



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

October 4, 2011

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

31-11-955  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 10/4/11  
Time 4:00PM  
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 214-31 (COR) "AN ACT TO AMEND §10405(b) OF CHAPTER 40, TITLE 7, GUAM CODE ANNOTATED; AND TO REPEAL AND REENACT §§30.80 THROUGH 30.80.5 OF CHAPTER 30, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DEFERRED PLEA OF DOMESTIC VIOLENCE ABUSERS", which was signed into law on September 30, 2011 as Public Law 31-109.

*Senseramente,*

EDDIE BAZA CALVO

2011 OCT -5 AM 8:08

*[Handwritten initials]*

Attachment: copy of Bill

955

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

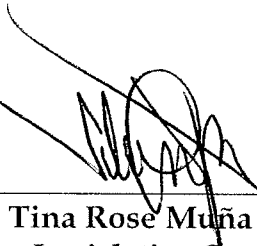
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that Substitute Bill No. 214-31 (COR), "AN ACT TO AMEND §40105(b) OF CHAPTER 40, TITLE 7, GUAM CODE ANNOTATED; AND TO REPEAL AND REENACT §§30.80 THROUGH 30.80.5 OF CHAPTER 30, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS," was on the 19<sup>th</sup> day of September, 2011, duly and regularly passed.



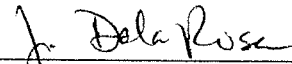
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



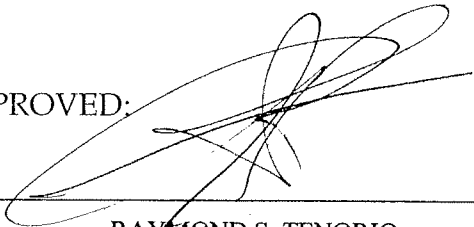
Tina Rose Muña Barnes  
Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guåhan* this 20<sup>th</sup> day of Sept, 2011, at 4:10 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



RAYMOND S. TENORIO  
Acting Governor of Guam

Date:

**SEP 30 2011**

Public Law No. 31-109

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

**Bill No. 214-31 (COR)**

As substituted by the Committee on Public Safety,  
Law Enforcement and Judiciary; and amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND §40105(b) OF CHAPTER 40, TITLE 7, GUAM CODE ANNOTATED; AND TO REPEAL AND REENACT §§30.80 THROUGH 30.80.5 OF CHAPTER 30, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that statistics from the Bureau of Justice, the National Coalition Against Domestic  
4 Violence, the American Bar Association, and most national victims' support

1 groups show that abusers who inflict serious bodily injury or death upon a spouse,  
2 domestic partner or other family member have a history of escalating and unabated  
3 abusive behavior. These organizations have also found that if first-time offenders  
4 receive counseling, education and in some cases, clinical treatment; they are less  
5 likely to reoffend.

6 Many states and Guam have diversion programs that allow certain first-time  
7 domestic violence abusers to obtain such counseling, education and treatment in  
8 exchange for expungement of the arrest record, waiver of prosecution and  
9 elimination of prison sentences and criminal records relating to such first offense.  
10 The problem that many states have found with diversion programs is that in ten  
11 percent (10%) to thirty percent (30%) of these cases, the abusers fail to complete  
12 the diversion requirements within the two (2) to three (3) years normally allowed.  
13 Prosecutors have found it difficult if not impossible to get convictions on cases that  
14 are two (2) to three (3) years old.

15 Many states have found a much higher completion rate of domestic abuser  
16 rehabilitation programs where the abusers are allowed to enter a “deferred plea”.  
17 In such states, an abuser enters a deferred guilty plea that is vacated once he  
18 completes the requirements of his deferred plea agreement. If he fails to complete  
19 the agreement, the court accepts the guilty plea. Deferred plea legislation has faced  
20 opposition from defense attorneys in states contemplating changing their diversion  
21 programs to deferred plea agreements. The opponents have countered that  
22 deferred plea programs will lead to more accused abusers seeking to “take their  
23 chances at trial” rather than entering a deferred admission of guilt. By and large,  
24 however, communities, district attorneys and victims rights groups have largely  
25 embraced such legislation.

26 *I Liheslaturan* further finds that obtaining justice for victims of domestic  
27 violence largely outweigh the desires of their abusers.

1 It is the intent of *I Liheslatura* to replace Guam’s domestic violence  
2 diversion program with a deferred plea program.

3 **Section 2. Relief.** §40105(b) of Chapter 40, Title 7, Guam Code  
4 Annotated, is *amended* to read as follows:

5 “(b) Any protection order or approved consent agreement *shall* be  
6 for a fixed period of time as the court deems appropriate. The court may  
7 amend its order or agreement at any time upon subsequent petition or motion  
8 filed by either party.”

9 **Section 3. Deferred Guilty Plea for Family Violence.** §§30.80 through  
10 30.80.5 of Chapter 30, Title 9, Guam Code Annotated, are *repealed* and *reenacted*  
11 to read as follows:

12 “§ 30.80. **Deferred Guilty Plea for Family Violence.** Upon a  
13 proper motion, when a defendant voluntarily pleads guilty, prior to the  
14 commencement of trial, to a misdemeanor charge of family violence, as  
15 defined in this Chapter, he or she is found eligible for a deferred guilty plea  
16 pursuant to §30.80.1 of this Chapter, and the defendant agrees to participate  
17 in education, counseling and/or treatment program(s) as directed by the  
18 court, the court may defer criminal proceedings until such a time as may be  
19 required for the defendant to complete the education, counseling and/or  
20 treatment program(s). Upon the defendant’s completion of the period  
21 designated by the court and in compliance with the terms and conditions  
22 established, the court may discharge the defendant and dismiss the charge  
23 against the defendant. Such discharge of the defendant and dismissal of the  
24 case *shall* be without adjudication of guilt and *shall* eliminate any civil  
25 admission of guilt and is not a conviction.

26 **§ 30.80.1. Deferred Plea Eligibility.**

1           Notwithstanding any other provision of law, and upon the  
2 determination of the judge, this §30.80.1 *shall* apply whenever a case is  
3 before the court upon an accusatory pleading for any criminal act against a  
4 family or household member as defined in Subsection (b) of §30.10 of this  
5 Chapter.

6           (a) The following persons are ineligible for the deferred  
7 guilty plea for family violence process:

8           (1) a defendant who has a felony conviction for any  
9 offense involving violence within seven (7) years prior to the  
10 alleged commission of the charged offense;

11           (2) a defendant who has participated in a diversion or  
12 deferred plea program for family violence, or a similar offense  
13 in Guam or another locality;

14           (3) a defendant who has been sentenced for a violation  
15 of §30.40 of this Chapter within one (1) year prior to the  
16 alleged commission of the charged offense; or

17           (4) a defendant whose current charge involves serious  
18 bodily injury as defined in Subsection (c) of §16.10, Chapter 16  
19 of this Title, or criminal sexual conduct involving sexual  
20 penetration as defined in Item (9) of Subsection (a) of §25.10,  
21 Chapter 25 of this Title, *unless* the court finds that due to  
22 unusual circumstances deferral of the criminal proceedings is  
23 manifestly in the interest of justice.

24           (b) The fact that a defendant is *not* made ineligible by  
25 Subsection (a) of this §30.80.1 *does not* automatically entitle a  
26 defendant to the deferred guilty plea for family violence.

1 (c) The prosecuting attorney *shall* determine whether the  
2 defendant is ineligible for deferral by reason of any of the factors set  
3 forth in Subsection (a) of this §30.80.1. If the prosecutor finds that the  
4 person is not ineligible, and will agree to a deferred plea, the  
5 prosecutor *shall* notify the defendant.

6 (d) If the prosecutor finds that the defendant is ineligible, or  
7 if the prosecutor will *not* agree to a deferral although the defendant is  
8 *not* excluded by reason of Subsection (a) of this §30.80.1, the  
9 prosecutor *shall* notify the defendant.

10 (e) Any defendant who is *not* specifically ineligible for the  
11 deferral process pursuant to Subsection (a) of this §30.80.1 may apply  
12 to the court, by noticed motion for an order granting a deferred plea.  
13 The prosecuting attorney may oppose this application.

14 **§ 30.80.2. Deferred Guilty Plea Hearing.**

15 (a) Upon noticed motion, the court *shall* hold a hearing and, after  
16 consideration of any and all information the court believes to be relevant to  
17 its decision, the court *shall* determine if the defendant consents to further  
18 proceedings under this §30.80.2 and waives his or her right to a speedy trial,  
19 and if the defendant should be allowed to enter a deferred guilty plea in the  
20 criminal proceedings and referred for education, counseling and/or treatment  
21 program(s) directed specifically to the violent conduct of the defendant. The  
22 court, in determining the defendant's eligibility for a deferred guilty plea,  
23 *shall* consider the nature and extent of the injury inflicted upon the victim,  
24 any prior incidents of family violence by the defendant, and any factors  
25 which would adversely influence the likelihood of successful completion of  
26 the deferred guilty plea agreement. If the court *does not* deem the defendant  
27 a person who would be benefited by a deferred guilty plea, or if the

1 defendant *does not* consent to participate, the criminal proceedings *shall*  
2 continue as in any other case. If the court accepts the deferred plea  
3 agreement, the court *shall* make inquiry into the financial condition of the  
4 defendant and upon a finding that the defendant is able in whole or part to  
5 pay the expense of such counseling the court may order him or her to pay for  
6 all or part of such expense.

7 Nothing in this Subsection shall prohibit the placement of a defendant  
8 in another appropriate counseling program if the court determines that there  
9 is no available education and/or treatment program.

10 (b) At such time that the defendant's plea in a case is deferred, any  
11 bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of  
12 him or her *shall* be exonerated, and the court *shall* enter an order so  
13 directing.

14 (c) The period during which further criminal proceedings against a  
15 person may be deferred pursuant to this Section *shall be no less than* one (1)  
16 year, and *no more than* three (3) years.

17 (d) The court *shall* set forth in writing or state on the record its  
18 reason for granting or denying a deferred plea agreement. The court's  
19 decision in such a matter *shall* be final and *shall not* constitute an appealable  
20 order.

21 **§ 30.80.3. Enforcement of a Deferred Plea Proceedings;**  
22 **Dismissal.** If it appears to the prosecuting attorney, the court or the  
23 probation department that the defendant under §30.80.1 of this Chapter is  
24 performing unsatisfactorily in the assigned program, or that the defendant is  
25 *not* benefiting from education, counseling and/or treatment program(s), or  
26 that he or she has been convicted of any offense involving violence, after  
27 notice to the defendant, and upon motion by the prosecuting attorney or on



1 the court's own motion, the court *shall* hold a hearing to determine whether  
2 the defendant *shall* be sentenced accordingly. If the court finds by  
3 substantial evidence that the defendant is *not* performing satisfactorily in the  
4 assigned program(s), or that the defendant is *not* benefiting from the  
5 deferral, or the court finds that the defendant has been convicted of a crime  
6 as set out above, the criminal case *shall* be referred back to the court for  
7 adjudication. If the defendant has performed satisfactorily during the  
8 deferral period, at the end of the period of deferral, the criminal charges  
9 *shall* be dismissed upon motion or application of the defendant.

