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EDWARD J.B. CALVO
Governor

RAY TENORIO
Lieutenant Governor

OFFICE OF THE GOVERNOR OF GUAM

December 28, 2012

31-12-2048

Honorable Benjamin J.F. Cruz
Acting Speaker
Thirty-first Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 12/28/12
Time 5:04 pm
Received by [Signature]

Attached is Bill No. 511-31 (COR) entitled, ***“AN ACT TO AMEND § 2590, REPEAL AND REENACT § 2951, AMEND §§ 2952 THROUGH 2954, ADD A NEW § 2954(A), AND AMEND § 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES’ MANDATES”***, which I have signed into law as **Public Law No. 31-278**. However I have exercised my authority under Section 1423i of the Organic Act of Guam to **line-item veto** one area of the legislation concerning the appropriation of money.

I commend the author for her leadership and compassion in establishing policy to care more deeply for the abused and neglected *manamko* within our community. We are nothing in our culture without our elders.

P.L. 31-278 seeks a robust Adult Protective Services (APS) division within the Department of Public Health and Social Services. I agree that such a division should exist, as the current structure simply lacks the resources to effectively complete its mission.

I have, however, been compelled to line-item veto the appropriation of funds from the General Fund as contained in proposed amended Section 2960(a). This appropriation from the General Fund would have funded new positions at APS, along with office space, cell phones, and other new obligations. Policymakers and citizens can debate the priority placed on incurring these new obligations over paying our existing deficit, however, my main reason for the line-item veto is that this appropriation of an absolute value when the mandate is carried out has no funding behind it. Because *i Liheslatura* has appropriated all of the funding from the General Fund for operations, the new appropriation from the General Fund contemplated by proposed amended Section 2960(a) is flawed absent a corresponding de-appropriation elsewhere, or an increase in revenue to the General Fund.

The intent of *i Liheslatura* to create the new APS division is approved and has become law, however, actual implementation will be determined by *i Liheslatura* should it decide

to fund this mandate. Had I not line-item vetoed this one area of the bill, it is estimated the deficit would have grown by approximately \$500,000.00.

As I wrote in my veto of Bill No. 529:

“The government of Guam still owes millions of dollars to taxpayers, vendors, and its own employees. These obligations comprise the deficit, a deficit that came to be from two decades of appropriation after appropriation without regard for the debts that were growing older each day.

As you know we recently settled our obligations on error-free tax refunds. We then moved on to another part of our debt: merit bonuses owed to line agency employees since 1991. Not only does this government still owe merit bonuses dating back to 1991 to ex-employees of the line agencies and current and ex-employees of all other agencies and the Judiciary, obligations remain to vendors, law enforcement owed the balance of their pay adjustments, increments, civil service back pay, promised compensation... the list of bills on this deficit goes on and on.

This deficit came to be when those responsible for appropriating and spending taxpayer money either appropriated sums greater than the cash collected within a year, or altogether ignored mandates and entitlements, or a combination of both. Conversely, we have reversed this trend over the past two years working with the legislature by collecting more revenue than we projected, and by reducing operational costs. The cash that we saved from these policies went to pay down our bills. We still have a long way to go.”

Thank you for your consideration of the people to whom this Government continues to be indebted.

Senseramente,

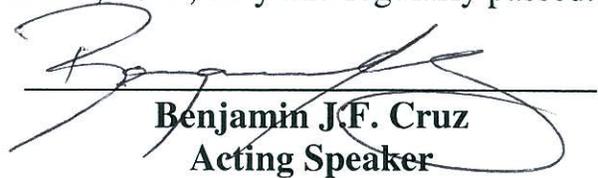


EDDIE BAZA CALVO

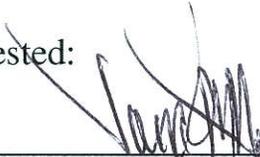
I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 511-31 (COR), "AN ACT TO AMEND § 2950, REPEAL AND REENACT § 2951, AMEND §§ 2952 THROUGH 2954, ADD A NEW § 2954(a), AND AMEND §§ 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES"**, was on the 14th day of December, 2012, duly and regularly passed.


Benjamin J.F. Cruz
Acting Speaker

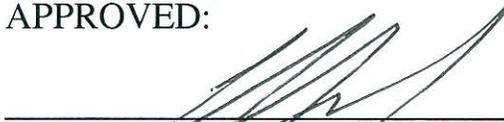
Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 17 day of Nov Dec 2012,
2012, at 11:40 o'clock A.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: DEC 28 2012

Public Law No. 31-278

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 511-31 (COR)

As substituted by the Committee on Health & Human Services,
Economic Development, Senior Citizens and Election Reform;
and amended on the Floor.

Introduced by:

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

AN ACT TO AMEND § 2950, REPEAL AND REENACT § 2951, AMEND §§ 2952 THROUGH 2954, ADD A NEW § 2954(a), AND AMEND §§ 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the law which protects our *man'amko* (elderly) and adults with disabilities,
4 enacted on January 30, 1989, and amended on May 17, 1991, requires amendments to

1 reflect politically correct and updated definitions that address the social-economic
2 changes which continue to evolve and impact the family structure and community of
3 Guam. *I Liheslatura* further finds that the Bureau of Adult Protective Services needs
4 adequate staff and support from government of Guam agencies to effectively execute
5 its duties and mandates, as well as to respond appropriately and adequately to the
6 potential increases in the number and complexity of referrals.

7 *I Liheslatura* intends to amend Chapter 2, Article 10, relative to the Bureau of
8 Adult Protective Services, of Title 10, Guam Code Annotated, that represents the
9 practice perspective from professionals who work in the social services, legal, and
10 medical fields, whose goal and duty is to safeguard and protect the total well-being of
11 vulnerable adults and to provide services in a dignified and respectful manner.

12 **Section 2.** § 2950 of Chapter 2, Article 10, Title 10, Guam Code Annotated,
13 is *amended* to read:

14 “§ 2950. **Purpose.** The purpose of this Article is to recognize that abuse,
15 neglect and exploitation of elderly or adults with a disability are problems that
16 require attention and intervention as a matter of public policy. Elderly or adults
17 with a disability require the same societal protection now being provided by law
18 to abused and neglected children and spouses. The obligation of the
19 government to extend protective care and services to the abused elderly or
20 adults with a disability should be carried out in a manner least restrictive of
21 individual rights and in accordance with due process. The family's contribution
22 to the care of its elderly or adults with a disability is acknowledged and every
23 effort should be made to assist, support and enhance its caretaking role.”

24 **Section 3.** § 2951 of Chapter 2, Article 10, Title 10, Guam Code Annotated,
25 is *repealed and re-enacted* to read:

26 “§ 2951. **Definitions.** Definitions as used in this Article:

1 (a) *Abandonment* refers to the desertion of an elderly or adult with a
2 disability by his or her caregiver under circumstances in which a reasonable
3 person would continue to provide care or custody.

4 (b) *Adult with a Disability* is any person eighteen (18) years or older
5 who:

6 (1) has a physical or mental impairment which substantially limits
7 one (1) or more major life activities; or

8 (2) has a history of, or has been classified as having, an impairment
9 which substantially limits one (1) or more major life activities.

10 (c) *Bodily Injury* means physical pain, illness, unconsciousness or any
11 impairment of physical condition, in accordance with Chapter 16 of Title 9
12 Guam Code Annotated.

13 (d) *Bureau of Adult Protective Services* means the “Bureau” established
14 by § 2955 of this Article.

15 (e) *Caregiver* is any family member or any person, health facility,
16 community care facility, clinic, home health care agency or legal guardian who
17 has the care or custody of the elderly or adult with disability.

18 (f) *Department* refers to the Department of Public Health and Social
19 Services.

20 (g) *Desertion* refers to the act by which a person abandons and forsakes,
21 without justification, a condition of public, social, or family life, renouncing its
22 responsibilities and evading its duties.

23 (h) *Elderly* refers to a person age sixty (60) years or older.

24 (i) *Elderly or Adult with a Disability Abuse* means self-neglect or any one
25 (1) or more of the following acts inflicted on an elderly or adult with a disability

1 by other than accidental means by another person: physical abuse, neglect, or
2 abandonment.

3 (j) *Emotional or Psychological Abuse* means fear, agitation, confusion,
4 severe depression, or other forms of serious emotional distress that is brought
5 about by forms of intimidating behavior, threats, harassment, or by deceptive
6 acts or false or misleading statements made with malicious intent to agitate,
7 confuse, frighten, or cause severe depression or serious emotional distress of the
8 elderly or adult with a disability.

9 (k) *Expunged* means the sealing of records to all persons outside of the
10 Bureau of Adult Protective Services and law enforcement agencies of Guam,
11 and the federal agencies entitled thereto, and a refusal by such agencies to admit
12 the existence of such records to persons *not* entitled to examine them.

13 (l) *Financial or Property Exploitation* means illegal or improper use of
14 an elderly or adult with a disability's money, property, or other resources for
15 monetary or personal benefit, profit or gain. This includes, but is *not* limited to,
16 theft, misappropriation, concealment, misuse or fraudulent deprivation of
17 money or property belonging to the elderly or adult with a disability.

18 (m) *Investigation* means that activity undertaken to determine the validity
19 of a report of elderly or adult with a disability abuse.

20 (n) *Major Life Activities* include, but are *not* limited to: caring for
21 oneself, performing manual tasks, standing, walking, seeing, hearing, eating,
22 sleeping, lifting, bending, speaking, breathing, learning, reading, concentrating,
23 thinking and working.

24 (o) *Neglect* means the failure of a reasonable caregiver to provide for the
25 physical, mental or emotional health and well-being of the elderly or adult with
26 a disability and includes, but is *not* limited to:

1 (1) Failure to assist or provide personal hygiene for the elderly or
2 adult with a disability.

3 (2) Failure to provide adequate food, water, clothing or shelter.

4 (3) Failure to provide medical care for the physical and mental
5 health of the elderly or adult with a disability. No person shall be
6 deemed neglected or abused for the sole reason that he or she voluntarily
7 relies on treatment by spiritual means through prayer alone in lieu of
8 medical treatment.

9 (4) Failure to protect an elderly or adult with a disability from
10 health, safety hazards, or physical harm.

11 (p) *Physical Abuse* means the willful infliction of or omission which
12 results in physical harm. It includes, but is *not* limited to, cruel punishment
13 resulting in physical harm or pain or mental anguish, such as direct beatings,
14 slapping, kicking, biting, choking, burning or unreasonable physical restraint or
15 confinement resulting in physical injury.

16 (q) *Physical Harm* means bodily pain, injury, impairment or disease.

17 (r) *Self-Neglect Abuse* is characterized as the behavior of an elderly or
18 adult with a disability that threatens his/her own health or safety. Self-neglect
19 generally manifests itself when an elderly or adult with a disability refuses to
20 provide him/herself with adequate food, clothing, shelter, personal hygiene,
21 medication (when indicated), and safety precautions. The definition of self-
22 neglect excludes a situation in which a mentally competent elderly or adult with
23 a disability, who understands the consequences of his/her decisions, makes a
24 conscious and voluntary decision to engage in acts that threaten his/her health
25 or safety as a matter of personal choice.

1 (s) *Serious Abuse* means an act or omission resulting in serious bodily
2 injury which creates: serious permanent disfigurement; a substantial risk of
3 death or serious, permanent disfigurement; severe or intense physical pain or
4 protracted loss or impairment of consciousness or of the function of any bodily
5 member or organ, as defined in Chapter 16 of Title 9, Guam Code Annotated;
6 or sexual offenses pursuant to Chapter 25 of Title 9, Guam Code Annotated.

7 (t) *Sexual Abuse* means any form of non-consensual sexual contact,
8 including but *not* limited to, unwanted or inappropriate sexual gratification,
9 touching, rape, sodomy, sexual coercion, sexually explicit photographing,
10 sexual harassment, involuntary exposure to sexually explicit material or
11 language, and as defined in the penal code of Guam.

12 (u) *Substantiated Report* means a report made pursuant to this Chapter, if
13 an investigation by the Bureau of Adult Protective Services, or its authorized
14 agency, determines that there is sufficient evidence to support the existence of
15 the abuse or neglect.

16 (v) *Unsubstantiated Report* means a report made pursuant to this
17 Chapter, if an investigation by the Bureau of Adult Protective Services or its
18 authorized agency determines that there is insufficient or inconclusive evidence
19 of abuse, but existence of the abuse cannot be disproved to the satisfaction of
20 the Bureau of Adult Protective Services.”

21 **Section 4.** § 2952 through § 2954 of Chapter 2, Article 10, Title 10, Guam
22 Code Annotated, are *amended* to read:

23 **“§ 2952. Reporting of Elderly or Adult with a Disability Abuse.**

24 (a) Any person who, in the course of his or her employment, occupation
25 or professional practice comes into contact with elderly or adults with
26 disabilities, has actual knowledge or reasonable cause to believe that an elderly

1 or adult with a disability is suffering from or has died as a result of abuse as
2 defined in § 2951, *shall* immediately make a verbal report of such information
3 or cause a report to be made to the Bureau of Adult Protective Services or its
4 authorized agency and *shall*, within forty-eight (48) hours, make a written
5 report to the Bureau or its authorized agency. If a verbal report is made on a
6 Friday, a written report will be made by the next workday.

7 (b) Persons required to report abuse under Subsection (a) include, but are
8 *not* limited to, physicians, medical interns, medical examiners, nurses,
9 chiropractors, hospital personnel engaged in the admission, examination, care
10 or treatment of persons, social workers, employees of nursing homes, senior
11 citizen centers and adult day care facilities, police officers, probation officers,
12 employees of homemaker and home health service agencies, emergency
13 medical service (EMS) providers, non-emergency medical transport providers,
14 medical and allied health care providers, banking or financial institution
15 personnel, pension providers, and practicum students in the field of health and
16 human services.

17 (c) In addition to persons required to report under Subsections (a) and
18 (b), any other person may make such report to the Bureau of Adult Protective
19 Services if any such person has a reasonable cause to believe that an elderly or
20 adult with a disability is suffering from or has died as a result of abuse.

21 (d) Oral or written reports from persons required to report under
22 Subsections (a) and (b) *shall* include the following information, if available:

23 (1) The name of the person making the report and where he or she
24 can be reached. The identity of the person making the report *shall* be
25 confidential, but made available to an agency contracted authorized by
26 the Bureau of Adult Protective Services to provide case investigation.

1 (2) The name, address and approximate age of the elderly or adult
2 with a disability.

3 (3) Information regarding the nature and extent of the abuse, the
4 name of the person's caretaker, if known, and any medical treatment
5 being received or immediately required, if known.

6 (4) The name of the person or persons responsible for causing the
7 suspected abuse.

8 (5) The source of the report.

9 (6) Any other information which may assist in the investigation of
10 the suspected abuse.

11 (7) The identity of the person making the report *shall* be
12 confidential.

13 (e) Reports of elderly or adult with a disability abuse may be made
14 anonymously under this Chapter.

15 **§ 2953. Immunity from Liability.**

16 (a) Any person who in good faith makes a report under this Article or
17 testifies in any administrative or judicial proceeding related to the report is
18 immune from civil or criminal liability for reporting or testifying.

19 (b) Any officer, agent or employee of the Bureau of Adult Protective
20 Services who performs his or her duties in good faith is *not* liable for civil or
21 criminal damages as a result of acts or omissions in rendering service or care to
22 an elderly or adult with a disability.

23 (c) For the purpose of any proceeding, civil or criminal, the good faith
24 referred to in Subsections (a) and (b) *shall* be presumed.

25 **§ 2954. Failure to Report.**

26 Any person required by Subsections (a) and (b) of §2952 to report a case

1 of suspected elderly or adult with a disability abuse who fails to so report *shall*
2 be liable for a fine of *not more than* Five Hundred Dollars (\$500.00), *except*
3 that for a second or subsequent offense, such person *shall* be guilty of a
4 misdemeanor. Fines *shall* be deposited in the manner prescribed in § 2954(a),
5 *infra.*”

6 **Section 5.** A new § 2954(a) is *added* to Chapter 2, Article 10, Title 10, Guam
7 Code Annotated, to read.

8 “(a) There is hereby created, separate and apart from other funds of the
9 government of Guam, a fund known as the Bureau of Adult Protective Services
10 Fund (Fund). The Fund *shall not* be commingled with the General Fund, is
11 exempt from the Governor’s transfer authority and *shall* be kept in a separate
12 bank account, and is *not* subject to fiscal constraints or limitations, such as a
13 reserve account. All funds collected *shall* be expended exclusively for purposes
14 used to support the operations of the Bureau of Adult Protective Services.”

15 **Section 6.** § 2955 through § 2960 of Chapter 2, Article 10, Title 10, Guam
16 Code Annotated, are *amended* to read:

17 “§ 2955. **Bureau of Adult Protective Services.**

18 The Division of Senior Citizens of the Department of Public Health and
19 Social Services (Department) *shall* establish a Bureau of Adult Protective
20 Services, which *shall* have sufficient staff to fulfill the purposes of this Article
21 and organized in such a way as to maximize the continuity of responsibility,
22 care and services of individual workers toward individual adults and families.
23 Therefore, at a minimum, the Bureau *shall* be organized and staffed with:

- 24 (a) one (1) Human Services Administrator to serve and lead the
25 Bureau;

1 (b) one (1) Social Services Supervisor I to provide support for the
2 daily operations and supervision of the Bureau;

3 (c) three (3) Social Worker III to staff the Case Investigation Unit.

4 (d) one (1) Social Worker III to staff the Intake and Aftercare Unit.

5 (e) one (1) Program Coordinator III to staff the Education and
6 Outreach Unit to include the management of the Emergency Receiving
7 Home.

8 The Bureau *shall* be the sole bureau responsible for receiving and
9 investigating all reports of elderly or adult with a disability abuse made
10 pursuant to this Article, specifically including, but *not* limited to, reports of
11 abuse in facilities operated by the Department and other public or private
12 agencies and in private residences. The Bureau *shall* have authority to delegate
13 to other social service agencies the responsibility of investigating reports of
14 abuse, but *shall* monitor the investigations conducted by such other authorized
15 agencies.

16 The Office of the Attorney General will provide legal services to the
17 Bureau of Adult Protective Services at no cost to the Bureau.

18 **§ 2956. Duties of the Bureau of Adult Protective Services.**

19 The Bureau *shall*:

20 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis all
21 reports, both oral and written, of suspected elderly or adult with a disability
22 abuse in accordance with this Article and the regulations of the Department.

23 (b) Investigate and evaluate the information in the reports, either through
24 its own investigators or through investigators of other authorized agencies. The
25 investigation and evaluation *shall* be made within twenty-four (24) hours if the
26 Bureau has reasonable cause to believe the adult's health or safety is in

1 imminent danger from further abuse, and within seven (7) days for all other
2 such reports. The investigation *shall* include a visit to the facility or residence,
3 an interview with the adult allegedly abused, a determination of the nature,
4 extent and cause or causes of the abuse, the identity of the person or persons
5 responsible for the abuse, and all other pertinent facts. The investigation *shall*
6 be completed within thirty (30) days. If the investigating social worker of the
7 Bureau or other authorized investigating agency determines that it is
8 appropriate, the social worker may request a law enforcement officer to
9 accompany and assist the worker in the investigation. No social worker of the
10 Bureau or other authorized investigating agency shall enter the home of any
11 individual pursuant to the provisions of this Article without the consent of the
12 individual, unless authorized pursuant to Subsection (c) of § 2957 of this
13 Article.

14 (c) Determine within sixty (60) days whether the report is substantiated
15 or unsubstantiated. If the assessment results in determination that the elderly or
16 adult with a disability has suffered serious abuse as defined in §2951, report
17 such determination to the Attorney General within forty-eight (48) hours. The
18 Attorney General shall investigate and decide whether to initiate criminal
19 proceedings.

20 (d) Develop a coordinated system of protective services to prevent further
21 abuses to adults and to provide or arrange for and monitor the provision of
22 those services necessary to safeguard and ensure the adult's well-being and
23 development, and preserve and stabilize family life wherever appropriate.

24 (e) Make available, among its services for the prevention and treatment
25 of elderly and adult with a disability abuse, through authorized individuals and
26 through inter-agency and intra-agency assistance and cooperation, instruction in

1 caring for elderly and adults with a disability, protective and preventive social
2 care, and emergency shelter care.

3 (f) Appoint a Multi-Disciplinary Team (MDT) for the purpose of
4 providing case consultation, interagency treatment strategies and collaborative
5 planning to address complex cases and service gaps involving an elderly or
6 adult with a disability who is a victim of abuse and/or neglect.

7 The MDT may include, but is *not* limited to, a Bureau of Adult Protective
8 Services social worker, a representative of a law enforcement agency, Guam
9 Police Department, the medical profession, a mental health agency, the hospital,
10 the public guardian, a representative of any private or government social service
11 agency or advocacy office, Guam Legal Services Corporation, and a
12 representative of the Mayors' Council of Guam. The MDT *shall* document all
13 actions and efforts in addressing the needs of the client.

14 (g) Functions of the Bureau are subject to the appropriation of funding
15 and allocation of personnel sufficient to carry out the operations of the Bureau.

16 **§ 2957. Consent of Victim; Guardianship.**

17 (a) An elderly or adult with a disability who is a victim or alleged victim
18 of abuse may refuse to cooperate in the investigation, or withdraw consent at
19 any time to the provision of protective services by the Bureau or its authorized
20 agency. However, the Bureau responsible to investigate all complaints of abuse
21 against the elderly or adults with a disability and *shall* have the responsibility to
22 complete and document the investigation efforts, regardless of the lack of
23 cooperation of the victim of abuse.

24 (b) If the elderly or adult with a disability victim or alleged victim of
25 abuse is so incapacitated that he or she cannot legally give or deny consent to an
26 investigation or protective services, the Bureau may initiate a petition for

1 guardianship in accordance with Chapter 38 of Title 15 Guam Code Annotated,
2 or initiate a petition for civil commitment pursuant to law.

3 (c) If a social worker of the Bureau or other authorized agency who is
4 investigating a report of abuse is denied access to the alleged victim by a
5 caregiver or household member, such agency may petition the Superior Court
6 for an order allowing the Bureau or agency immediate access to the alleged
7 victim. The court *shall* give notice to the caregiver or household member who is
8 denying access *at least* twenty-four (24) hours prior to the hearing. The Court
9 may dispense with the notice upon finding that immediate and reasonably
10 foreseeable harm to the alleged victim will result from the twenty-four (24)
11 hour delay. If, after the hearing, the court determines, based upon clear and
12 convincing evidence, that the caregiver or household member should be
13 required to allow access, the Court *shall* so order. The order allowing access
14 *shall* remain in effect for a period not *to exceed* seventy-two (72) hours and
15 may be extended for an additional seventy-two (72) hours if the court finds that
16 the extension is necessary for the Bureau or its authorized agency to gain access
17 to the alleged victim.

18 (d) No person shall interfere with the provision of protective services to
19 an elderly or adult with a disability who requests or consents to receive such
20 services. In the event that interference occurs on a continuing basis, the
21 Bureau, its authorized protective services agency, or the public guardian may
22 petition the court to enjoin such interference.

