying, and Sexting

Dear Senator Cruz,

Thank you for the opportunity to provide testimony on Bill 41-31, "AN ACT TO AMEND §19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW § 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND SECTION 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING ". The Department of Education (DOE) supports Bill 41-31, because it will help us carry out our mission to *Prepare all students for life, Promote excellence, and Provide support.*

The proposed legislation sends a strong message to our community of the seriousness of cyber bullying and sexting behavior. The Department agrees that our children are vulnerable and at risk to this growing challenge as cell phones and internet access take on an integral part of their development.

The legal consequences outlined in the proposed legislation are appropriate, however, more important are the steps outlined to establish a diversionary program for first time offending juveniles. Education is a key and integral part in effectively combating this challenge. As you may know, DOE in collaboration with the Superior Court of Guam has implemented the Play By the Rules program with 7th grade middle school students for the past two (2) years. This program teaches students all the laws, consequences and judicial processes applicable to juveniles in Guam. Given its preliminary success, the plan is to expand the program into the 9th grade by SY 11-12 using ARRA and Consolidated Grant funds targeting bullying behavior. Since most of our youth will not be adjudicated through the courts, it will be worthwhile to integrate components of this legislation into the program to meet their needs.

The Department of Education agrees with the idea of requiring retail stores to provide information on the seriousness of cyber bullying and Sexting to its customers; parents and students. Aside from brochures, warning stickers on the device may also be helpful in forcing awareness. Because the targeted behavior could happen with computers, this requirement should be extended to computer retailers and internet service providers.

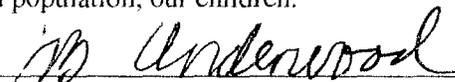
DOE agrees with the proposed expanded definitions in Bill 41-31 and when passed, will ensure they are incorporated into Board Policies 379, 726, 836, and all Acceptable Use Policies at the school level.

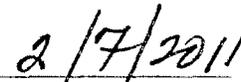
Currently, all the components of Section 9 §3112.1(c) (3) (13) (f), with the exception of the school bullying and cyber bullying prevention task force, are referenced in Board Policy 409 – Prevention and Intervention Against Bullying and Sexual Harassment. However, the schools currently have committees that review all student behavior and recommend interventions/solutions to school administrators. At the elementary and middle schools, the committees are called the School Climate Cadre and at the high schools, Safe Schools.

DOE proposes to amend how "at school" is defined by the current legislation. "At school" currently includes "...immediately adjacent to school premises, school bus or other school related vehicle, or at an official school bus stop". Defining "school" in such expanded terms implies that DOE should provide supervision at locations outside school grounds, which consequently exposes the Department to liability for activities that are outside the scope of their capacity to provide adequate supervision. The scope of school responsibility to supervise students should be limited to the perimeter fences of the school or school sponsored activities outside school grounds. This does not mean that we will not hold students responsible for behavior outside school grounds nor does it imply that we don't care for students outside the school fence. The responsibility for our children should be a collective effort between parents, the community members, and other agencies.

In closing, this proposed legislation is a positive step in proactively addressing a growing challenge with our youth. It is imperative for us as leaders to provide the framework for students to become technologically literate consumers without compromising safety. Bill 41-31 in conjunction with existing law provides a stronger foundation to accomplish this mission.

Again, thank you for the opportunity to provide this important testimony in support of this Bill. The Department of Education agrees that this Bill will have a positive impact on the community, and especially to the most easily targeted population, our children.


NERISSA BRETANIA UNDERWOOD, Ph.D
Superintendent of Education


DATE



EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



ARTHUR U. SAN AGUSTIN, MHR
ACTING DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

FEB 07 2011

Honorable Senator Adolpho B. Palacios, Sr.
31st Guam Legislature
Chairman
Committee on Public Safety, Law Enforcement & Judiciary

Testimony: Bill No. 41-31 "An Act to Amend subsection 19.69, 19.70 and 61.20 of Title 9, GCA; To Add New subsection 61.20.1, 28.90, 29.100, and 28.101 to Title 9, GCA, and to amend subsection 3112.1 of Title 17, GCA; Relative to Bullying, Cyberbullying and Sexting."

Hafa Adai Mr. Chairman and Members of the Committee on Public Safety, Law Enforcement and Judiciary. I am Arthur U. San Agustin, Acting Director of the Department of Public Health & Social Services and I would like to express my support of Bill No. 41-31.

In understanding the premise and intent of the bill, I would say it is a measure that is proactive and responsive to the changes we are experiencing with our youths. Today's technology provides the opportunity and means for us to have immediate access to information and improved communications which are benefits of the world of technology we live in. However, the same technology has and continues to be used inappropriately to the point of bringing or causing harm to others, specific to this bill, to our youths.

Many youths do not appear to recognize the magnitude of their actions and what impact it may have on their peers or themselves. The proposed amendment recognizes the societal changes we have undergone as we are now dealing with sexting and cyberbullying. Specific to the former, the measure giving the Office of the Attorney General the ability to determine whether a first time juvenile offender charged for Illegal Use of a Computer or Telecommunications Device to Disseminate Prohibited Materials Involving a Minor or Sexting will undergo a diversion program is a step in the right direction. A step that will be based on educating juvenile first time offenders on the severity of their action and the possible consequence for such a crime with the opportunity that upon the successfully completing the program, would have the opportunity to avoid prosecution, and any records relating to the offense would be dismissed and expunged. This step provides for our youth to maintain that door of opportunity, that otherwise could or would have been tainted absent the diversionary program.

The provision of the measure to require stores that sell cell phones or cell phone service contracts to provide informational brochures on sexting goes without any further discussion, except that I am in support of the provision.

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

Page 2 of 2
Testimony on Bill 41-31 (COR)

The amendment to include cyberbullying in a school setting is necessary as this form of online bullying may include threats, sexual remarks, ganging up on victims by making them the subject of ridicule in forums, and posting false statements as fact aimed at humiliating one is a growing problem for our youth. As a community, the measure is a step at dealing with cyberbullying, we are recognizing it as a problem. We all need to continue to work with our key stakeholders (youth, parents, educators, counselors, law enforcement) to create an environment where kids feel comfortable talking with adults about this problem and feel confident that meaningful steps will be taken to resolve the situation.

The amendments are clearly indicative and responsive to the changes occurring in our community; therefore, it is a timely and purposeful legislation that moves to update the laws of our land so as to reflect the true nature of what society is experiencing.

Thank you for this opportunity to speak on behalf of this bill that will help to benefit our youth, their families and our island community.

Sincerely,



ARTHUR U. SAN AGUSTIN, MHR
Acting



U.S. Department of Justice

ALICIA A. G. LIMTIACO

United States Attorney

*District of Guam
Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
Hagatna, Guam 96910
TEL: (671) 472-7332
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FAX: (670) 236-2985*

February 7, 2011

The Honorable Benjamin J. Cruz
Vice-Speaker
I Mina'trenai Unu na Liheslaturan Guahan
The 31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Dear Vice Speaker Cruz:

The Department of Justice recognizes the growing prevalence and devastating effects of bullying and cyberbullying, and is committed to combating and raising awareness about the significance of bullying and cyberbullying on our students and young people, including youth suicide. The Department also recognizes the importance and need of all community stakeholders to collaborate and implement strategies and approaches to address these critical issues.

The enforcement of Title IV and the Equal Protection Clause are top priorities of the Department of Justice, Civil Rights Division. Assistant Attorney General Thomas Perez has traveled extensively across the nation regarding similar stories of student-on-student bullying and harassment on the basis of race, color, national origin, disability, religion and sex, including harassment based on nonconformity with gender stereotypes.

The Department of Justice is committed to using its authority to combat bullying and cyberbullying, and is currently looking into complaints of student-on-student harassment in a number of states, including Tennessee, California, New Mexico and Minnesota. The Department continues to dialogue with community advocates to discuss partnerships to address harassment on the basis of national origin and religion. The Department of Justice participates in an interagency Bullying Working Group that is tasked with developing a national federal strategy to end bullying, and has worked with

The Honorable Benjamin F. Cruz
Vice-Speaker
February 7, 2011
Page 2

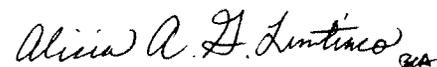
the Department of Education's Office for Civil Rights to address bullying and harassment in schools. The Department is currently monitoring the recent tragic suicides of students around the country, involving numerous Lesbian, Gay, Bisexual and Transgender (LGBT) students, to assess whether those students were bullied and harassed and how their school districts responded.