10 **§ 30.80.4. Use of Arrest Record Following Successful**  
11 **Completion of Deferred Plea Agreement.** Any records filed with the  
12 Guam Police Department and the Office of the Attorney General,  
13 Prosecution Division, *shall* set out the disposition of those cases for which a  
14 deferred guilty plea has been dismissed pursuant to §30.80.1 of this Chapter.  
15 Upon successful completion of a deferred plea agreement, the arrest upon  
16 which the deferral of plea was based *shall* be expunged, as provided by  
17 Chapter 11 of Title 8, Guam Code Annotated. The defendant may indicate in  
18 response to any question concerning his or her prior criminal record that he  
19 or she was *not* arrested, or that his/her plea was deferred for such offense. A  
20 record pertaining to an arrest resulting in successful completion of the  
21 deferred plea agreement *shall not*, without the defendant's consent, be used  
22 in any way which could result in the denial of any employment, benefit,  
23 license, or certificate. Failure to affirm or acknowledge a deferred plea,  
24 following successful completion of a deferred plea agreement, on any  
25 application for employment, benefit, license, or certificate, or in any  
26 affidavit is *not* perjury or an unsworn falsification.

27 **§ 30.80.5. Counseling and Education Programs.**

1           (a) If a person is ordered to complete education, counseling and/or  
2 treatment program(s) as a result of being in diversion, entering a deferred  
3 plea of guilty to family violence, or is adjudged guilty of family violence, he  
4 or she *shall* be ordered to pay a fee to the Superior Court of Guam for such  
5 service.

6           (b) The fee *shall* be set by order of the Judicial Council.

7           (c) The fee *shall* be paid into a revolving fund hereby established  
8 and maintained apart from other funds of the Superior Court of Guam. The  
9 Court Administrator of the Superior Court of Guam *shall* be the certifying  
10 officer for the Fund. The revolving fund *shall* be expended by the Superior  
11 Court of Guam to hire, as independent contractors, licensed individual and  
12 family counselors who *shall* conduct either group sessions or individual  
13 sessions for the perpetrators of family violence, victims of family violence,  
14 or children who have witnessed family violence, and to purchase supplies  
15 and therapeutic curricula materials.”

16       **Section 4. Effective Date.** This Act *shall* be effective one hundred eighty  
17 (180) days after enactment.

6

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: Sept. 19, 2011

## VOTING SHEET

SBill No. 214-31(COR)

Resolution No. \_\_\_\_\_

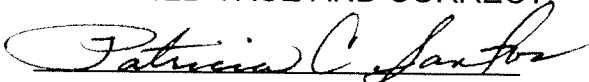
Question: \_\_\_\_\_

<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. III		*			
YAMASHITA, Aline A.	✓				

TOTAL

13      2      0      0      0

CERTIFIED TRUE AND CORRECT:

  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

Thirty-First  
Guam Legislature

August 2, 2011

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

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

RE : **Committee Report – Bill No. 214-31 (COR) as Substituted.**

The Committee on Public Safety, Law Enforcement and Judiciary, to which was referred, **Bill No. 214-31 (COR) - "AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3 OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS,"** hereby reports out with the recommendation **TO PASS.**


Committee Votes are as follows:

<u>7</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>2</u>	TO REPORT OUT ONLY
<u>0</u>	ABSTAIN
<u>0</u>	INACTIVE FILE

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

Sincerely,

  
**ADOLPHO B. PALACIOS, MPA, BS/CJA**  
Chairman

Attachments

2011 AUG - 5 PM 3:16  
EOM



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

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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COMMITTEE REPORT  
ON  
BILL NO. 214-31 (COR)  
As Substituted by the  
Committee on Public Safety, Law Enforcement & Judiciary

AN ACT TO AMEND §40105(b) OF 7GCA, TO  
~~AMEND REPEAL AND REENACT §§30.80, 30.80.1,~~  
~~30.80.2, 30.80.3~~ AND 30.80.1 THROUGH 30.80.5 OF  
98GCA, ~~AND TO REPEAL §30.80.4 OF 8GCA~~  
RELATIVE TO DEFERRED PLEAS FOR  
DOMESTIC VIOLENCE ABUSERS.



Thirty-First  
Guam Legislature

*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. Gutierrez, 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-Eujeron  
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 Guam  
Military Buildup and Homeland  
Security
- Member, Committee on  
Municipal Affairs, Tourism,  
Housing and Recreation

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

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

July 27, 2011

**MEMORANDUM**

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

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

**SUBJECT: Committee Report on Bill No. 214-31 (COR) as Substituted.**

Transmitted herewith for your consideration is the Committee Report on **Bill No. 214-31 (COR) as Substituted**— **“AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND REPEAL AND REENACT §§30.80, 30.80.1, 30.80.2, 30.80.3 AND 30.80.1 THROUGH 30.80.5 OF 98GCA, AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS,”** – sponsored Senator V. Anthony Ada.

This report includes the following:

- Committee Voting Sheet
- Committee Report Digest
- Copy of Bill No. 214-31 (COR) as Substituted
- Copy of Bill No. 214-31 (COR) as Introduced
- Public Hearing Sign-in Sheet
- Copies of testimony submitted and supporting documents
- Fiscal Note of Bill No. 214-30 (COR)
- Copy of COR Referral of Bill No. 214-31 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda

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’åse!*



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. 214-31 (COR) as Substituted – AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND REPEAL AND REENACT §§30.80, ~~30.80.1, 30.80.2, 30.80.3~~ AND 30.80.1 THROUGH 30.80.5 OF 98GCA, AND TO REPEAL ~~§30.80.4~~ OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS. – sponsored by Senator V. Anthony Ada.

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman		7/29/11 ✓				
Thomas C. Ada Vice Chairman				7/29/11 ✓		
Tina R. Muña-Barnes Member		8/2/11 ✓				
Judith P. Guthertz, DPA Member						
Rory J. Respicio Member		7/29/11 ✓				
Dennis G. Rodriguez, Jr. Member				8/1/11 ✓		
Judith T. Won Pat, Ed.D. Member		7/29/11 ✓				
V. Anthony Ada Member		7/29/11 ✓				
Christopher M. Duenas Member		7/27/11 ✓				
Mana Silva Tajeron Member						
Aline A. Yamashita, Ph.D. Member		7/29/11 ✓				



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

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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**COMMITTEE REPORT DIGEST**

**Bill No. 214-31 (COR) – “An act to amend §40105(b) of 7GCA, to amend §§30.80, 30.80.1, 30.80.2, 30.80.3 of 8GCA and to repeal §30.80.4 of 8GCA relative to deferred pleas for domestic violence abusers.” – sponsored by Senator V. Anthony Ada**

**I. OVERVIEW**

The Committee on Public Safety, Law Enforcement and Judiciary convened the public hearing on June 15, 2011 at 9:05 a.m. in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of Bill No. 214-31 (COR) – “An act to amend §40105(b) of 7GCA, to amend §§30.80, 30.80.1, 30.80.2, 30.80.3 of 8GCA and to repeal §30.80.4 of 8GCA relative to deferred pleas for domestic violence abusers,” sponsored by Senator V. Anthony Ada.

**Public Hearing Requirements:**

Notices of the hearing were disseminated via facsimile and email to all senators and all main media broadcasting outlets on June 8, 2011 (5-day Notice) and on June 13, 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
Senator Aline A. Yamashita, Ph.D.	Member
Senator V. Anthony Ada	Member
Senator Mana Silva Tajeron	Member
Vice Speaker Benjamin J.F. Cruz	
Senator Frank F. Blas, Jr.	
Senator Sam Mabini, Ph.D.	

**Individual(s) Registered for oral or written testimony:**

Phil Tydingco, Chief Deputy Attorney General, provided oral testimony in support of the 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 9:05 a.m., read the agenda, recognized the Senators present, read the title of the Bill and deferred to the author to provide an overview.

Senator V. Anthony Ada stated that the intention of the Bill is to allow the system of diversion to be replaced with a system utilizing a deferred plea for crimes of family violence. According to the family violence taskforce, approximately ten percent (10%) of diversions fail, although the rate of failure is higher than reported, he estimated up to forty percent (40%). Senator Ada stated that more serious family violence offenders are not qualified for diversion and would not be subject to the deferred plea, either. He stated that former Attorney General Alicia Limtiaco had supported the movement to a deferred plea.

Chief Deputy Attorney General Phil Tydingco stated that the Attorney General's Office supports the change from a diversion to a deferral system. He stated that there may need to be technical amendments and indicated his desire to provide written testimony. Mr. Tydingco is concerned that there is no definition of deferred plea and that there should not be ambiguity in what is intended. He stated that he is concerned that even with diversion, there may be a lack of evidence when the case comes before the court. Mr. Tydingco thanked the sponsor and cosponsors of the Bill.

Vice Chairman Thomas C. Ada suggested that the hearing of the bill without knowing the definition of deferred plea. Chairman Palacios asked Mr. Tydingco to define diversion and deferral for the Committee.

Mr. Tydingco stated that diversion is removing the case from the trial calendar and allowing the participation in the program, and then the case will be dismissed and expunged upon successful completion of the program. He stated that a deferred plea is where a guilty plea is registered and that the court does not accept the plea, but diverts the offender into a program, which, if they complete it successfully, the court would dismiss the case. If they are unsuccessful, their guilty plea is registered.

Chairman Palacios stated that his understanding is that the prosecution is delayed in favor of diversion, but that with the deferral an offender enters a guilty plea and the court does not accept it at that time, but allows them to pursue a reform program. He stated that there is a strong incentive for deferred plea compared with a diversion. Mr. Tydingco stated that his definition is correct. He stated that the process as it operates

makes denial a subjectively preferred practice for the offender. He stated that a deferred guilty plea provides for some recognition of accountability.

Vice Speaker Benjamin J.F. Cruz stated that he is embarrassed that a freshman Senator has identified this issue. He stated that it is a grave error to utilize diversion rather than a deferral for family violence.

Chairman Palacios recognized the presence of Senator Mana Silva Tajeron and asked if any Senators wished to discuss or ask questions.

Senator Aline A. Yamashita, Ph.D., stated that from the beginning she did not understand the issue, but when Senator V.A. Ada's staff explained the issues involved, she sees considerable value to it.

Phil Tydingco added that the findings could state that these practices are consistent with the therapeutic court model, which makes acceptance of responsibility as part of the process.