23 **§ 2958. Central Registry.**

24 (a) The Bureau *shall* maintain a Central Registry of reports of elderly or
25 adult with a disability abuse, which *shall* contain and be limited to the
26 following information:

1 (1) The name, address and birthdate of the elderly or adult with a
2 disability.

3 (2) The date or dates and the nature and extent of the suspected
4 abuse.

5 (3) The locality in which the suspected abuse occurred.

6 (4) The name of the person or persons suspected of causing the
7 abuse.

8 (5) The progress of any legal proceedings brought on the basis of
9 suspected abuse.

10 (b) Both substantiated and unsubstantiated reports of elderly or adult with
11 a disability abuse *shall* be placed and maintained in the eCentral Registry.

12 (c) An investigation of a report of suspected elderly or adult with a
13 disability abuse, that *does not* determine within ninety (90) days of the date of
14 the initial report that it is a substantiated or an unsubstantiated report, *shall* be
15 classified as an inconclusive finding. Therefore, all information identifying the
16 named victim and perpetrator or perpetrators *shall* be expunged.

17 **§ 2959. Confidentiality.**

18 (a) All records maintained by the Bureau regarding reports of abuse,
19 including, but *not* limited to, information contained in the central registry, *shall*
20 be confidential and *shall* be released only with the consent of the elderly or
21 adult with a disability or, if the adult is *not* competent, only with the consent of
22 the adult's guardian, and *shall* be released only to individuals designated in this
23 § 2959.

24 (b) Records may be released, only as necessary to serve and protect the
25 adult, to the following:

26 (1) Any agency or individual, authorized, contracted or licensed

1 through the Bureau to care for, protect or provide services to an elderly or
2 adult with a disability who is a victim of abuse, which agency or
3 individual *shall* share information related to the abuse with the Bureau.

4 (2) Courts of competent jurisdiction, upon finding that access to
5 the records may be necessary for determination of an issue before the
6 court. Access *shall* be limited to inspection by the court only, unless the
7 court determines that disclosure of the records to interested parties is
8 necessary for resolution of an issue pending before it.

9 (3) Grand juries when connected with the prosecution of a case of
10 elderly or adult with a disability abuse.

11 (4) Properly constituted authorities or agencies, including police
12 departments, prosecutors and attorneys general investigating a report of
13 known or suspected elderly or adult with a disability abuse.

14 (5) A physician examining or treating an elderly or adult with a
15 disability where the physician suspects the adult of having been abused.

16 (6) The guardian or attorney of the elderly or adult with a
17 disability.

18 (7) A duly authorized official of the Bureau.

19 (8) The victim or alleged victim of the abuse.

20 (9) After, and only after, a court proceeding has been initiated
21 regarding the abuse, the perpetrator or alleged perpetrator of the abuse.

22 (c) Records may be released to sources other than those identified in
23 Subsection (b) only when a written authorization from the victim or alleged
24 victim, or his or her guardian, specifically provides consent to have the record
25 released or reviewed. In the event the guardian is the alleged perpetrator, this
26 provision *will not* apply.

1 (d) Regardless of Subsections (a), (b) and (c), identities of persons
2 reporting elderly or adult with a disability abuse *shall* remain anonymous and
3 release of the identity of a person reporting such abuse, or information which
4 would identify the reporter of abuse, is strictly prohibited.

5 (e) Students authorized by the Director of the Department may be
6 permitted, under direct supervision, access to Bureau of Adult Protective
7 Service (BAPS) files for the purpose of field practice, research and to gather
8 statistical information. Such authorized students, under supervision, may be
9 permitted to receive BAPS referrals and participate in BAPS intake, interviews
10 and case management assignments. Such authorized students *shall* be registered
11 in a field placement, practicum internship, or block placement with an
12 accredited college or university. Such authorized students will be under the
13 direct supervision of a social services supervisor and subject to all conditions of
14 this Chapter, and government of Guam policies, procedures and guidelines.
15 Such authorized students *shall not* disseminate any information beyond the
16 scope of the program objectives.

17 (f) Any person who willfully releases or permits the release of any
18 information or records is in violation of this Section, and *shall* be guilty of a
19 misdemeanor.

20 **§ 2960. Appropriation.**

21 ~~(a) Funds shall be appropriated from the General Fund to the Department~~
22 ~~for the operations of the Bureau to allow the Bureau to carry out its mandates.~~
23 The appropriation *shall* cover staffing requirements, vehicles, cellphones, APS
24 database and registry, logistics, contracting of services, and emergency shelter
25 for victims of elderly and adult with a disability abuse.

26 (b) Within three (3) months following the end of each fiscal year, the

1 Bureau *shall* submit a report to the Governor, the Superior Court, the
2 Legislature, and the public, which *shall* include:

3 (1) Description of the activities of the Bureau and all designated
4 agencies during the preceding year.

5 (2) Statistical information about the number and types of reports
6 received during the preceding year.

7 (3) Results of the assessments and evaluations conducted and the
8 amount, type, and costs of services provided.

9 (4) Information on the quality of services provided and the result
10 of such services in terms of alleviating abuse.

11 (5) Identification of problems that may arise in the implementation
12 of this Article.

13 (6) Recommendation for action on the part of *I Liheslatura* (the
14 Legislature) whenever deemed vital for the protection of the elderly and adults
15 with a disability.

16 (7) Amount collected and use of funds of the “Bureau of Adult Protective
17 Services Fund,” in accordance with § 2954(a), *supra*.”

18 **Section 7. Severability.** If any provision of this Act or its application to any
19 person or circumstance is found to be invalid or contrary to law, such invalidity shall
20 not affect other provisions or applications of this Act which can be given effect
21 without the invalid provisions application, and to this end the provisions of this Act
22 are severable.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 511-31 (COR)

As substituted by the Committee on Health & Human Services,
Economic Development, Senior Citizens and Election Reform;
and amended on the Floor.

Introduced by:

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

AN ACT TO AMEND § 2950, REPEAL AND REENACT § 2951, AMEND §§ 2952 THROUGH 2954, ADD A NEW § 2954(a), AND AMEND §§ 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the law which protects our *man'amko* (elderly) and adults with disabilities,
4 enacted on January 30, 1989, and amended on May 17, 1991, requires amendments to

1 reflect politically correct and updated definitions that address the social-economic
2 changes which continue to evolve and impact the family structure and community of
3 Guam. *I Liheslatura* further finds that the Bureau of Adult Protective Services needs
4 adequate staff and support from government of Guam agencies to effectively execute
5 its duties and mandates, as well as to respond appropriately and adequately to the
6 potential increases in the number and complexity of referrals.

7 *I Liheslatura* intends to amend Chapter 2, Article 10, relative to the Bureau of
8 Adult Protective Services, of Title 10, Guam Code Annotated, that represents the
9 practice perspective from professionals who work in the social services, legal, and
10 medical fields, whose goal and duty is to safeguard and protect the total well-being of
11 vulnerable adults and to provide services in a dignified and respectful manner.

12 **Section 2.** § 2950 of Chapter 2, Article 10, Title 10, Guam Code Annotated,
13 is *amended* to read:

14 “§ 2950. **Purpose.** The purpose of this Article is to recognize that abuse,
15 neglect and exploitation of elderly or adults with a disability are problems that
16 require attention and intervention as a matter of public policy. Elderly or adults
17 with a disability require the same societal protection now being provided by law
18 to abused and neglected children and spouses. The obligation of the
19 government to extend protective care and services to the abused elderly or
20 adults with a disability should be carried out in a manner least restrictive of
21 individual rights and in accordance with due process. The family's contribution
22 to the care of its elderly or adults with a disability is acknowledged and every
23 effort should be made to assist, support and enhance its caretaking role.”

24 **Section 3.** § 2951 of Chapter 2, Article 10, Title 10, Guam Code Annotated,
25 is *repealed and re-enacted* to read:

26 “§ 2951. **Definitions.** Definitions as used in this Article:

1 (a) *Abandonment* refers to the desertion of an elderly or adult with a
2 disability by his or her caregiver under circumstances in which a reasonable
3 person would continue to provide care or custody.

4 (b) *Adult with a Disability* is any person eighteen (18) years or older
5 who:

6 (1) has a physical or mental impairment which substantially limits
7 one (1) or more major life activities; or

8 (2) has a history of, or has been classified as having, an impairment
9 which substantially limits one (1) or more major life activities.

10 (c) *Bodily Injury* means physical pain, illness, unconsciousness or any
11 impairment of physical condition, in accordance with Chapter 16 of Title 9
12 Guam Code Annotated.

13 (d) *Bureau of Adult Protective Services* means the “Bureau” established
14 by § 2955 of this Article.

15 (e) *Caregiver* is any family member or any person, health facility,
16 community care facility, clinic, home health care agency or legal guardian who
17 has the care or custody of the elderly or adult with disability.

18 (f) *Department* refers to the Department of Public Health and Social
19 Services.

20 (g) *Desertion* refers to the act by which a person abandons and forsakes,
21 without justification, a condition of public, social, or family life, renouncing its
22 responsibilities and evading its duties.

23 (h) *Elderly* refers to a person age sixty (60) years or older.

24 (i) *Elderly or Adult with a Disability Abuse* means self-neglect or any one
25 (1) or more of the following acts inflicted on an elderly or adult with a disability

1 by other than accidental means by another person: physical abuse, neglect, or
2 abandonment.

3 (j) *Emotional or Psychological Abuse* means fear, agitation, confusion,
4 severe depression, or other forms of serious emotional distress that is brought
5 about by forms of intimidating behavior, threats, harassment, or by deceptive
6 acts or false or misleading statements made with malicious intent to agitate,
7 confuse, frighten, or cause severe depression or serious emotional distress of the
8 elderly or adult with a disability.

9 (k) *Expunged* means the sealing of records to all persons outside of the
10 Bureau of Adult Protective Services and law enforcement agencies of Guam,
11 and the federal agencies entitled thereto, and a refusal by such agencies to admit
12 the existence of such records to persons *not* entitled to examine them.

13 (l) *Financial or Property Exploitation* means illegal or improper use of
14 an elderly or adult with a disability's money, property, or other resources for
15 monetary or personal benefit, profit or gain. This includes, but is *not* limited to,
16 theft, misappropriation, concealment, misuse or fraudulent deprivation of
17 money or property belonging to the elderly or adult with a disability.

18 (m) *Investigation* means that activity undertaken to determine the validity
19 of a report of elderly or adult with a disability abuse.

20 (n) *Major Life Activities* include, but are *not* limited to: caring for
21 oneself, performing manual tasks, standing, walking, seeing, hearing, eating,
22 sleeping, lifting, bending, speaking, breathing, learning, reading, concentrating,
23 thinking and working.

24 (o) *Neglect* means the failure of a reasonable caregiver to provide for the
25 physical, mental or emotional health and well-being of the elderly or adult with
26 a disability and includes, but is *not* limited to:

1 (1) Failure to assist or provide personal hygiene for the elderly or
2 adult with a disability.

3 (2) Failure to provide adequate food, water, clothing or shelter.

4 (3) Failure to provide medical care for the physical and mental
5 health of the elderly or adult with a disability. No person shall be
6 deemed neglected or abused for the sole reason that he or she voluntarily
7 relies on treatment by spiritual means through prayer alone in lieu of
8 medical treatment.

9 (4) Failure to protect an elderly or adult with a disability from
10 health, safety hazards, or physical harm.

11 (p) *Physical Abuse* means the willful infliction of or omission which
12 results in physical harm. It includes, but is *not* limited to, cruel punishment
13 resulting in physical harm or pain or mental anguish, such as direct beatings,
14 slapping, kicking, biting, choking, burning or unreasonable physical restraint or
15 confinement resulting in physical injury.

16 (q) *Physical Harm* means bodily pain, injury, impairment or disease.

17 (r) *Self-Neglect Abuse* is characterized as the behavior of an elderly or
18 adult with a disability that threatens his/her own health or safety. Self-neglect
19 generally manifests itself when an elderly or adult with a disability refuses to
20 provide him/herself with adequate food, clothing, shelter, personal hygiene,
21 medication (when indicated), and safety precautions. The definition of self-
22 neglect excludes a situation in which a mentally competent elderly or adult with
23 a disability, who understands the consequences of his/her decisions, makes a
24 conscious and voluntary decision to engage in acts that threaten his/her health
25 or safety as a matter of personal choice.

1 (s) *Serious Abuse* means an act or omission resulting in serious bodily
2 injury which creates: serious permanent disfigurement; a substantial risk of
3 death or serious, permanent disfigurement; severe or intense physical pain or
4 protracted loss or impairment of consciousness or of the function of any bodily
5 member or organ, as defined in Chapter 16 of Title 9, Guam Code Annotated;
6 or sexual offenses pursuant to Chapter 25 of Title 9, Guam Code Annotated.

7 (t) *Sexual Abuse* means any form of non-consensual sexual contact,
8 including but *not* limited to, unwanted or inappropriate sexual gratification,
9 touching, rape, sodomy, sexual coercion, sexually explicit photographing,
10 sexual harassment, involuntary exposure to sexually explicit material or
11 language, and as defined in the penal code of Guam.

12 (u) *Substantiated Report* means a report made pursuant to this Chapter, if
13 an investigation by the Bureau of Adult Protective Services, or its authorized
14 agency, determines that there is sufficient evidence to support the existence of
15 the abuse or neglect.

16 (v) *Unsubstantiated Report* means a report made pursuant to this
17 Chapter, if an investigation by the Bureau of Adult Protective Services or its
18 authorized agency determines that there is insufficient or inconclusive evidence
19 of abuse, but existence of the abuse cannot be disproved to the satisfaction of
20 the Bureau of Adult Protective Services.”

21 **Section 4.** § 2952 through § 2954 of Chapter 2, Article 10, Title 10, Guam
22 Code Annotated, are *amended* to read:

23 “**§ 2952. Reporting of Elderly or Adult with a Disability Abuse.**

24 (a) Any person who, in the course of his or her employment, occupation
25 or professional practice comes into contact with elderly or adults with
26 disabilities, has actual knowledge or reasonable cause to believe that an elderly

1 or adult with a disability is suffering from or has died as a result of abuse as
2 defined in § 2951, *shall* immediately make a verbal report of such information
3 or cause a report to be made to the Bureau of Adult Protective Services or its
4 authorized agency and *shall*, within forty-eight (48) hours, make a written
5 report to the Bureau or its authorized agency. If a verbal report is made on a
6 Friday, a written report will be made by the next workday.

7 (b) Persons required to report abuse under Subsection (a) include, but are
8 *not* limited to, physicians, medical interns, medical examiners, nurses,
9 chiropractors, hospital personnel engaged in the admission, examination, care
10 or treatment of persons, social workers, employees of nursing homes, senior
11 citizen centers and adult day care facilities, police officers, probation officers,
12 employees of homemaker and home health service agencies, emergency
13 medical service (EMS) providers, non-emergency medical transport providers,
14 medical and allied health care providers, banking or financial institution
15 personnel, pension providers, and practicum students in the field of health and
16 human services.

17 (c) In addition to persons required to report under Subsections (a) and
18 (b), any other person may make such report to the Bureau of Adult Protective
19 Services if any such person has a reasonable cause to believe that an elderly or
20 adult with a disability is suffering from or has died as a result of abuse.

21 (d) Oral or written reports from persons required to report under
22 Subsections (a) and (b) *shall* include the following information, if available:

23 (1) The name of the person making the report and where he or she
24 can be reached. The identity of the person making the report *shall* be
25 confidential, but made available to an agency contracted authorized by
26 the Bureau of Adult Protective Services to provide case investigation.

1 (2) The name, address and approximate age of the elderly or adult
2 with a disability.

3 (3) Information regarding the nature and extent of the abuse, the
4 name of the person's caretaker, if known, and any medical treatment
5 being received or immediately required, if known.

6 (4) The name of the person or persons responsible for causing the
7 suspected abuse.

8 (5) The source of the report.

9 (6) Any other information which may assist in the investigation of
10 the suspected abuse.

11 (7) The identity of the person making the report *shall* be
12 confidential.

13 (e) Reports of elderly or adult with a disability abuse may be made
14 anonymously under this Chapter.

15 **§ 2953. Immunity from Liability.**

16 (a) Any person who in good faith makes a report under this Article or
17 testifies in any administrative or judicial proceeding related to the report is
18 immune from civil or criminal liability for reporting or testifying.

19 (b) Any officer, agent or employee of the Bureau of Adult Protective
20 Services who performs his or her duties in good faith is *not* liable for civil or
21 criminal damages as a result of acts or omissions in rendering service or care to
22 an elderly or adult with a disability.

23 (c) For the purpose of any proceeding, civil or criminal, the good faith
24 referred to in Subsections (a) and (b) *shall* be presumed.

25 **§ 2954. Failure to Report.**

26 Any person required by Subsections (a) and (b) of §2952 to report a case

1 of suspected elderly or adult with a disability abuse who fails to so report *shall*
2 be liable for a fine of *not more than* Five Hundred Dollars (\$500.00), *except*
3 that for a second or subsequent offense, such person *shall* be guilty of a
4 misdemeanor. Fines *shall* be deposited in the manner prescribed in § 2954(a),
5 *infra.*”

6 **Section 5.** A new § 2954(a) is *added* to Chapter 2, Article 10, Title 10, Guam
7 Code Annotated, to read.

8 “(a) There is hereby created, separate and apart from other funds of the
9 government of Guam, a fund known as the Bureau of Adult Protective Services
10 Fund (Fund). The Fund *shall not* be commingled with the General Fund, is
11 exempt from the Governor’s transfer authority and *shall* be kept in a separate
12 bank account, and is *not* subject to fiscal constraints or limitations, such as a
13 reserve account. All funds collected *shall* be expended exclusively for purposes
14 used to support the operations of the Bureau of Adult Protective Services.”

15 **Section 6.** § 2955 through § 2960 of Chapter 2, Article 10, Title 10, Guam
16 Code Annotated, are *amended* to read:

17 **“§ 2955. Bureau of Adult Protective Services.**

18 The Division of Senior Citizens of the Department of Public Health and
19 Social Services (Department) *shall* establish a Bureau of Adult Protective
20 Services, which *shall* have sufficient staff to fulfill the purposes of this Article
21 and organized in such a way as to maximize the continuity of responsibility,
22 care and services of individual workers toward individual adults and families.
23 Therefore, at a minimum, the Bureau *shall* be organized and staffed with:

24 (a) one (1) Human Services Administrator to serve and lead the
25 Bureau;

1 (b) one (1) Social Services Supervisor I to provide support for the
2 daily operations and supervision of the Bureau;

3 (c) three (3) Social Worker III to staff the Case Investigation Unit.

4 (d) one (1) Social Worker III to staff the Intake and Aftercare Unit.

5 (e) one (1) Program Coordinator III to staff the Education and
6 Outreach Unit to include the management of the Emergency Receiving
7 Home.

8 The Bureau *shall* be the sole bureau responsible for receiving and
9 investigating all reports of elderly or adult with a disability abuse made
10 pursuant to this Article, specifically including, but *not* limited to, reports of
11 abuse in facilities operated by the Department and other public or private
12 agencies and in private residences. The Bureau *shall* have authority to delegate
13 to other social service agencies the responsibility of investigating reports of
14 abuse, but *shall* monitor the investigations conducted by such other authorized
15 agencies.

16 The Office of the Attorney General will provide legal services to the
17 Bureau of Adult Protective Services at no cost to the Bureau.

18 **§ 2956. Duties of the Bureau of Adult Protective Services.**

19 The Bureau *shall*:

20 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis all
21 reports, both oral and written, of suspected elderly or adult with a disability
22 abuse in accordance with this Article and the regulations of the Department.

23 (b) Investigate and evaluate the information in the reports, either through
24 its own investigators or through investigators of other authorized agencies. The
25 investigation and evaluation *shall* be made within twenty-four (24) hours if the
26 Bureau has reasonable cause to believe the adult's health or safety is in

1 imminent danger from further abuse, and within seven (7) days for all other
2 such reports. The investigation *shall* include a visit to the facility or residence,
3 an interview with the adult allegedly abused, a determination of the nature,
4 extent and cause or causes of the abuse, the identity of the person or persons
5 responsible for the abuse, and all other pertinent facts. The investigation *shall*
6 be completed within thirty (30) days. If the investigating social worker of the
7 Bureau or other authorized investigating agency determines that it is
8 appropriate, the social worker may request a law enforcement officer to
9 accompany and assist the worker in the investigation. No social worker of the
10 Bureau or other authorized investigating agency shall enter the home of any
11 individual pursuant to the provisions of this Article without the consent of the
12 individual, unless authorized pursuant to Subsection (c) of § 2957 of this
13 Article.

14 (c) Determine within sixty (60) days whether the report is substantiated
15 or unsubstantiated. If the assessment results in determination that the elderly or
16 adult with a disability has suffered serious abuse as defined in §2951, report
17 such determination to the Attorney General within forty-eight (48) hours. The
18 Attorney General shall investigate and decide whether to initiate criminal
19 proceedings.

20 (d) Develop a coordinated system of protective services to prevent further
21 abuses to adults and to provide or arrange for and monitor the provision of
22 those services necessary to safeguard and ensure the adult's well-being and
23 development, and preserve and stabilize family life wherever appropriate.

24 (e) Make available, among its services for the prevention and treatment
25 of elderly and adult with a disability abuse, through authorized individuals and
26 through inter-agency and intra-agency assistance and cooperation, instruction in

1 caring for elderly and adults with a disability, protective and preventive social
2 care, and emergency shelter care.

3 (f) Appoint a Multi-Disciplinary Team (MDT) for the purpose of
4 providing case consultation, interagency treatment strategies and collaborative
5 planning to address complex cases and service gaps involving an elderly or
6 adult with a disability who is a victim of abuse and/or neglect.

7 The MDT may include, but is *not* limited to, a Bureau of Adult Protective
8 Services social worker, a representative of a law enforcement agency, Guam
9 Police Department, the medical profession, a mental health agency, the hospital,
10 the public guardian, a representative of any private or government social service
11 agency or advocacy office, Guam Legal Services Corporation, and a
12 representative of the Mayors' Council of Guam. The MDT *shall* document all
13 actions and efforts in addressing the needs of the client.

14 (g) Functions of the Bureau are subject to the appropriation of funding
15 and allocation of personnel sufficient to carry out the operations of the Bureau.

16 **§ 2957. Consent of Victim; Guardianship.**

17 (a) An elderly or adult with a disability who is a victim or alleged victim
18 of abuse may refuse to cooperate in the investigation, or withdraw consent at
19 any time to the provision of protective services by the Bureau or its authorized
20 agency. However, the Bureau responsible to investigate all complaints of abuse
21 against the elderly or adults with a disability and *shall* have the responsibility to
22 complete and document the investigation efforts, regardless of the lack of
23 cooperation of the victim of abuse.