The Department of Justice has also been involved in several recent cases across the country addressing acts of bullying and harassment against students based on national origin, race, color, disability, religion and sexual orientation. These cases have required school districts to take systematic action to reform its policies to address harassment and to curb future harassment of students. Such policies serve as a model for other districts as they work to address harassment in their schools. Other cases have required school districts to retain an expert consultant to review policies related to harassment; train faculty and staff annually on discrimination and harassment; implement comprehensive screening procedures to ensure that students with disabilities are not assigned to buses where they would be at risk of harassment; expedite the investigation of suspected acts of sexual harassment involving students with disabilities; and maintain records of investigations and responses to allegations of harassment for a specified number of years.

The Department of Justice is committed to protecting the civil rights of our students, and will continue to work diligently to ensure that our students and young people are protected against bullying and harassment.

Thank you for your attention to the above.

Sincerely,

A handwritten signature in cursive script that reads "Alicia A. G. Limtiaco" followed by a small monogram "AAL".

ALICIA A. G. LIMTIACO
United States Attorney
Districts of Guam and the
Northern Mariana Islands



Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

Department of Youth Affairs
Dipårtamenton Asuntón Manhoben

Government of Guam
P.O. Box 23672 GMF
Barrigada, Guam 96921
Tel: (671)735-5010 Fax: (671)734-7536



Adonis J. Mendiola
Acting Director

TESTIMONY

IN SUPPORT OF:

BILL NO. 41-31 (COR) - An act to amend §19.69, 19.70 and 61.20 of Title 9, Guam Code Annotated; to add new §§ 61.20.1, 28.90, 29.100 and 28.101 to Title 9, Guam Code Annotated; and to amend §3112.1 of Title 17, Guam Code Annotated; Relative to bullying, cyberbullying, and sexting.

Greetings Mr. Chairman and members of the Committee on Public Safety, Law Enforcement and Judiciary.

Thank you for the opportunity to provide written testimony on behalf of the Department of Youth Affairs (DYA), which fully supports Bill 41-31 (COR), an act that addresses the problems of bullying in our community through the internet and other electronic means.

DYA acknowledges the seriousness and the impact of bullying on our community. Bullying takes many forms and this bill is very progressive in addressing the issue. Cyberbullying is a fairly new cultural phenomenon that has come from the advent and explosion of telecommunication devices, smart phones, and social network sites. Whatever the medium and method of delivery, bullying, harassing, teasing, and stalking another person is a crime and should be dealt with accordingly.

The Department is also in favor of the general tenor of the bill that recognizes that sometimes the actions of the minor can be an impulsive, non-criminal act that would not require extended incarceration in DYA or even an actual admission to our facility. We fully support the proposed diversionary program for first-time juveniles who had no intent to commit a crime and would be deterred by engagement in the judicial system. However, habitual and chronic juvenile offenders must be held fully accountable as should their parents to some degree, if they do not monitor their children.

It is our hope that the passage of this bill will also serve as an effective deterrent and protection of vulnerable children and minors.

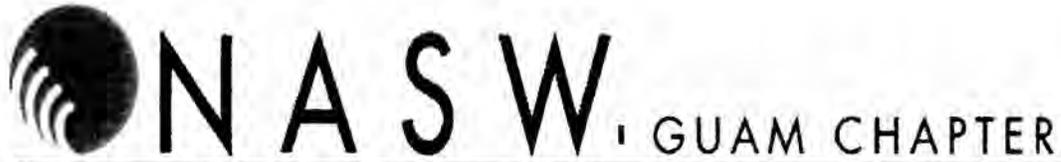
Un dankulo na si Yu'os Ma'åse' for this opportunity to submit testimony in support of the passage of Bill No. 41-31 (COR).


Adonis J. Mendiola, Acting Director

RECEIVED
2-7-11
he



DYA: "It's all about youth helping youth!"



National Association of Social Workers

P.O. Box 2123 Hagatna, Guam 96932 – (671)727-7908, Fax (671) 4771077 E-mail: naswgu@gmail.com

February 7, 2011

Senator Adolpho B. Palacios, Sr.
Chairman, Committee on Public Safety, Law Enforcement & Judiciary
155 Hessler Place
Hagatna, Guam 96910

The National Association of Social Workers (NASW) is the largest organization of professional social workers in the world, with 150,000 members, 90% of whom hold master's degrees in social work. There are chapters in every state in the U.S., as well as Washington, D.C., New York City, Guam, Puerto Rico, the Virgin Islands, and an International Chapter.

NASW works to promote the well-being of individuals, families and communities. Through advocacy, it aims to shape legislation and public policy that:

- Protects and strengthens the social work profession
- Creates and maintains professional standards
- Promotes health, welfare and education

Every social worker is uniquely qualified to help people right in their own environment, by looking at all the different aspects of their life and culture. We work to ensure your personal well-being, prevent crises and to counsel individuals, families, and communities. We make sure people get the help they need, from the best resources available. And for more than 100 years, we've been doing just that!

Social workers care for people in every stage of life, from children to the elderly. We help them overcome life's most difficult challenges, and the troubles of everyday living. Our core values are service; social justice; dignity and worth of the person; importance of human relationships; integrity and competence.

Perhaps the greatest of these values is that of social justice which is the driving force for this letter to you today in support of Bills 33-31 (COR); 34-31 (COR) and 41-31 (COR). Continued legislation that protects social justice must continue to be advocated for; however, we must also consider the impact that arises especially with Bill 33-31. We must incorporate services that will help both the victim and the perpetrator overcome their issues such as counseling services to help them deal with what has been brought forth. With the passage of these bills, please consider its impact and promote the funding for the services that will be needed to address the issues.

Thank you for the opportunity to provide this testimony.

Respectfully Submitted,

Ovita Rebanio Perez, President



Supporting the children and families of Guam

Latte Treatment Center, LLC

PMB 960 Ste.101, 1270 North Marine Corps Drive
Tamuning, Guam 96913-4331
Phone 671-647-5390; 671-969-6172;
Day Treatment Center 671-989-5390



Accredited by The Joint Commission

15 February 2011

To: Honorable Benjamin J. F. Cruz
Vice Speaker, Guam Legislature

Re: Testimony for Bill #33-31, #34-31 and #41-31

Please find attached the testimonies in support of Bill #33-31, #34-31 and #41-31. Thank you for allowing Latte Treatment Center, LLC the opportunity to submit comment.

Sincerely,

A handwritten signature in cursive script that reads "Mary Weakley". The signature is written in black ink and is positioned below the word "Sincerely,".

Mary Weakley, BSW
Program Director



Supporting the children and families of Guam

Latte Treatment Center, LLC

PMB 960 Ste.101, 1270 North Marine Corps Drive
Tamuning, Guam 96913-4331
Phone 671-647-5390; 671-969-6172;
Day Treatment Center 671-989-5390



Accredited by The Joint Commission

Bill No. 41-31 AN ACT TO AMEND 19.69, 10.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLING, AND SEXTING.

Reported to be on the rise and seen by clinical professionals is bullying and cyberbullying. Tactics are used to threaten and harass people including words and physical violence. This is commonly and frequently transmitted via cellular phones and computers over the internet. Latte Treatment Center supports the concern of this growing problem that leads to physical assault, emotional harassment, intimidation and mistreatment of the weaker and vulnerable children or minors within the community. We have recently seen the fatal affects of this form of communication that has allegedly led to number of suicides in the U.S.A.

With easy accessibility of electronic devices among our youth in the community, Latte supports the enactment of legislation for Bill 41-31.