Chairman Adolpho B. Palacios, Sr., declared that Bill No. 214-31 (COR) is duly heard. The Chairman concluded the hearing and requested that written testimony be submitted. He adjourned the hearing at 10:54 a.m.

### **III. WRITTEN TESTIMONIES**

**Mike A. Nisperos, Jr., Executive Director, Public Defender Service Corporation.**  
*(Summary follows.)*

**Mike A. Nisperos, Jr., Executive Director, Public Defender Service Corporation.** Mr. Nisperos expressed concerns that the Bill may have an adverse impact on the court with "unnecessary trials and a backlog of cases." He predicted that many non-U.S. citizen clients may elect trial over a deferred plea which creates a potential for deportation. He stated that jury trials for family violence are difficult to prove beyond a reasonable doubt. He believes the existing law is successful in diverting cases into counseling and therapy.

*No further written testimony was received following the public hearing.*

#### IV. FINDINGS AND RECOMMENDATIONS

##### Substitute Bill No. 214-31 (COR)

The Committee on Public Safety, Law Enforcement and Judiciary has created a Substitute Bill No. 214-31 (COR).

The title of the Bill has been amended to reflect changes to what areas of the Guam Code are amended by the Bill. The language “to amend §§30.80, 30.80.1, 30.80.2, 30.80.3 of 8GCA, and to repeal §30.80.4 of 8GCA” was amended to read “to repeal and reenact §30.80 and 30.80.1 through 30.80.5 of 9GCA”.

Section 2 was amended by adding a title that reads “Relief”, adding a colon after the words “as follows” and placing quotation marks around the amended language of the existing statute.

A title was added to Section 3, which reads “Deferred Guilty Plea for Family Violence.” The citation language was changed to refer to §§30.80 and 30.80.1 through 30.80.5 and the repeal and reenactment of the existing statute instead of amendment.

A new §30.80 added to the statute and succeeding sections are renumbered accordingly except §§ 30.80.4, which is repealed, and 30.80.5, which follows. §30.80 reads:

**“§30.80. Deferred Guilty Plea for Family Violence.** Upon a proper motion, when a defendant voluntarily pleads guilty, prior to the commencement of trial, to a misdemeanor charge of family violence, as defined in this Chapter, he or she is found eligible for a deferred guilty plea pursuant to §30.80.1 of this Chapter and the defendant agrees to participate in education, counseling and/or treatment program(s) as directed by the Court, the Court may defer criminal proceedings until such a time as may be required for the defendant to complete the education, counseling and/or treatment program(s). Upon the defendant’s completion of the period designated by the court and in compliance with the terms and conditions established, the court may discharge the defendant and dismiss the charge against the defendant. Such discharge and dismissal of the case shall be without adjudication of guilty and shall eliminate any civil admission of guilty and is not a conviction.”

The newly renumbered §30.80.1 had its title amended to read “Deferred Plea Eligibility.” Throughout the statute from the new renumbered §§30.80.1 through 30.80.5, references to deferred plea or diversion were amended to deferred guilty plea

for family violence, deferred plea or deferral. §30.80.1(a)(2) was amended from “A defendant whose plea has been deferred pursuant to this section within five (5) years prior to the commission of the charged offense whether or not the prior deferred plea resulted in expungement” to “A defendant who has participated in a diversion or deferred plea program for Family Violence or a similar offense in Guam or another locality”.

The second Section 3 [sic] and Sections 4, 5 and 6 have been repealed and been incorporated in the continuous citation in Section 3.

The first sentence of renumbered §30.80.2(a) has been amended from “Upon noticed mention, the court shall hold a hearing and, after consideration of any and all information the court believes to be relevant to its decision, the court shall determine if the defendant consents to further proceedings under this §30.80.1 and waived his or her right to a speedy trial, and if the defendant should be allowed to enter a deferred plea in the criminal proceedings and referred for an education and treatment program directed specifically to the violent conduct of the defendant” to “Upon noticed mention, the court shall hold a hearing and, after consideration of any and all information the court believes to be relevant to its decision, the court shall determine if the defendant consents to further proceedings under this §30.80.2 and waived his or her right to a speedy trial, and if the defendant should be allowed to enter a deferred guilty plea in the criminal proceedings and referred for education, counseling and/or treatment program directed specifically to the violent conduct of the defendant”. Later in the same subsection the phrase “If the court accepts a deferred plea” has been replaced by “If the court accepts the deferred plea agreement”.

The deferral program does not encompass felony offenses, so in §30.80.2(c) the phrase “no more than three (3) years if a misdemeanor is charged, and no more than five (5) years if a felony is charged” was amended to read “no more than three (3) years”.

Throughout the newly renumbered §30.80.3, the term “deferred pleader” has been replaced by defendant, since the deferred plea has not been adjudicated. In that section the phrase “education and treatment program” has been replaced by “education, counseling and/or treatment program(s)”. Later in the same section the phrase “referred back to the court for enforcement of the plea” has been amended to read “referred back to the court for adjudication”.

On the newly renumbered §30.80.4, the sentence “Any records filed with the Guam Police Department and the Office of the Attorney General, Prosecution Division, shall set out the disposition of those cases diverted pursuant to §30.80.1 of this Chapter” has

been changed to “Any records filed with the Guam Police Department and the Office of the Attorney General, Prosecution Division, shall set out the disposition of those cases for which a deferred guilty plea has been dismissed pursuant to §30.80.2 of this Chapter”. During this section, the term “defendant” has replaced “deferred pleader” to be consistent with the rest of the Act.

As stated earlier, the original §30.80.4 has been repealed, which was also accomplished in the original bill by the original Section 6.

§30.80.5(a) has been amended so that the phrase “a counseling or education program” reads “education, counseling and/or treatment program(s)”. §30.80.5(b) has been changed from “The fee shall be set by order of the Presiding Judge of the Superior Court of the Superior Court of Guam. The Fee shall not exceed Ten Dollars (\$10.00) per session or per class” to “The fee shall be set by order of the Judicial Council”. Furthermore, at the end of §30.80.5(c), the phrase “and to purchase supplies and therapeutic curricula materials” has been added.

Section 7 of the Bill has been renumbered Section 4.

**Recommendations:**

The Committee on Public Safety, Law Enforcement and Judiciary hereby reports out **Bill No. 214-31 (COR), as substituted by the Committee, with the recommendation TO PASS.**

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

2011 MAY 27 11:10:21 AM  
EAM

Bill No. 214-31(COR)

Introduced by:

V. Anthony Ada  
B.J.F. Cruz  
A.A. Yamashita, Ph.D.

**AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3 OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS.**

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

**2 Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
**3** statistics from the *Bureau of Justice, The National Coalition Against Domestic*  
**4** *Violence, The American Bar Association* and most national victims' support groups  
**5** show that abusers who inflict serious bodily injury or death upon a spouse,  
**6** domestic partner or other family member have a history of escalating and unabated  
**7** abusive behavior. These organizations have also found that if first-time offenders  
**8** receive counseling, education and in some cases, clinical treatment; they are less  
**9** likely to reoffend.

**10** Many states and Guam have diversion programs that allow certain first-time  
**11** domestic violence abusers to obtain such counseling, education and treatment in  
**12** exchange for expungement of the arrest record, waiver of prosecution and  
**13** elimination of prison sentences and criminal records relating to such first offense.  
**14** The problem that many states have found with diversion program is that in 10% to  
**15** 30% of these cases, the abusers fail to complete the diversion requirements within  
**16** the two to three years normally allowed. Prosecutors have found it difficult if not  
**17** impossible to get convictions on cases that are two to three years old.

1 Many states have found a much higher completion rate of domestic abuser  
2 rehabilitation programs where the abusers are allowed to enter a “deferred plea”.  
3 In such states, abuser enter a deferred guilty plea that is vacated once he completes  
4 the requirements of his deferred plea agreement. If he fails to complete the  
5 agreement, the court accepts the guilty plea. Deferred plea legislation has faced  
6 opposition from defense attorneys in states contemplating changing their diversion  
7 programs to deferred plea agreements. The opponents have countered that  
8 deferred plea programs will lead to more accused abusers seeking to “take their  
9 chances at trial” rather than entering a deferred admission of guilt. By and large,  
10 however, communities, district attorneys and victims rights groups have largely  
11 embraced such legislation.

12 I Liheslaturan further finds that obtaining justice for victims of domestic  
13 violence largely outweigh the desires of their abusers.

14 It is the intent of I Liheslatura to replace Guam’s domestic violence  
15 diversion program with a deferred plea program.

16  
17  
18 **Section 2.** 40105(b) of 7GCA is *amended* to read as follows

19  
20 (b) Any protection order or approved consent agreement shall be for a fixed period  
21 of time as the court deems appropriate ~~not to exceed one year~~. The court may  
22 amend its order or agreement at any time upon subsequent petition or motion filed  
23 by either party.

24  
25 **Section 3.** Section 30.80 of 9GCA is *amended* to read as follows:

26  
27 **§30.80. Deferred Plea Diversion Eligibility.**

1 Notwithstanding any other provision of law, and upon the determination of the  
2 judge, this §30.80 shall apply whenever a case is before the court upon an  
3 accusatory pleading for any criminal act against a family or household member as  
4 defined in subsection (b) of §30.10 of this title.

5 (a) The following persons are ineligible for the deferred plea diversion  
6 process:

7 1. A defendant who has a felony conviction for any offense involving  
8 violence within seven (7) years prior to the alleged commission of the  
9 charged offense;

10 2. A defendant ~~who~~ whose plea has been deferred ~~diverted~~ pursuant to  
11 this section within five (5) years prior to the commission of the charged  
12 offense whether or not the prior deferred plea diversion resulted in  
13 expungement;

14 3. A defendant who has been sentenced for a violation of §30.40 of  
15 this Chapter within one (1) year prior to the alleged commission of the  
16 charged offense; or

17 4. A defendant whose current charge involves serious bodily injury as  
18 defined in subsection (c) of §16.10 of this Title, or criminal sexual conduct  
19 involving sexual penetration as defined in item (9) of subsection (d) of  
20 §25.10, unless the court finds that due to unusual circumstances deferral  
21 ~~diversion~~ of the criminal proceedings is manifestly in the interest of justice.

22 (b) The fact that a defendant is not made ineligible by subsection (a) of this  
23 §30.80 does not automatically entitle a defendant to the deferred plea diversion  
24 process.

25 (c) The prosecuting attorney shall determine whether the defendant is  
26 ineligible for deferral ~~diversion~~ by reason of any of the factors set forth in  
27 subsection (a) of this §30.80. If the prosecutor finds that the person is not



1 ineligible, and will agree to a deferred plea diversion, the prosecutor shall notify  
2 the defendant.

3 (d) If the prosecutor finds that the defendant is ineligible, or if the prosecutor  
4 will not agree to a deferral diversion although the defendant is not excluded by  
5 reason of subsection (a) of this §30.80, the prosecutor shall notify the defendant.