24 (b) If the elderly or adult with a disability victim or alleged victim of
25 abuse is so incapacitated that he or she cannot legally give or deny consent to an
26 investigation or protective services, the Bureau may initiate a petition for

1 guardianship in accordance with Chapter 38 of Title 15 Guam Code Annotated,
2 or initiate a petition for civil commitment pursuant to law.

3 (c) If a social worker of the Bureau or other authorized agency who is
4 investigating a report of abuse is denied access to the alleged victim by a
5 caregiver or household member, such agency may petition the Superior Court
6 for an order allowing the Bureau or agency immediate access to the alleged
7 victim. The court *shall* give notice to the caregiver or household member who is
8 denying access *at least* twenty-four (24) hours prior to the hearing. The Court
9 may dispense with the notice upon finding that immediate and reasonably
10 foreseeable harm to the alleged victim will result from the twenty-four (24)
11 hour delay. If, after the hearing, the court determines, based upon clear and
12 convincing evidence, that the caregiver or household member should be
13 required to allow access, the Court *shall* so order. The order allowing access
14 *shall* remain in effect for a period not *to exceed* seventy-two (72) hours and
15 may be extended for an additional seventy-two (72) hours if the court finds that
16 the extension is necessary for the Bureau or its authorized agency to gain access
17 to the alleged victim.

18 (d) No person shall interfere with the provision of protective services to
19 an elderly or adult with a disability who requests or consents to receive such
20 services. In the event that interference occurs on a continuing basis, the
21 Bureau, its authorized protective services agency, or the public guardian may
22 petition the court to enjoin such interference.

23 **§ 2958. Central Registry.**

24 (a) The Bureau *shall* maintain a Central Registry of reports of elderly or
25 adult with a disability abuse, which *shall* contain and be limited to the
26 following information:

1 (1) The name, address and birthdate of the elderly or adult with a
2 disability.

3 (2) The date or dates and the nature and extent of the suspected
4 abuse.

5 (3) The locality in which the suspected abuse occurred.

6 (4) The name of the person or persons suspected of causing the
7 abuse.

8 (5) The progress of any legal proceedings brought on the basis of
9 suspected abuse.

10 (b) Both substantiated and unsubstantiated reports of elderly or adult with
11 a disability abuse *shall* be placed and maintained in the eCentral Registry.

12 (c) An investigation of a report of suspected elderly or adult with a
13 disability abuse, that *does not* determine within ninety (90) days of the date of
14 the initial report that it is a substantiated or an unsubstantiated report, *shall* be
15 classified as an inconclusive finding. Therefore, all information identifying the
16 named victim and perpetrator or perpetrators *shall* be expunged.

17 **§ 2959. Confidentiality.**

18 (a) All records maintained by the Bureau regarding reports of abuse,
19 including, but *not* limited to, information contained in the central registry, *shall*
20 be confidential and *shall* be released only with the consent of the elderly or
21 adult with a disability or, if the adult is *not* competent, only with the consent of
22 the adult's guardian, and *shall* be released only to individuals designated in this
23 § 2959.

24 (b) Records may be released, only as necessary to serve and protect the
25 adult, to the following:

26 (1) Any agency or individual, authorized, contracted or licensed

1 through the Bureau to care for, protect or provide services to an elderly or
2 adult with a disability who is a victim of abuse, which agency or
3 individual *shall* share information related to the abuse with the Bureau.

4 (2) Courts of competent jurisdiction, upon finding that access to
5 the records may be necessary for determination of an issue before the
6 court. Access *shall* be limited to inspection by the court only, unless the
7 court determines that disclosure of the records to interested parties is
8 necessary for resolution of an issue pending before it.

9 (3) Grand juries when connected with the prosecution of a case of
10 elderly or adult with a disability abuse.

11 (4) Properly constituted authorities or agencies, including police
12 departments, prosecutors and attorneys general investigating a report of
13 known or suspected elderly or adult with a disability abuse.

14 (5) A physician examining or treating an elderly or adult with a
15 disability where the physician suspects the adult of having been abused.

16 (6) The guardian or attorney of the elderly or adult with a
17 disability.

18 (7) A duly authorized official of the Bureau.

19 (8) The victim or alleged victim of the abuse.

20 (9) After, and only after, a court proceeding has been initiated
21 regarding the abuse, the perpetrator or alleged perpetrator of the abuse.

22 (c) Records may be released to sources other than those identified in
23 Subsection (b) only when a written authorization from the victim or alleged
24 victim, or his or her guardian, specifically provides consent to have the record
25 released or reviewed. In the event the guardian is the alleged perpetrator, this
26 provision *will not* apply.

1 (d) Regardless of Subsections (a), (b) and (c), identities of persons
2 reporting elderly or adult with a disability abuse *shall* remain anonymous and
3 release of the identity of a person reporting such abuse, or information which
4 would identify the reporter of abuse, is strictly prohibited.

5 (e) Students authorized by the Director of the Department may be
6 permitted, under direct supervision, access to Bureau of Adult Protective
7 Service (BAPS) files for the purpose of field practice, research and to gather
8 statistical information. Such authorized students, under supervision, may be
9 permitted to receive BAPS referrals and participate in BAPS intake, interviews
10 and case management assignments. Such authorized students *shall* be registered
11 in a field placement, practicum internship, or block placement with an
12 accredited college or university. Such authorized students will be under the
13 direct supervision of a social services supervisor and subject to all conditions of
14 this Chapter, and government of Guam policies, procedures and guidelines.
15 Such authorized students *shall not* disseminate any information beyond the
16 scope of the program objectives.

17 (f) Any person who willfully releases or permits the release of any
18 information or records is in violation of this Section, and *shall* be guilty of a
19 misdemeanor.

20 **§ 2960. Appropriation.**

21 ~~(a) Funds shall be appropriated from the General Fund to the Department~~
22 ~~for the operations of the Bureau to allow the Bureau to carry out its mandates.~~
23 The appropriation *shall* cover staffing requirements, vehicles, cellphones, APS
24 database and registry, logistics, contracting of services, and emergency shelter
25 for victims of elderly and adult with a disability abuse.

26 (b) Within three (3) months following the end of each fiscal year, the

1 Bureau *shall* submit a report to the Governor, the Superior Court, the
2 Legislature, and the public, which *shall* include:

3 (1) Description of the activities of the Bureau and all designated
4 agencies during the preceding year.

5 (2) Statistical information about the number and types of reports
6 received during the preceding year.

7 (3) Results of the assessments and evaluations conducted and the
8 amount, type, and costs of services provided.

9 (4) Information on the quality of services provided and the result
10 of such services in terms of alleviating abuse.

11 (5) Identification of problems that may arise in the implementation
12 of this Article.

13 (6) Recommendation for action on the part of *I Liheslatura* (the
14 Legislature) whenever deemed vital for the protection of the elderly and adults
15 with a disability.

16 (7) Amount collected and use of funds of the “Bureau of Adult Protective
17 Services Fund,” in accordance with § 2954(a), *supra.*”

18 **Section 7. Severability.** If any provision of this Act or its application to any
19 person or circumstance is found to be invalid or contrary to law, such invalidity shall
20 not affect other provisions or applications of this Act which can be given effect
21 without the invalid provisions application, and to this end the provisions of this Act
22 are severable.

6

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (SECOND) Regular Session

Date: 12/14/12

VOTING SHEET

SBill No. 511-31(COR)

Resolution No. _____

Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	<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					EA
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Patricia C. Sanborn

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

December 10, 2012

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
Chairperson, Committee on Rules

RE: Committee Report – Bill No. 511-31(COR), As Substituted

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report on Bill 511-31(COR) – An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates.** Bill No. 511-31 (COR) was referred to the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform. Bill No. 417-31(COR), as introduced, was publicly heard on November 16, 2012.

Committee votes are as follows:

- 9 TO PASS**
- NOT TO PASS**
- ABSTAIN**
- TO REPORT OUT ONLY**
- TO PLACE IN INACTIVE FILE**

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments

2012 DEC 11 AM 9:18



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SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT
ON
Bill 511-31 (COR)
As Substituted

An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates.



Ufisinin Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

December 10, 2012

MEMORANDUM

To: ALL MEMBERS

Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform.

From: Senator Dennis G. Rodriguez, Jr.
Committee Chairperson

Subject: Committee Report on Bill no. 511-31(COR), As Substituted

Transmitted herewith, for your consideration, is the **Committee Report on Bill 511-31(COR) – An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates.** Bill No. 511-31 (COR) was referred to the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform. This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 511-31 (COR)
- Copy of Substitute Bill No. 511-31 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 511-31 (COR)
- Notices of Public Hearing (1st and 2nd)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

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 do not hesitate to contact me.

Si Yu'os Ma'åse'!

Attachments



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SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE VOTING SHEET

Substitute Bill 511-31(COR) – An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates; Introduced by Sen. Aline A. Yamashita, Ph.D.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman		✓ 12/10				
ADOLPHO B. PALACIOS, Sr. Vice Chairman		✓ 12/10				
JUDITH T. WON PAT, Ed.D. Speaker		✓ 12/10/12				
BENJAMIN J. F. CRUZ Vice-Speaker		✓ 12/10/12				
TINA ROSE MUÑA BARNES Legislative Secretary		✓ 12/10/12				
THOMAS C. ADA		✓ 12/10/12				
VICENTE C. PANGELINAN						
RORY J. RESPICIO		✓ 12/10/12				
JUDITH P. GUTHERTZ, DPA		✓				
FRANK F. BLAS, Jr.						
V. ANTHONY ADA						
ALINE A. YAMASHITA, Ph.D.		✓ 12/10/12				
SAM MABINI, Ph.D.						
MANA SILVA TAIJERON						
CHRISTOPHER M. DUENAS						



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ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT DIGEST

Bill No. 511-31 (COR)

I. OVERVIEW: The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform conducted a public hearing on November 16, 2012. The hearing convened at 1:06PM in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **Bill 511-31(COR) – An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates; Introduced by Sen. Aline A. Yamashita, Ph.D., and referred to the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform.**

Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on November 9, 2012 (5-day notice), and again on November 13, 2012 (48-hour notice).

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Adolpho B. Palacios, Sr.	Vice-Chairman
Senator Thomas C. Ada	Committee Member
Senator V. Anthony Ada	Committee Member
Senator Aline A. Yamashita	Committee Member

The public hearing on agenda item Bill No. 511-31(COR) was called to order at 1:06PM.

II. SUMMARY OF TESTIMONY & DISCUSSION.

Chairman Dennis G. Rodriguez, Jr., convened the Public Hearing on Bill 511-31(COR).

Chairman Rodriguez: I would like to recognize Senator Yamashita, the sponsor.

Senator Yamashita: Thank you for giving us the opportunity to have a public hearing on Bill 511-31 relative to updating the Adult Services Mandate. I am most humbled to be a part of this group. I acknowledge all of our human service advocates in the room. This has been a four month process. I want to name all the community partners with. Catholic Social Services, DISID, DMHSA, Guam Coalition Against Sexual Assault and Family violence, GFD, GHURA, Guam Legal Services, Disability Law Center, Guam Medical Transport, GMH, Guma Mami Inc, Mayor's Council of Guam, Office of the Attorney General. I would like to recognize Evelyn Claros for her attention and advocacy for this matter, particularly when I was not able to be at the table and St. Joseph's Medical Transport.

This may be twenty years ago or so when the Honorable Senator Elizabeth Arriola introduced legislature that said, we need adult protective services. At that time, I think many people wee like no we don't. And yes, we did. And we have come to a point, where Art said we came to a point where the game has changed and that's why we have spent the last four months, fourteen sessions talking about it. The testimonies will be telling so I wont repeat everything tht I k now will be stated in formal testimony, but I will say that our Census shows that we are living



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longer and older. As we do, the challenges of an aware, skilled, trained society, those need to be met. What we are finding out is that those skill sets need to be taught. It is not easy living with an older community, many of us are still blessed with our parents and we know those realities. We also know the realities that we have hundreds of our Manamko abuse reports being filed and that is a very sad statement. So this endeavor is really an effort to energize to fortify, to support the work of Mr. Gillan's Adult Protective Services and even changing that name to the Bureau of Adult Protective Services and providing them with support and services making everyone aware that if you see it we have to report it, like we do with our children. Same thing, Marcie Santos, our Guardian Angel, she takes care of eighty people now and she makes it clear that things happen and we need to make sure that we are able to take care of it. Thank you for letting us have a public hearing on this matter and I look forward to hearing from our community leaders.

Chairman Rodriguez: Thank you, Senator. I would like to call on Mark Colby, Deputy Chief Phil Tydingco and Director Jim Gillan. You may proceed Mr. Colby.

Mark Colby: I would like to thank you for having me here. I would like to introduce you to a picture of my late father. His name is Thomas Colby. November 27, 2011 he passed away. I quit working, I quit everything in my life to take care of my father who fell down and broke his hip. He suffered from dementia, it is a form of Alzheimer's. It affects the brain and you are not aware of who you are and your surroundings anymore. I lived with my father for five or six years before he passed. He didn't know who I was, but I know who he was and he remembered things from his past. I would like to first thank you for giving me the opportunity to speak to you. I am in favor of this proposal to update. Senator Yamashita I spoke with you almost two years ago. Senator Rodriguez, I spoke to you. I shared with you a video that you yourself said was disturbing. Here we are, my father has passed and hundreds of elders have passed and only now you guys want to do something. Senator Palacios, I spoke to you repeatedly on the phone in the past. You told me to give you a call if you ever had a problem. I tried calling you and I was unable to. I tried talking to other senators, to no avail. In support of this, I am in full support, but I do have to say that if you are going to make a law and make it pass, it is as good as a piece of toilet paper because the main concern that I have, you can have all the laws in the world, but if you do not have enforcement of laws they are no good. For years, I had a problem with my neighbors who were abusing my father and other elderly neighbors. My father was bed ridden for over three years and I took care of him. My mother is a senior citizen and has a disability, I take care of her. I have two neighbors, he is still bed ridden and he is still suffering. I have another two neighbors who are also experiencing the bullying and abuse of this one house. I called GPD, spoken to GPD and they said there was no law against the abuse of elders. I spoke to the AG's office and they admitted that we have outdated laws. It doesn't make a difference unless there is enforcement and like you said Senator Palacios, you have to train your people properly. I can proudly say that I took good care of my father. Not a day went by that he did not complain. He had aches and pains and that is normal when you get old. When my father died, I could proudly say, they took my father out of the house they told me they have never seen a bed patient without sores because many times they become prisoners lying in bed. I took care of my father and I will take care of my mother when it comes to that. Senator Rodriguez, when you met with me you congratulated me. I am one of the class that graduated from Marianas Training Center. I am fully certified to be a caregiver and a home health aid because I did it for my father and I said I wanted to continue to help others. I have been fighting as an advocate for years for you senators to help me, so please I beg of you. If you are going to do this, let it stand and let enforcement be made. When I had an incident that occurred with my father, Senator Rodriguez, I showed you this video, 8 in the morning, my neighbors were blasting their radio and doing some activities that were questionable. It wasn't a party, it was just them doing their thing. My mom called GPD to try to file a complaint. An hour later the cops never came. I called, no one came. Two hours passed, no one ever came. It wasn't until after 6:30 pm that a police officer came to my house banging on my door and asked me if I have a problem. I said yes, I do have a problem with my neighbors blasting the radio and its disturbing the peace. According to GPD, there is no law against disturbing the peace. I go back again to enforcement, if you make a law what good is it if there is no enforcement. These officers came in with their hands over their badges and would not tell me their names. I told you their description, Senator Rodriguez and I don't care if what I say gets me in trouble



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ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM**

because my father raised me to speak my mind. If you don't ask questions, how will you learn if you don't ask questions? These two officers covered their badges with one hand and their other hand on their guns. I love in a concrete structure, away from them and the house is rattling. I know my neighbor who lives next door has written to senators, the police department, the AG and nothing. He told me he wrote, two, three, four years ago. I asked the officers what is your name and they told me you don't need to know. I asked them to help me and to talk to them maybe and they said there is no law against what they are doing on their own property and I'm sorry if that bothers you. I was told, did you in fact say you are not going to help me? And they said why? I asked them if they promote the abuse of senior citizens on Guam and the officer said yeah, GPD supports the abuse of senior citizens on Guam. My mother and I were at home on a Sunday morning with my father after church. A police officer came to our house banging on the door with a warrant of arrest for the owner of this house. I opened the door and I said there's the owner of the house, my father, lying in a medical bed. The officer had this look on his face, like there was something in his pants. The neighbor, the same neighbor that I had the complaint against got a cop to come over. Maybe it's because I have a haole last name that they don't want to help me. The other neighbors who have all called for help, they have haole last names, so if it's a racial thing, then maybe that's where you have to find out where the problem is because GPD came in and they told me they are not going to help me. APS came to our house, they said there is no law. I called the AGs office, the AG said they cannot do anything. A representative from the AGs office even came to the house, saw and heard the noise and said I'm sorry there is nothing we can do about this. I am in favor of you making this updated rules and laws. Yes, I am off the subject when I say abuse is not just physical, abuse can be financial or mental. What I went through was mental, there were nights when my dad lied in bed crying because of the lights. My neighbor was so nice, that we didn't even have to pay for electricity because they put a street light on their property and aimed it right into our house all night. They would turn it on at midnight and leave it on all night. We even put tin and blinds and the light still came in. They would blast their radio all night after 10 pm and it would be all night. He had DJ equipment that could reach far. He would put spot lights in his yard and aim it into our house. When I called GPD they said, it's on their property so there is nothing they can do. When the officer who came to arrest my father saw my father, he apologized. The cop said I'm sorry and the cop said I don't know. Education, you want to educate the people about abuse, whether it's visible or not. The officer in question told me I had to remove a sign on my property because it was illegal. It said, "My neighbors promote the abuse of senior citizens." The question is because I am haole and they are Chamorro. I am Chamorro. If it is a haole thing then I understand. When I walk out these doors, I am public enemy number one, why? Because I have defended my mother and father and other senior citizens. I want you to all take a look at my father and remember he is one of hundreds that you guys neglected, whether you will admit it or not. Like the good book says, he who is without sin cast the first stone. I can probably cast a stone, but I don't know if you can because I tried to help him. I protected him. When he passed, a part of me said I don't really care about this fight that I had been trying to fight, but when I see my neighbors having problems and it affecting my mom too I have to stand up. I'm sorry for being emotional, but I'll leave it at that.

Chairman Rodriguez: Thank you.

Chief Deputy Phil Tydingco: I am Phil Tydingco on behalf of the AGs office. Let me just say, I am sorry sir, it may just happen that the law is not always as responsive as it could be, so to that extent I apologize. [Read from written testimony].

Chairman Rodriguez: Thank you. Mr. Gillan?

Director Jim Gillan: Thank you, Senator. Can I ask Art (San Agustin) to come? He and other members of the Adult Protective Services took leave to come and witness and support. Most of which you did when introduced the bill this afternoon, Senator Yamashita, thank you for that. A lot of people spent a lot of time working on this. I was listening to this testimony and the thing that bothered me the most was that nobody came. It's almost embarrassing to talk about adult protective services, not only for senior citizens, but people with disabilities. What are we doing?



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What are our priorities? There's a tidal wave of needs for senior citizens and its coming very fast. We are living longer, but not very well. There are elderly out there who have no one. Neglect is one of the top abuses, theft of property of your own parents. What's happening to us? If you find people who are committing this type of abuse, we have to respond. We can't just let that go. There is going to be a need for support for our elderly and citizens with disabilities. We need more properly trained people who can help in the home. We have a program for caregiver support, but it is minimally supported program and we overspend \$7 million in our senior citizens budget if you look at the federal/local match. But what are we spending it on? we are not spending enough on our frail senior citizens. I can't believe that we are talking about the abuse of elderly. It is amazing the stories I hear everyday. That along with Child Protective Services, we have a lot of work to do to get these things right. This is a start, revising this. We support all of this intent of the bill because my administration has a problem with setting aside special funds for special purposes. I would say that any of the finds probably need to stay within the general fund. I think what you can do is appropriate special funds if you need to do that and it would be specific to beefing up the status of the APS. I agree with giving it the status of a bureau and not just a program at least shows its intent, that we are serious about looking at adult protective services. Everything in this bill does at least move us further along and hopefully not too far from now nobody will be saying that nobody came. Thank you.

Chairman Rodriguez: Thank you, we can excuse this panel. We have written testimony from the Public Guardian Marcie Santos.

Public Guardian Marcie Santos: I would like to thank Senator Yamashita for spearheading this and like Jim said this moves us forward, but we cannot stop, where we really need to go is to be able to design programs to support family. Everyday, I see families who say they can't do this, even the people at APS, many of the families say I'm here taking care of my family and the only time you care is when someone says I might be doing something wrong. There are no support staff. Yesterday I went on two home visits with a social worker from SNU because we need to find two places for people at the Skilled Nursing Unit to be discharged. The families don't have resources in housing or money or the ability of emotional or financial support to want to take their family members in. So they sit up at SNU and incur \$500 a day in cost when we have to look at just the two its \$30,000 a month because the need for caring for the elderly is multiplying in an exponential way. If we don't do something now, I would certainly want something to be in place when I need it not too far down the line. This is the first step and I am hoping that it is not going to be the last step.

Chairman Rodriguez: Thank you very much.

Jesse Catahay: Good afternoon Senator Rodriguez and the committee thank you for the opportunity to come in and testify in favor of the bill. I would like to thank Senator Yamashita and the leadership of Mr. San Agustin to put the work study group together into a bill that we hope will fill the gaps from protecting our elderly from abuse and neglect. The deputy director of Catholic Social Service has been part of the work group and basically we got together to look at what laws there are so we can put together our proposed bill. We talked about respect to the elderly and we still hope to go on with that particular value and part of our culture. The reality is that you have children who will tell the government to take care of their parents and in the same breath would ask for their inheritance. It is a very sad situation, I agree with Jim that we really need more resources to help our elderly. As part of our contract with the Division of Senior Citizens, services workers who continue to come into my office and say what can we do, we have an elderly that doesn't have a place to stay? They don't have any money. They don't have anybody to take care of them. It's just very sad and a very sad testimony earlier, we as a people, one of the things that we do is look at the laws that we need to beef up. I am in favor of the recommended bill. I would like to highlight three things. 1. I want to make sure that attorneys are assigned like to work with CPS in this case. It is my understanding that there are no assigned lawyers in the AGs office. We need continuity, someone we can consult with on a daily basis, so if you can help them get the resources to help these cases. There are a lot of people getting away with "murder." 2. To see what we can do to make APS a bureau and make sure they are responsible for the follow through of all cases. CSS is



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contracted to provide hotline services as well as to investigate cases reported after working hours. We really need someone who can take the ball and run the next working day. I see the need for the social worker for APS to proceed with the investigation that were done after work hours and follow through with that. That way there is continuity, more access and standards in investigation and make sure all the bases are covered. 3. I would like to see an emergency receiving home. The priority is abuse. We need to make sure that they can be guided to the place where they can be treated well. This is just one step in improving things for seniors. We really have to have an assisted living facility that have care givers and are able to provide families the resources to hire these care givers. There are those without any support and who are out there in danger. I suggest having a working group to look out to the needs of the community. I think it is time to set up that group effort. CSS will be there to be part of that effort.