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
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Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

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Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Ducnas

February 9, 2011

VIA FACSIMILE
(671) 472-2825

Ms. Benita Manglona
Acting Director
Bureau of Budget & management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note -
Bill Nos. 27-31(COR) through 28-31(COR) and 30-31(COR) through 53-31(COR)

Hafa Adai Ms. Manglona:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

2011 FEB 10 AM 10:14

Rec'd: Jackie
2/10/11 8:57am

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 41-31 (COR)**

2011 FEB 21 AM 9:26-02

AN ACT TO AMEND §§ 19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§ 61.20.1, 28.90, 28.100, AND 28.101 TO TITLE 9 GUAM CODE ANNOTATED; AND TO AMEND § 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING

Department/Agency Appropriation Information	
Dept./Agency Affected: Attorney General's Office	Dept./Agency Head: Leonardo Rapadas
Department's General Fund (GF) appropriation(s) to date:	8,781,513
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$8,781,513

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance ¹		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appro. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /x/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ / / N/A
- Does the Bill establish a new program/agency? / / Yes /x/ No
If yes, will the program duplicate existing programs/agencies? / / N/A / / Yes /x/ No
Is there a federal mandate to establish the program/agency? / / Yes /x/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /x/ No
/ / Requested agency comments not received by due date / / Other: _____

Analyst: M Quinata Date: _____ Director: Benita Manglona Date: 2/21/11
Benita A. Manglona, Acting Director

Footnotes:
The Bill has a potential for additional costs to the Attorney General's Office, Guam Police Department and the Department of Revenue and Taxation due to the requirement to prepare and provide information brochures to stores selling computer or telecommunication devices. However, in its present form, that impact cannot be determined at this time.

2/21/11
88



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

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Judith P. Guthertz
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Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

January 21, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill No. 41-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 41-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os ma'åse!

(1) Attachments

2011 JAN 21 AM 11:57
Rory

I Mina'trentai Unu Na Liheslaturan Gu ãhan

Bill Log Sheet

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee/Office Referred
41-31 (COR)	B.J.F. Cruz, T.R. Muna Barñes	An Act to <i>Amend</i> §§19.69, 19.70, and 61.20 of Title 9, Guam Code Annotated; to Add New §§61.20.1, 28.90, 29.100, and 28.101 to Title 9, Guam Code Annotated; and to <i>AMEND</i> §3112.1 of Title 17, Guam Code Annotated; Relative to Bullying, Cyberbullying, and Sexting.	1/20/11 1:22p.m.	1/21/2011		Committee on Public Safety, Law Enforcement and Judiciary.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

January 28, 2011

(Pursuant to §8107, Title 5 GCA – 5 days prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at **9:00 am, Monday, February 7, 2011**, at *I Liheslaturan Guahan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 33-31 (COR) – AN ACT TO REPEAL THE STATUTES OF LIMITATION FOR THE PROSECUTION OF A SEX CRIME INVOLVING A VICTIM WHO IS UNDER THE AGE OF THE MAJORITY BY ADDING A NEW §10.16 TO CHAPTER 10 OF TITLE 8, GUAM CODE ANNOTATED. – by Vice Speaker B. J. F. Cruz**
- **Bill No. 34-31 (COR) – AN ACT TO AMEND §11306 OF ARTICLE 3, CHAPTER 11, TITLE 7 OF THE GUAM CODE ANNOTATED; RELATIVE TO THE STATUTES OF LIMITATIONS FOR CIVIL ACTIONS INVOLVING CHILD SEXUAL ABUSE. – by Vice Speaker B. J. F. Cruz**
- **Bill No. 41-31 (COR) – AN ACT TO AMEND §§19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING. – by Vice Speaker B. J. F. Cruz**
- **Bill No. 53-31 (COR) – AN ACT RELATIVE TO AUTHORIZING FOR THE EXPUNGEMENT OF CRIME RECORDS FOLLOWING AN EXECUTIVE PARDON OF A CRIME BY AMENDING SECTION 11.10 OF CHAPTER 11, TITLE 8, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.**

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guahan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Julian Janssen or Priscilla Cruz at 472-5047/5048.

Office/Mailing Address: 155 Hesler Place, Hagatña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



Adolpho Palacios <senabpalacios@gmail.com>

First Notice of Public Hearing scheduled for Feb. 7, 2011

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Fri, Jan 28, 2011 at 10:05 AM

To: speaker@judiwonpat.com, senator@senatorbjcruz.com, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, office@senatorada.org, "Senator Ben C. Pangelinan" <senbenp@guam.net>, senatordrodriguez@gmail.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, Aline4families@gmail.com, senatortonyada@guamlegislature.org, duenasenator@gmail.com, senatormabini@gmail.com

January 28, 2011

(Pursuant to §8107, Title 5 GCA – 5 days prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at **9:00 am, Monday, February 7, 2011**, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 33-31 (COR) – AN ACT TO REPEAL THE STATUTES OF LIMITATION FOR THE PROSECUTION OF A SEX CRIME INVOLVING A VICTIM WHO IS UNDER THE AGE OF THE MAJORITY BY ADDING A NEW §10.16 TO CHAPTER 10 OF TITLE 8, GUAM CODE ANNOTATED. – by Vice Speaker B. J. F. Cruz**
- **Bill No. 34-31 (COR) – AN ACT TO AMEND §11306 OF ARTICLE 3, CHAPTER 11, TITLE 7 OF THE GUAM CODE ANNOTATED; RELATIVE TO THE STATUTES OF LIMITATIONS FOR CIVIL ACTIONS INVOLVING CHILD SEXUAL ABUSE. – by Vice Speaker B. J. F. Cruz**
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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Julian Janssen or Priscilla Cruz at 472-5047/5048.



Adolpho Palacios <senabpalacios@gmail.com>

First Notice of Public Hearing scheduled for Feb. 7, 2011

2 messages

Adolpho Palacios <senabpalacios@gmail.com>

Fri, Jan 28, 2011 at 9:58 AM

To: sabrina@kuam.com, jason@kuam.com, mindy@kuam.com, news@guampdn.com, Catriona Melyan <cmelyan@guampdn.com>, news@spbguam.com, amier@mvguam.com, marvic@mvguam.com, ads@mvguam.com, clynt@spbguam.com, kstone@ite.net

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postmaster@ad.gannett.com <postmaster@ad.gannett.com>
To: senabpalacios@gmail.com

Fri, Jan 28, 2011 at 9:59 AM

Delivery has failed to these recipients or distribution lists:

bmkelman@guam.gannett.com

The recipient's mailbox is full and can't accept messages now. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message later, or contact the recipient directly.

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Adolpho Palacios <senabpalacios@gmail.com>

First Notice of Public Hearing scheduled for Feb. 7, 2011

3 messages

Adolpho Palacios <senabpalacios@gmail.com>

Fri, Jan 28, 2011 at 10:05 AM

To: speaker@judiwonpat.com, senator@senatorbjcruz.com, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Majority Leader Rory J. Respicio" <roxyforguam@gmail.com>, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, office@senatorada.org, "Senator Ben C. Pangelinan" <senbenp@guam.net>, senatordrodriguez@gmail.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, Aline4families@gmail.com, senatortonyada@guamlegislature.org, duenasenator@gmail.com, senatormabini@gmail.com

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Adolpho Palacios <senabpalacios@gmail.com>

Fri, Jan 28, 2011 at 4:10 PM

To: garrett.duenas@senatorbjcruz.com, "Sen. BJ Cruz" <senadotbjcruz@gmail.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, Stephanie Mendiola <sem@guamlegislature.org>, Mary Fejeran <maryfejeran@gmail.com>, jamespcastro@gmail.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, evelyn4families@gmail.com, duenasenator@gmail.com, leonguerrero.angela@gmail.com, senatormana@gmail.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, cipo@guamlegislature.org, cyrus@senatorada.org, Senator Tom Ada <tom@senatorada.org>

Please see attached. Thank you for your kind attention.

 **02072011PHrg 1st.pdf**
175K

noreply@boxbe.com <noreply@boxbe.com>

Fri, Jan 28, 2011 at 4:10 PM

Reply-To: maryfejeran@gmail.com
To: Adolpho Palacios <senabpalacios@gmail.com>

Hello Adolpho Palacios,

Thanks for the message about "First Notice of Public Hearing scheduled for Feb. 7, 2011". This is a one-time automatic confirmation to let you know you're on my [Boxbe Guest List](#).

Email from you will be delivered right to my Inbox.