6 (e) Any defendant who is not specifically ineligible for the deferral diversion  
7 process pursuant to subsection (a) of this §30.80 may apply to the court, by noticed  
8 motion for an order granting a deferred plea diversion. The prosecuting attorney  
9 may oppose this application.

10  
11 **Section 3.** Section 30.80.1 of 9GCA is *amended* to read as follows:

12  
13 **§30.80.1. Deferred plea Diversion Hearing.**

14 (a) Upon noticed motion, the court shall hold a hearing and, after  
15 consideration of any and all information the court believes to be relevant to its  
16 decision, the court shall determine if the defendant consents to further proceedings  
17 under this §30.80.1 and waives his or her right to a speedy trial, and if the  
18 defendant should be ~~diverted from~~ allowed to enter a deferred plea in the criminal  
19 proceedings and referred for an education and treatment program directed  
20 specifically to the violent conduct of the defendant. The court, in determining the  
21 defendant's eligibility for a deferred plea diversion, shall consider the nature and  
22 extent of the injury inflicted upon the victim, any prior incidents of family violence  
23 by the defendant, and any factors which would adversely influence the likelihood  
24 of successful completion of the deferred plea agreement diversion ~~process~~. If the  
25 court does not deem the defendant a person who would be benefited by a deferred  
26 plea diversion, or if the defendant does not consent to participate, the criminal  
27 proceedings shall continue as in any other case. If the court accepts orders a

1 ~~deferred plea defendant to be diverted~~, the court shall make inquiry into the  
2 financial condition of the defendant and upon a finding that the defendant is able in  
3 whole or part to pay the expense of such counseling the court may order him or her  
4 to pay for all or part of such expense.

5 Nothing in this subsection shall prohibit the placement of a defendant in  
6 another appropriate counseling program if the court determines that there is no  
7 available education and treatment program.

8 (b) At such time that the defendant's plea in a case is deferred ~~diverted~~, any  
9 bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of him  
10 or her shall be exonerated, and the court shall enter an order so directing.

11 (c) The period during which further criminal proceedings against a person  
12 may be diverted pursuant to this section shall be no less than one (1) year, and no  
13 more than three (3) years if a misdemeanor is charged, and no more than five (5)  
14 years if a felony is charged.

15 (d) The court shall set forth in writing or state on the record its reason for  
16 granting or denying a deferred plea ~~diversion~~. The court's decision in such a matter  
17 shall be final and shall not constitute an appealable order.

18  
19  
20 **Section 4.** Section 30.80.2 of 9GCA is *amended* to read as follows:

21  
22 **§30.80.2. Enforcement Reinstitution of a deferred plea ~~Criminal Proceedings;~~**  
23 **Dismissal.**

24 If it appears to the prosecuting attorney, the court or the probation  
25 department that the deferred plea ~~divertee~~ under § 30.80.1 of this Chapter is  
26 performing unsatisfactorily in the assigned program, or that the deferred pleader  
27 ~~divertee~~ is not benefiting from education and treatment programs, or that he or she

1 has been convicted of any offense involving violence, after notice to the deferred  
2 pleader diverttee, and upon motion by the prosecuting attorney or on the court's  
3 own motion, the court shall hold a hearing to determine whether the deferred  
4 pleader shall be sentenced accordingly ~~criminal proceedings should be reinstated~~.  
5 If the court finds by substantial evidence that the deferred pleader diverttee is not  
6 performing satisfactorily in the assigned program, or that the deferred pleader  
7 diverttee is not benefiting from a deferral diversion, or the court finds that the  
8 deferred pleader diverttee has been convicted of a crime as set out above, the  
9 criminal case shall be referred back to the court for enforcement resumption of the  
10 plea ~~criminal proceedings~~. If the deferred pleader diverttee has performed  
11 satisfactorily during the period of diversion, at the end of the period of deferral  
12 diversion, the criminal charges shall be dismissed upon motion or application of  
13 the defendant.

14

15

16 **Section 5.** Section 30.80 of 9GCA is *amended* to read as follows:

17

18 **§30.80.3. Use of Arrest Record Following Successful Completion of Deferred**  
19 **Plea Agreement Diversion Program.**

20 Any records filed with the Guam Police Department and the Office of the  
21 Attorney General, Prosecution Division, shall set out the disposition of those cases  
22 diverted pursuant to § 30.80.1 of this Chapter. Upon successful completion of a  
23 deferred plea agreement diversion program the arrest upon which the deferral of  
24 plea diversion was based shall be expunged as provided by Chapter 11 of Title 8,  
25 Guam Code Annotated. The deferred pleader diverttee may indicate in response to  
26 any question concerning his or her prior criminal record that he or she was not  
27 arrested or his plea was deferred diverted for such offense. A record pertaining to

1 an arrest resulting in successful completion of the deferred plea agreement  
2 ~~diversion process~~ shall not, without the deferred pleader's divertee's consent, be  
3 used in any way which could result in the denial of any employment, benefit,  
4 license, or certificate. Failure to affirm or acknowledge a deferred plea, following  
5 successful completion of a deferred plea agreement, on any application for  
6 employment, benefit, license, or certificate or in any affidavit is not perjury or an  
7 unsworn falsification.

8

9 **Section 6.** Section 30.80.4 of 9GCA is *repealed*.

10

11 **Section 7.** Effective Date. This Act shall be effective one hundred eighty (180)  
12 days after enactment.

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

**Bill No. 214-31 (COR)**

As Substituted by the Committee on Public Safety,  
Law Enforcement and Judiciary

**Introduced by:**

V. Anthony Ada  
B.J.F. Cruz  
A.A. Yamashita, Ph.D.

**AN ACT TO AMEND §40105(b) OF 7GCA, TO REPEAL  
AND REENACT §§30.80 AND 30.80.1 THROUGH 30.80.5  
OF 9GCA, RELATIVE TO DEFERRED PLEAS FOR  
DOMESTIC VIOLENCE ABUSERS.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that statistics from the *Bureau of Justice, The National Coalition Against Domestic Violence, The American Bar Association* and most national victims' support groups show that abusers who inflict serious bodily injury or death upon a spouse, domestic partner or other family member have a history of escalating and unabated abusive behavior. These organizations have also found that if first-time offenders receive counseling, education and in some cases, clinical treatment; they are less likely to reoffend.

Many states and Guam have diversion programs that allow certain first-time domestic violence abusers to obtain such counseling, education and treatment in exchange for expungement of the arrest record, waiver of prosecution and elimination of prison sentences and criminal records relating to such first offense. The problem that many states have found with diversion program is that in 10% to 30% of these cases, the abusers fail to complete the diversion requirements within

1 the two to three years normally allowed. Prosecutors have found it difficult if not  
2 impossible to get convictions on cases that are two to three years old.

3 Many states have found a much higher completion rate of domestic abuser  
4 rehabilitation programs where the abusers are allowed to enter a “deferred plea”.  
5 In such states, abuser enter a deferred guilty plea that is vacated once he completes  
6 the requirements of his deferred plea agreement. If he fails to complete the  
7 agreement, the court accepts the guilty plea. Deferred plea legislation has faced  
8 opposition from defense attorneys in states contemplating changing their diversion  
9 programs to deferred plea agreements. The opponents have countered that  
10 deferred plea programs will lead to more accused abusers seeking to “take their  
11 chances at trial” rather than entering a deferred admission of guilt. By and large,  
12 however, communities, district attorneys and victims rights groups have largely  
13 embraced such legislation.

14 I Liheslaturan further finds that obtaining justice for victims of domestic  
15 violence largely outweigh the desires of their abusers.

16 It is the intent of I Liheslatura to replace Guam’s domestic violence  
17 diversion program with a deferred plea program.

18 **Section 2. Relief.** 40105(b) of 7GCA is *amended* to read as follows:

19 “(b) Any protection order or approved consent agreement shall be for a fixed  
20 period of time as the court deems appropriate ~~not to exceed one year~~. The court  
21 may amend its order or agreement at any time upon subsequent petition or motion  
22 filed by either party.”

23 **Section 3. Deferred Guilty Plea for Family Violence.** Sections 30.80 and  
24 30.80.1 through 30.80.5 of 9GCA are repealed and reenacted, to read as follows:

25 “§30.80. **Deferred Guilty Plea for Family Violence.** Upon a proper motion,  
26 when a defendant voluntarily pleads guilty, prior to the commencement of trial, to  
27 a misdemeanor charge of family violence, as defined in this Chapter, he or she is

1 found eligible for a deferred guilty plea pursuant to §30.80.1 of this Chapter and  
2 the defendant agrees to participate in education, counseling and/or treatment  
3 program(s) as directed by the Court, the Court may defer criminal proceedings  
4 until such a time as may be required for the defendant to complete the education,  
5 counseling and/or treatment program(s). Upon the defendant's completion of the  
6 period designated by the court and in compliance with the terms and conditions  
7 established, the court may discharge the defendant and dismiss the charge against  
8 the defendant. Such discharge of the defendant and dismissal of the case shall be  
9 without adjudication of guilt and shall eliminate any civil admission of guilt and is  
10 not a conviction.

11 **§30.80.1. Deferred Plea Eligibility.**

12 Notwithstanding any other provision of law, and upon the determination of the  
13 judge, this §30.80.1 shall apply whenever a case is before the court upon an  
14 accusatory pleading for any criminal act against a family or household member as  
15 defined in subsection (b) of §30.10 of this title.

16 (a) The following persons are ineligible for the deferred guilty plea for  
17 family violence process:

18 1. A defendant who has a felony conviction for any offense involving  
19 violence within seven (7) years prior to the alleged commission of the  
20 charged offense;

21 2. A defendant who has participated in a diversion or deferred plea  
22 program for Family Violence or a similar offense in Guam or another  
23 locality;

24 3. A defendant who has been sentenced for a violation of §30.40 of  
25 this Chapter within one (1) year prior to the alleged commission of the  
26 charged offense; or

1           4. A defendant whose current charge involves serious bodily injury as  
2 defined in subsection (c) of §16.10 of this Title, or criminal sexual conduct  
3 involving sexual penetration as defined in item (9) of subsection (d) of  
4 §25.10, unless the court finds that due to unusual circumstances deferral of  
5 the criminal proceedings is manifestly in the interest of justice.

6           (b) The fact that a defendant is not made ineligible by subsection (a) of this  
7 §30.80.1 does not automatically entitle a defendant to the deferred guilty plea for  
8 family violence.

9           (c) The prosecuting attorney shall determine whether the defendant is  
10 ineligible for deferral by reason of any of the factors set forth in subsection (a) of  
11 this §30.80.1. If the prosecutor finds that the person is not ineligible, and will agree  
12 to a deferred plea, the prosecutor shall notify the defendant.