Chairman Rodriguez: Thank you. The committee will continue to receive testimony on Bill 511.

Fiscal Note: Requested by Committee on Rules on September 21, 2012

II. FINDINGS AND RECOMMENDATIONS

Amendments to the bill were made at the request of the author, pursuant to testimony given during the public comment period of Bill No. 511-31.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform, hereby reports out pass **Substitute Bill No. 511-31(COR)**, with the recommendation to

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

BILL NO. 511-31 (COR)

*As substituted by the Committee on Health
& Human Services, Economic Development,
Senior Citizens and Election Reform*

Introduced by:

Aline A. Yamashita, PhD

AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan finds*
3 *the law which protects our man'amko (elderly) and adults with disabilities*
4 *enacted on 30 January 1989, and amended in 17 May 1991, requires*
5 *amendments to reflect politically correct and updated definitions that address*
6 *the social-economic changes which continue to evolve and impact the family*
7 *structure and community of Guam. I Liheslatura further finds that the*
8 *Bureau of Adult Protective Services needs adequate staff and support from*
9 *government of Guam agencies to effectively execute its duties and mandates*
10 *as well as to respond appropriately and adequately to the potential increases*
11 *in the number and complexity of referrals.*

1 *I Liheslatura* intends to amend Chapter 2, Article 10 relative to the Bureau
2 of Adult Protective Services, Title 10 Guam Code Annotated, that represents
3 the practice perspective from professionals who work in social services,
4 legal and medical fields whose goal and duty is to safeguard and protect the
5 total well-being of vulnerable adults and to provide services in a dignified
6 and respectful manner.

7 **Section 2.** 10 GCA § 2950 is *amended* to read:

8 “§ 2950. **Purpose.** The purpose of this article is to recognize that
9 abuse, neglect and exploitation of elderly or ~~disabled~~ adults with a disability
10 are problems that require attention and intervention as a matter of public
11 policy. Elderly or ~~disabled~~ adults with a disability ~~need~~ require the same
12 societal protection now being provided by law to abused and neglected
13 children and spouses. The obligation of the government to extend protective
14 care and services to the abused elderly or ~~disabled~~ adults with a disability
15 should be carried out in a manner least restrictive of individual rights and in
16 accordance with due process. The family's contribution to the care of its
17 elderly or ~~disabled~~ adults with a disability is acknowledged and every effort
18 should be made to assist, support and enhance its caretaking role.”

19 **Section 3.** 10 GCA § 2951 is *repealed and re-enacted* to read:

20 “§ 2951. **Definitions.** Definitions as used in this Article:

21 (a) *Abandonment* refers to the desertion of an elderly or adult
22 with a disability by his or her caregiver under circumstances in
23 which a reasonable person would continue to provide care or
24 custody.

25 (b) *Adult with a Disability* is any person 18 years or older who:

1 (1) Has a physical or mental impairment which
2 substantially limits one (1) or more major life activities;

3 or

4 (2) Has a history of, or has been classified as having an
5 impairment which substantially limits one or more major
6 life activities.

7 (c) *Bodily Injury* means physical pain, illness, unconsciousness
8 or any impairment of physical condition, in accordance with
9 Chapter 16 of Title 9 Guam Code Annotated.

10 (d) *Bureau of Adult Protective Services* means the “Bureau”
11 established by § 2955 of this Article.

12 (e) *Caregiver* is any family member or any person, health
13 facility, community care facility, clinic, home health care
14 agency or legal guardian who has the care or custody of the
15 elderly or adult with disability.

16 (f) *Department* refers to the Department of Public Health and
17 Social Services.

18 (g) *Desertion* refers to the act by which a person abandons and
19 forsakes, without justification, a condition of public, social, or
20 family life, renouncing its responsibilities and evading its
21 duties.

22 (h) *Elderly* refers to a person age sixty (60) years or older.

23 (i) *Elderly or Adult with a Disability Abuse* means self-neglect
24 or any one (1) or more of the following acts inflicted on an
25 elderly or adult with a disability by other than accidental means
26 by another person: physical abuse, neglect, or abandonment.

1 (j) *Emotional or Psychological Abuse* means fear, agitation,
2 confusion, severe depression, or other forms of serious
3 emotional distress that is brought about by forms of
4 intimidating behavior, threats, harassment, or by deceptive acts
5 or false or misleading statements made with malicious intent to
6 agitate, confuse, frighten, or cause severe depression or serious
7 emotional distress of the elderly or adult with a disability.

8 (k) *Expunged* means the sealing of records to all persons
9 outside of the Bureau of Adult Protective Services and law
10 enforcement agencies of Guam, and the federal agencies
11 entitled thereto, and a refusal by such agencies to admit the
12 existence of such records to persons not entitled to examine
13 them.

14 (l) *Financial or Property Exploitation* means illegal or
15 improper use of an elderly or adult with a disability's money,
16 property or other resources for monetary or personal benefit,
17 profit or gain. This includes, but is not limited to, theft,
18 misappropriation, concealment, misuse or fraudulent
19 deprivation of money or property belonging to the elderly or
20 adult with a disability.

21 (m) *Investigation* means that activity undertaken to determine
22 the validity of a report of elderly or adult with a disability
23 abuse.

24 (n) *Major Life Activities* include, but are not limited to: caring
25 for oneself, performing manual tasks, standing, walking, seeing,
26 hearing, eating, sleeping, lifting, bending, speaking, breathing,
27 learning, reading, concentrating, thinking and working.

1 (o) *Neglect* means the failure of a reasonable caregiver to
2 provide for the physical, mental or emotional health and well-
3 being of the elderly or adult with a disability and includes, but
4 is not limited to:

5 (1) Failure to assist or provide personal hygiene for the
6 elderly or adult with a disability.

7 (2) Failure to provide adequate food, water, clothing or
8 shelter.

9 (3) Failure to provide medical care for the physical and
10 mental health of the elderly or adult with a disability. No
11 person shall be deemed neglected or abused for the sole
12 reason that he or she voluntarily relies on treatment by
13 spiritual means through prayer alone in lieu of medical
14 treatment.

15 (4) Failure to protect an elderly or adult with a disability
16 from health, safety hazards, or physical harm.

17 (p) *Physical Abuse* means the willful infliction of or omission
18 which results in physical harm. It includes, but is not limited
19 to, cruel punishment resulting in physical harm or pain or
20 mental anguish, such as direct beatings, slapping, kicking,
21 biting, choking, burning or unreasonable physical restraint or
22 confinement resulting in physical injury.

23 (q) *Physical Harm* means bodily pain, injury, impairment or
24 disease.

25 (r) *Self-Neglect Abuse* is characterized as the behavior of an
26 elderly or adult with a disability that threatens his/her own
27 health or safety. Self-neglect generally manifests itself when an

1 elderly or adult with a disability refuses to provide him/herself
2 with adequate food, clothing, shelter, personal hygiene,
3 medication (when indicated), and safety precautions. The
4 definition of self-neglect excludes a situation in which a
5 mentally competent elderly or adult with a disability, who
6 understands the consequences of his/her decisions, makes a
7 conscious and voluntary decision to engage in acts that threaten
8 his/her health or safety as a matter of personal choice.

9 (s) *Serious Abuse* means an act or omission resulting in serious
10 bodily injury which creates: serious permanent disfigurement; a
11 substantial risk or death or serious, permanent disfigurement,
12 severe or intense physical pain or protracted loss or impairment
13 of consciousness or of the function of any bodily member or
14 organ, as defined in Chapter 16 of Title 9, Guam Code
15 Annotated; or sexual offenses pursuant to Chapter 25 of Title 9,
16 Guam Code Annotated.

17 (t) *Sexual Abuse* means any form of non-consensual sexual
18 contact, including but not limited to unwanted or inappropriate
19 sexual gratification, touching, rape, sodomy, sexual coercion,
20 sexually explicit photographing, sexual harassment, involuntary
21 exposure to sexually explicit material or language, and as
22 defined in the penal code of Guam.

23 (u) *Substantiated Report* means a report made pursuant to this
24 Chapter, if an investigation by the Bureau of Adult Protective
25 Services, or its authorized agency, determines that there is
26 sufficient evidence to support the existence of the abuse or
27 neglect.

1 (v) *Unsubstantiated Report* means a report made pursuant to
2 this Chapter, if an investigation by the Bureau of Adult
3 Protective Services or its authorized agency determines that
4 there is insufficient or inconclusive evidence of abuse but
5 existence of the abuse cannot be disproved to the satisfaction of
6 the Bureau of Adult Protective Services.”

7 **Section 3.** 10 GCA § 2952 through § 2954 are *amended* to read:

8 **“§ 2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability**
9 **Abuse.**

10 (a) Any person who, in the course of his or her employment,
11 occupation or professional practice comes into contact with elderly or
12 ~~disabled~~ adults with disabilities, has actual knowledge or reasonable
13 cause to believe that an elderly or ~~disabled~~ adult with a disability is
14 suffering from or has died as a result of abuse as defined in § 2951,
15 *shall* immediately make a verbal report of such information or cause a
16 report to be made to the Bureau of Adult Protective Services Unit or
17 its authorized agency and *shall*, within forty-eight (48) hours, make a
18 written report to the ~~unit~~ Bureau or its authorized agency. If a verbal
19 report is made on a Friday, a written report will be made by the next
20 workday.

21 (b) Persons required to report abuse under subsection (A) (a) include
22 but are not limited to physicians, medical interns, medical examiners,
23 nurses, chiropractors, hospital personnel engaged in the admission,
24 examination, care or treatment of persons, social workers, employees
25 of nursing homes, senior citizen centers, and adult day care facilities,
26 police officers, probation officers and employees of homemaker and

1 home health service agencies, emergency medical service (EMS)
2 providers, non-emergency medical transport providers, medical and
3 allied health care providers, banking or financial institution personnel,
4 pension providers, and practicum students in the field of health and
5 human services.

6 (c) In addition to persons required to report under subsections ~~A (a)~~
7 and ~~B (b)~~, any other person may make such report to the Bureau of
8 Adult Protective Services Unit if any such person has a reasonable
9 cause to believe ~~than~~ that an elderly or ~~disabled~~ adult with a disability
10 is suffering from or has died as a result of abuse.

11 (d) Oral or written reports from persons required to report under
12 subsection ~~A (a)~~ and ~~B (b)~~ shall include the following information, if
13 available:

14 (1) The name of the person making the report and where he or
15 she can be reached. The identity of the person making the report
16 shall be confidential, but made available to an agency
17 contracted authorized by the Bureau of Adult Protective
18 Services to provide case investigation.

19 (2) The name, address and approximate age of the elderly or
20 ~~disabled~~ adult with a disability.

21 (3) Information regarding the nature and extent of the abuse, the
22 name of the person's caretaker, if known, and any medical
23 treatment being received or immediately required, if known.

24 (4) The name of the person or persons responsible for causing
25 the suspected abuse.

26 (5) The source of the report.

1 (6) Any other information which may assist in the investigation
2 of the suspected abuse. ~~The identity of the person making the~~
3 ~~report shall be confidential.~~

4 (7) The identity of the person making the report shall be
5 confidential.

6 (e) Reports of elderly or ~~disabled~~ adult with a disability abuse may be
7 made anonymously under this Chapter.

8 **§ 2953. Immunity from Liability.**

9 (a) Any person who in good faith makes a report under this ~~a~~ Article
10 or testifies in any administrative or judicial proceeding related to the
11 report is immune from civil or criminal liability for reporting or
12 testifying.

13 (b) Any officer, agent or employee of the Bureau of Adult Protective
14 Services Unit who performs his or her duties in good faith is not liable
15 for civil or criminal damages as a result of acts or omissions in
16 rendering service or care to an elderly or ~~disabled~~ adult with a
17 disability.

18 (c) For the purpose of any proceeding, civil or criminal, the good faith
19 referred to in subsections ~~A~~ (a) and ~~B~~ (b) shall be presumed.

20 **§ 2954. Failure to Report.**

21 Any person required by subsection ~~A~~ (a) and ~~B~~ (b) of §2952 to report a
22 case of suspected elderly or ~~disabled~~

23 adult with a disability abuse who fails to so report shall be liable for a
24 fine of not more than Five Hundred Dollars (\$500.00), except that for a
25 second or subsequent offense, such person shall be guilty of a misdemeanor.

26 Fines shall be deposited in the manner prescribed in § 2954(a), *infra*.”

1 **Section 4.** A new 10 GCA, § 2954(a) is added to read.

2 There is hereby created, separate and apart from other funds of the
3 government of Guam, a fund known as the Bureau of Adult Protective
4 Services Fund. The funds shall not be commingled with the General Fund,
5 is exempt from the Governor’s transfer authority and shall be kept in a
6 separate bank account, and is not subject to fiscal constraints or limitations
7 such as a reserve account. All funds collected shall be expended exclusively
8 for purposes used to support the operations of the Bureau of Adult Protective
9 Services.

10 **Section 5.** 10 GCA § 2955 through § 2960 are amended to read:

11 **“§ 2955. Bureau of Adult Protective Services Unit.**

12 The Division of Senior Citizens of the Department of Public Health and
13 Social Services, (the Department) shall establish a Bureau of Adult
14 Protective Services Unit which shall have sufficient staff to fulfill the
15 purposes of this Article and organized in such a way as to maximize the
16 continuity of responsibility, care and services of individual workers toward
17 individual adults and families. Therefore, at a minimum, the Bureau shall be
18 organized and staffed with:

19 (a.) One (1) Human Services Administrator to serve and lead the
20 Bureau.

21 (b.) One (1) Social Services Supervisor I to provide support for the
22 daily operations and supervision of the Bureau.

23 (c.) Three (3) Social Worker III to staff the Case Investigation Unit.

24 (d.) One (1) Social Worker III to staff the Intake and Aftercare Unit.

1 (e.) One (1) Program Coordinator III to staff the Education and
2 Outreach Unit to include the management of the Emergency
3 Receiving Home.

4 The ~~Unit~~ Bureau shall be the sole ~~unit~~ bureau responsible for receiving
5 and investigating all reports of elderly or ~~disabled~~ adult with a disability
6 abuse made pursuant to this Article, specifically including but not limited to
7 reports of abuse in facilities operated by the Department and other public or
8 private agencies and in private residences. The ~~Unit~~-Bureau shall have
9 authority to delegate to other social service agencies the responsibility of
10 investigating reports of abuse, but shall monitor the investigations conducted
11 by such other authorized agencies.

12 The Office of the Attorney General will provide legal services to the
13 Bureau of Adult Protective Services at no cost to the Bureau.

14 **§ 2956. Duties of the ~~Unit~~-Bureau of Adult Protective Services.**

15 The ~~Unit~~ Bureau shall:

16 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis
17 all reports, both oral and written, of suspected elderly or ~~disabled~~
18 adult with a disability abuse in accordance with this ~~a~~Article and the
19 regulations of the Department.

20 (b) Investigate and evaluate the information in the reports, either
21 through its own investigators or through investigators of other
22 authorized agencies. The investigation and evaluation shall be made
23 within twenty-four (24) hours if the ~~Unit~~-Bureau has reasonable cause
24 to believe the adult's health or safety is in ~~immediate~~-imminent danger
25 from further abuse and within seven (7) days for all other such
26 reports. The investigation shall include a visit to the facility or

1 residence, an interview with the adult allegedly abused, a
2 determination of the nature, extent and cause or causes of the abuse,
3 the identity of the person or persons responsible for the abuse, and all
4 other pertinent facts. The investigation shall be completed within
5 thirty (30) days. If the investigating social worker of the ~~Unit~~ Bureau
6 or other authorized investigating agency determines that it is
7 appropriate, the social worker may request a law enforcement officer
8 to accompany and assist the worker in the investigation. No social
9 worker of the ~~Unit~~ Bureau or other authorized investigating agency
10 shall enter the home of any individual pursuant to the provisions of
11 this ~~a~~Article without the consent of the individual, unless authorized
12 pursuant to subsection ~~€~~ (c) of § 2957 of this ~~a~~Article.

13 (c) Determine within sixty (60) days whether the report is
14 substantiated or unsubstantiated. If the assessment results in
15 determination that the elderly or ~~disabled~~ adult with a disability has
16 suffered serious abuse as defined in §2951, report such determination
17 to the Attorney General within forty-eight (48) hours. The Attorney
18 General ~~may~~ shall investigate and decide whether to initiate criminal
19 proceedings.

20 (d) Develop a coordinated system of protective services to prevent
21 further abuses to adults and to provide or arrange for and monitor the
22 provision of those services necessary to safeguard and ensure the
23 adult's well-being and development and preserve and stabilize family
24 life wherever appropriate.

25 (e) Make available, among its services for the prevention and
26 treatment of elderly and ~~disabled~~ adult with a disability abuse, through

1 authorized individuals and through inter-agency and intra-agency
2 assistance and cooperation, instruction in caring for elderly and
3 ~~disabled~~ adults with a disability, protective and preventive social
4 counseling care, and emergency shelter care.

5 (f) Appoint a ~~m~~Multi-d~~Disciplinary~~ ~~t~~Team (MDT) for the purpose of
6 providing case consultation, interagency treatment strategies and
7 collaborative planning to address complex cases and service gaps
8 involving an elderly or adult with a disability who is a victim of abuse
9 and/or neglect.

10 The MDT ~~which~~ may include, but is not limited to,
11 ~~representatives from the Department of Mental Health and Substance~~
12 ~~Abuse, the Guam Medical Society, Guam Legal Services Corporation,~~
13 ~~Advocacy Office, Catholic Archdiocese of Guam, the Guam~~
14 ~~Ministerial Association. Such members shall receive Forty Five~~
15 ~~Dollars (\$45) as compensation for attendance at any meetings of the~~
16 ~~team, but such compensation shall not apply to more than two (2)~~
17 ~~meetings in any one (1) calendar month. No member shall receive any~~
18 ~~other compensation, but shall be reimbursed for actual travel,~~
19 ~~subsistence and out of pocket expenses incurred in the discharge of~~
20 ~~such member's responsibilities, including authorized attendance at~~
21 ~~meetings held away from Guam. a Bureau of Adult Protective~~
22 Services social worker, a representative of a law enforcement agency,
23 Guam Police Department, the medical profession, a mental health
24 agency, the hospital, the public guardian, a representative of any
25 private or government social service agency or advocacy office, Guam
26 Legal Services Corporation, and a representative of the Mayors'

1 Council of Guam. The MDT shall document all actions and efforts in
2 addressing the needs of the client.

3 (g) Functions of the Bureau are subject to the appropriation of funding
4 and allocation of personnel sufficient to carry out the operations of the
5 Bureau.

6 **§ 2957. Consent of Victim; Guardianship.**

7 (a) An elderly or ~~disabled~~ adult with a disability who is a victim or
8 alleged victim of abuse may refuse to cooperate in the investigation,
9 or withdraw consent at any time to the provision of protective services
10 by the ~~Unit~~ Bureau or its authorized agency. The investigating agency
11 ~~shall act only with the consent of the victim or alleged victim of~~
12 ~~abuse.—However, the Unit Bureau shall have the responsibility to~~
13 ~~complete the investigation~~ is responsible to investigate all complaints
14 of abuse against the elderly or adults with a disability and shall have
15 the responsibility to complete and document the ~~investigative~~
16 investigation efforts, regardless of the lack of cooperation of the
17 victim of abuse.

18 (b) If the elderly or ~~disabled~~ adult with a disability victim or alleged
19 victim of abuse is so incapacitated that he or she cannot legally give
20 or deny consent to an investigation or protective services, the ~~Unit~~
21 Bureau may initiate a petition for guardianship in accordance with
22 Chapter 38 of Title 15 Guam Code Annotated, or initiate a petition for
23 civil commitment pursuant to law.

24 (c) If a social worker of the ~~Unit~~ Bureau or other authorized agency
25 who is investigating a report of abuse is denied access to the alleged
26 victim by a caregiver or household member, such agency may petition

1 the Superior Court for an order allowing the ~~Unit~~ Bureau or agency
2 immediate access to the alleged victim. The court shall give notice to
3 the caregiver or household member who is denying access at least
4 twenty-four (24) hours prior to the hearing. The Court may dispense
5 with notice upon finding that immediate and reasonably foreseeable
6 harm to the alleged victim will result from the twenty-four (24) hour
7 delay. If, after the hearing, the court determines, based upon clear and
8 convincing evidence, that the caregiver or household member should
9 be required to allow access, the Court shall so order. The order
10 allowing access shall remain in effect for a period not to exceed
11 seventy-two (72) hours and may be extended for an additional
12 seventy-two (72) hours if the court finds that the extension is
13 necessary for the ~~Unit~~ Bureau or its authorized agency to gain access
14 to the alleged victim.

15 (d) No person shall interfere with the provision of protective services
16 to an elderly or ~~disabled~~ adult with a disability who requests or
17 consents to receive such services. In the event that interference occurs
18 on a continuing basis, the ~~Unit~~ Bureau, its ~~designated~~ authorized
19 protective services agency, or the public guardian may petition the
20 court to enjoin such interference.

21 **§ 2958. Central Registry.**

22 (a) The ~~Unit~~ Bureau ~~authorized~~ shall maintain a Central Registry of
23 reports of elderly or ~~disabled~~ adult with a disability abuse, which shall
24 contain and be limited to the following information:

25 (1) The name, address and birthdate of the elderly or ~~disabled~~
26 adult with a disability.

1 (2) The date or dates and the nature and extent of the suspected
2 abuse.

3 (3) The locality in which the suspected abuse occurred.

4 (4) The name of the person or persons suspected of causing the
5 abuse.

6 (5) The progress of any legal proceedings brought on the basis
7 of suspected abuse.

8 (b) Both ~~substantial~~ substantiated and unsubstantiated reports of
9 elderly or ~~disabled~~ adult with a disability abuse shall be placed and
10 maintained in the ~~e~~Central ~~r~~Registry. ~~for a period of ten (10) years.~~

11 (c) ~~If an~~ An investigation of a report of suspected elderly or ~~disabled~~
12 adult with a disability abuse, that does not determine within ninety
13 (90) days of the date of the initial report that it is a substantiated or an
14 unsubstantiated report, shall be classified as an inconclusive finding.
15 Therefore, all information identifying the named victim and
16 perpetrator or perpetrators shall be expunged.

17 **§ 2959. Confidentiality.**

18 (a) All records maintained by the ~~Unit~~ Bureau regarding reports of
19 abuse, including but not limited to information contained in the
20 central registry, shall be confidential and shall be released only with
21 the consent of the elderly or ~~disabled~~ adult with a disability or, if the
22 adult is not competent, only with the consent of the adult's guardian,
23 and shall be released only to individuals designated in this § 2959.

24 (b) Records may be released, only as necessary to serve and protect
25 the adult, to the following:

1 (1) Any agency or individual, authorized, contracted or licensed
2 through the ~~Unit~~ Bureau to care for, protect or provide services
3 to an elderly or ~~disabled~~ adult with a disability who is a victim
4 of abuse, which agency or individual shall share information
5 related to the abuse with the ~~Unit~~ Bureau.