Thank you,
Mary Fejeran

boxbe

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Final-Recipient: rfc822; maryfejeran@gmail.com
Diagnostic-Code: X-Boxbe-Notice; Sender not pre-approved. Follow instructions in above notice
Status: 4.7.0

----- Forwarded message -----
From: Adolpho Palacios <senabpalacios@gmail.com>

To: garrett.duenas@senatorbjcruz.com, "Sen. BJ Cruz" <senadotbjcruz@gmail.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, Stephanie Mendiola <sem@guamlegislature.org>, Mary Fejeran <maryfejeran@gmail.com>, jamespcastro@gmail.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, evelyn4families@gmail.com, duenasenator@gmail.com, leonguerrero.angela@gmail.com, senatormana@gmail.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, cipo@guamlegislature.org, cyrus@senatorada.org, Senator Tom Ada <tom@senatorada.org>

Date: Fri, 28 Jan 2011 16:10:24 +1000

Subject: First Notice of Public Hearing scheduled for Feb. 7, 2011

 noname
OK



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

FACSIMILE TRANSMITTAL SHEET

DATE: January 28, 2011

TO: Pacific Daily News 477-3079 (Attention: Government Meetings)
Marianas Variety 648-2007 (Attention: Community Page)
KUAM/Isla 630 637-9865/9870
Pacific News Center 477-0793
Marianas Media 477-2240
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411
Glimpses 649-8883

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *FIRST Notice of Public Hearing scheduled for February 7, 2011*

PAGES: 2 (including this sheet)

PLEASE SEE ATTACHMENT. THANK YOU.

BROADCAST REPORT

TIME : 01/28/2011 11:31
 NAME : SEN. PALACIOS
 FAX : 671-472-5022
 TEL :
 SER.# : G9N282826

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
01/28	11:19	4773079	38	02	OK	ECM
01/28	11:20	6482007	37	02	OK	ECM
01/28	11:22	6379865	37	02	OK	ECM
01/28	11:23	4770793	37	02	OK	ECM
01/28	11:24	4772240	01:46	02	OK	ECM
01/28	11:26	4773982	37	02	OK	ECM
01/28	11:27	4727663	37	02	OK	ECM
01/28	11:29	4776411	37	02	OK	ECM
01/28	11:30	6498883	37	02	OK	ECM

BUSY : BUSY/NO RESPONSE
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Adolpho Palacios <senabpalacios@gmail.com>

First Notice of Public Hearing scheduled for Feb. 7, 2011

2 messages

Adolpho Palacios <senabpalacios@gmail.com>

Fri, Jan 28, 2011 at 10:13 AM

To: clerks@guamlegislature.com, Pat Santos <psantos@guamlegislature.org>, rtaitague@guamlegislature.org, Rennae Perez <rennae@guamlegislature.org>, "Atty. Therese Terlaje" <tterlaje@guam.net>, yong@guamlegislature.org, sgtarms@guamlegislature.org

January 28, 2011

(Pursuant to §8107, Title 5 GCA – 5 days prior to hearing date)

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11.10 OF CHAPTER 11, TITLE 8, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.

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Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: senabpalacios@gmail.com

Fri, Jan 28, 2011 at 10:13 AM

Delivery to the following recipient failed permanently:

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Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550 5.1.1 <clerks@guamlegislature.com>: Recipient address rejected: User unknown in local recipient table (state 14).

----- Original message -----

MIME-Version: 1.0

Received: by 10.223.83.197 with SMTP id g5mr1662171fal.5.1296173582392; Thu, 27 Jan 2011 16:13:02 -0800 (PST)

Received: by 10.223.120.147 with HTTP; Thu, 27 Jan 2011 16:13:02 -0800 (PST)

Date: Fri, 28 Jan 2011 10:13:02 +1000

Message-ID: <AANLkTi=0Z7qco94AL3Y8A7ypsAkxY=AYfx_hjh+ji8o5@mail.gmail.com>

Subject: First Notice of Public Hearing scheduled for Feb. 7, 2011

From: Adolpho Palacios <senabpalacios@gmail.com>

To: clerks@guamlegislature.com, Pat Santos <psantos@guamlegislature.org>, rtaitague@guamlegislature.org, Rennae Perez <rennae@guamlegislature.org>, "Atty. Therese Terlaje" <tterlaje@guam.net>, yong@guamlegislature.org, sgtarms@guamlegislature.org

Content-Type: multipart/alternative; boundary=20cf3054a4a1f21ee2049adced66

January 28, 2011

[Quoted text hidden]



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

February 2, 2011

(Pursuant to §8107, Title 5 GCA – 48 hours prior to hearing date)

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Office/Mailing Address: 155 Hester Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



Adolpho Palacios <senabpalacios@gmail.com>

Second Notice of Public Hearing scheduled for Feb. 7, 2011

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Wed, Feb 2, 2011 at 10:36 AM

To: speaker@judiwonpat.com, "Sen. BJ Cruz" <senadotbjcruz@gmail.com>, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, judiguthertz@gmail.com, senatordrodriguez@gmail.com, office@senatorada.org, "Senator Ben C. Pangelinan" <senbenp@guam.net>, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, Aline4families@gmail.com, senatortonyada@guamlegislature.org, senatormana@gmail.com, duenasenator@gmail.com, senatorsam@senatormabini.com

February 2, 2011

(Pursuant to §8107, Title 5 GCA – 48 hours prior to hearing date)

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Second Notice of Public Hearing scheduled for Feb. 7, 2011

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Wed, Feb 2, 2011 at 10:39 AM

To: clerks@guamlegislature.org, "Atty. Therese Terlaje" <tterlaje@guam.net>, yong@guamlegislature.org, sgtarms@guamlegislature.org, garrett.duenas@senatorbjcruz.com, cmunabrecht@guamlegislature.org, Stephanie Mendiola <sem@guamlegislature.org>, nsantos@senatorada.org, cyrus@senatorada.org, cipo@guamlegislature.org, Mary Fejeran <maryfejeran@gmail.com>, jamespcastro@gmail.com, evelyn4families@gmail.com, louise_atalig@yahoo.com, leslie.g@senatormabini.com, alerta.jermaine@gmail.com

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Second Notice of Public Hearing scheduled for Feb. 7, 2011

2 messages

Adolpho Palacios <senabpalacios@gmail.com>

Wed, Feb 2, 2011 at 10:45 AM

To: sabrina@kuam.com, jason@kuam.com, mindy@kuam.com, parroyo@spbgum.com, thebigshow@spbgum.com, rgibson@k57.com, dmgeorge@guampdn.com, Catriona Melyan <cmelyan@guampdn.com>, mpieper@guampdn.com, dmgeorge@guam.gannett.com, amier@mvguam.com, admin@mvguam.com, marvic@mvguam.com, therese@mvguam.com, zytaitano@gmail.com, ads@mvguam.com, Kevin@spbgum.com, dmacaluso@spbgum.com, jtyquiengco@spbgum.com, clynt@spbgum.com, kstone@ite.net, news@guampdn.com, news@spbgum.com, kstokish@gmail.com

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- Bill No. 33-31 (COR) – AN ACT TO REPEAL THE STATUTES OF LIMITATION FOR THE PROSECUTION OF A SEX CRIME INVOLVING A VICTIM WHO IS UNDER THE AGE OF THE MAJORITY BY ADDING A NEW §10.16 TO CHAPTER 10 OF TITLE 8, GUAM CODE ANNOTATED. – by Vice Speaker B. J. F. Cruz
- Bill No. 34-31 (COR) – AN ACT TO AMEND §11306 OF ARTICLE 3, CHAPTER 11, TITLE 7 OF THE GUAM CODE ANNOTATED; RELATIVE TO THE STATUTES OF LIMITATIONS FOR CIVIL ACTIONS INVOLVING CHILD SEXUAL ABUSE. – by Vice Speaker B. J. F. Cruz
- Bill No. 41-31 (COR) – AN ACT TO AMEND §§19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING. – by Vice Speaker B. J. F. Cruz

- **Bill No. 53-31 (COR) – AN ACT RELATIVE TO AUTHORIZING FOR THE EXPUNGEMENT OF CRIME RECORDS FOLLOWING AN EXECUTIVE PARDON OF A CRIME BY AMENDING SECTION 11.10 OF CHAPTER 11, TITLE 8, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.**

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Julian Janssen or Priscilla Cruz at 472-5047/5048.

MAILER-DAEMON@mail.networksolutionsemail.com <MAILER-DAEMON@mail.networksolutionsemail.com>
To: senabpalacios@gmail.com

Wed, Feb 2, 2011 at 10:46 AM

Your message did not reach some or all of the intended recipients.

<agla76@aol.com>:

205.188.146.193 does not like recipient.