13           (d) If the prosecutor finds that the defendant is ineligible, or if the prosecutor  
14 will not agree to a deferral although the defendant is not excluded by reason of  
15 subsection (a) of this §30.80.1, the prosecutor shall notify the defendant.

16           (e) Any defendant who is not specifically ineligible for the deferral process  
17 pursuant to subsection (a) of this §30.80.1 may apply to the court, by noticed  
18 motion for an order granting a deferred plea. The prosecuting attorney may oppose  
19 this application.

#### 20 **§30.80.2. Deferred Guilty Plea Hearing.**

21           (a) Upon noticed motion, the court shall hold a hearing and, after  
22 consideration of any and all information the court believes to be relevant to its  
23 decision, the court shall determine if the defendant consents to further proceedings  
24 under this §30.80.2 and waives his or her right to a speedy trial, and if the  
25 defendant should be allowed to enter a deferred guilty plea in the criminal  
26 proceedings and referred for education, counseling and/or treatment program(s)  
27 directed specifically to the violent conduct of the defendant. The court, in



1 determining the defendant's eligibility for a deferred guilty plea, shall consider the  
2 nature and extent of the injury inflicted upon the victim, any prior incidents of  
3 family violence by the defendant, and any factors which would adversely influence  
4 the likelihood of successful completion of the deferred guilty plea agreement. If the  
5 court does not deem the defendant a person who would be benefited by a deferred  
6 guilty plea, or if the defendant does not consent to participate, the criminal  
7 proceedings shall continue as in any other case. If the court accepts the deferred  
8 plea agreement, the court shall make inquiry into the financial condition of the  
9 defendant and upon a finding that the defendant is able in whole or part to pay the  
10 expense of such counseling the court may order him or her to pay for all or part of  
11 such expense.

12 Nothing in this subsection shall prohibit the placement of a defendant in  
13 another appropriate counseling program if the court determines that there is no  
14 available education and/or treatment program.

15 (b) At such time that the defendant's plea in a case is deferred, any bail bond  
16 or undertaking, or deposit in lieu thereof, on file by or on behalf of him or her shall  
17 be exonerated, and the court shall enter an order so directing.

18 (c) The period during which further criminal proceedings against a person  
19 may be deferred pursuant to this section shall be no less than one (1) year, and no  
20 more than three (3) years.

21 (d) The court shall set forth in writing or state on the record its reason for  
22 granting or denying a deferred plea agreement. The court's decision in such a  
23 matter shall be final and shall not constitute an appealable order.

24 **§30.80.3. Enforcement of a Deferred Plea Proceedings; Dismissal.** If it appears  
25 to the prosecuting attorney, the court or the probation department that the  
26 defendant under §30.80.1 of this Chapter is performing unsatisfactorily in the  
27 assigned program, or that the defendant is not benefiting from education,

1 counseling and/or treatment program(s), or that he or she has been convicted of  
2 any offense involving violence, after notice to the defendant, and upon motion by  
3 the prosecuting attorney or on the court's own motion, the court shall hold a  
4 hearing to determine whether the defendant shall be sentenced accordingly. If the  
5 court finds by substantial evidence that the defendant is not performing  
6 satisfactorily in the assigned program(s), or that the defendant is not benefiting  
7 from the deferral, or the court finds that the defendant has been convicted of a  
8 crime as set out above, the criminal case shall be referred back to the court for  
9 adjudication. If the defendant has performed satisfactorily during the deferral  
10 period, at the end of the period of deferral, the criminal charges shall be dismissed  
11 upon motion or application of the defendant.

12 **§30.80.4. Use of Arrest Record Following Successful Completion of Deferred**  
13 **Plea Agreement.** Any records filed with the Guam Police Department and the  
14 Office of the Attorney General, Prosecution Division, shall set out the disposition  
15 of those cases for which a deferred guilty plea has been dismissed pursuant to  
16 §30.80.1 of this Chapter. Upon successful completion of a deferred plea agreement  
17 the arrest upon which the deferral of plea was based shall be expunged as provided  
18 by Chapter 11 of Title 8, Guam Code Annotated. The defendant may indicate in  
19 response to any question concerning his or her prior criminal record that he or she  
20 was not arrested or that his/her plea was deferred for such offense. A record  
21 pertaining to an arrest resulting in successful completion of the deferred plea  
22 agreement shall not, without the defendant's consent, be used in any way which  
23 could result in the denial of any employment, benefit, license, or certificate. Failure  
24 to affirm or acknowledge a deferred plea, following successful completion of a  
25 deferred plea agreement, on any application for employment, benefit, license, or  
26 certificate or in any affidavit is not perjury or an unsworn falsification.

27 **§ 30.80.5 Counseling and Education Programs.**

1 (a) If a person is ordered to complete education, counseling and/or treatment  
2 program(s) as a result of being in diversion, entering a deferred plea of guilty to  
3 family violence, or is adjudged guilty of family violence, he or she shall be ordered  
4 to pay a fee to the Superior Court of Guam for such service.

5 (b) The fee shall be set by order of the Judicial Council.

6 (c) The fee shall be paid into a revolving fund hereby established and  
7 maintained apart from other funds of the Superior Court of Guam. The Court  
8 Administrator of the Superior Court of Guam shall be the certifying officer for the  
9 Fund. The revolving fund shall be expended by the Superior Court of Guam to  
10 hire, as independent contractors, licensed individual and family counselors who  
11 shall conduct either group sessions or individual sessions for the perpetrators of  
12 family violence, victims of family violence or children who have witnessed family  
13 violence and to purchase supplies and therapeutic curricula materials.”

14 **Section 4. Effective Date.** This Act shall be effective one hundred eighty (180)  
15 days after enactment.



Director  
Mike A. Nisperos, Jr.



ADMINISTRATIVE DIRECTOR  
Bernadette S.N. Charauaialaf

**PUBLIC DEFENDER SERVICE CORPORATION**  
*(Kotperasion Setbision Defensot Pupleku)*

**GOVERNMENT OF GUAM**

MVP Sinajana Commercial Building, Unit B  
779 Route 4, Sinajana, Guam 96910  
Tel: (671) 475-3100 ♦ Fax: (671) 477-5844

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Raymond B. Ilagan  
Jocelyn M. Roden  
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Maria G. Fitzpatrick  
Rebecca M. Warfield  
Ali N. Nusbaum  
Emily A. Snider  
Suresh Sampath

June 30, 2011

Hon. Senator Adolpho B. Palacios, Sr.  
Chairman, Public Safety Committee  
Thirty-First Guam Legislature

By e-mail: Hard Copy to Follow

Re: Bill 214-31 (Proposed Amendments to Family Violence Act)

Dear Senator Palacios,

I write to express the concerns of this office for the impact Bill 214-31 portends to the Superior Courts of Guam and the administration of justice. It is our belief that the proposed bill will have an adverse impact and result in log-jamming the court with unnecessary trials and creating a backlog of cases.

Initially I must say that this proposed legislation took us by surprise and we have not had the time to do the type of in depth analysis and legal review that is warranted by such a proposal. We respectfully request that this matter be tabled for at least 30 days to allow us the opportunity to provide a more detailed and specific analysis of the proposal.

On first impression we believe that many, if not all, of our non-US citizen clients will elect trial over a deferred plea that creates a potential for deportation. Our US citizen clients, we believe, will be hesitant to have a deferred plea entry on their police and court clearances and will rather elect to take their chances before a jury.

Jury trials in family violence cases, where the statute is drawn as broadly as is the case here, are very difficult to prove beyond a reasonable doubt. Whether it is right or wrong, the truth is that witnesses routinely have a change of heart or loss of memory if prosecution and conviction means the loss of income for the family that can and does result from a criminal conviction.

The law as it stands is very successful in re-directing cases into counseling and therapy and away from the criminal justice system. Change will be warranted when we have had the opportunity to address the root causes of the problem; alcoholism and the lack of economic opportunity.

Respectfully submitted,

/s/ *Mike A. Nisperos Jr.*

Executive Director

Public Defender Service Corporation

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 214-31 (COR)**

**AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§ 30.80, 30.80.1, 30.80.2, 30.80.3 OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS.**

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:	10,793,965
Department's Other Fund (Specify) appropriation(s) to date:	-
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$10,793,965</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance <sup>1</sup>		\$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
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- Does the bill contain "revenue generating" provisions?  
If Yes, see attachment / / Yes /x No
- Is amount appropriated adequate to fund the intent of the appropriation?  
If no, what is the additional amount required? \$ \_\_\_\_\_ /x N/A / / Yes / / No
- Does the Bill establish a new program/agency?  
If yes, will the program duplicate existing programs/agencies?  
Is there a federal mandate to establish the program/agency? / / Yes /x No / / Yes /x No / / 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:  
/ / Requested agency comments not received by due date / / Other: \_\_\_\_\_ / / Yes /x No

*6/17/11*

Analyst: Matt Quinata Date: 6/17/11 Director: Benita A. Mangiona Date: 6/16/11  
 Matt Quinata Benita A. Mangiona, BBMR Director

**Footnotes:**  
 The Bill has potential for additional costs for the implementation of a deferred plea program. However, in its present form, that impact cannot be determined at this time.



**COMMITTEE ON RULES**

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

2011 May 31 AM 3:35  
RW

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

**MAJORITY MEMBERS:**

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ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

**MINORITY MEMBERS:**

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

May 27, 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 Nos. 213-31 (COR) and 214-31 (COR)**

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 213-31(COR) and 214-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, 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!*

(2) Attachments

*I Mina 'Trentai Unu Na Liheslaturan Guåhan*  
**Bill Log Sheet**

**May 27, 2011**

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetted? Overridden? Public Law?
213-31 (COR)	A.A. Yamashita, Phd	AN ACT TO REPEAL § 6108 OF CHAPTER 6, ARTICLE 1 OF TITLE 17, GUAM CODE ANNOTATE, RELATIVE TO SICK PERSONS.	5/27/11 9:30 a.m.	5/27/11		Committee on Education and Public Libraries.			
214-31 (COR)	V. A. Ada, B. J.F. Cruz, A.A. Yamashita, Ph.D	AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3 OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS	05/27/11 10:24 a.m.	5/27/11		Committee on Public Safety, Law Enforcement and Judiciary			



**From:** Priscilla Cruz (pris@senatorpalacios.com)  
**To:** phnotice@guamlegislature.org; telo.taitague@guam.gov;  
**Date:** Wed, June 8, 2011 9:12:15 AM  
**Cc:**  
**Subject:** First Notice of Public Hearing scheduled for June 15, 2011

June 8, 2011

Please see attached First Notice of Public Hearing scheduled for June 15, 2011.  
Thank you for your kind attention.

Priscilla T. Cruz  
Administrative Officer  
Office of Senator A. B. Palacios, Sr.  
155 Hesler Pl.  
Hagatna, Guam 96910  
472-5047/5048

**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

*I Mina' Trentai Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.