6 (2) Courts of competent jurisdiction, upon finding that access to
7 the records may be necessary for determination of an issue
8 before the court. Access shall be limited to inspection by the
9 court only, unless the court determines that disclosure of the
10 records to interested parties is necessary for resolution of an
11 issue pending before it.

12 (3) Grand juries when connected with the prosecution of a case
13 of elderly or ~~disabled~~ adult with a disability abuse.

14 (4) Properly constituted authorities or agencies, including
15 police departments, prosecutors and attorneys general
16 investigating a report of known or suspected elderly or ~~disabled~~
17 adult with a disability abuse.

18 (5) A physician examining or treating an elderly or ~~disabled~~
19 adult with a disability where the physician suspects the adult of
20 having been abused.

21 (6) The guardian or attorney of the elderly or ~~disabled~~ adult's
22 ~~guardian or attorney~~ with a disability.

23 (7) A duly authorized official of the ~~Unit~~ Bureau.

24 (8) The victim or alleged victim of the abuse.

25 (9) After, and only after, a court proceeding has been initiated

1 regarding the abuse, the perpetrator or alleged perpetrator of the
2 abuse.

3 (c) Records may be released to sources other than those identified in
4 subsection ~~B~~ (b) only when a written authorization from the victim or
5 alleged victim, or his or her guardian specifically provides consent to
6 have the record released or reviewed. In the event the guardian is the
7 alleged perpetrator, this provision will not apply.

8 (d) Regardless of subsections ~~A-(a)~~, ~~B-(b)~~ and ~~C-(c)~~, identities of
9 persons reporting elderly or ~~disabled~~ adult with a disability abuse shall
10 remain anonymous and release of the identity of a person reporting
11 such abuse, or information which would identify the reporter of abuse,
12 is strictly prohibited.

13 (e) Students authorized by the Director of the Department may be
14 permitted, under direct supervision, access to Bureau of Adult
15 Protective Service ('BAPS') files for the purpose of field practice,
16 research and to gather statistical information. Such authorized
17 students, under supervision, may be permitted to receive BAPS
18 referrals and participate in BAPS intake, interviews and case
19 management assignments. Such authorized students shall be
20 registered in a field placement, practicum internship, or block
21 placement with an accredited college or university. Such authorized
22 students will be under the direct supervision of a social services
23 supervisor and subject to all conditions of this Chapter and
24 government of Guam policies, procedures and guidelines. Such
25 authorized students shall not disseminate any information beyond the
26 scope of the program objectives.

1 (f) Any person who willfully releases or permits the release of any
2 information or records is in violation of this Section and shall be
3 guilty of a misdemeanor.

4 **§ 2960. Appropriation.**

5 (a) ~~Two Hundred Thousand Dollars (\$200,000) are hereby~~ Funds shall
6 be appropriated from the General Fund to the Department for the
7 implementation operations of the ~~Unit~~ Bureau to allow the Bureau to
8 carry out its mandates. ~~which~~ The appropriation shall cover staffing
9 requirements, vehicles, cellphones, APS database and registry,
10 logistics, contracting of services, and emergency shelter for victims of
11 elderly and ~~disabled~~ adult with a disability abuse.

12 (b) Within three (3) months following the end of each fiscal year, the
13 ~~Unit~~ Bureau shall submit a report to the Governor, the Superior Court,
14 the Legislature, and the public, which shall include:

- 15 (1) Description of the activities of the Unit Bureau and all
16 designated agencies during the preceding year.
- 17 (2) Statistical information about the number and types of
18 reports received during the preceding year.
- 19 (3) Results of the assessments and evaluations conducted and
20 the amount, type, and costs of services provided.
- 21 (4) Information on the quality of services provided and the
22 result of such services in terms of alleviating abuse.
- 23 (5) Identification of problems that may arise in the
24 implementation of this article.

1 (6) Recommendation for action on the part of the Legislature
2 whenever deemed vital for the protection of the elderly and
3 ~~disabled~~ adults with a disability.

4 (7) Amount collected and use of funds of the “Bureau of Adult
5 Protective Services Fund,” in accordance with § 2954(a),
6 *supra.*”

7 **Section 6. Severability.** If any provision of this Act or its application
8 to any person or circumstance is found to be invalid or contrary to law, such
9 invalidity shall not affect other provisions or applications of this Act which
10 can be given effect without the invalid provisions application, and to this end
11 the provisions of this Act are severable.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

2012 SEP 13 PM 3:31
WJ

BILL NO. 511-31 (COY)

Introduced by:

Aline A. Yamashita, PhD *Aly*

AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan finds*
3 *the law which protects our man'amko (elderly) and adults with disabilities*
4 *enacted on 30 January 1989, and amended in 17 May 1991, requires*
5 *amendments to reflect politically correct and updated definitions that address*
6 *the social-economic changes which continue to evolve and impact the family*
7 *structure and community of Guam. I Liheslatura further finds that the*
8 *Bureau of Adult Protective Services needs adequate staff and support from*
9 *government of Guam agencies to effectively execute its duties and mandates*
10 *as well as to respond appropriately and adequately to the potential increases*
11 *in the number and complexity of referrals.*

12 *I Liheslatura intends to amend Chapter 2, Article 10 relative to the Bureau*

1 of Adult Protective Services, Title 10 Guam Code Annotated, that represents
2 the practice perspective from professionals who work in social services,
3 legal and medical fields whose goal and duty is to safeguard and protect the
4 total well-being of vulnerable adults and to provide services in a dignified
5 and respectful manner.

6 **Section 2.** 10 GCA § 2950 is *amended* to read:

7 “§ 2950. **Purpose.** The purpose of this article is to recognize that
8 abuse, neglect and exploitation of elderly or ~~disabled~~ adults with a disability
9 are problems that require attention and intervention as a matter of public
10 policy. Elderly or ~~disabled~~ adults with a disability ~~need~~ require the same
11 societal protection now being provided by law to abused and neglected
12 children and spouses. The obligation of the government to extend protective
13 care and services to the abused elderly or ~~disabled~~ adults with a disability
14 should be carried out in a manner least restrictive of individual rights and in
15 accordance with due process. The family's contribution to the care of its
16 elderly or ~~disabled~~ adults with a disability is acknowledged and every effort
17 should be made to assist, support and enhance its caretaking role.”

18 **Section 3.** 10 GCA § 2951 is *repealed and re-enacted* to read:

19 “§ 2951. **Definitions.** Definitions as used in this Article:

20 (a) *Abandonment* refers to the desertion of an elderly or adult
21 with a disability by his or her caregiver under circumstances in
22 which a reasonable person would continue to provide care or
23 custody.

24 (b) *Adult with a Disability* is any person 18 years or older who:

25 (1) Has a physical or mental impairment which

1 substantially limits one (1) or more major life activities;
2 or
3 (2) Has a history of, or has been classified as having an
4 impairment which substantially limits one or more major
5 life activities.

6 (c) *Bodily Injury* means physical pain, illness, unconsciousness
7 or any impairment of physical condition.

8 (d) *Bureau of Adult Protective Services* means the “Bureau”
9 established by § 2955 of this Article.

10 (e) *Caregiver* is any family member or any person, health
11 facility, community care facility, clinic, home health care
12 agency or legal guardian who has the care or custody of the
13 elderly or adult with disability.

14 (f) *Department* refers to the Department of Public Health and
15 Social Services.

16 (g) *Desertion* refers to the act by which a person abandons and
17 forsakes, without justification, a condition of public, social, or
18 family life, renouncing its responsibilities and evading its
19 duties.

20 (h) *Elderly* refers to a person age sixty (60) years or older.

21 (i) *Elderly or Adult with a Disability Abuse* means self-neglect
22 or any one (1) or more of the following acts inflicted on an
23 elderly or adult with a disability by other than accidental means
24 by another person: physical abuse, neglect, or abandonment.

25 (j) *Emotional or Psychological Abuse* means fear, agitation,
26 confusion, severe depression, or other forms of serious
27 emotional distress that is brought about by forms of

1 intimidating behavior, threats, harassment, or by deceptive acts
2 or false or misleading statements made with malicious intent to
3 agitate, confuse, frighten, or cause severe depression or serious
4 emotional distress of the elderly or adult with a disability.

5 (k) *Expunged* means the sealing of records to all persons
6 outside of the Bureau of Adult Protective Services and law
7 enforcement agencies of Guam, and the federal agencies
8 entitled thereto, and a refusal by such agencies to admit the
9 existence of such records to persons not entitled to examine
10 them.

11 (l) *Financial or Property Exploitation* means illegal or
12 improper use of an elderly or adult with a disability's money,
13 property or other resources for monetary or personal benefit,
14 profit or gain. This includes, but is not limited to, theft,
15 misappropriation, concealment, misuse or fraudulent
16 deprivation of money or property belonging to the elderly or
17 adult with a disability.

18 (m) *Investigation* means that activity undertaken to determine
19 the validity of a report of elderly or adult with a disability
20 abuse.

21 (n) *Major Life Activities* include, but are not limited to: caring
22 for oneself, performing manual tasks, standing, walking, seeing,
23 hearing, eating, sleeping, lifting, bending, speaking, breathing,
24 learning, reading, concentrating, thinking and working.

25 (o) *Neglect* means the failure of a caregiver to provide for the
26 physical, mental or emotional health and wellbeing of the
27 elderly or adult with a disability and includes, but is not limited

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to:

(1) Failure to assist or provide personal hygiene for the elderly or adult with a disability.

(2) Failure to provide adequate food, water, clothing or shelter.

(3) Failure to provide medical care for the physical and mental health of the elderly or adult with a disability. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(4) Failure to protect an elderly or adult with a disability from health, safety hazards, or physical harm.

(p) *Physical Abuse* means the willful infliction of injury that results in physical harm. It includes, but is not limited to, cruel punishment resulting in physical harm or pain or mental anguish, such as direct beatings, slapping, kicking, biting, choking, burning or unreasonable physical restraint or confinement resulting in physical injury.

(q) *Physical Harm* means bodily pain, injury, impairment or disease.

(r) *Self-Neglect* is characterized as the behavior of an elderly or adult with a disability that threatens his/her own health or safety. Self-neglect generally manifests itself in an older person as a refusal to provide him/herself with adequate food, clothing, shelter, personal hygiene, medication (when indicated), and safety precautions. The definition of self-

1 neglect excludes a situation in which a mentally competent
2 older person or adult with a disability, who understands the
3 consequences of his/her decisions, makes a conscious and
4 voluntary decision to engage in acts that threaten his/her health
5 or safety as a matter of personal choice.

6 (s) *Serious Abuse* means an act or omission resulting in serious
7 bodily injury that requires immediate medical attention,
8 permanent disfigurement, severe or intense physical pain,
9 protracted loss or permanent impairment of a bodily function,
10 organ or death; or sexual offenses pursuant to Chapter 25 of
11 Title 9, Guam Code Annotated.

12 (t) *Sexual Abuse* means any form of nonconsensual sexual
13 contact, including but not limited to unwanted or inappropriate
14 sexual gratification, touching, rape, sodomy, sexual coercion,
15 sexually explicit photographing, sexual harassment, involuntary
16 exposure to sexually explicit material or language, and as
17 defined in the penal code of Guam.

18 (u) *Substantiated Report* means a report made pursuant to this
19 Chapter if an investigation by the Bureau of Adult Protective
20 Services, or its authorized agency, determines that there is
21 sufficient evidence to support the existence of the abuse or
22 neglect.

23 (v) *Unsubstantiated Report* means a report made pursuant to
24 this Chapter if an investigation by the Bureau of Adult
25 Protective Services or its authorized agency determines that
26 there is insufficient or inconclusive evidence of abuse but

1 existence of the abuse cannot be disproved to the satisfaction of
2 the Bureau of Adult Protective Services.”

3 **Section 3.** 10 GCA § 2952 through § 2954 are *amended* to read:

4 “**§ 2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability**
5 **Abuse.**

6 (a) Any person who, in the course of his or her employment,
7 occupation or professional practice comes into contact with elderly or
8 ~~disabled~~ adults with disabilities, has actual knowledge or reasonable
9 cause to believe that an elderly or ~~disabled~~ adult with a disability is
10 suffering from or has died as a result of abuse as defined in § 2951,
11 *shall* immediately make a verbal report of such information or cause a
12 report to be made to the Bureau of Adult Protective Services Unit and
13 *shall*, within forty-eight (48) hours, make a written report to the ~~unit~~
14 bureau or its authorized agency. If a verbal report is made on a
15 Friday, a written report will be made by the next workday.

16 (b) Persons required to report abuse under subsection ~~(A)~~ (a) include
17 but are not limited to physicians, medical interns, medical examiners,
18 nurses, chiropractors, hospital personnel engaged in the admission,
19 examination, care or treatment of persons, social workers, employees
20 of nursing homes, and adult day care facilities, police officers,
21 probation officers and employees of homemaker service agencies,
22 emergency medical service (EMS) providers, non-emergency medical
23 transport providers, medical and allied health care providers, banking
24 or financial institution personnel, pension providers, and practicum
25 students in the field of health and human services.

26 (c) In addition to persons required to report under subsections (a) ~~A~~

1 and (b) ~~B~~, any other person may make such report to the Bureau of
2 Adult Protective Services Unit if any such person has a reasonable
3 cause to believe ~~that~~ that an elderly or ~~disabled~~ adult with a disability
4 is suffering from or has died as a result of abuse.

5 (d) Oral or written reports from persons required to report under
6 subsection (a) ~~A~~ and (b) ~~B~~ shall include the following information, if
7 available:

8 (1) The name of the person making the report and where he or
9 she can be reached. The identity of the person making the report
10 shall be confidential, but made available to an agency
11 contracted authorized by the Bureau of Adult Protective
12 Services to provide case investigation.

13 (2) The name, address and approximate age of the elderly or
14 ~~disabled~~ adult with a disability.

15 (3) Information regarding the nature and extent of the abuse, the
16 name of the person's caretaker, if known, and any medical
17 treatment being received or immediately required, if known.

18 (4) The name of the person or persons responsible for causing
19 the suspected abuse.

20 (5) The source of the report.

21 (6) Any other information which may assist in the investigation
22 of the suspected abuse. ~~The identity of the person making the~~
23 ~~report shall be confidential.~~

24 (7) The identity of the person making the report shall be
25 confidential.

26 (e) Reports of elderly or ~~disabled~~ adult with a disability abuse may be
27 made anonymously under this Chapter.

1 **§ 2953. Immunity from Liability.**

2 (a) Any person who in good faith makes a report under this ~~a~~Article or
3 testifies in any administrative or judicial proceeding related to the
4 report is immune from civil or criminal liability for reporting or
5 testifying.

6 (b) Any officer, agent or employee of the Bureau of Adult Protective
7 Services Unit who performs his or her duties in good faith is not liable
8 for civil or criminal damages as a result of acts or omissions in
9 rendering service or care to an elderly or disabled adult with a
10 disability.

11 (c) For the purpose of any proceeding, civil or criminal, the good faith
12 referred to in subsections ~~A~~(a) and ~~B~~(b) shall be presumed.

13 **§ 2954. Failure to Report.**

14 Any person required by subsection ~~A~~(a) and ~~B~~(b) of §2952 to report a
15 case of suspected elderly or disabled adult with a disability abuse who fails
16 to so report shall be liable for a fine of not more than Five Hundred Dollars
17 (\$500.00), except that for a second or subsequent offense, such person shall
18 be guilty of a misdemeanor. Funds shall be deposited in the manner
19 prescribed in § 2954(a), *infra*.”

20 **Section 4.** A new 10 GCA, § 2954(a) is added to read.

21 There is hereby created, separate and apart from other funds of the
22 government of Guam, a fund known as the Bureau of Adult Protective
23 Services Fund. The funds shall not be commingled with the General Fund,
24 is exempt from the Governor’s transfer authority and shall be kept in a
25 separate bank account. All funds collected shall be expended exclusively for
26 purposes used to support the operations of the Bureau of Adult Protective

1 Services.

2 **Section 5.** 10 GCA § 2955 through § 2960 are amended to read:

3 **“§ 2955. Bureau of Adult Protective Services Unit.**

4 The Division of Senior Citizens of the Department of Public Health and
5 Social Services, (the Department) shall establish a Bureau of Adult
6 Protective Services Unit which shall have sufficient staff to fulfill the
7 purposes of this Article and organized in such a way as to maximize the
8 continuity of responsibility, care and services of individual workers toward
9 individual adults and families. Therefore, at a minimum, the Bureau shall be
10 organized and staffed with:

11 (a.) One (1) Human Services Administrator to serve and lead the
12 Bureau.

13 (b.) One (1) Social Services Supervisor I to provide support for the
14 daily operations and supervision of the Bureau.

15 (c.) Three (3) Social Worker III to staff the Case Investigation Unit.

16 (d.) One (1) Social Worker III to staff the Intake and Aftercare Unit.

17 (e.) One (1) Program Coordinator III to staff the Education and
18 Outreach Unit to include the management of the Emergency
19 Receiving Home.

20 The ~~Unit~~ Bureau shall be the sole ~~unit~~ bureau responsible for receiving
21 and investigating all reports of elderly or ~~disabled~~ adult with a disability
22 abuse made pursuant to this Article, specifically including but not limited to
23 reports of abuse in facilities operated by the Department and other public or
24 private agencies and in private residences. The ~~Unit~~-Bureau shall have
25 authority to delegate to other social service agencies the responsibility of
26 investigating reports of abuse, but shall monitor the investigations conducted

1 by such other authorized agencies.

2 The Office of the Attorney General will provide legal services to the
3 Bureau of Adult Protective Services at no cost to the Bureau.

4 **§ 2956. Duties of the ~~Unit~~ Bureau of Adult Protective Services.**

5 The ~~Unit~~ Bureau shall:

6 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis
7 all reports, both oral and written, of suspected elderly or ~~disabled~~
8 adult with a disability abuse in accordance with this ~~Article~~ and the
9 regulations of the Department.

10 (b) Investigate and evaluate the information in the reports, either
11 through its own investigators or through investigators of other
12 authorized agencies. The investigation and evaluation shall be made
13 within twenty-four (24) hours if the ~~Unit~~ Bureau has reasonable cause
14 to believe the adult's health or safety is in ~~immediate~~ imminent danger
15 from further abuse and within seven (7) days for all other such
16 reports. The investigation shall include a visit to the facility or
17 residence, an interview with the adult allegedly abused, a
18 determination of the nature, extent and cause or causes of the abuse,
19 the identity of the person or persons responsible for the abuse, and all
20 other pertinent facts. The investigation shall be completed within
21 thirty (30) days. If the investigating social worker of the ~~Unit~~ Bureau
22 or other authorized investigating agency determines that it is
23 appropriate, the social worker may request a law enforcement officer
24 to accompany and assist the worker in the investigation. No social
25 worker of the ~~Unit~~ Bureau or other authorized investigating agency
26 shall enter the home of any individual pursuant to the provisions of

1 this ~~a~~Article without the consent of the individual, unless authorized
2 pursuant to subsection ~~€~~ (c) of § 2957 of this ~~a~~Article.

3 (c) Determine within sixty (60) days whether the report is
4 substantiated or unsubstantiated. If the assessment results in
5 determination that the elderly or ~~disabled~~ adult with a disability has
6 suffered serious abuse as defined in §2951, report such determination
7 to the Attorney General within forty-eight (48) hours. The Attorney
8 General ~~may~~ shall investigate and decide whether to initiate criminal
9 proceedings.

10 (d) Develop a coordinated system of protective services to prevent
11 further abuses to adults and to provide or arrange for and monitor the
12 provision of those services necessary to safeguard and ensure the
13 adult's well-being and development and preserve and stabilize family
14 life wherever appropriate.

15 (e) Make available, among its services for the prevention and
16 treatment of elderly and ~~disabled~~ adult with a disability abuse, through
17 authorized individuals and through inter-agency and intra-agency
18 assistance and cooperation, instruction in caring for elderly and
19 ~~disabled~~ adults with a disability, protective and preventive social
20 ~~counseling~~ care, and emergency shelter care.

21 (f) Appoint a ~~m~~Multi-~~d~~Disciplinary ~~t~~Team (MDT) for the purpose of
22 providing case consultation, interagency treatment strategies and
23 collaborative planning to address complex cases and service gaps
24 involving an elderly or adult with a disability who is a victim of abuse
25 and/or neglect.

26 The MDT ~~which~~ may include, but is not limited to,

1 ~~representatives from the Department of Mental Health and Substance~~
2 ~~Abuse, the Guam Medical Society, Guam Legal Services Corporation,~~
3 ~~Advocacy Office, Catholic Archdiocese of Guam, the Guam~~
4 ~~Ministerial Association. Such members shall receive Forty Five~~
5 ~~Dollars (\$45) as compensation for attendance at any meetings of the~~
6 ~~team, but such compensation shall not apply to more than two (2)~~
7 ~~meetings in any one (1) calendar month. No member shall receive any~~
8 ~~other compensation, but shall be reimbursed for actual travel,~~
9 ~~subsistence and out of pocket expenses incurred in the discharge of~~
10 ~~such member's responsibilities, including authorized attendance at~~
11 ~~meetings held away from Guam. a Bureau of Adult Protective~~
12 ~~Services social worker, a representative of a law enforcement agency,~~
13 ~~the medical profession, a mental health agency, the hospital, the~~
14 ~~public guardian, a representative of any private or government social~~
15 ~~service agency or advocacy office, Guam Legal Services Corporation,~~
16 ~~and a representative of the Mayors' Council of Guam. The MDT shall~~
17 ~~document all actions and efforts in addressing the needs of the client.~~

18 (g) Functions of the Bureau are subject to the appropriation of funding
19 and allocation of personnel sufficient to carryout the operations of the
20 Bureau.

21 **§ 2957. Consent of Victim; Guardianship.**

22 (a) An elderly or ~~disabled~~ adult with a disability who is a victim or
23 alleged victim of abuse may refuse to cooperate in the investigation,
24 or withdraw consent at any time to the provision of protective services
25 by the ~~Unit~~ Bureau or its authorized agency ~~The investigating agency~~
26 ~~shall act only with the consent of the victim or alleged victim of~~

1 ~~abuse.~~ ~~However, the Unit Bureau shall have the responsibility to~~
2 ~~complete the investigation~~ is responsible to investigate all complaints
3 of abuse against the elderly or adults with a disability and shall have
4 the responsibility to complete and document the investigative
5 investigation efforts, regardless of the lack of cooperation of the
6 victim of abuse.

7 (b) If the elderly or ~~disabled~~ adult with a disability victim or alleged
8 victim of abuse is so incapacitated that he or she cannot legally give
9 or deny consent to an investigation or protective services, the ~~Unit~~
10 Bureau may initiate a petition for guardianship in accordance with
11 Chapter 38 of Title 15 Guam Code Annotated, or initiate a petition for
12 civil commitment pursuant to law.