Remote host said: 550 5.1.1 <agla76@aol.com>: Recipient address rejected: aol.com

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Return-Path: <senabpalacios@gmail.com>

Received: (qmail 21743 invoked by uid 78); 2 Feb 2011 00:45:50 -0000

Delivered-To: mvquam.com-therese@mvquam.com

Received: (qmail 21710 invoked by uid 78); 2 Feb 2011 00:45:49 -0000

Received: from unknown (HELO cloudmark1) (10.49.16.98)

by 0 with SMTP; 2 Feb 2011 00:45:49 -0000

Return-Path: <senabpalacios@gmail.com>

Received: from [209.85.161.48] ([209.85.161.48:34689] helo=mail-fx0-f48.google.com)

by cm-mr23 (envelope-from <senabpalacios@gmail.com>)

(ecelerity 2.2.2.41 r(31179/31189)) with ESMTMP

id 81/7A-10738-C39A84D4; Tue, 01 Feb 2011 19:45:49 -0500

Received: by fxm2 with SMTP id 2so8354461fxm.7

for <multiple recipients>; Tue, 01 Feb 2011 16:45:48 -0800 (PST)

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;

d=gmail.com; s=gamma;

h=domainkey-signature:mime-version:date:message-id:subject:from:to

:content-type;

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d=gmail.com; s=gamma;

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MIME-Version: 1.0

Received: by 10.223.96.73 with SMTP id g9mr2288639fan.24.1296607546885; Tue,

01 Feb 2011 16:45:46 -0800 (PST)

Received: by 10.223.120.147 with HTTP; Tue, 1 Feb 2011 16:45:46 -0800 (PST)



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

FACSIMILE TRANSMITTAL SHEET

DATE: February 2, 2011

TO: Pacific Daily News 477-3079 (Attention: Government Meetings)
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FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *SECOND Notice of Public Hearing scheduled for February 7, 2011*

PAGES: 1 (including this sheet)

February 2, 2011

(Pursuant to §8107, Title 5 GCA – 48 hours prior to hearing date)

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Office/Mailing Address: 155 Hesler Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

BROADCAST REPORT

TIME : 02/02/2011 11:40
 NAME : SEN. PALACIOS
 FAX : 671-472-5022
 TEL :
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01

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
02/02	11:29	4773079	28	01	OK	ECM
02/02	11:30	6482007	27	01	OK	ECM
02/02	11:31	6379865	27	01	OK	ECM
02/02	11:32	4770793	27	01	OK	ECM
02/02	11:33	6379870	27	01	OK	ECM
02/02	11:34	4772240	01:31	01	OK	ECM
02/02	11:36	4773982	27	01	OK	ECM
02/02	11:37	4727663	27	01	OK	ECM
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02/02	11:39	6498883	27	01	OK	ECM

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

PUBLIC HEARING

9:00 am, Monday, February 7, 2011

I Liheslaturan Guåhan's Public Hearing Room, Hagåtña

AGENDA

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Office/Mailing Address: 155 Hesler Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

I MINA' TRENTAI UNO NA LIHESLATURAN GUÅHAN
2011 First (Regular) Session

Bill No. 41-31 (COR)

Introduced by:

B.J.F. Cruz
T.R. Muna Barnes

2011 JUN 20 PM 1:22

AN ACT TO AMEND §§ 19.69, 19.70, AND 61.20 OF TITLE 9, GUAM CODE ANNOTATED; TO ADD NEW §§ 61.20.1, 28.90, 29.100, AND 28.101 TO TITLE 9, GUAM CODE ANNOTATED; AND TO AMEND § 3112.1 OF TITLE 17, GUAM CODE ANNOTATED; RELATIVE TO BULLYING, CYBERBULLYING, AND SEXTING.

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

3 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
4 finds that there is both a concern and alarm among families, parents,
5 children, and our community about the growing contemporary problem of
6 not only actual physical assault but also emotional harassment, intimidation,
7 and mistreatment of weaker or vulnerable children or minors by others. This
8 bullying is reported to be on the rise and, in this electronic, digital, or
9 computer age is occurring more commonly and frequently on the Internet
10 and transmitted onto cellular phones and computers, which is now called
11 “cyberbullying.” *I Liheslaturan Guåhan* finds that bullying and
12 cyberbullying as forms of harassment and stalking can be addressed by
13 updating and amending our current related criminal laws.

14 *I Liheslaturan Guåhan* also finds that “sexting” has become a more
15 evident problem within our juvenile community as a result of the easy

1 accessibility of electronic devices among our youth community. The
2 teenage practices of sexting and posting sexual images online are nationwide
3 problems that have perplexed parents, school administrators, and law
4 enforcement officials. Prosecutors in several states have charged teenagers
5 who have engaged in these behaviors with criminal offenses, including
6 distribution of child pornography. Sexting, which is a new term of art, refers
7 to “the use of a cell phone to send sexually suggestive texts or emails with
8 nude or nearly nude photos.” Sexting has been on the increase in our
9 community, and has not only resulted in problems of itself, but it has been
10 linked to other problems and crimes within our youth community like
11 bullying, cyberbullying, assault, harassment, and even criminal sexual
12 conduct. Like the rest of the nation, Guam has had to charge juveniles with
13 other more serious criminal offenses like distribution of child pornography.
14 *The National Campaign to Prevent Teen and Unplanned Pregnancy*
15 conducted research that shows the following statistics with respect to
16 sexting: 39 percent of all teens have sent sexually suggestive texts; 48
17 percent of teens say they have received such messages; 71 percent of teen
18 girls and 67 percent of teen boys who have sent or posted sexually
19 suggestive content say they have sent or posted this content to a
20 boyfriend/girlfriend; 21 percent of teen girls and 39 percent of teen boys say
21 they have sent such content to someone they wanted to date or “hook up”
22 with; 38 percent of teens say they have had sexually suggestive text
23 messages, originally meant for someone else, shared with them; and 25
24 percent of teen girls and 33 percent of teen boys say they have had semi-
25 nude or nude images, originally meant for someone else, shared with them.
26 In an attempt to battle this growing problem, *I Liheslaturan Guåhan* enacts
27 this legislation addressing two different forms of sexting among our youth:

1 Illegal Use of a Computer or Telecommunications Device to Disseminate
2 Prohibited Materials Involving a Minor.

3 *I Liheslaturan Guåhan* further finds that there is a need to create a
4 diversionary program for first-time offending juveniles who can be charged
5 for sexting or posting of sexual images via electronic devices as a preventive
6 measure and means to educate juveniles about the severity of this type of
7 behavior, and the possible consequences for such a crime. *I Liheslaturan*
8 *Guåhan* wishes to establish an educational program that is intended to be an
9 alternative to prosecution for juveniles who are charged with a criminal
10 offense for posting sexually suggestive or sexually explicit photographs,
11 usually on the Internet. The educational program would include juveniles
12 who engage in the behavior commonly known as Sexting, in which sexually
13 suggestive or explicit pictures are transmitted via cell phones.

14 The bill would require the Office of the Attorney General, Family
15 Division, or whichever designated division of the Office of the Attorney
16 General that addresses matters involving juveniles in the community of
17 Guam, to incorporate such a diversionary program under its current services.
18 Such diversionary program would be similar to or incorporated under the
19 current Pre-Adjudicatory Diversionary Program that the Office of the
20 Attorney General currently utilizes. The program would require that the
21 Office of the Attorney General develop an educational program for juveniles
22 who commit an eligible offense as defined in this Act. The Office of the
23 Attorney General shall then consult with the Judiciary of Guam, Juvenile
24 Probation Division, to discuss and implement such educational program, to
25 include the same or similar conditions as the current Pre-Adjudicatory
26 Diversionary Program between the Office of the Attorney General and
27 Judiciary of Guam, Juvenile Probation Division. The Office of the Attorney

1 General shall be the sole agency responsible for the determination as to
2 whether a minor may be admitted into the diversionary program. A juvenile
3 who successfully completes the program would have the opportunity to
4 avoid prosecution, and any records relating to such an offense, upon
5 completion of the program, would be dismissed and expunged.

6 Admission to the program would be limited to juveniles who: (1) have
7 not previously been adjudicated delinquent for or convicted of a criminal
8 offense; (2) were not aware that their actions could constitute and did not
9 have the intent to commit a criminal offense; (3) may be harmed by the
10 imposition of criminal sanctions; and (4) would likely be deterred from
11 engaging in similar conduct in the future by completing the program.