*Chairman*

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**PRESS RELEASE**

**FIRST NOTICE OF PUBLIC HEARING**

**Wednesday, June 15, 2011 – 9:00 am**

**FOR IMMEDIATE RELEASE**

***(Hagatna, Guam – June 8, 2011)***

In accordance with the Open Government Law, Public Law No. 24-109, relative to notice for public meetings, please be advised that the Committee on Public Safety, Law Enforcement, and Judiciary will be conducting a public hearing starting at **9:00 am, Wednesday, June 15, 2011**, at *I Liheslaturan Guåhan's Public Hearing Room* in *Hagåtña*, on the following:

- **Bill No. 214-31 (COR)** – AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3, OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS. – sponsored by **Senator V. Anthony Ada**.
- **Bill No. 216-31 (COR)** – AN ACT TO AMEND (C), (D), (E), AND TO ADD A NEW ITEM (F) TO APPENDIX A, TO AMEND (A)(1), (B), AND (C) OF APPENDIX B, TO AMEND (B), (D), (E), AND ADD A NEW (F) TO APPENDIX C, TO AMEND (B) OF APPENDIX D, TO AMEND (D) OF APPENDIX D, TO AMEND (D) OF APPENDIX E OF CHAPTER 67 OF TITLE 9, TO ADD A NEW §3106.1 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO **UPDATING THE GUAM UNIFORM CONTROLLED SUBSTANCE ACT** BASED ON THE U.S. DRUG ENFORCEMENT ADMINISTRATION SCHEDULE LISTING. – sponsored by **Vice Speaker Benjamin J. F. Cruz**.
- **Bill No. 220-31 (COR)** – AN ACT AMEND “§67.407 OF ARTICLE 4, CHAPTER 67 OF TITLE 9 OF THE GUAM CODE ANNOTATED RELATIVE TO THE **GUAM UNIFORM CONTROL SUBSTANCE ACT**. – sponsored by **Senator Frank F. Blas, Jr.**
- **Bill No. 221-31 (COR)** – AN ACT AMEND ITEM (35) OF §67.100 AND TO ADD ITEM (39) TO ARTICLE 1 OF CHAPTER 67 RELATIVE TO **DRUG FREE SCHOOL ZONES**. – sponsored by **Senator Frank F. Blas, Jr.**
- **Bill No. 228-31 (COR)** – AN ACT TO AMEND §78106 OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM COMMUNITY POLICE REVIEW COMMISSION TO CONDUCT MEETINGS AND RELEVANT ACTIVITIES WITHIN GUAM POLICE DEPARTMENT FACILITIES. – sponsored by **Senator Adolpho B. Palacios, Sr.**

Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.com](http://www.guamlegislature.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Hessler Place, Hagatna, Guam 96910, or via email to [SenABPalacios@gmail.com](mailto:SenABPalacios@gmail.com), or via facsimile to (671) 472-5022, until 5:00 pm, **June 6, 2011**. Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at (671) 472-5047/5048.

*Office/Mailing Address: 155 Hessler Place, Hagatna Guam 96910*

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

**From:** Priscilla Cruz (pris@senatorpalacios.com)  
**To:** mindy@kuam.com; jason@kuam.com; sabrina@kuam.com; news@guampdn.com; cmeylan@guampdn.com; dmgeorge@guampdn.com; mpieper@guampdn.com; dcrisost@guampdn.com; amier@mvguam.com; zytaitano@mvguam.com; news@spbguam.com; clynt@spbguam.com; jtyquiengco@spbguam.com; jontalk@k57.com; breakfastshowk57@gmail.com; kstone@ite.net;  
**Date:** Wed, June 8, 2011 9:15:21 AM  
**Cc:**  
**Subject:** First Notice of Public Hearing scheduled for June 15, 2011

June 8, 2011

Please see attached Press Release regarding first notice of public hearing scheduled for June 15, 2011. Thank you for your kind attention.

Priscilla T. Cruz  
Administrative Officer  
Office of Senator A. B. Palacios, Sr.  
155 Hesler Pl.  
Hagatna, Guam 96910  
472-5047/5048



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

*I Mina Trentai Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

---

**PRESS RELEASE**

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**Wednesday, June 15, 2011 – 9:00 am**

**FOR IMMEDIATE RELEASE**

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Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.com](http://www.guamlegislature.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, or via email to [SenABPalacios@gmail.com](mailto:SenABPalacios@gmail.com), or via facsimile to (671) 472-5022, until 5:00 pm, June 6, 2011. Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at (671) 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](mailto:SenABPalacios@gmail.com)*

Destination	Start Time	Time	Prints	Result	Note
PDN	06-08 08:43	00:00:40	001/001	OK	
KUAM	06-08 08:44	00:00:23	001/001	OK	
PNC	06-08 08:45	00:00:26	001/001	OK	
KS7	06-08 08:46	00:00:25	001/001	OK	
HIT RADIO 100	06-08 08:46	00:00:21	001/001	OK	
KSTO	06-08 08:48	00:00:46	001/001	OK	
GLIMPSES	06-08 08:49	00:01:10	001/001	OK	
MARIANAS VARIETY	06-08 08:50	00:00:25	001/001	OK	
KSTEREO/KISH	06-08 08:51	00:00:47	001/001	OK	
JOY 92 FM	06-08 08:52	00:00:21	001/001	OK	
KPRG	06-08 08:53	00:00:27	001/001	OK	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX, MIX: Mixed Original TX, CALL: Manual TX, CSRC: CSRC, FOO: Forward, PC: PC-Fax, BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX, RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax, I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full, LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error, DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Minn' Trental Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.   
 Chairman

**PRESS RELEASE**

FIRST NOTICE OF PUBLIC HEARING  
 Wednesday, June 15, 2011 – 9:00 am

FOR IMMEDIATE RELEASE  
 (Hagåtña, Guam – June 8, 2011)

In accordance with the Open Government Law, Public Law No. 24-109, relative to notice for public meetings, please be advised that the Committee on Public Safety, Law Enforcement, and Judiciary will be conducting a public hearing starting at 9:00 am, Wednesday, June 15, 2011, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 214-31 (COR) – AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3, OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS.** – sponsored by Senator V. Anthony Ada.
- **Bill No. 216-31 (COR) – AN ACT TO AMEND (C), (D), (E), AND TO ADD A NEW ITEM (F) TO APPENDIX A, TO AMEND (A)(1), (B), AND (C) OF APPENDIX B, TO AMEND (B), (D), (E), AND ADD A NEW (F) TO APPENDIX C, TO AMEND (B) OF APPENDIX D, TO AMEND (D) OF APPENDIX D, TO AMEND (D) OF APPENDIX E OF CHAPTER 67 OF TITLE 9, TO ADD A NEW §3106.1 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO UPDATING THE GUAM UNIFORM CONTROLLED SUBSTANCE ACT BASED ON THE U.S. DRUG ENFORCEMENT ADMINISTRATION SCHEDULE LISTING.** – sponsored by Vice Speaker Benjamin J. F. Cruz.
- **Bill No. 220-31 (COR) – AN ACT AMEND “§67.407 OF ARTICLE 4, CHAPTER 67 OF TITLE 9 OF THE GUAM CODE ANNOTATED RELATIVE TO THE GUAM UNIFORM CONTROL SUBSTANCE ACT.** – sponsored by Senator Frank F. Blas, Jr.
- **Bill No. 221-31 (COR) – AN ACT AMEND ITEM (35) OF §67.100 AND TO ADD ITEM (39) TO ARTICLE 1 OF CHAPTER 67 RELATIVE TO DRUG FREE SCHOOL ZONES.** – sponsored by Senator Frank F. Blas, Jr.
- **Bill No. 228-31 (COR) – AN ACT TO AMEND §78106 OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM COMMUNITY POLICE REVIEW COMMISSION TO CONDUCT MEETINGS AND RELEVANT ACTIVITIES WITHIN GUAM POLICE DEPARTMENT FACILITIES.** – sponsored by Senator Adolpho B. Palacios, Sr.

Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.com](http://www.guamlegislature.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Healer Place, Hagåtña, Guam 96910, or via email to [SenABPalacios@gmail.com](mailto:SenABPalacios@gmail.com), or via facsimile to (671) 472-5022, until 5:00 pm, June 6, 2011. Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at (671) 472-5047/5048.

Destination	Start Time	Time	Prints	Result	Note
GPD	06-08 08:54	00:00:22	001/001	OK	
AGO	06-08 08:54	00:00:25	001/001	OK	
Gov.	06-08 08:55	00:00:21	001/001	OK	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX,  
MIX: Mixed Original TX, CALL: Manual TX, CSRC: CSRC, FWD: Forward, PC: PC-Fax,  
BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX,  
RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax,  
I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,  
TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,  
Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full,  
LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error,  
DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina Trental Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.  
Chairman

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

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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**PRESS RELEASE**

**SECOND NOTICE OF PUBLIC HEARING**  
**Wednesday, June 15, 2011 – 9:00 am**

**FOR IMMEDIATE RELEASE**  
**(Hagatna, Guam – June 13, 2011)**

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

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



**From:** Priscilla Cruz (pris@senatorpalacios.com)  
**To:** phnotice@guamlegislature.org; telo.taitague@guam.gov;  
**Date:** Mon, June 13, 2011 8:35:12 AM  
**Cc:**  
**Subject:** Second Notice of Public Hearing scheduled for June 15, 2011

PRESS RELEASE

SECOND NOTICE OF PUBLIC HEARING  
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## POLICE

DEPARTMENT FACILITIES. – sponsored by Senator Adolpho B. Palacios, Sr.