13 (c) If a social worker of the ~~Unit Bureau~~ or other authorized agency
14 who is investigating a report of abuse is denied access to the alleged
15 victim by a caregiver or household member, such agency may petition
16 the Superior Court for an order allowing the ~~Unit Bureau~~ or agency
17 immediate access to the alleged victim. The court shall give notice to
18 the caregiver or household member who is denying access at least
19 twenty-four (24) hours prior to the hearing. The Court may dispense
20 with notice upon finding that immediate and reasonably foreseeable
21 harm to the alleged victim will result from the twenty-four (24) hour
22 delay. If, after the hearing, the court determines, based upon clear and
23 convincing evidence, that the caregiver or household member should
24 be required to allow access, the Court shall so order. The order
25 allowing access shall remain in effect for a period not to exceed
26 seventy-two (72) hours and may be extended for an additional

1 seventy-two (72) hours if the court finds that the extension is
2 necessary for the ~~Unit~~ Bureau or its authorized agency to gain access
3 to the alleged victim.

4 (d) No person shall interfere with the provision of protective services
5 to an elderly or ~~disabled~~ adult with a disability who requests or
6 consents to receive such services. In the event that interference occurs
7 on a continuing basis, the ~~Unit~~ Bureau, its ~~designated~~ authorized
8 protective services agency, or the public guardian may petition the
9 court to enjoin such interference.

10 **§ 2958. Central Registry.**

11 (a) The ~~Unit~~ authorized shall maintain a Central Registry of reports of
12 elderly or ~~disabled~~ adult with a disability abuse, which shall contain
13 and be limited to the following information:

14 (1) The name, address and birthdate of the elderly or ~~disabled~~
15 adult with a disability.

16 (2) The date or dates and the nature and extent of the suspected
17 abuse.

18 (3) The locality in which the suspected abuse occurred.

19 (4) The name of the person or persons suspected of causing the
20 abuse.

21 (5) The progress of any legal proceedings brought on the basis
22 of suspected abuse.

23 (b) Both ~~substantial~~ substantiated and unsubstantiated reports of
24 elderly or ~~disabled~~ adult with a disability abuse shall be placed and
25 maintained in the central registry. ~~for a period of ten (10) years.~~

1 (c) ~~If an~~ An investigation of a report of suspected elderly or ~~disabled~~
2 adult with a disability abuse, that does not determine within ninety
3 (90) days of the date of the initial report that it is a substantiated or an
4 unsubstantiated report, shall be classified as an inconclusive finding.
5 Therefore, all information identifying the named victim and
6 perpetrator or perpetrators shall be expunged.

7 **§ 2959. Confidentiality.**

8 (a) All records maintained by the ~~Unit~~ Bureau regarding reports of
9 abuse, including but not limited to information contained in the
10 central registry, shall be confidential and shall be released only with
11 the consent of the elderly or ~~disabled~~ adult with a disability or, if the
12 adult is not competent, only with the consent of the adult's guardian,
13 and shall be released only to individuals designated in this § 2959.

14 (b) Records may be released, only as necessary to serve and protect
15 the adult, to the following:

16 (1) Any agency or individual, authorized, contracted or licensed
17 through the ~~Unit~~ Bureau to care for, protect or provide services
18 to an elderly or ~~disabled~~ adult with a disability who is a victim
19 of abuse, which agency or individual shall share information
20 related to the abuse with the ~~Unit~~ Bureau.

21 (2) Courts of competent jurisdiction, upon finding that access to
22 the records may be necessary for determination of an issue
23 before the court. Access shall be limited to inspection by the
24 court only, unless the court determines that disclosure of the
25 records to interested parties is necessary for resolution of an
26 issue pending before it.

- 1 (3) Grand juries when connected with the prosecution of a case
2 of elderly or ~~disabled~~ adult with a disability abuse.
- 3 (4) Properly constituted authorities or agencies, including
4 police departments, prosecutors and attorneys general
5 investigating a report of known or suspected elderly or ~~disabled~~
6 adult with a disability abuse.
- 7 (5) A physician examining or treating an elderly or ~~disabled~~
8 adult with a disability where the physician suspects the adult of
9 having been abused.
- 10 (6) The guardian or attorney of the elderly or disabled adult's
11 ~~guardian or attorney~~ with a disability.
- 12 (7) A duly authorized official of the ~~Unit~~-Bureau.
- 13 (8) The victim or alleged victim of the abuse.
- 14 (9) After, and only after, a court proceeding has been initiated
15 regarding the abuse, the perpetrator or alleged perpetrator of the
16 abuse.
- 17 (c) Records may be released to sources other than those identified in
18 subsection ~~B~~ (b) only when a written authorization from the victim or
19 alleged victim, or his or her guardian specifically provides consent to
20 have the record released or reviewed. In the event the guardian is the
21 alleged perpetrator, this provision will not apply.
- 22 (d) Regardless of subsections ~~A~~(a), ~~B~~(b) and ~~C~~(c), identities of
23 persons reporting elderly or ~~disabled~~ adult with a disability abuse shall
24 remain anonymous and release of the identity of a person reporting
25 such abuse, or information which would identify the reporter of abuse,

1 is strictly prohibited.

2 (e) Students authorized by the Director of the Department may be
3 permitted, under direct supervision, access to Bureau of Adult
4 Protective Service ('BAPS') files for the purpose of field practice,
5 research and to gather statistical information. Such authorized
6 students, under supervision, may be permitted to receive BAPS
7 referrals and participate in BAPS intake, interviews and case
8 management assignments. Such authorized students shall be
9 registered in a field placement, practicum internship, or block
10 placement with an accredited college or university. Such authorized
11 students will be under the direct supervision of a social services
12 supervisor and subject to all conditions of this Chapter and
13 government of Guam policies, procedures and guidelines. Such
14 authorized students shall not disseminate any information beyond the
15 scope of the program objectives.

16 (f) Any person who willfully releases or permits the release of any
17 information or records is in violation of this Section and shall be
18 guilty of a misdemeanor.

19 **§ 2960. Appropriation.**

20 (a) ~~Two Hundred Thousand Dollars (\$200,000) are hereby~~ Funds shall
21 be appropriated from the General Fund to the Department for the
22 implementation operations of the Unit Bureau to allow the Bureau to
23 carry out its mandates, which The appropriation shall cover staffing
24 requirements, vehicles, cellphones, APS database and registry,
25 logistics, contracting of services, and emergency shelter for victims of
26 elderly and disabled adult with a disability abuse.

1 (b) Within three (3) months following the end of each fiscal year, the
2 ~~Unit-Bureau~~ shall submit a report to the Governor, the Superior Court,
3 the Legislature, and the public, which shall include:

4 (1) Description of the activities of the Unit Bureau and all
5 designated agencies during the preceding year.

6 (2) Statistical information about the number and types of
7 reports received during the preceding year.

8 (3) Results of the assessments and evaluations conducted and
9 the amount, type, and costs of services provided.

10 (4) Information on the quality of services provided and the
11 result of such services in terms of alleviating abuse.

12 (5) Identification of problems that may arise in the
13 implementation of this article.

14 (6) Recommendation for action on the part of the Legislature
15 whenever deemed vital for the protection of the elderly and
16 ~~disabled~~ adults with a disability.

17 (7) Amount collected and use of funds of the "Bureau of Adult
18 Protective Services Fund," in accordance with § 2954(a),
19 supra."

20 **Section 6. Severability.** If any provision of this Act or its application
21 to any person or circumstance is found to be invalid or contrary to law, such
22 invalidity shall not affect other provisions or applications of this Act which
23 can be given effect without the invalid provisions application, and to this end
24 the provisions of this Act are severable.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

BILL NO. 511-31 (COR)

*As substituted by the Committee on Health
& Human Services, Economic Development,
Senior Citizens and Election Reform*

Introduced by:

Aline A. Yamashita, PhD

AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan finds*
2 the law which protects our *man'amko* (elderly) and adults with disabilities
3 enacted on 30 January 1989, and amended in 17 May 1991, requires
4 amendments to reflect politically correct and updated definitions that address
5 the social-economic changes which continue to evolve and impact the family
6 structure and community of Guam. *I Liheslatura* further finds that the
7 Bureau of Adult Protective Services needs adequate staff and support from
8 government of Guam agencies to effectively execute its duties and mandates
9 as well as to respond appropriately and adequately to the potential increases
10 in the number and complexity of referrals.
11

1 *I Liheslatura* intends to amend Chapter 2, Article 10 relative to the Bureau
2 of Adult Protective Services, Title 10 Guam Code Annotated, that represents
3 the practice perspective from professionals who work in social services,
4 legal and medical fields whose goal and duty is to safeguard and protect the
5 total well-being of vulnerable adults and to provide services in a dignified
6 and respectful manner.

7 **Section 2.** 10 GCA § 2950 is *amended* to read:

8 “§ 2950. **Purpose.** The purpose of this article is to recognize that
9 abuse, neglect and exploitation of elderly or adults with a disability are
10 problems that require attention and intervention as a matter of public policy.
11 Elderly or adults with a disability require the same societal protection now
12 being provided by law to abused and neglected children and spouses. The
13 obligation of the government to extend protective care and services to the
14 abused elderly or adults with a disability should be carried out in a manner
15 least restrictive of individual rights and in accordance with due process. The
16 family's contribution to the care of its elderly or adults with a disability is
17 acknowledged and every effort should be made to assist, support and
18 enhance its caretaking role.”

19 **Section 3.** 10 GCA § 2951 is *repealed and re-enacted* to read:

20 “§ 2951. **Definitions.** Definitions as used in this Article:

21 (a) *Abandonment* refers to the desertion of an elderly or adult
22 with a disability by his or her caregiver under circumstances in
23 which a reasonable person would continue to provide care or
24 custody.

25 (b) *Adult with a Disability* is any person 18 years or older who:

1 (1) Has a physical or mental impairment which
2 substantially limits one (1) or more major life activities;
3 or

4 (2) Has a history of, or has been classified as having an
5 impairment which substantially limits one or more major
6 life activities.

7 (c) *Bodily Injury* means physical pain, illness, unconsciousness
8 or any impairment of physical condition, in accordance with
9 Chapter 16 of Title 9 Guam Code Annotated.

10 (d) *Bureau of Adult Protective Services* means the “Bureau”
11 established by § 2955 of this Article.

12 (e) *Caregiver* is any family member or any person, health
13 facility, community care facility, clinic, home health care
14 agency or legal guardian who has the care or custody of the
15 elderly or adult with disability.

16 (f) *Department* refers to the Department of Public Health and
17 Social Services.

18 (g) *Desertion* refers to the act by which a person abandons and
19 forsakes, without justification, a condition of public, social, or
20 family life, renouncing its responsibilities and evading its
21 duties.

22 (h) *Elderly* refers to a person age sixty (60) years or older.

23 (i) *Elderly or Adult with a Disability Abuse* means self-neglect
24 or any one (1) or more of the following acts inflicted on an
25 elderly or adult with a disability by other than accidental means
26 by another person: physical abuse, neglect, or abandonment.

1 (j) *Emotional or Psychological Abuse* means fear, agitation,
2 confusion, severe depression, or other forms of serious
3 emotional distress that is brought about by forms of
4 intimidating behavior, threats, harassment, or by deceptive acts
5 or false or misleading statements made with malicious intent to
6 agitate, confuse, frighten, or cause severe depression or serious
7 emotional distress of the elderly or adult with a disability.

8 (k) *Expunged* means the sealing of records to all persons
9 outside of the Bureau of Adult Protective Services and law
10 enforcement agencies of Guam, and the federal agencies
11 entitled thereto, and a refusal by such agencies to admit the
12 existence of such records to persons not entitled to examine
13 them.

14 (l) *Financial or Property Exploitation* means illegal or
15 improper use of an elderly or adult with a disability's money,
16 property or other resources for monetary or personal benefit,
17 profit or gain. This includes, but is not limited to, theft,
18 misappropriation, concealment, misuse or fraudulent
19 deprivation of money or property belonging to the elderly or
20 adult with a disability.

21 (m) *Investigation* means that activity undertaken to determine
22 the validity of a report of elderly or adult with a disability
23 abuse.

24 (n) *Major Life Activities* include, but are not limited to: caring
25 for oneself, performing manual tasks, standing, walking, seeing,
26 hearing, eating, sleeping, lifting, bending, speaking, breathing,
27 learning, reading, concentrating, thinking and working.

1 (o) *Neglect* means the failure of a reasonable caregiver to
2 provide for the physical, mental or emotional health and well-
3 being of the elderly or adult with a disability and includes, but
4 is not limited to:

5 (1) Failure to assist or provide personal hygiene for the
6 elderly or adult with a disability.

7 (2) Failure to provide adequate food, water, clothing or
8 shelter.

9 (3) Failure to provide medical care for the physical and
10 mental health of the elderly or adult with a disability. No
11 person shall be deemed neglected or abused for the sole
12 reason that he or she voluntarily relies on treatment by
13 spiritual means through prayer alone in lieu of medical
14 treatment.

15 (4) Failure to protect an elderly or adult with a disability
16 from health, safety hazards, or physical harm.

17 (p) *Physical Abuse* means the willful infliction of or omission
18 which results in physical harm. It includes, but is not limited
19 to, cruel punishment resulting in physical harm or pain or
20 mental anguish, such as direct beatings, slapping, kicking,
21 biting, choking, burning or unreasonable physical restraint or
22 confinement resulting in physical injury.

23 (q) *Physical Harm* means bodily pain, injury, impairment or
24 disease.

25 (r) *Self-Neglect Abuse* is characterized as the behavior of an
26 elderly or adult with a disability that threatens his/her own
27 health or safety. Self-neglect generally manifests itself when an

1 elderly or adult with a disability refuses to provide him/herself
2 with adequate food, clothing, shelter, personal hygiene,
3 medication (when indicated), and safety precautions. The
4 definition of self-neglect excludes a situation in which a
5 mentally competent elderly or adult with a disability, who
6 understands the consequences of his/her decisions, makes a
7 conscious and voluntary decision to engage in acts that threaten
8 his/her health or safety as a matter of personal choice.

9 (s) *Serious Abuse* means an act or omission resulting in serious
10 bodily injury which creates: serious permanent disfigurement; a
11 substantial risk or death or serious, permanent disfigurement,
12 severe or intense physical pain or protracted loss or impairment
13 of consciousness or of the function of any bodily member or
14 organ, as defined in Chapter 16 of Title 9, Guam Code
15 Annotated; or sexual offenses pursuant to Chapter 25 of Title 9,
16 Guam Code Annotated.

17 (t) *Sexual Abuse* means any form of non-consensual sexual
18 contact, including but not limited to unwanted or inappropriate
19 sexual gratification, touching, rape, sodomy, sexual coercion,
20 sexually explicit photographing, sexual harassment, involuntary
21 exposure to sexually explicit material or language, and as
22 defined in the penal code of Guam.

23 (u) *Substantiated Report* means a report made pursuant to this
24 Chapter, if an investigation by the Bureau of Adult Protective
25 Services, or its authorized agency, determines that there is
26 sufficient evidence to support the existence of the abuse or
27 neglect.

1 (v) *Unsubstantiated Report* means a report made pursuant to
2 this Chapter, if an investigation by the Bureau of Adult
3 Protective Services or its authorized agency determines that
4 there is insufficient or inconclusive evidence of abuse but
5 existence of the abuse cannot be disproved to the satisfaction of
6 the Bureau of Adult Protective Services.”

7 **Section 3.** 10 GCA § 2952 through § 2954 are *amended* to read:

8 **“§ 2952. Reporting of Elderly or Adult with a Disability Abuse.**

9 (a) Any person who, in the course of his or her employment,
10 occupation or professional practice comes into contact with elderly or
11 adults with disabilities, has actual knowledge or reasonable cause to
12 believe that an elderly or adult with a disability is suffering from or
13 has died as a result of abuse as defined in § 2951, *shall* immediately
14 make a verbal report of such information or cause a report to be made
15 to the Bureau of Adult Protective Services or its authorized agency
16 and *shall*, within forty-eight (48) hours, make a written report to the
17 Bureau or its authorized agency. If a verbal report is made on a
18 Friday, a written report will be made by the next workday.

19 (b) Persons required to report abuse under subsection (a) include but
20 are not limited to physicians, medical interns, medical examiners,
21 nurses, chiropractors, hospital personnel engaged in the admission,
22 examination, care or treatment of persons, social workers, employees
23 of nursing homes, senior citizen centers, and adult day care facilities,
24 police officers, probation officers and employees of homemaker and
25 home health service agencies, emergency medical service (EMS)
26 providers, non-emergency medical transport providers, medical and

1 allied health care providers, banking or financial institution personnel,
2 pension providers, and practicum students in the field of health and
3 human services.

4 (c) In addition to persons required to report under subsections (a) and
5 (b), any other person may make such report to the Bureau of Adult
6 Protective Services if any such person has a reasonable cause to
7 believe that an elderly or adult with a disability is suffering from or
8 has died as a result of abuse.

9 (d) Oral or written reports from persons required to report under
10 subsection (a) and (b) shall include the following information, if
11 available:

12 (1) The name of the person making the report and where he or
13 she can be reached. The identity of the person making the report
14 shall be confidential, but made available to an agency
15 contracted authorized by the Bureau of Adult Protective
16 Services to provide case investigation.

17 (2) The name, address and approximate age of the elderly or
18 adult with a disability.

19 (3) Information regarding the nature and extent of the abuse, the
20 name of the person's caretaker, if known, and any medical
21 treatment being received or immediately required, if known.

22 (4) The name of the person or persons responsible for causing
23 the suspected abuse.

24 (5) The source of the report.

25 (6) Any other information which may assist in the investigation
26 of the suspected abuse.

1 (7) The identity of the person making the report shall be
2 confidential.

3 (e) Reports of elderly or adult with a disability abuse may be made
4 anonymously under this Chapter.

5 **§ 2953. Immunity from Liability.**

6 (a) Any person who in good faith makes a report under this Article or
7 testifies in any administrative or judicial proceeding related to the
8 report is immune from civil or criminal liability for reporting or
9 testifying.

10 (b) Any officer, agent or employee of the Bureau of Adult Protective
11 Services who performs his or her duties in good faith is not liable for
12 civil or criminal damages as a result of acts or omissions in rendering
13 service or care to an elderly or adult with a disability.

14 (c) For the purpose of any proceeding, civil or criminal, the good faith
15 referred to in subsections (a) and (b) shall be presumed.

16 **§ 2954. Failure to Report.**

17 Any person required by subsection (a) and (b) of §2952 to report a case
18 of suspected elderly or adult with a disability abuse who fails to so report
19 shall be liable for a fine of not more than Five Hundred Dollars (\$500.00),
20 except that for a second or subsequent offense, such person shall be guilty of
21 a misdemeanor. Fines shall be deposited in the manner prescribed in §
22 2954(a), *infra.*”

23 **Section 4.** A new 10 GCA, § 2954(a) is added to read.

24 There is hereby created, separate and apart from other funds of the
25 government of Guam, a fund known as the Bureau of Adult Protective
26 Services Fund. The funds shall not be commingled with the General Fund,

1 is exempt from the Governor’s transfer authority and shall be kept in a
2 separate bank account, and is not subject to fiscal constraints or limitations
3 such as a reserve account. All funds collected shall be expended exclusively
4 for purposes used to support the operations of the Bureau of Adult Protective
5 Services.

6 **Section 5.** 10 GCA § 2955 through § 2960 are amended to read:

7 **“§ 2955. Bureau of Adult Protective Services Unit.**

8 The Division of Senior Citizens of the Department of Public Health and
9 Social Services, (the Department) shall establish a Bureau of Adult
10 Protective Services which shall have sufficient staff to fulfill the purposes of
11 this Article and organized in such a way as to maximize the continuity of
12 responsibility, care and services of individual workers toward individual
13 adults and families. Therefore, at a minimum, the Bureau shall be organized
14 and staffed with:

15 (a.) One (1) Human Services Administrator to serve and lead the
16 Bureau.

17 (b.) One (1) Social Services Supervisor I to provide support for the
18 daily operations and supervision of the Bureau.

19 (c.) Three (3) Social Worker III to staff the Case Investigation Unit.

20 (d.) One (1) Social Worker III to staff the Intake and Aftercare Unit.

21 (e.) One (1) Program Coordinator III to staff the Education and
22 Outreach Unit to include the management of the Emergency
23 Receiving Home.

24 The Bureau shall be the sole bureau responsible for receiving and
25 investigating all reports of elderly or adult with a disability abuse made
26 pursuant to this Article, specifically including but not limited to reports of

1 abuse in facilities operated by the Department and other public or private
2 agencies and in private residences. The Bureau shall have authority to
3 delegate to other social service agencies the responsibility of investigating
4 reports of abuse, but shall monitor the investigations conducted by such
5 other authorized agencies.

6 The Office of the Attorney General will provide legal services to the
7 Bureau of Adult Protective Services at no cost to the Bureau.

8 **§ 2956. Duties of the Bureau of Adult Protective Services.**

9 The Bureau shall:

10 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis
11 all reports, both oral and written, of suspected elderly or adult with a
12 disability abuse in accordance with this Article and the regulations of
13 the Department.

14 (b) Investigate and evaluate the information in the reports, either
15 through its own investigators or through investigators of other
16 authorized agencies. The investigation and evaluation shall be made
17 within twenty-four (24) hours if the Bureau has reasonable cause to
18 believe the adult's health or safety is in-imminent danger from further
19 abuse and within seven (7) days for all other such reports. The
20 investigation shall include a visit to the facility or residence, an
21 interview with the adult allegedly abused, a determination of the
22 nature, extent and cause or causes of the abuse, the identity of the
23 person or persons responsible for the abuse, and all other pertinent
24 facts. The investigation shall be completed within thirty (30) days. If
25 the investigating social worker of the Bureau or other authorized
26 investigating agency determines that it is appropriate, the social

1 worker may request a law enforcement officer to accompany and
2 assist the worker in the investigation. No social worker of the Bureau
3 or other authorized investigating agency shall enter the home of any
4 individual pursuant to the provisions of this Article without the
5 consent of the individual, unless authorized pursuant to subsection €
6 (c) of § 2957 of this Article.

7 (c) Determine within sixty (60) days whether the report is
8 substantiated or unsubstantiated. If the assessment results in
9 determination that the elderly or adult with a disability has suffered
10 serious abuse as defined in §2951, report such determination to the
11 Attorney General within forty-eight (48) hours. The Attorney General
12 shall investigate and decide whether to initiate criminal proceedings.

13 (d) Develop a coordinated system of protective services to prevent
14 further abuses to adults and to provide or arrange for and monitor the
15 provision of those services necessary to safeguard and ensure the
16 adult's well-being and development and preserve and stabilize family
17 life wherever appropriate.

18 (e) Make available, among its services for the prevention and
19 treatment of elderly and adult with a disability abuse, through
20 authorized individuals and through inter-agency and intra-agency
21 assistance and cooperation, instruction in caring for elderly and adults
22 with a disability, protective and preventive social care, and emergency
23 shelter care.

24 (f) Appoint a Multi-Disciplinary Team (MDT) for the purpose of
25 providing case consultation, interagency treatment strategies and
26 collaborative planning to address complex cases and service gaps

1 involving an elderly or adult with a disability who is a victim of abuse
2 and/or neglect.