12 *I Liheslaturan Guåhan* finds that such educational program will be
13 beneficial to the community of Guam, and more so, in the best interests of
14 the youth in our community as such program is designed to provide
15 information concerning: the legal consequences of and penalties for sexting
16 or posting sexual pictures online, including the applicable local and federal
17 statutes; the non-legal consequences of sexting or posting such pictures,
18 including, but not limited to, the effect on relationships, loss of educational
19 and employment opportunities, and being barred or removed from school
20 programs and extracurricular activities; how the unique characteristics of
21 cyberspace and the Internet can produce long-term and unforeseen
22 consequences for sexting and posting such photographs; and the connection
23 between bullying and cyber-bullying and juveniles sexting or posting sexual
24 images.

25 *I Liheslaturan Guåhan* further finds that the need to impose upon
26 retail stores which sell cellular telephone equipment or cellular telephone
27 equipment service contracts, the responsibility of providing informational

1 brochures about sexting to customers who purchase such equipment or
2 contracts, is vital in the prevention and education of sexting. The need for
3 active participation from these particular retail stores in providing such
4 informational brochures will ensure that purchasers of these devices are
5 educated up front about the illegal use of these devices and the consequences
6 of such illegal actions. This bill supplements Guam's consumer fraud act
7 making it an unlawful practice for any retail mercantile establishment to sell
8 cellular telephone equipment or to sell or renew cellular telephone service
9 contracts, unless the store encloses an informational brochure with such
10 equipment or contracts, that describes the dangers of sexting, the criminal
11 penalties that may be associated with sexting, and the names, addresses, and
12 telephone numbers of qualified organizations that can provide information to
13 the customer concerning responsible cellular telephone usage.

14 The bill directs the Office of the Attorney General, Consumer
15 Protection Division, to notify stores which sell cellular telephone equipment
16 and cellular telephone equipment service contracts, about the bill's
17 requirements by advertising it in Guam local newspapers. In addition, the
18 bill requires that *I Liheslaturan Guåhan* provide funding to the Office of the
19 Attorney General to advertise such information on a yearly basis, as well as
20 adequate funding for the Office of the Attorney General to prepare and
21 distribute information brochures about sexting to stores throughout Guam
22 for distribution to customers who purchase such equipment or contracts from
23 the stores.

24 **Section 2.** Section 19.69 of Title 9, Guam Code Annotated, is hereby
25 *amended* to read:

26 **“§ 19.69. Definitions.**

27

1 Unless otherwise indicated, as used in § 19.70:

2 (a) *Harasses* or *harassment* means a knowing and willful
3 course of conduct, whether physical, verbal, written, electronic,
4 telephonic, ~~written~~, via or by use of a computer, computer network,
5 computer system, telephone network, data network, test message,
6 instant message, or otherwise, directed at a specific person which
7 alarms, annoys, or distresses the person, and which serves no
8 legitimate purpose. Such course of conduct must be of a nature to
9 cause a reasonable person to suffer substantial emotional distress, and
10 must cause substantial emotional distress.

11 (b) *Course of conduct* means a pattern of conduct composed of
12 a series of acts over a period of time, however short, evidencing
13 continuity of purpose. Constitutionally and statutorily protected
14 activity, including but not limited to picketing as a result of a labor
15 dispute, is not included in this definition.

16 (c) *Credible threat* means any threat, physical or verbal, overtly
17 or subtly manifested, constituting a threat with the intent and apparent
18 ability to carry out the threat with the person who is the target of the
19 threat to reasonably fear for his or her safety or the safety of his or her
20 immediate family. Such threatening advance must be against the life
21 of, or a threat to cause bodily injury to, the person threatened or to a
22 member of his or her immediate family.

23 (d) Computer means any electronic, magnetic, optical,
24 electrochemical, or other high-speed data processing device
25 performing logical, arithmetic, or storage functions, and includes, all
26 computer equipment connected or related to such a device in a
27 computer system or computer network, but shall not include an

1 automated typewriter or typesetter, a portable hand-held calculator, or
2 other similar device.

3 (e) Computer network means two (2) or more computers or
4 computer systems, interconnected by communication lines, including
5 microwave, electronic, or any other form of communication.

6 (f) Computer system means a set of interconnected computer
7 equipment intended to operate as a cohesive system.”

8 **Section 3.** Section 19.70 of Title 9, Guam Code Annotated, is hereby
9 *amended* to read:

10 **“§ 19.70. Stalking.**

11 (a) A person is guilty of simple stalking if he or she willfully,
12 maliciously, and repeatedly, follows or ~~harasses~~ **harasses** another person or
13 who makes a credible threat with intent to place that person or a member of
14 his or her immediate family in fear of death or bodily injury.

15 (b) A person is guilty of advanced stalking if he or she violates
16 subsection (a) of this section when there is a temporary restraining order or
17 an injunction or both or any other court order in effect prohibiting the
18 behavior described in that subsection against the same party.

19 (c) A person is guilty of advanced stalking if he or she violates
20 subsection (a) of this section a second or subsequent time against the same
21 victim, within seven (7) years of a prior conviction under that subsection,
22 and involving an harassment or a credible threat of violence, as defined in
23 this § 19.69 of this Chapter.

24 (d) Simply stalking is a felony of the third degree.

25 (e) Advanced stalking is a felony of the second degree.

26 (f) This section shall not apply to conduct which occurs during labor
27 picketing.”

1 **Section 4.** Section 61.20 of Title 9, Guam Code Annotated, is hereby
2 *amended* to read:

3 **“§ 61.20 Harassment; Defined & Punished.**

4 A person commits a petty misdemeanor if, with intent to harass
5 another, he:

6 (a) makes, or causes to be made, a communication
7 anonymously or at extremely inconvenient hours, or in offensively
8 coarse language, or any other manner likely to cause annoyance or
9 alarm;

10 (b) subjects another to striking, kicking, shoving or other
11 offensive touching, or threatens to do so; or

12 (c) engages in any other course of alarming conduct or of
13 repeatedly committed acts which alarm or seriously annoy such other
14 person serving no legitimate purpose of the defendant.

15 (d) Every person who with intent to annoy, telephones, ~~or~~
16 telefaxes, or communicates by use of any telephone network, data
17 network, text message, instant message, computer, computer network,
18 or computer system with another person and addresses to or about
19 such other person any obscene language is guilty of a misdemeanor.

20 (e) Every person who makes a telephone call, ~~or~~ telefax
21 transmission, or any transmission by use of a telephone network, data
22 network, text message, instant message, computer, computer network,
23 or computer system with intent to annoy and without disclosing his
24 true identity to the person answering the telephone or receiving the
25 telefax transmission or transmission received from any telephone
26 network, data network, text message, instant message, computer,
27 computer network, or computer system, whether or not conversation

1 or return transmission ensues from making the telephone call or the
2 transmission, is guilty of a misdemeanor.

3 (f) Any offense committed by use of a telephone, ~~or~~ telefax
4 machine, or any telephone network, data network, text message,
5 instant message, computer, computer network, or computer system as
6 set out in this section may be deemed to have been committed at
7 either the place at which the telephone calls, ~~or~~ telefax transmissions
8 , or any transmission by use of a telephone network, data network,
9 text message, instant message, computer, computer network, or
10 computer system were made or received. In the event that a customer
11 of a telephone service provider, wireless service provider, or an
12 internet service provider receives harassing telephone calls or
13 transmissions received via or by use of a telephone network, data
14 network, text message, instant message, computer, computer network,
15 or computer system, such customer may file an injunction complaint
16 under the name of John Doe, although the telephone service provider
17 may release the name, address, and telephone number of the plaintiff
18 to the Superior Court of Guam. The telephone service provider,
19 wireless service provider, or an internet service provider shall
20 disconnect all telephone services or computer or wireless services to
21 any subscriber who has violated the provisions of this section more
22 than one (1) time.

23 (g) Subsections (d) or (e) of this section are violated when the
24 person acting with intent to annoy makes a telephone call, ~~or~~ telefax
25 transmission, or any transmission by use of a telephone network, data
26 network, text message, instant message, computer, computer network,
27 or computer system requesting a return call or return transmission and

1 performs the acts prohibited under such subsections upon receiving
2 the return call or transmission.”

3 **Section 5.** A new Section 61.20.1 is hereby *added* to Chapter 61 of
4 Title 9, Guam Code Annotated to read as follows:

5 **“§ 61.20.1 Definitions.**

6 Unless otherwise indicated, as used in § 61.20:

7 (a) *Computer* means any electronic, magnetic, optical,
8 electrochemical, *or* other high-speed data processing device
9 performing logical, arithmetic, *or* storage functions, and includes, all
10 computer equipment connected *or* related to such a device in a
11 computer system *or* computer network, but *shall not* include an
12 automated typewriter or typesetter, a portable hand-held calculator, *or*
13 other similar device.