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Priscilla T. Cruz  
Administrative Officer  
Office of Senator A. B. Palacios, Sr.  
155 Hesler Pl.  
Hagatna, Guam 96910  
472-5047/5048

Destination	Start Time	Time	Prints	Result	Note
PDN	06-13 08:14	00:00:41	001/001	OK	
KUAM	06-13 08:15	00:00:26	001/001	OK	
PNC	06-13 08:16	00:00:25	001/001	OK	
K57	06-13 08:17	00:00:21	001/001	OK	
HIT RADIO 100	06-13 08:17	00:00:21	001/001	OK	
KSTO	06-13 08:18	00:00:43	001/001	OK	
GLIMPSES	06-13 08:19	00:00:22	001/001	OK	
MARIANAS VARIETY	06-13 08:20	00:00:25	001/001	OK	
KSTEREO/KISH	06-13 08:21	00:00:47	001/001	OK	
JOY 92 FM	06-13 08:22	00:00:21	001/001	OK	
KPRG	06-13 08:23	00:00:20	001/001	OK	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX, MIX: Mixed Original TX, CALL: Manual TX, CSAC: CSAC, FWD: Forward, PC: PC-Fax, BND: Double-Sided Binding Direction, SP: Special Original, FCODE: F-code, RTX: Re-TX, RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax, I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full, LOVR: Receiving length Over, POWER: Receiving page Over, FIL: File Error, DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY**  
*I Mina Trental Unu Na Liheslaturan Guåhan*

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**From:** Priscilla Cruz (pris@senatorpalacios.com)

**To:** sabrina@kuam.com; jason@kuam.com; mindy@kuam.com; news@guampdn.com; dcrisost@guampdn.com; dmgeorge@guampdn.com; mpieper@guampdn.com; amier@mvguam.com; zytaitano@mvguam.com; news@spbgum.com; clynt@spbgum.com; jtyquiengco@spbgum.com; jontalk@k57.com; rgibson@k57.com; breakfastshowk57@gmail.com; kstone@ite.net;

**Date:** Mon, June 13, 2011 8:37:20 AM

**Cc:**

**Subject:** Press Release - Second Notice of Public Hearing

PRESS RELEASE

SECOND NOTICE OF PUBLIC HEARING

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155 Hesler Pl.  
Hagatna, Guam 96910  
472-5047/5048

**GOVERNMENT MEETINGS**

**Tomorrow**

**Civil Service Commission:** Board meeting 5:45 p.m., seventh floor conference room, ITC Building, Tamuning. Hearing on merits: Melanie Aguon vs. Guam Memorial Hospital; motion hearing: Laura Mooney vs. Department of Education; hearing on merits continuation: James S. Cruz vs. Guam Police Department; bills and laws relating to CSC. For special accommodations, call Tille at 647-1855/7 or TDD 647-1872.

**Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land:** Round-table meeting 2 to 4 p.m., Legislature's public hearing room, Hagåtña. The Department of Revenue and Taxation, Department of Administration and Bureau of Budget Management and Research have been invited to provide the legislature with information on the status of refunds. For special accommodations, call 473-4236.

**Committee on Municipal Affairs, Tourism,**

**Housing and Recreation:** Public hearing 9 a.m., Legislature's public hearing room, Hagåtña. Executive appointment of Evelyn Casil and Elizabeth Gayle to serve as members of Parks and Recreation Commission; executive appointment of Annmarie T. Mura to serve as member of Hagåtña Restoration and Redevelopment Authority Board of Commissioners; Bill 204-31, requiring Department of Parks and Recreation to conduct review of beaches and near-shore areas surrounding Guam. Email written testimony to: senator@tinamunabarnes.com. For special accommodations, call 472-3455/6.

**June 15**

**Committee on Public Safety, Law Enforcement and Judiciary:** Public hearing 9 a.m., Legislature's public hearing room, Hagåtña. Bill 214-31 (cor), relative to deferred pleas for domestic violence abusers; Bill 216-31 (cor), relative to updating Guam Uniform Controlled Substance Act based on U.S. Drug Enforcement

Administration schedule list; Bill 220-31 (cor), relative to Guam Uniform Control Substance Act; Bill 221-31 (cor), relative to drug free school zones; Bill 228-31 (cor), authorizing Guam Community Police Review Commission to conduct meetings and relevant activities within Guam Police Department facilities. Email testimony to: senabpaliacos@gmail.com. For special accommodations, call 472-5047/5048.

**Guam Board of Medical Examiners:** Regular meeting noon, Guam Memorial Hospital Authority's Dan L. Webb conference room, Tamuning. Agenda copies available. For special accommodations, call 735-7407 or TDD 649-1801.

**Guam Contractors License Board:** Regular meeting 5:30 p.m., board conference room, 542 North Marine Corps Drive, upper Tumon. For special accommodations, call 649-2211/9676.

**Mayors Council of Guam:** Special meeting 10 a.m., J&G Commercial Center, Suite 111F, Hagåtña. Call Elaine Schaaft, 472-6940 or 477-8461.

**June 16**

**Chamorro Land Trust Commission:** Board meeting 1 p.m., Department of Land Management conference room, third floor, ITC building, Tamuning. For special accommodations, call 642-4247.

**Civil Service Commission:** Board meeting 5:45 p.m., seventh floor conference room, ITC Building, Tamuning. Continuation on hearing on merits: James S. Cruz vs. Guam Police De-

partment; bills and laws relating to CSC. For special accommodations, call Tille at 647-1855/7 or TDD 647-1872.

**Guam Board of Accountancy:** Meeting 4 p.m., Suite 101, 335 South Marine Corps Drive, Tamuning. For special accommodations, call 647-0813.

**Guam Board of Examiners for Pharmacy:** Regular meeting 7:30 a.m., Health Professional Licensing Office, Suite 9, Legacy Square Commercial Complex, Route 10, Mangilao. For special accommodations, call 735-7407.

**Guam Environmental Protection Agency:** Board of directors' regular meeting 4 p.m., GEPA main conference room, Mariner Ave., Tiyan. Public is invited. For special accommodations, call 475-1658/9.

**June 23**

**Port Authority of Guam:** Board of directors' regular meeting 11:45 a.m., board conference room, Cabras Island, Piti. For special accommodations, call Simeon Delos Santos, 477-5931/4, ext. 430.

**June 24**

**Government of Guam Retirement Fund Board of Trustees:** Regular meeting noon, Retirement Fund conference room, Route 8, Maite. For special accommodations, call 475-8900/1.

**June 28**

**Guam Board of Examiners for Optometry:** Regular meeting 8:30 a.m., Health Professional Licensing Office, Suite 9, Legacy Square Commercial Complex, Route 10, Mangilao. For special accommodations, call 735-7407.

# Keyless Nook beats out the Kindle for easy e-reading

**Bloomberg News**

**SAN FRANCISCO** — As impressed as I am with Amazon.com for launching the electronic-book market, there's one thing about the groundbreaking Kindle that I could do without: its keyboard. Those little round buttons and navigation controls are just too hard to use and take up too

can go weeks between charges.

**'Special offers'**

Both cost \$139 for a Wi-Fi-only version, though Amazon gives you more choices, including a higher-priced model with built-in 3G access as well as other versions that knock the price down in return for subjecting you to "special offers" (read: "adver-

on an iPad, or use physical buttons — they're more like ridges, really — on the bezel framing the screen. There are four of them, a pair on each side, to accommodate both righties and lefties. I didn't much like them: Besides being redundant, they required too much pressure. Barnes & Noble has also

found out a way to reduce by

WITH SINCERE APPRECIATION

*We, the family of the late*

# Henry Baculi Ong

Would like to express our most heartfelt gratitude to all those who in one way or another have shown compassion, generosity and their presence during our family's most difficult moments.

**Special thanks to:** GMH ICU, Surgical Ward & SNU Staff, Dr. Olivia Cruz, Carlos & Cely Mangrobang, Father Jason Granado, Mt. Carmel Church, Mayor Carol Tayama & Vice Mayor Augustin Quintanilla of the Agat Mayor's Office, OCP Mayor's Office, Guahan Caregiving, Health Services of the Pacific, Catholic Social Services, UOG Family Caregiver Support Program, Faculty & Staff of Adacac & Chief Brodie Elementary & Agueda & Untalan Middle School, SDA Clinic Employees, MHI & Sanko Employees, Emily Marquez & Lawrence Lutes, De-gonia, Poblete & Quiht Family, Gigi's Catering, OLOP and most especially to all those who have faithfully stood by us during the rosaries, memorial mass and burial service of our beloved brother, father and grandfather. To each of you we are eternally grateful and will cherish



**From:** Priscilla Cruz (pris@senatorpalacios.com)  
**To:** senatortonyada@guamlegislature.org; louise\_atalig@yahoo.com;  
**Date:** Wed, June 8, 2011 10:09:42 AM  
**Cc:**  
**Subject:** Bill 214 scheduled for public hearing

June 8, 2011

Please see attached memorandum from Senator A. B. Palacios, Sr., regarding Bill No. 214-31 (COR), which is scheduled for public hearing on June 15, 2011. Thank you for your kind attention.

Priscilla T. Cruz  
Administrative Officer  
Office of Senator A. B. Palacios, Sr.  
155 Hesler Pl.  
Hagatna, Guam 96910  
472-5047/5048



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


**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

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June 8, 2011

**MEMORANDUM**

**TO:** Senator V. Anthony Ada

**FROM:** Chairman, Committee on Public Safety, Law Enforcement & Judiciary 

**SUBJECT:** **Public Hearing scheduled for June 15, 2011.**

The Committee on Public Safety, Law Enforcement and Judiciary will conduct a public hearing starting at **9:00 a.m. on Wednesday, June 15, 2011** at the Guam Legislature's Public Hearing Room, and among the items on the agenda is the following Bill of which you are the author:

**Bill No. 214-31 (COR) – AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3, OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS.**

You may notify the appropriate government agencies, organizations, and persons who may wish to provide written and/or oral testimony on this bill. Thank you for your kind attention.





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

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

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PUBLIC HEARING

9:00 am, Wednesday, June 15, 2011

*I Liheslaturan Guåhan's Public Hearing Room, Hagåtña*

AGENDA

I. Call to Order

II. Opening Remarks/Announcements

III. Items for Public Consideration

- **Bill No. 214-31 (COR)** – AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND §§30.80, 30.80.1, 30.80.2, 30.80.3, OF 8GCA AND TO REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED PLEAS FOR DOMESTIC VIOLENCE ABUSERS. – sponsored by Senator V. Anthony Ada.
- **Bill No. 216-31 (COR)** – AN ACT TO AMEND (C), (D), (E), AND TO ADD A NEW ITEM (F) TO APPENDIX A, TO AMEND (A)(1), (B), AND (C) OF APPENDIX B, TO AMEND (B), (D), (E), AND ADD A NEW (F) TO APPENDIX C, TO AMEND (B) OF APPENDIX D, TO AMEND (D) OF APPENDIX D, TO AMEND (D) OF APPENDIX E OF CHAPTER 67 OF TITLE 9, TO ADD A NEW §3106.1 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO UPDATING THE GUAM UNIFORM CONTROLLED SUBSTANCE ACT BASED ON THE U.S. DRUG ENFORCEMENT ADMINISTRATION SCHEDULE LISTING. – sponsored by Vice Speaker Benjamin J. F. Cruz.
- **Bill No. 220-31 (COR)** – AN ACT AMEND “§67.407 OF ARTICLE 4, CHAPTER 67 OF TITLE 9 OF THE GUAM CODE ANNOTATED RELATIVE TO THE GUAM UNIFORM CONTROL SUBSTANCE ACT. – sponsored by Senator Frank F. Blas, Jr.
- **Bill No. 221-31 (COR)** – AN ACT AMEND ITEM (35) OF §67.100 AND TO ADD ITEM (39) TO ARTICLE 1 OF CHAPTER 67 RELATIVE TO DRUG FREE SCHOOL ZONES. – sponsored by Senator Frank F. Blas, Jr.
- **Bill No. 228-31 (COR)** – AN ACT TO AMEND §78106 OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM COMMUNITY POLICE REVIEW COMMISSION TO CONDUCT MEETINGS AND RELEVANT ACTIVITIES WITHIN GUAM POLICE DEPARTMENT FACILITIES. – sponsored by Senator Adolpho B. Palacios, Sr.