3 The MDT may include, but is not limited to, a Bureau of Adult
4 Protective Services social worker, a representative of a law
5 enforcement agency, Guam Police Department, the medical
6 profession, a mental health agency, the hospital, the public guardian, a
7 representative of any private or government social service agency or
8 advocacy office, Guam Legal Services Corporation, and a
9 representative of the Mayors' Council of Guam. The MDT shall
10 document all actions and efforts in addressing the needs of the client.

11 (g) Functions of the Bureau are subject to the appropriation of funding
12 and allocation of personnel sufficient to carry out the operations of the
13 Bureau.

14 **§ 2957. Consent of Victim; Guardianship.**

15 (a) An elderly or adult with a disability who is a victim or alleged
16 victim of abuse may refuse to cooperate in the investigation, or
17 withdraw consent at any time to the provision of protective services
18 by the Bureau or its authorized agency. However, the Bureau have the
19 is responsible to investigate all complaints of abuse against the elderly
20 or adults with a disability and shall have the responsibility to complete
21 and document the investigation efforts, regardless of the lack of
22 cooperation of the victim of abuse.

23 (b) If the elderly or adult with a disability victim or alleged victim of
24 abuse is so incapacitated that he or she cannot legally give or deny
25 consent to an investigation or protective services, the Bureau may
26 initiate a petition for guardianship in accordance with Chapter 38 of

1 Title 15 Guam Code Annotated, or initiate a petition for civil
2 commitment pursuant to law.

3 (c) If a social worker of the Bureau or other authorized agency who is
4 investigating a report of abuse is denied access to the alleged victim
5 by a caregiver or household member, such agency may petition the
6 Superior Court for an order allowing the Bureau or agency immediate
7 access to the alleged victim. The court shall give notice to the
8 caregiver or household member who is denying access at least twenty-
9 four (24) hours prior to the hearing. The Court may dispense with
10 notice upon finding that immediate and reasonably foreseeable harm
11 to the alleged victim will result from the twenty-four (24) hour delay.
12 If, after the hearing, the court determines, based upon clear and
13 convincing evidence, that the caregiver or household member should
14 be required to allow access, the Court shall so order. The order
15 allowing access shall remain in effect for a period not to exceed
16 seventy-two (72) hours and may be extended for an additional
17 seventy-two (72) hours if the court finds that the extension is
18 necessary for the Bureau or its authorized agency to gain access to the
19 alleged victim.

20 (d) No person shall interfere with the provision of protective services
21 to an elderly or adult with a disability who requests or consents to
22 receive such services. In the event that interference occurs on a
23 continuing basis, the Bureau, its authorized protective services
24 agency, or the public guardian may petition the court to enjoin such
25 interference.

26 **§ 2958. Central Registry.**

1 (a) The Bureau shall maintain a Central Registry of reports of elderly
2 or adult with a disability abuse, which shall contain and be limited to
3 the following information:

4 (1) The name, address and birthdate of the elderly or adult with
5 a disability.

6 (2) The date or dates and the nature and extent of the suspected
7 abuse.

8 (3) The locality in which the suspected abuse occurred.

9 (4) The name of the person or persons suspected of causing the
10 abuse.

11 (5) The progress of any legal proceedings brought on the basis
12 of suspected abuse.

13 (b) Both substantiated and unsubstantiated reports of elderly or adult
14 with a disability abuse shall be placed and maintained in the eCentral
15 Registry.

16 (c) An investigation of a report of suspected elderly or adult with a
17 disability abuse, that does not determine within ninety (90) days of the
18 date of the initial report that it is a substantiated or an unsubstantiated
19 report, shall be classified as an inconclusive finding. Therefore, all
20 information identifying the named victim and perpetrator or
21 perpetrators shall be expunged.

22 **§ 2959. Confidentiality.**

23 (a) All records maintained by the Bureau regarding reports of abuse,
24 including but not limited to information contained in the central
25 registry, shall be confidential and shall be released only with the

1 consent of the elderly or adult with a disability or, if the adult is not
2 competent, only with the consent of the adult's guardian, and shall be
3 released only to individuals designated in this § 2959.

4 (b) Records may be released, only as necessary to serve and protect
5 the adult, to the following:

6 (1) Any agency or individual, authorized, contracted or licensed
7 through the Bureau to care for, protect or provide services to an
8 elderly or adult with a disability who is a victim of abuse,
9 which agency or individual shall share information related to
10 the abuse with the Bureau.

11 (2) Courts of competent jurisdiction, upon finding that access to
12 the records may be necessary for determination of an issue
13 before the court. Access shall be limited to inspection by the
14 court only, unless the court determines that disclosure of the
15 records to interested parties is necessary for resolution of an
16 issue pending before it.

17 (3) Grand juries when connected with the prosecution of a case
18 of elderly or adult with a disability abuse.

19 (4) Properly constituted authorities or agencies, including
20 police departments, prosecutors and attorneys general
21 investigating a report of known or suspected elderly or adult
22 with a disability abuse.

23 (5) A physician examining or treating an elderly or adult with a
24 disability where the physician suspects the adult of having been
25 abused.

26 (6) The guardian or attorney of the elderly or adult with a

1 disability.

2 (7) A duly authorized official of the Bureau.

3 (8) The victim or alleged victim of the abuse.

4 (9) After, and only after, a court proceeding has been initiated
5 regarding the abuse, the perpetrator or alleged perpetrator of the
6 abuse.

7 (c) Records may be released to sources other than those identified in
8 subsection (b) only when a written authorization from the victim or
9 alleged victim, or his or her guardian specifically provides consent to
10 have the record released or reviewed. In the event the guardian is the
11 alleged perpetrator, this provision will not apply.

12 (d) Regardless of subsections (a), (b) and (c), identities of persons
13 reporting elderly or adult with a disability abuse shall remain
14 anonymous and release of the identity of a person reporting such
15 abuse, or information which would identify the reporter of abuse, is
16 strictly prohibited.

17 (e) Students authorized by the Director of the Department may be
18 permitted, under direct supervision, access to Bureau of Adult
19 Protective Service ('BAPS') files for the purpose of field practice,
20 research and to gather statistical information. Such authorized
21 students, under supervision, may be permitted to receive BAPS
22 referrals and participate in BAPS intake, interviews and case
23 management assignments. Such authorized students shall be
24 registered in a field placement, practicum internship, or block
25 placement with an accredited college or university. Such authorized

1 students will be under the direct supervision of a social services
2 supervisor and subject to all conditions of this Chapter and
3 government of Guam policies, procedures and guidelines. Such
4 authorized students shall not disseminate any information beyond the
5 scope of the program objectives.

6 (f) Any person who willfully releases or permits the release of any
7 information or records is in violation of this Section and shall be
8 guilty of a misdemeanor.

9 **§ 2960. Appropriation.**

10 (a) Funds shall be appropriated from the General Fund to the
11 Department for the operations of the-Bureau to allow the Bureau to
12 carry out its mandates. The appropriation shall cover staffing
13 requirements, vehicles, cellphones, APS database and registry,
14 logistics, contracting of services, and emergency shelter for victims of
15 elderly and ~~disabled~~ adult with a disability abuse.

16 (b) Within three (3) months following the end of each fiscal year, the
17 Bureau shall submit a report to the Governor, the Superior Court, the
18 Legislature, and the public, which shall include:

19 (1) Description of the activities of the Unit Bureau and all
20 designated agencies during the preceding year.

21 (2) Statistical information about the number and types of
22 reports received during the preceding year.

23 (3) Results of the assessments and evaluations conducted and
24 the amount, type, and costs of services provided.

25 (4) Information on the quality of services provided and the
26 result of such services in terms of alleviating abuse.

1 (5) Identification of problems that may arise in the
2 implementation of this article.

3 (6) Recommendation for action on the part of the Legislature
4 whenever deemed vital for the protection of the elderly and
5 adults with a disability.

6 (7) Amount collected and use of funds of the “Bureau of Adult
7 Protective Services Fund,” in accordance with § 2954(a),
8 supra.”

9 **Section 6. Severability.** If any provision of this Act or its application
10 to any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall not affect other provisions or applications of this Act which
12 can be given effect without the invalid provisions application, and to this end
13 the provisions of this Act are severable.



EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

GOVERNMENT OF GUAM

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



JAMES W. GILLAN
DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

Senator Dennis G. Rodriguez, Jr.
Chairperson, Committee on Health and Human Services,
Senior Citizens, Economic Development, and Election Reform

RE: Bill 511-31 (COR) An act to amend Section 20950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954 (a), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates.

Dear Mr. Chairman,

Hafa Adai! I am James Gillan, the Director of the Department of Public Health and Social Services and here to present testimony in support of Bill 511-31 (COR), which seeks to update the Adult Protective Services (APS) mandates. I would like to thank Senator Aline A. Yamashita, Ph.D. for introducing this measure and referring it to the Committee for a public hearing.

Mr. Chairman, in 1986, a Task Force was formed under the leadership of the Division of Senior Citizens, Department of Public Health and Social Services (DSC, DPHSS) to address concerns regarding abuse, neglect and exploitation of the elderly and adults with disabilities. The Task Force labored for two years, developing recommendations which would be incorporated in the legislation brought forth by the Senators of the 19th Guam Legislature. The Adult Protective Services Act, P.L. 19-54 was enacted into law on January 30, 1989, with amendments in May 17, 1991 by P.L. 21-33.

Now, 21 years later, on April 12, 2012 an Adult Protective Services Work Group was formed. The work group was comprised of staff from the DSC and representatives from 15 community partners, which include the Legislature, Judiciary, law enforcement and several social service agencies and organizations with the intent on reviewing the APS mandates for amendments or changes where appropriate and necessary. The members of the APS Work Group met for fourteen (14) consecutive weeks, two hours each week, with the goal of reviewing each section of the Act and discussing the issues and challenges faced by our elderly and adults with disabilities (a listing of the APS Work Group partners is attached). As a result of these discussions, we have what we believe are the necessary and appropriate amendments to the existing APS mandate which I believe strengthen the law which protects two of our island's most vulnerable populations, *our man'amko* and *adults with disabilities*.

The amendments in Bill 511-31 includes the updating of definitions such as physical and sexual abuse as it is currently defined in the existing mandate as a being classified as physical abuse; expanding the list of Mandated Reporters by position titles to now include Emergency Medical

Service providers, non-emergency Medical Transport providers, medical and allied health providers, banking or financial institutions personnel, pension providers and practicum students in the health and human services. The provision that any person who in the course of his employment and who suspects abuse is to report such abuse remains as part of the measure. The identification of the disabled adult throughout the measure is being amended to reflect person first and not the disability, therefore, the amended changed would be adult with a disability where the current reference of disabled adult appears. Further, the reference in the mandate of Adult Protective Services Unit is proposed to be changed to Bureau of Adult Protective Services (BAPS).

In Sub-Section 2954, the amendment directs that the fines imposed for failing to report be maintained in a separate account to be used exclusively in support of the operations of the Bureau of Adult Protective Services. In addition, this section provides for the Office of Attorney General to provide legal services to the BAPS, two provisions that only enhances the operations of this Bureau.

In Sub-Section 2956, the Bureau's organizational structure is being defined and I ask that this provision be considered in the coming fiscal year as the date of implementation so that the Department will be able to financially plan for the changes in personnel. I am aware of the need for programs that support and protect our seniors and adults with a disability. We will need to staff up and budget for this. I must be able to plan to provide for such changes in my organization. I am open to a special appropriation being made that would support this provision and if such a provision were funded, I would not hesitate to do my part in building the capacity of this program. The cost for the additional staff of this program to be funded as contained in the bill is estimated at \$146,534.00 which is for employees hired at Step 1; however, the more practical estimated amount would be \$177,514.00 which would be for employees hired at Step 5.

Further, in Sub-Section 2956, it is recommended that the members who serve on the Multi-Disciplinary Team go without compensation. The basis of this approach is that most, if not all of the members would have a vested interest in the stabilization of the client, as most would be involved in some way with the case of the client being reviewed by the team.

In Sub-Section 2957, the current mandate requires that the investigating agency act only with the consent of the victim or alleged victim, however, the amendment to this sub-section will require the Bureau to investigate all complaints of abuse and shall document their investigative efforts without the consent of the victim.

In Sub-Section 2958, the amendment is for those cases the Bureau is not able to determine within ninety (90) days of the date of initial report as being substantiated or unsubstantiated, thus, the case shall be classified as an inconclusive finding.

Since the introduction of this measure on September 14, 2012, the APS Work Group members convened a meeting on September 21, 2012 to review Bill 511-31 (COR) in its entirety and provided very few recommended changes to the Bill. Additionally, on September 27, 2012, during the 2012 Regional Summit organized by the Guam Coalition Against Sexual Assault and Family Violence, the measure was presented during a session on APS' mandates, with additional

input from participants who attended the session. These recommended changes are also attached to my written testimony.

The amendments provided through the Bill 511-31 (COR) will ensure our *man'amko* and *adults with disabilities* are not overlooked and continue to receive the protection and support services they need and deserve to live out their lives in dignity and respect. On behalf of our *man'amko* and adults with disabilities, I encourage you to support the passage of this legislation.

Very truly yours,

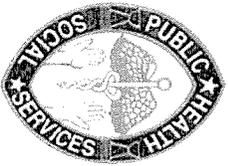


James W. Gillan

The recommended changes to Bill 511-31 (COR) are shown in red:

1. Add to §2951 (c) *Bodily Injury* means physical pain, illness, unconsciousness or any impairment of physical condition, in accordance with Chapter 16 of Title 9 Guam Code Annotated.
2. Add to §2951 (o) *Neglect* means the failure of a reasonable caregiver to provide for the physical, mental or emotional health and well-being of the elderly or adult with a disability and includes, but is not limited to:
3. Change and add to §2951 (p) Physical Abuse means the willful infliction of injury ~~that results~~ or omission which results in physical harm.
4. Change and add to §2951 (r) *Self-Neglect Abuse* is characterized as the behavior of an elderly or adult with a disability that threatens his/her own health or safety. Self-neglect generally manifests itself when ~~in an older person~~ elderly or adult with a disability refuses to provide him/herself with adequate food, clothing, shelter, personal hygiene, medication (when indicated), and safety precautions. The definition of self-neglect excludes a situation in which a mentally competent ~~older person~~ elderly or adult with a disability, who ...
5. Change §2951 (s) *Serious Abuse* means an act or omission resulting in serious bodily injury which creates: serious permanent disfigurement; a substantial risk or death or serious, permanent disfigurement, severe or intense physical pain or protracted loss or impairment on consciousness or of the function of any bodily member or organ, as defined in Chapter 16 of title 9, Guam Code Annotated ~~that requires immediate medical attention, permanent disfigurement, severe or intense physical pain, protracted loss or permanent impairment of a bodily function, organ or death;~~ or sexual offenses pursuant to Chapter 25 of Title 9, Guam Code Annotated.
6. Add to §2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability Abuse. (a), line 18 on page 7, Bureau of Adult Protective Services Unit or its authorized agency and *shall* ...
7. Add to §2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability Abuse. (b), line 1 on page 8, ...employees of nursing homes, senior citizens centers, ...
8. Add to §2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability Abuse. (b), line 2 on page 8, ...employees of homemaker and home health
9. Change to §2953. Immunity from Liability. (b), line 19, by placing a strikethrough on the word ~~disabled~~ instead of an underline
10. Change to §2954. Failure to Report., line 25, by placing a strikethrough on the word ~~disabled~~ instead of an underline
11. Change to §2954. Failure to Report. line 2 of page 10. Fines ~~unds~~ shall be deposited in the manner prescribed in §2954(a), infra.
12. Add to §2954. Failure to Report. Section 4., line 9 of page 10, ...separate bank account, and is not subject to fiscal constraints or limitations such as a reserve account.
13. Add to §2956. Duties of the ~~Unit~~ Bureau of Adult Protective Services. (f), line 24 of page 13, ...a law enforcement agency, Guam Police Department,

14. §2956. Duties of the ~~Unit~~ Bureau of Adult Protective Services. (g) Functions of the Bureau are subject to the appropriation of funding and allocation of personnel sufficient to carry out the operations of the Bureau.
15. Change to §2958. Central Registry. (a) The ~~Unit~~ Bureau ~~authorized~~ shall maintain a Central Registry.....
16. Change to §2958. Central Registry. (b), line 11 of page 16, Ceentral Rregistry



BUREAU OF ADULT PROTECTIVE SERVICES

Bill No. 511-31 (COR)

Updating the Adult Protective Services' Mandates



BILL NO. 511-31 (COR)

AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.



BUREAU OF ADULT PROTECTIVE SERVICES

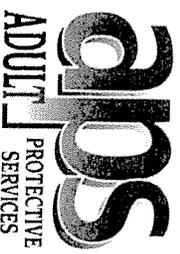
14 Work Group Meetings

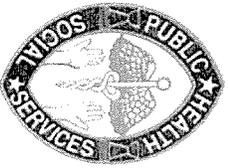


- Thursday, April 12, 2012 – Formation and initial meeting of the APS Work-Group Members
- Friday, April 27, 2012 – First APS Work Group meeting *
- May 4
- May 11
- May 17
- May 25
- June 1
- June 8
- June 15
- June 22
- June 29
- July 6
- July 13
- September 21, 2012 – Review of Bill No. 511-31 (COR)

Meetings were held at the Division of Senior Citizens Office, from 8:30 a.m. to 10:00 a.m.

*Meeting was held at the Catholic Social Service Conference Room





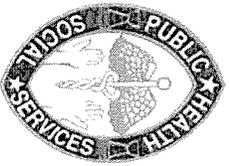
BUREAU OF ADULT PROTECTIVE SERVICES

15 Community Partners



- Catholic Social Service
- Department of Integrated Services for Individuals with Disabilities
- Department of Mental Health and Substance Abuse
- Guam Coalition Against Sexual Assault and Family Violence
- Guam Fire Department
- Guam Housing and Urban Renewal Authority
- Guam Legal Services Corporation, Disability Law Center
- Guam Medical Transport
- Guam Memorial Hospital
- Gunma' Mami, Incorporated
- Mayors' Council of Guam
- Office of the Attorney General
- Office of the Public Guardian
- Office of Senator Aline A. Yamashita, PhD
- Saint Joseph's Medical Transport





BUREAU OF ADULT PROTECTIVE SERVICES

Resources



- Americans with Disabilities Act of 1990, Amendments Act (ADAAA)
- California Welfare and Institutions Code, Section 15600 - 15601
- Florida Statutes, Chapter 415, Adult Protective Services
- Older Americans Act of 1965, as amended
- State of Hawaii Adult Protective Services (APS) Law
- Tennessee Adult Protection Law
- Texas Administrative Code, Adult Protective Services
- Guam Child Protective Act, 19 Guam Code Annotated, Chapter 13
- Guam State Plan on Aging for Fiscal Years 2012-2015
- 9 GCA, Chapter 16 Criminal Homicide
- 9 GCA, Crimes and Corrections, Chapter 19 Assault, Reckless Endangering and Terrorizing
- 9 GCA Crimes and Corrections, Chapter 30 Family Violence
- 9 GCA Chapter 31 Offenses Against the Family
- 15 GCA Estates and Probate, Chapter 38 Appointment of Guardians for Insane and Incompetent Persons
- National Center on Elder Abuse www.ncea.aoa.gov
- National APS Resource Center napsrc@aps.network.org





BUREAU OF ADULT PROTECTIVE SERVICES

APS Referrals 2007 - 2012



APS Referrals Received in FY 2007 - 2012.

Fiscal Year Referrals	Referrals Received	Inappropriate Referrals	Appropriate Referrals	Referrals Substantiated	Referrals Unsubstantiated	Referrals Pending
FY 2012	245	9	236	27	206	3
FY 2011	267	13	254	33	221	0
FY 2010	218	20	198	31	167	0
FY 2009	158	16	142	11	131	0
FY 2008	192	6	186	4	182	0
FY 2007	191	16	175	28	147	0



BUREAU OF ADULT PROTECTIVE SERVICES

Three Highest Types of Abuse



FY 2007 – 2012. Three Highest Types of Abuse Referred.

Fiscal Year	1 st Highest Type	2 nd Highest Type	3 rd Highest Type
FY 2012	67 Neglect	65 Material/Financial	43 Mental/Emotional
FY 2011	72 Neglect	62 Mental/Emotional	54 Material/Financial
FY 2010	53 Material/Financial	50 Neglect	38 Mental/Emotional
FY 2009	51 Material/Financial	34 Neglect	22 Physical
FY 2008	61 Neglect	46 Material/Financial	32 Mental/Emotional
FY 2007	58 Physical	51 Material/Financial	50 Neglect

1 Services.

2 **Section 5.** 10 GCA § 2955 through § 2960 are amended to read:

3 **“§ 2955. Bureau of Adult Protective Services Unit.**

4 The Division of Senior Citizens of the Department of Public Health and
5 Social Services, (the Department) shall establish a Bureau of Adult
6 Protective Services Unit which shall have sufficient staff to fulfill the
7 purposes of this Article and organized in such a way as to maximize the
8 continuity of responsibility, care and services of individual workers toward
9 individual adults and families. Therefore, at a minimum, the Bureau shall be
10 organized and staffed with:

11 (a.) One (1) Human Services Administrator to serve and lead the
12 Bureau.

13 (b.) One (1) Social Services Supervisor I to provide support for the
14 daily operations and supervision of the Bureau.

15 (c.) Three (3) Social Worker III to staff the Case Investigation Unit.

16 (d.) One (1) Social Worker III to staff the Intake and Aftercare Unit.

17 (e.) One (1) Program Coordinator III to staff the Education and
18 Outreach Unit to include the management of the Emergency
19 Receiving Home.

20 The ~~Unit~~ Bureau shall be the sole ~~unit~~ bureau responsible for receiving
21 and investigating all reports of elderly or ~~disabled~~ adult with a disability
22 abuse made pursuant to this Article, specifically including but not limited to
23 reports of abuse in facilities operated by the Department and other public or
24 private agencies and in private residences. The ~~Unit~~-Bureau shall have
25 authority to delegate to other social service agencies the responsibility of
26 investigating reports of abuse, but shall monitor the investigations conducted



OFFICE OF THE PUBLIC GUARDIAN

SUPREME COURT OF GUAM

Marcelene C. Santos, Public Guardian

Mailing Address: Suite 300 Guam Judicial Center, 120 West O'Brien Drive, Hagåtña, Guam 96910

Location: Old Court Building, 110 West O'Brien Drive, Hagåtña, Guam 96910

Telephone: (671) 475-3173 • Facsimile: (671) 472-0381 • e-mail: publicguardian@opg.guamcourts.org



November 16, 2012

The Honorable Dennis Rodriguez, Jr.
Chair, Committee on Health & Human Services, Economic Development,
Senior Citizens and Election Reform
I Mina'trentai Unu Na Liheslaturan Guåhan
Hagåtña, Guam 96910

RE: Bill No. 511-31 (COR) Relative to Updating the Adult Protective Services mandates

Dear Senator Rodriguez,

Initially, I want to thank Senator Aline A. Yamashita for her responsiveness to my concerns and for spearheading the multi-agency work group to review the current statutes governing adult protective services. The work group contributed significantly to the bill before you today and will have further edits and comments as to specific items/provisions. I will defer to the staff from the Division of Senior Citizens to address those technical issues and I prefer to plant the seeds for further action once the amendments are enacted.