14 (b) *Computer network* means two (2) or more computers or
15 computer systems, interconnected by communication lines, including
16 microwave, electronic, or any other form of communication.

17 (c) *Computer system* means a set of interconnected computer
18 equipment intended to operate as a cohesive system.”

19 **Section 6.** A new Section 28.90 is hereby added to Article 2, Chapter
20 28 of Title 9, Guam Code Annotated, to read as follows:

21 **“§ 28.90. Obscene, anonymous, harassing and threatening**
22 **communications by computer; Defined & Punished.**

23 (a)It is unlawful for any person, with the intent to harass or
24 abuse another person, to use a computer to:

25 (1) Make contact via the internet with another without
26 disclosing his or her identity with the intent to harass or abuse;

1 (2) Make contact via the internet with a person after being
2 requested by the person to desist from contacting them;

3 (3) Threaten via the internet to commit a crime against any
4 person or property; or Cause obscene material to be delivered or
5 transmitted via the internet to a specific person after being requested
6 to desist from sending such material.

7 (4) Publish via the internet a webpage or posting on a
8 newsgroup untrue statements about another person which are false
9 and designed to entice or encourage other people to ridicule or
10 perpetuate the untruth about that person.

11 For purposes of this Article and sections therein, “obscene
12 material” means material that:

13 (A) An average person, applying contemporary adult
14 community standards, would find, taken as a whole, appeals to
15 the prurient interest, is intended to appeal to the prurient
16 interest, or is pandered to a prurient interest;

17 (B) An average person, applying contemporary adult
18 community standards, would find, depicts or describes, in a
19 patently offensive way, sexually explicit conduct consisting of
20 an ultimate sexual act, normal or perverted, actual or simulated,
21 an excretory function, masturbation, lewd exhibition of the
22 genitals or sadomasochistic sexual abuse; and

23 (C) A reasonable person would find, taken as a whole,
24 lacks literary, artistic, political or scientific value.

25 (b) It is unlawful for any person to knowingly permit a
26 computer under his or her control to be used for any purpose
27 prohibited by this section.

1 (c) Any offense committed under this section may be
2 determined to have occurred at the place at which the contact
3 originated or the place at which the contact was received or intended
4 to be received.

5 (d) Any person who violates a provision of this section is guilty
6 of a misdemeanor and, upon conviction thereof, shall be fined not
7 more than \$1,000 or imprisoned for not more than one year, or both.”

8 **Section 7.** A new Section 28.100 is hereby *added* to Article 2,
9 Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

10 **“§28.100. Illegal Use of a Computer or Telecommunications**
11 **Device to Disseminate Prohibited Materials Involving a Minor-**
12 **Sexting; Crime Defined and Punished.**

13 (a) A minor is guilty of an offense of Illegal Use of a Computer
14 Telecommunications Device Involving a Minor, otherwise known as
15 Sexting, if the minor, by use of a computer or any telecommunications
16 device, recklessly or knowingly creates, receives, exchanges, sends,
17 disseminates, transmits or possesses a photograph, video, depiction or
18 other material that shows himself or herself, or of another minor, in a
19 state of nudity.

20 (b) It is no defense to a charge under this section that the minor
21 creates, receives, exchanges, sends, or possesses a photograph, video,
22 or other material that shows themselves in a state of nudity.

23 (c) Applicability.--This section shall not apply to the use of a
24 computer or a telecommunications device to transmit or distribute a
25 photograph or other depiction involving sexual intercourse, deviate
26 sexual intercourse, sadism, masochism or masturbation. This section

1 does not prohibit a person guilty under this section to be charged with
2 other chargeable criminal sex offenses under Guam law.

3 (d) An offense under this section constitutes a “status offense”.
4 Any minor found to commits an offense under this section shall be
5 found guilty of illegal use of a telecommunications device involving a
6 minor in a state of nudity, a delinquent act that would be a
7 misdemeanor if it could be committed as an adult.

8 (e) A minor who violates this section is guilty of a separate
9 offense for each separate photograph, video, or other material that
10 shows a minor in a state of nudity which is created, received,
11 exchanged, sent, or possessed.

12 (f) Any minor who is convicted of a violation of this section,
13 shall be ordered in addition to the sentence ordered by the Court, as
14 part of his or her sentence, to participate in the educational program
15 similar to that discussed under subsection (g) of this Section.

16 (g) A juvenile or minor who commits the offense of Illegal Use
17 of a Computer or Telecommunications Device to Disseminate
18 Prohibited Materials Involving a Minor- Sexting, may be eligible for a
19 diversionary program.

20 (1) As used herein, “eligible offense” means an offense
21 chargeable under this Section where:

22 (A)the facts of the case involve the creation,
23 exhibition or distribution without malicious intent of a
24 photograph depicting nudity as defined in that section
25 through the use of a telecommunications device or a
26 computer; and

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(B) the creator and subject of the photograph are juveniles or were juveniles at the time of its making.

(2) The Office of the Attorney General, Family Division, or whichever designated division of the Office of the Attorney General that addresses matters involving juveniles in the community of Guam, will incorporate such a diversionary program under its current services. Such diversionary program would be similar to or incorporated under the current Pre-Adjudicatory Diversionary Program that the Office of the Attorney General currently utilizes. The program would require the Office of the Attorney General to develop an educational program for juveniles who commit an eligible offense as defined in this Act. The Office of the Attorney General shall then consult with the Judiciary of Guam, Juvenile Probation Division, to discuss and implement such educational program, to include the same or similar conditions as the current Pre-Adjudicatory Diversionary Program in place between the Office of the Attorney General and Judiciary of Guam, Juvenile Probation Office. The Office of the Attorney General shall be the sole agency responsible for the determination as to whether a minor may be admitted into the diversionary program. A juvenile who successfully completes the program would have the opportunity to avoid prosecution, and any records relating to such an offense, upon completion of the program, would be dismissed and expunged.

(3) Admission to the program shall be limited to juveniles who:

1 (A) have not previously been adjudicated
2 delinquent for or convicted of a criminal offense under
3 Title 9 of the Guam Code Annotated that constitutes a
4 third degree felony or greater;

5 (B) were not aware that their actions could
6 constitute and did not have the intent to commit a
7 criminal offense;

8 (C) may be harmed by the imposition of criminal
9 sanctions; and

10 (D) would likely be deterred from engaging in
11 similar conduct in the future by completing the program.

12 (4) The educational program shall provide information
13 concerning:

14 (A) the legal consequences of and penalties for
15 sharing sexually suggestive or explicit materials,
16 including applicable local and federal statutes;

17 (B) the non-legal consequences of sharing sexually
18 suggestive or explicit materials including, but not limited
19 to, the effect on relationships, loss of educational and
20 employment opportunities, and being barred or removed
21 from school programs and extracurricular activities;

22 (C) how the unique characteristics of cyberspace
23 and the Internet, including searchability, replicability, and
24 an infinite audience, can produce long-term and
25 unforeseen consequences for sharing sexually suggestive
26 or explicit materials; and

1 (D) the connection between bullying and
2 cyberbullying and juveniles sharing sexually suggestive
3 or explicit materials.

4 (5) The Attorney General may promulgate guidelines to
5 effectuate the provisions of this Section.

6 **Section 8.** A new Section 28.101 is hereby *added* to Article 2,
7 Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

8 **“§ 28.101. Illegal Use of a Computer or Telecommunications**
9 **Device to Disseminate Prohibited Materials Involving a Minor-**
10 **Sexting; Mandatory Distribution of Information Brochure about**
11 **Sexting by Retail Stores Who Sell Cellular Telephone Equipment**
12 **or Cellular Telephone Equipment Service Contracts.**

13 (a) Definitions. As used in this Section:

14 (1) “Cellular telephone equipment” or “equipment” means
15 a wireless telephone handset used in conjunction with wireless
16 telephone service.

17 (2) “Wireless telephone service” means commercial
18 mobile radio service, as defined in subsection (d) of section 332
19 of the Communications Act of 1934 (47 U.S.C. s.332).

20 (3) Sexting is defined in §28.100(a) of Title 9 G.C.A.

21 (4) “Store or other retail mercantile establishment” or
22 “store” means a place where merchandise is displayed, held,
23 stored or sold or offered to the public for sale on Guam.