IV. Closing Remarks

V. Adjournment

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](http://www.guamlegislature.com). Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at 472-5047/5048.

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



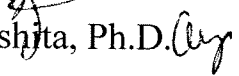
*Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com*

2011 MAY 27 11:10:21A EOM

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

Bill No. 214-31(eOR)

Introduced by:

V. Anthony Ada   
B.J.F. Cruz   
A.A. Yamashita, Ph.D. 

**AN ACT TO AMEND §40105(b) OF 7GCA, TO AMEND  
§§30.80, 30.80.1, 30.80.2, 30.80.3 OF 8GCA AND TO  
REPEAL §30.80.4 OF 8GCA RELATIVE TO DEFERRED  
PLEAS FOR DOMESTIC VIOLENCE ABUSERS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
3 statistics from the *Bureau of Justice, The National Coalition Against Domestic*  
4 *Violence, The American Bar Association* and most national victims' support groups  
5 show that abusers who inflict serious bodily injury or death upon a spouse,  
6 domestic partner or other family member have a history of escalating and unabated  
7 abusive behavior. These organizations have also found that if first-time offenders  
8 receive counseling, education and in some cases, clinical treatment; they are less  
9 likely to reoffend.

10 Many states and Guam have diversion programs that allow certain first-time  
11 domestic violence abusers to obtain such counseling, education and treatment in  
12 exchange for expungement of the arrest record, waiver of prosecution and  
13 elimination of prison sentences and criminal records relating to such first offense.  
14 The problem that many states have found with diversion program is that in 10% to  
15 30% of these cases, the abusers fail to complete the diversion requirements within  
16 the two to three years normally allowed. Prosecutors have found it difficult if not  
17 impossible to get convictions on cases that are two to three years old.

1 Many states have found a much higher completion rate of domestic abuser  
2 rehabilitation programs where the abusers are allowed to enter a “deferred plea”.  
3 In such states, abuser enter a deferred guilty plea that is vacated once he completes  
4 the requirements of his deferred plea agreement. If he fails to complete the  
5 agreement, the court accepts the guilty plea. Deferred plea legislation has faced  
6 opposition from defense attorneys in states contemplating changing their diversion  
7 programs to deferred plea agreements. The opponents have countered that  
8 deferred plea programs will lead to more accused abusers seeking to “take their  
9 chances at trial” rather than entering a deferred admission of guilt. By and large,  
10 however, communities, district attorneys and victims rights groups have largely  
11 embraced such legislation.

12 I Liheslaturan further finds that obtaining justice for victims of domestic  
13 violence largely outweigh the desires of their abusers.

14 It is the intent of I Liheslatura to replace Guam’s domestic violence  
15 diversion program with a deferred plea program.

16

17

18 **Section 2.** 40105(b) of 7GCA is *amended* to read as follows

19

20 (b) Any protection order or approved consent agreement shall be for a fixed period  
21 of time as the court deems appropriate ~~not to exceed one year~~. The court may  
22 amend its order or agreement at any time upon subsequent petition or motion filed  
23 by either party.

24

25 **Section 3.** Section 30.80 of 9GCA is *amended* to read as follows:

26

27 **§30.80. Deferred Plea Diversion Eligibility.**

1 Notwithstanding any other provision of law, and upon the determination of the  
2 judge, this §30.80 shall apply whenever a case is before the court upon an  
3 accusatory pleading for any criminal act against a family or household member as  
4 defined in subsection (b) of §30.10 of this title.

5 (a) The following persons are ineligible for the deferred plea diversion  
6 process:

7 1. A defendant who has a felony conviction for any offense involving  
8 violence within seven (7) years prior to the alleged commission of the  
9 charged offense;

10 2. A defendant ~~who~~ whose plea has been deferred ~~diverted~~ pursuant to  
11 this section within five (5) years prior to the commission of the charged  
12 offense whether or not the prior deferred plea diversion resulted in  
13 expungement;

14 3. A defendant who has been sentenced for a violation of §30.40 of  
15 this Chapter within one (1) year prior to the alleged commission of the  
16 charged offense; or

17 4. A defendant whose current charge involves serious bodily injury as  
18 defined in subsection (c) of §16.10 of this Title, or criminal sexual conduct  
19 involving sexual penetration as defined in item (9) of subsection (d) of  
20 §25.10, unless the court finds that due to unusual circumstances deferral  
21 ~~diversion~~ of the criminal proceedings is manifestly in the interest of justice.

22 (b) The fact that a defendant is not made ineligible by subsection (a) of this  
23 §30.80 does not automatically entitle a defendant to the deferred plea diversion  
24 process.

25 (c) The prosecuting attorney shall determine whether the defendant is  
26 ineligible for deferral ~~diversion~~ by reason of any of the factors set forth in  
27 subsection (a) of this §30.80. If the prosecutor finds that the person is not

1 ineligible, and will agree to a deferred plea diversion, the prosecutor shall notify  
2 the defendant.

3 (d) If the prosecutor finds that the defendant is ineligible, or if the prosecutor  
4 will not agree to a deferral diversion although the defendant is not excluded by  
5 reason of subsection (a) of this §30.80, the prosecutor shall notify the defendant.

6 (e) Any defendant who is not specifically ineligible for the deferral diversion  
7 process pursuant to subsection (a) of this §30.80 may apply to the court, by noticed  
8 motion for an order granting a deferred plea diversion. The prosecuting attorney  
9 may oppose this application.

10  
11 **Section 3.** Section 30.80.1 of 9GCA is *amended* to read as follows:

12  
13 **§30.80.1. Deferred plea Diversion Hearing.**

14 (a) Upon noticed motion, the court shall hold a hearing and, after  
15 consideration of any and all information the court believes to be relevant to its  
16 decision, the court shall determine if the defendant consents to further proceedings  
17 under this §30.80.1 and waives his or her right to a speedy trial, and if the  
18 defendant should be ~~diverted from~~ allowed to enter a deferred plea in the criminal  
19 proceedings and referred for an education and treatment program directed  
20 specifically to the violent conduct of the defendant. The court, in determining the  
21 defendant's eligibility for a deferred plea diversion, shall consider the nature and  
22 extent of the injury inflicted upon the victim, any prior incidents of family violence  
23 by the defendant, and any factors which would adversely influence the likelihood  
24 of successful completion of the deferred plea agreement diversion process. If the  
25 court does not deem the defendant a person who would be benefited by a deferred  
26 plea diversion, or if the defendant does not consent to participate, the criminal  
27 proceedings shall continue as in any other case. If the court accepts ~~orders~~ a

1 ~~deferred plea defendant to be diverted~~, the court shall make inquiry into the  
2 financial condition of the defendant and upon a finding that the defendant is able in  
3 whole or part to pay the expense of such counseling the court may order him or her  
4 to pay for all or part of such expense.

5 Nothing in this subsection shall prohibit the placement of a defendant in  
6 another appropriate counseling program if the court determines that there is no  
7 available education and treatment program.

8 (b) At such time that the defendant's plea in a case is deferred ~~diverted~~, any  
9 bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of him  
10 or her shall be exonerated, and the court shall enter an order so directing.

11 (c) The period during which further criminal proceedings against a person  
12 may be diverted pursuant to this section shall be no less than one (1) year, and no  
13 more than three (3) years if a misdemeanor is charged, and no more than five (5)  
14 years if a felony is charged.

15 (d) The court shall set forth in writing or state on the record its reason for  
16 granting or denying a deferred plea diversion. The court's decision in such a matter  
17 shall be final and shall not constitute an appealable order.

18  
19  
20 **Section 4.** Section 30.80.2 of 9GCA is *amended* to read as follows:

21  
22 **§30.80.2. Enforcement Reinstitution of a deferred plea ~~Criminal Proceedings;~~**  
23 **Dismissal.**

24 If it appears to the prosecuting attorney, the court or the probation  
25 department that the deferred plea ~~divertee~~ under § 30.80.1 of this Chapter is  
26 performing unsatisfactorily in the assigned program, or that the deferred pleader  
27 ~~divertee~~ is not benefiting from education and treatment programs, or that he or she

1 has been convicted of any offense involving violence, after notice to the deferred  
2 pleader divertee, and upon motion by the prosecuting attorney or on the court's  
3 own motion, the court shall hold a hearing to determine whether the deferred  
4 pleader shall be sentenced accordingly ~~criminal proceedings should be reinstated~~.  
5 If the court finds by substantial evidence that the deferred pleader divertee is not  
6 performing satisfactorily in the assigned program, or that the deferred pleader  
7 divertee is not benefiting from a deferral diversion, or the court finds that the  
8 deferred pleader divertee has been convicted of a crime as set out above, the  
9 criminal case shall be referred back to the court for enforcement resumption of the  
10 plea ~~criminal proceedings~~. If the deferred pleader divertee has performed  
11 satisfactorily during the period of diversion, at the end of the period of deferral  
12 diversion, the criminal charges shall be dismissed upon motion or application of  
13 the defendant.

14  
15  
16 **Section 5.** Section 30.80 of 9GCA is *amended* to read as follows:

17  
18 **§30.80.3. Use of Arrest Record Following Successful Completion of Deferred**  
19 **Plea Agreement ~~Diversion Program~~.**

20 Any records filed with the Guam Police Department and the Office of the  
21 Attorney General, Prosecution Division, shall set out the disposition of those cases  
22 diverted pursuant to § 30.80.1 of this Chapter. Upon successful completion of a  
23 deferred plea agreement ~~diversion program~~ the arrest upon which the deferral of  
24 plea ~~diversion~~ was based shall be expunged as provided by Chapter 11 of Title 8,  
25 Guam Code Annotated. The deferred pleader divertee may indicate in response to  
26 any question concerning his or her prior criminal record that he or she was not  
27 arrested or his plea was deferred ~~diverted~~ for such offense. A record pertaining to

1 an arrest resulting in successful completion of the deferred plea agreement  
2 ~~diversion process~~ shall not, without the deferred pleader's ~~divertee's~~ consent, be  
3 used in any way which could result in the denial of any employment, benefit,  
4 license, or certificate. Failure to affirm or acknowledge a deferred plea, following  
5 successful completion of a deferred plea agreement, on any application for  
6 employment, benefit, license, or certificate or in any affidavit is not perjury or an  
7 unsworn falsification.

8

9 **Section 6.** Section 30.80.4 of 9GCA is *repealed*.

10

11 **Section 7.** Effective Date. This Act shall be effective one hundred eighty (180)  
12 days after enactment.