24 (b) It shall be an unlawful practice for any store or other retail
25 mercantile establishment to sell cellular telephone equipment to an
26 individual, or to sell a contract for cellular telephone equipment
27 service to an individual, or to renew a contract for cellular telephone

1 equipment service with an individual, unless the store encloses an
2 informational brochure with such equipment or contract that informs
3 the individual about the dangers of the practice known as sexting.

4 (1) The informational brochure required pursuant to
5 subsection (b) shall include, but not be limited to, an
6 explanation of the types of criminal penalties that may be
7 imposed on an individual who engages in sexting, as well as a
8 list of the names, telephone numbers, and addresses of agencies
9 qualified and available to answer questions related to sexting,
10 such as the Office of the Attorney General, Consumer
11 Protection Division, or any other government or nonprofit
12 organizations that is dedicated to educating communities about
13 safety and self-responsibility when using cellular telephone
14 equipment.

15 (2) The Office of the Attorney General, Consumer
16 Protection Division, the Guam Police Department, and the
17 Department of Revenue and Taxation shall notify all stores that
18 sell cellular telephone equipment or cellular telephone
19 equipment service contracts, of the requirements of this Act by
20 advertising in local newspapers of general circulation on Guam,
21 and shall prepare an information brochure on sexting and make
22 copies available to all such stores.

23 (3) The Office of the Attorney General shall annually
24 report to the Legislature on the effectiveness of the brochure
25 preparation and distribution required by subsection c. of this
26 section.

1 (c) The owners of any store other retail mercantile
2 establishment which violates subsection (b) shall be subject to the
3 penalty of fines not to exceed \$1,000.00 per each violation, and if
4 applicable be subject to the sentence imposed for corporations under
5 §80.16 of Title 9 G.C.A.”

6 **Section 9.** Section 3112.1 of Title 17, Guam Code Annotated, is
7 hereby *amended* to read:

8 **“§ 3112.1. Same: Policy Against Bullying.**

9 (a) As used in this Section:

10 (1) ‘at school’ means in a classroom, elsewhere on or
11 immediately adjacent to school premises, on a school bus or
12 other school-related vehicle, at an official school bus stop, or at
13 a school-sponsored activity or event whether or not it is held on
14 school premises.

15 (2) ‘harassment, intimidation, or bullying’ means any
16 gesture or written, verbal, or physical act that a reasonable
17 person under the circumstances should know will have the
18 effect of harming a pupil or damaging his or her property or
19 placing a pupil in reasonable fear of harm to his or her person
20 or damage to his or her property, or that has the effect of
21 insulting or demeaning any pupil or group of pupils in such a
22 way as to disrupt or interfere with the school’s educational
23 mission or the education of any pupil. ‘Harassment,
24 intimidation, or bullying’ includes, but is not limited to, such a
25 gesture or written, verbal, or physical act that is reasonably
26 perceived as being motivated by a pupil’s religion, race, color,
27 national origin, age, sex, sexual orientation, disability, height,

1 weight, or socioeconomic status, or by any other distinguishing
2 characteristic.

3 (3) “Cyberbullying” means the use of any electronic
4 communication device to harass, intimidate or bully as defined
5 in the above subsection (2).

6 (b) The Guam Education Policy Board (the ‘Board’) shall
7 adopt a policy prohibiting “harassment, intimidation, or
8 bullying” and “cyberbullying” at school. The content of the
9 policy shall be determined by the Board but shall contain at
10 least the components in Subsection (3). The policy shall be
11 adopted through a process that includes representation of
12 parents or guardians, pupils, teachers, staff, administrators,
13 volunteers, and community representatives.

14 (c) The policy shall include at least each of the following
15 components:

16 (1) A statement prohibiting “harassment,
17 intimidation, or bullying” and “cyberbullying” of a pupil.

18 (2) A definition of “harassment, intimidation, or
19 bullying” and “cyberbullying” that includes at least the
20 acts described in the definition in this Section.

21 (3) A description of the type of behavior expected
22 from each pupil.

23 (4) Consequences and appropriate remedial action
24 for a person who commits an act of “harassment,
25 intimidation, or bullying” and “cyberbullying”.

26 (5) A procedure for reporting an act of
27 “harassment, intimidation, or bullying” and

1 “cyberbullying”, including a provision that permits a
2 person to report an act of “harassment, intimidation, or
3 bullying” and “cyberbullying” anonymously. However,
4 this Subsection shall *not* be construed to permit formal
5 disciplinary action solely on the basis of an anonymous
6 report.

7 (6) A procedure for prompt investigation of reports
8 of violations and complaints, identifying either the
9 principal or the principal's designee as the person
10 responsible for the investigation.

11 (7) The range of ways in which a school will
12 respond once an incident of “harassment, intimidation, or
13 bullying” and “cyberbullying” is identified.

14 (8) A statement that prohibits reprisal or retaliation
15 against any person who reports an act of “harassment,
16 intimidation, or bullying” and “cyberbullying”, and the
17 consequences and appropriate remedial action for a
18 person who engages in that type of reprisal or retaliation.

19 (9) Consequences and appropriate remedial action
20 for a person found to have falsely accused another as a
21 means of retaliation or as a means of “harassment,
22 intimidation, or bullying” and “cyberbullying”.

23 (10) A statement of how the policy is to be
24 publicized including notice that the policy applies to
25 participation in school-sponsored activities.

26 (11) A school employee, pupil, or volunteer shall
27 not engage in reprisal, retaliation, or false accusation

1 against a victim, witness, or one with reliable information
2 about an act of “harassment, intimidation, or bullying”
3 and “cyberbullying”.

4 (12) A school employee or volunteer who has
5 witnessed, or has reliable information that a pupil has
6 been subjected to “harassment, intimidation, or bullying”
7 and “cyberbullying”, whether verbal or physical, *shall*
8 report the incident to the appropriate school official
9 designated by the Board policy.

10 (13) A school employee who promptly reports an
11 incident of “harassment, intimidation, or bullying” and
12 “cyberbullying” to the appropriate school official
13 designated by the Board policy, and who makes this
14 report in compliance with the procedures in the policy
15 prohibiting “harassment, intimidation, or bullying” and
16 “cyberbullying” is not liable for damages arising from
17 any failure to remedy the reported incident.

18 (d) The Board shall adopt the policy under this Section
19 and transmit a copy of its policy to the Superintendent of
20 Education by February 28, 2004.

21 (e) The Board shall ensure that notice of the policy under
22 this Section is included in any publication that sets forth the
23 comprehensive rules, procedures, and standards of conduct for
24 all schools, and in its pupil handbooks.

25 (f) Public schools are required to form “bullying” and
26 “cyberbullying” prevention task forces; implement prevention,
27 intervention, and remediation programs; and explore other

1 initiatives that involve the school community, law enforcement,
2 assistance organizations, and community members. School
3 community is defined as parents or guardians, pupils, teachers,
4 staff, and administrators.

5 (g) Each school shall do all of the following:

6 (1) Provide training on the school's "harassment,
7 intimidation, or bullying" and "cyberbullying" policies to
8 the school community and volunteers who have
9 significant contact with pupils.

10 (2) Develop a process for discussing the
11 "harassment, intimidation, or bullying" and
12 "cyberbullying" policy with pupils as part of the
13 curriculum.

14 (h) A school shall incorporate information regarding its
15 policy against "harassment, intimidation, or bullying" and
16 "cyberbullying" into its employee training program.

17 (i) This Section does not prevent a victim from seeking
18 redress under any other available law, either civil or criminal.
19 This Section does not create or alter any tort liability.

20 (j) The Board shall establish rules for appropriate
21 disciplinary action for the Department of Education personnel
22 who do not comply with the policy prohibiting harassment,
23 intimidation, or bullying.

24 (k) "Harassment, Intimidation, or Bullying" and
25 "Cyberbullying" are CRIMINAL IN NATURE and any of
26 these actions can constitute a criminal offense that is chargeable
27 under Guam Law."

1 **Section 10. Severability.** If any provision of this Law or its
2 application to any person or circumstance is found to be invalid or contrary
3 to law, such invalidity shall not affect other provisions or applications of this
4 Law which can be given effect without the invalid provisions or application,
5 and to this end the provisions of this Law are severable.

6 **Section 11. Effective Date.** This Act shall be effective upon
7 enactment.

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