I work closely with the very dedicated Adult Protective Services (APS) social workers in my official capacity as the Public Guardian. Judge Frances Tydingco-Gatewood suggested to me early in my tenure at the Labor Day 2009 picnic that the APS laws needed some updating. Sure enough protecting the most vulnerable adults in our community, the elderly and the disabled, has proven to be a frustrating challenge, in part because of the existing laws.

I believe that the proposed amendments will go a long way to address the issues regarding investigations by APS – 10 GCA §§ 2956 and 2957. The stated purpose of the APS laws is:

The purpose of this article is to recognize that abuse, neglect and exploitation of elderly or disabled adults are problems that require attention and intervention as a matter of public policy. Elderly or disabled adults need the same societal protection now being provided by law to abused and neglected children and spouses. The obligation of the government to extend protective care and services to the abused elderly or disabled adult should be carried out in a manner least restrictive of individual rights and in accordance with due process. The family's contribution to the care of its elderly or disabled adults is acknowledged and every effort should be made to assist, support and enhance its caretaking role.

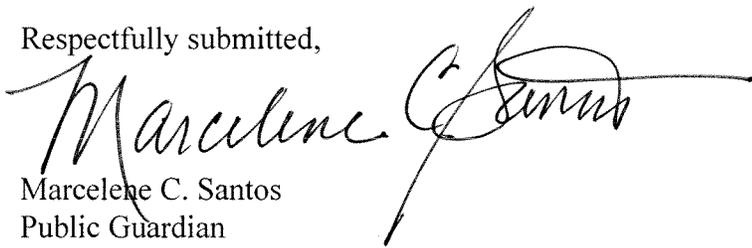
The next step is to ensure that the family's contribution to the care of its elderly and adult with a disability is in fact assisted, support and enhanced in its caretaking role.

For those lucky enough to have families, many of those families are left to their own devices to provide the caregiving and the government becomes involved only to tell them what they are doing wrong. While we want the elderly and adults with disabilities to have the same protective care and services as abused and neglected children, families have no legal obligation to care for their relative. The government can truly serve and protect the elderly and adults with disabilities by providing support services to the family. Currently, such services are few, if non-existent. And the needs are multiplying in an exponential rate.

We just need to look at the patients up at the Skilled Nursing Unit who have no acute care needs but for convalescent care. As such, they each accumulate \$500 per day in charges that they cannot pay. Yesterday, I went on two home visits with the social workers from SNU and APS to speak to family members of SNU patients who need to be discharged. Our efforts ended up being futile.

There is no time to identify all of the areas of need to support the families. But please we cannot stop at just amending the APS statutes.

Respectfully submitted,

A handwritten signature in black ink, reading "Marcelene C. Santos". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Marcelene C. Santos
Public Guardian



CATHOLIC SOCIAL SERVICE

#234-A U.S. Army Juan C. Fejeran Street
Barrigada, Guam 96913

Telephone: (671) 635-1406 / 1442 • Fax: (671) 635-1444

Email: css@guam.net

Website: <http://www.catholicsocialservices.net>

November 16, 2012

Archbishop Anthony S. Apuron
OFM CAP D.D.
President/Chairman
Board of Trustees/Directors

Diana B. Calvo
Executive Director

Jesse S. Catahay
Deputy Director

Senator Dennis Rodriguez, Jr., Chairman
Committee on Health and Human Services,
Senior Citizens, Economic Development
Election Reform
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Good Afternoon Senator Dennis Rodriguez, Jr. and Members of the Committee:

Thank you for affording me the opportunity to testify in favor of Bill No. 511-31 (Cor) that Senator Aline Yamashita has introduced to update the APS mandates. My name is Jesse Catahay and I am honored to have been part of a working group who worked on the revision of the APS mandates representing Catholic Social Service. I want to thank Senator Aline Yamashita for her efforts in getting this APS bill drafted and introduced as she has been engaged in the process since the beginning through her own personal involvement as well as her staff's, Ms. Evelyn Claros, participation. I am also grateful of Mr. Arthur San Augustin's, DSC Administrator, leadership in this process and his APS staff diligence in ensuring that the work gets done.

I support the passing of the bill as it would address the current gaps in the APS law. As a group, we looked at other laws from other states and try and incorporate those provisions that would be applicable to Guam. There are three things, however, that I will like to highlight with regards to recommendations for changes that include:

1. Have attorneys from the AG's office assigned specifically to work with Adult Protective Services cases;
2. Have APS ultimately responsible for following through with all APS referrals determination and closure of the case. CSS will continue to respond to reported senior or adults with disability abuse cases after working hours through the hotline but should transfer it on the next following business day to APS for continued investigation; and
3. Give the Emergency Receiving Home more discretion in admitting seniors or adults with disabilities who are at risk due to neglect.

Again, thank you for your assistance in passing into law this bill as revised to incorporate the public's input that would further strengthen the APS law.

Respectfully,


Jesse Catahay

Deputy Director



Respecting the Dignity of the Human Person Through Service





COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
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Tina Rose Muña Barnes
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Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

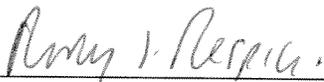
Senator
Christopher M. Duenas

Certification of Waiver of Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **Bill No. 511-31 (COR) – “AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES’ MANDATES.”** – on September 21, 2012. COR hereby certifies that BBMR confirmed receipt of this request on September 21, 2012.

COR further certifies that a response to this request was not received by 5:00 P.M. on October 11, 2012, the fourteenth day after the request was received by BBMR. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 511 to be included in the committee report on said bill, is hereby waived.**

Certified by:



Senator Rory J. Respicio

Committee on Rules Chair



Date



COMMITTEE ON RULES

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

2012 SEP 25 AM 8:10

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

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vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

September 21, 2012

VIA FACSIMILE
(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note -
Bill Nos. 511-31 (COR) thru 515-31 (COR)

Hafa Adai Mr. Rios:

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

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

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

MESSAGE CONFIRMATION

SEP-21-2012 02:40 PM FRI

FAX NUMBER : 4772240
 NAME : GNF

NAME/NUMBER : 4722825
 PAGE : 2
 START TIME : SEP-21-2012 02:39PM FRI
 ELAPSED TIME : 00' 22"
 MODE : STD ECM
 RESULTS : [O. K]



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Senator
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Senator
 Adolfo B. Palacios, Sr.

Senator
 vicente c. pangelinan

MINORITY MEMBERS:

Senator
 Aline A. Yamashita
 ASST. MINORITY LEADER

Senator
 Christopher M. Duenas

September 21, 2012

VIA FACSIMILE
 (671) 472-2825

John A. Rios
 Director
 Bureau of Budget & Management Research
 P.O. Box 2950
 Hagåtña, Guam 96910

RE: Request for Fiscal Note -
Bill Nos. 511-31 (COR) thru 515-31 (COR)

Hafa Adai Mr. Rios:

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

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

Very Truly Yours,

Rory J. Respicio

Attachments
 Cc: Clerk of the Legislature

Rec'd by: Flo
 date: 9-21-12
 time: 3:32pm

Bill Nos.	Sponsor	Title	Date Introduced	Date Referred	120 Day Deadline	Cmte Referred
511-31 (COR)	A. A. Yamashita	AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.	09/13/2012 3:31pm	9/17/12		
512-31 (COR)	V. Anthony Ada, B.J. F. Cruz, S. Mabini, Ph.D.	AN ACT TO ADD A NEW (e) TO §5008 OF CHAPTER 5 OF 5GCA RELATIVE TO PROHIBITING GOVERNMENT OF GUAM BRANCHES, DEPARTMENTS, AGENCIES AND INSTRUMENTALITIES FROM EXCLUDING LOCAL	09/17/2012 12:14pm	9/18/12		
513-31 (COR)	V. C. Pangelinan	"AN ACT TO PROVIDE HEALTH INSURANCE TO GOVERNMENT OF GUAM EMPLOYEES AND RETIREES FOR FISCAL YEAR 2013"	09/17/2012 5:07pm	9/18/12		
514-31 (COR)	V. C. Pangelinan, J. T. Won Pat, Ed.D., B. J.F. Cruz, T. R. Mua Barnes	AN ACT TO AMEND SECTION 1512.3(a)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO PRIORITIZING THE PAYMENT OF INCOME TAX REFUND WITH THE REMAINING \$18 MILLION OF SERIES B BOND PROCEEDS	09/19/2012 4:10 p.m.	9/20/12		
515-31 (COR)	Adolpho B. Palacios, Sr.	AN ACT TO ADD NEW SUBSECTIONS (h) AND (i) TO §55102 OF CHAPTER 55, DIVISION 3, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO APPLYING INTEREST ON UNPAID COMPENSATION FOR PUBLIC SAFETY AND LAW ENFORCEMENT PERSONNEL, AS MANDATED THROUGH P.L. 29-105.	09/21/2012 12:48 p.m.			



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
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Senator
vicente c. pangelinan

**MINORITY
MEMBERS:**

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

September 17, 2012

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Referral of Bill No. 511-31 (COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 511-31 (COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

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

Si Yu'os Ma'åse!

(1) Attachment



1st Notice of Public Hearing

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Fri, Nov 9, 2012 at 5:00 PM

To: clynt@spbguam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, editor@mvariety.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, marvic@mvguam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, slimtiaco@guampdn.com, therese.hart.writer@gmail.com, zita@mvguam.com, Amritha Alladi <aalladi@guampdn.com>, Arin Temkar <aktemkar@guampdn.com>, "George, Duane M" <dmgeorge@guam.gannett.com>, gerry partido <gerrypartido.mvguam3@gmail.com>, James <officemanager@hitradio100.com>, Janela <janela@mvguam.com>, Jason Salas <jason@kuam.com>, Jesse Lujan <jesselujan27@yahoo.com>, "Jon A. Anderson" <editor@mvguam.com>, Joy <joy@mvguam.com>, Jr <news@lifenews.com>, Katrina <life@guampdn.com>, Ken Quintanilla <kenq@kuam.com>, Kevin Kerrigan <kevin@spbguam.com>, Kevin Kerrigan <news@k57.com>, Laura Matthews <lmatthews@guampdn.com>, Mindy Aguon <mindy@kuam.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Pacific Daily News <news@guampdn.com>, "rgibson@k57.com" <rgibson@k57.com>, Travis Coffman <thebigshow@k57.com>, William Gibson <breakfastshowk57@gmail.com>
Bcc: jmesngon.senatorrodriguez@gmail.com

Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Hafa Adai All Media!

Please see attached notice regarding next weeks public hearing.
Should you have any questions please contact this office at anytime.

Best Regards,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatorrodriguez@gmail.com

Website: www.toduguam.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information.

By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or

expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.

2 attachments

 **Public Hearing 1st Notice Nov. 16, 2012.doc**
548K

 **Public Hearing 1st Notice Nov. 16, 2012.pdf**
403K

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>
To: "phnotice@guamlegislature.org" <phnotice@guamlegislature.org>

Fri, Nov 9, 2012 at 5:00 PM

--
Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Dear Senators,

Buenas yan Hafa Adai!

Please see attached notice regarding next weeks public hearing.

Should you have any questions or concerns please contact this office at anytime.

Best Regards,
Clifton Herbert

[Quoted text hidden]

 **Senators 1st Notice Public Hearing Nov. 16, 2012.pdf**
81K

SENATOR DENNIS G. RODRIGUEZ, JR.

PRESS RELEASE

FIRST NOTICE OF PUBLIC HEARING

Friday, November 16, 2012 1:00PM

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

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

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

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

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting a Public Hearing **on Friday, November 16 2012, 1:00 P.M.**, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

1:00PM

- *Bill No. 417-31(COR)* An act to *add* a new subsection (m) to §41103 of Article 1, Chapter 41 of Title 17, Guam Code Annotated, relative to establishing a certification program for government of Guam employees in the provision of services to individuals with disabilities. *(Introduced by A. B. Palacios, Sr.)*
- *Bill No. 511-31(COR)* An act to amend Section 2950, repeal land reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services' mandates. *(Introduced by Aline A. Yamashita, Ph.D.)*
- *Bill No. 525-31(COR)* An act to amend Title 10 Guam Code Annotated Chapter 2 § 2208 relative to mammogram screening, by adding a new §2208.1 to require mammography reporting requirements for certain patients when necessary, relative to breast density. *(Introduced by R. J. Respicio)*

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatorrodriguez@gmail.com.

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatorrodriguez@gmail.com

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact our office at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)



SENATOR DENNIS G. RODRIGUEZ, JR.

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

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

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

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

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

November 8, 2012

TO: ALL SENATORS

FROM: SENATOR DENNIS G. RODRIGUEZ, JR. 
CHAIRPERSON

SUBJECT: 1st NOTICE OF PUBLIC HEARING

1st NOTICE OF HEARING
Friday, November 16, 2012

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting a hearing on November 16, 2012, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

1:00PM

- **Bill No. 417-31(COR)** An act to add a new subsection (m) to §41103 of Article 1, Chapter 41 of Title 17, Guam Code Annotated, relative to establishing a certification program for government of Guam employees in the provision of services to individuals with disabilities. *(Introduced by A. B. Palacios, Sr.)*
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Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact Clifton Herbert at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Listserv: phnotice@guamlegislature.org

As of Oct. 25, 2012

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Clifton Herbert <cherbert.senator@guam.gov>

2nd Notice of Public Hearing

Clifton Herbert <cherbert.senator@guam.gov>

Tue, Nov 13, 2012 at 11:39 AM

To: clynt@spbguam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, editor@mvariety.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, marvic@mvguam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, slimtiaco@guampdn.com, therese.hart.writer@gmail.com, zita@mvguam.com, Amritha Alladi <aalladi@guampdn.com>, Arvin Temkar <aktemkar@guampdn.com>, "George, Duane M" <dmgeorge@guam.gannett.com>, gerry partido <gerrypartido.mvguam3@gmail.com>, James <officemanager@hitradio100.com>, Janela <janela@mvguam.com>, Jason Salas <jason@kuam.com>, Jesse Lujan <jesselujan27@yahoo.com>, "Jon A. Anderson" <editor@mvguam.com>, Joy <joy@mvguam.com>, Jr <news@lifeneews.com>, Katrina <life@guampdn.com>, Ken Quintanilla <kenq@kuam.com>, Kevin Kerrigan <kevin@spbguam.com>, Kevin Kerrigan <news@k57.com>, Laura Matthews <lmatthews@guampdn.com>, Mindy Aguon <mindy@kuam.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Pacific Daily News <news@guampdn.com>, "rgibson@k57.com" <rgibson@k57.com>, Travis Coffman <thebigshow@k57.com>, William Gibson <breakfastshowk57@gmail.com>
Bcc: jmesngon.senator@guam.gov

Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Hafa Adai All Media!

Please see attached notice of public hearing. Should you have any questions please feel free to contact this office at any time.

Sincerely,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senator@guam.gov

Website: www.toduguam.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information.

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2 attachments

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403K

 **Public Hearing 2nd Notice Nov. 16, 2012.doc**
548K

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>
To: "phnotice@guamlegislature.org" <phnotice@guamlegislature.org>

Tue, Nov 13, 2012 at 11:48 AM

Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Dear Senators,

Please see attached notice. Should you have any questions or concerns please feel free to contact this office.

Best Regards,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: [Cherbert.senatorrodriguez@gmail.com](mailto:cherbert.senatorrodriguez@gmail.com)

Website: www.toduguam.com

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By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.

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SENATOR DENNIS G. RODRIGUEZ, JR.

PRESS RELEASE

SECOND NOTICE OF PUBLIC HEARING

Friday, November 16, 2012 1:00PM

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

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

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

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

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

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SENATOR DENNIS G. RODRIGUEZ, JR.

Chairman,
Committee on
Health & Human
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Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
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Member,
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Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

November 13, 2012

TO: ALL SENATORS

FROM: SENATOR DENNIS G. RODRIGUEZ, JR. 
CHAIRPERSON

SUBJECT: 2nd NOTICE OF PUBLIC HEARING

2nd NOTICE OF HEARING
Friday, November 16, 2012

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SENATOR DENNIS G. RODRIGUEZ, JR.

PUBLIC HEARING AGENDA

Friday, November 16, 2012

1pm

Public Hearing Room, *I Liheslatura*

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

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
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Operations, & Public
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Member,
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Guam Military Buildup
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Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

I. Call to order

II. Items for public consideration:

- **Bill 417-31(COR)** – An act to add a new subsection (m) to §41103 of Article 1, Chapter 41 of Title 17, Guam Code Annotated, relative to establishing a certification program for government of Guam employees in the provision of services to individuals with disabilities. Introduced by Sen. Adolpho B. Palacios, Sr.
- **Bill 511-31(COR)** – An act to amend Section 2950, repeal and reenact Section 2951, amend Sections 2952 through 2954, add a new Section 2954(A), and amend Sections 2955 through 2960 all of Chapter 2, Article 10, Title 10 Guam Code Annotated, relative to updating the Adult Protective Services’ mandates. Introduced by Sen. Aline A. Yamashita, Ph.D.
- **Bill 525-31(COR)** – An act to amend Title 10 Guam Code Annotated Chapter 2 §2208 relative to mammogram screening, by adding a new 2208.1 to require mammography reporting requirements for certain patients when necessary, relative to breast density. Introduced by Sen. Rory J. Respicio.

III. Adjournment

Thank you for your participation in today’s hearing.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

2012 SEP 13 PM 3:31
WJ

BILL NO. 511-31 (COY)

Introduced by:

Aline A. Yamashita, PhD 

AN ACT TO AMEND SECTION 2950, REPEAL AND REENACT SECTION 2951, AMEND SECTIONS 2952 THROUGH 2954, ADD A NEW SECTION 2954(A), AND AMEND SECTIONS 2955 THROUGH 2960 ALL OF CHAPTER 2, ARTICLE 10, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE ADULT PROTECTIVE SERVICES' MANDATES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan finds* the law which protects our *man'amko* (elderly) and adults with disabilities enacted on 30 January 1989, and amended in 17 May 1991, requires amendments to reflect politically correct and updated definitions that address the social-economic changes which continue to evolve and impact the family structure and community of Guam. *I Liheslatura* further finds that the Bureau of Adult Protective Services needs adequate staff and support from government of Guam agencies to effectively execute its duties and mandates as well as to respond appropriately and adequately to the potential increases in the number and complexity of referrals.

I Liheslatura intends to amend Chapter 2, Article 10 relative to the Bureau

1 of Adult Protective Services, Title 10 Guam Code Annotated, that represents
2 the practice perspective from professionals who work in social services,
3 legal and medical fields whose goal and duty is to safeguard and protect the
4 total well-being of vulnerable adults and to provide services in a dignified
5 and respectful manner.

6 **Section 2.** 10 GCA § 2950 is *amended* to read:

7 “§ 2950. **Purpose.** The purpose of this article is to recognize that
8 abuse, neglect and exploitation of elderly or ~~disabled~~ adults with a disability
9 are problems that require attention and intervention as a matter of public
10 policy. Elderly or ~~disabled~~ adults with a disability ~~need~~ require the same
11 societal protection now being provided by law to abused and neglected
12 children and spouses. The obligation of the government to extend protective
13 care and services to the abused elderly or ~~disabled~~ adults with a disability
14 should be carried out in a manner least restrictive of individual rights and in
15 accordance with due process. The family's contribution to the care of its
16 elderly or ~~disabled~~ adults with a disability is acknowledged and every effort
17 should be made to assist, support and enhance its caretaking role.”

18 **Section 3.** 10 GCA § 2951 is *repealed and re-enacted* to read:

19 “§ 2951. **Definitions.** Definitions as used in this Article:

20 (a) *Abandonment* refers to the desertion of an elderly or adult
21 with a disability by his or her caregiver under circumstances in
22 which a reasonable person would continue to provide care or
23 custody.

24 (b) *Adult with a Disability* is any person 18 years or older who:

25 (1) Has a physical or mental impairment which

1 substantially limits one (1) or more major life activities;
2 or

3 (2) Has a history of, or has been classified as having an
4 impairment which substantially limits one or more major
5 life activities.

6 (c) *Bodily Injury* means physical pain, illness, unconsciousness
7 or any impairment of physical condition.

8 (d) *Bureau of Adult Protective Services* means the “Bureau”
9 established by § 2955 of this Article.

10 (e) *Caregiver* is any family member or any person, health
11 facility, community care facility, clinic, home health care
12 agency or legal guardian who has the care or custody of the
13 elderly or adult with disability.

14 (f) *Department* refers to the Department of Public Health and
15 Social Services.

16 (g) *Desertion* refers to the act by which a person abandons and
17 forsakes, without justification, a condition of public, social, or
18 family life, renouncing its responsibilities and evading its
19 duties.

20 (h) *Elderly* refers to a person age sixty (60) years or older.

21 (i) *Elderly or Adult with a Disability Abuse* means self-neglect
22 or any one (1) or more of the following acts inflicted on an
23 elderly or adult with a disability by other than accidental means
24 by another person: physical abuse, neglect, or abandonment.

25 (j) *Emotional or Psychological Abuse* means fear, agitation,
26 confusion, severe depression, or other forms of serious
27 emotional distress that is brought about by forms of

1 intimidating behavior, threats, harassment, or by deceptive acts
2 or false or misleading statements made with malicious intent to
3 agitate, confuse, frighten, or cause severe depression or serious
4 emotional distress of the elderly or adult with a disability.

5 (k) *Expunged* means the sealing of records to all persons
6 outside of the Bureau of Adult Protective Services and law
7 enforcement agencies of Guam, and the federal agencies
8 entitled thereto, and a refusal by such agencies to admit the
9 existence of such records to persons not entitled to examine
10 them.

11 (l) *Financial or Property Exploitation* means illegal or
12 improper use of an elderly or adult with a disability's money,
13 property or other resources for monetary or personal benefit,
14 profit or gain. This includes, but is not limited to, theft,
15 misappropriation, concealment, misuse or fraudulent
16 deprivation of money or property belonging to the elderly or
17 adult with a disability.

18 (m) *Investigation* means that activity undertaken to determine
19 the validity of a report of elderly or adult with a disability
20 abuse.

21 (n) *Major Life Activities* include, but are not limited to: caring
22 for oneself, performing manual tasks, standing, walking, seeing,
23 hearing, eating, sleeping, lifting, bending, speaking, breathing,
24 learning, reading, concentrating, thinking and working.

25 (o) *Neglect* means the failure of a caregiver to provide for the
26 physical, mental or emotional health and wellbeing of the
27 elderly or adult with a disability and includes, but is not limited

1 to:

2 (1) Failure to assist or provide personal hygiene for the
3 elderly or adult with a disability.

4 (2) Failure to provide adequate food, water, clothing or
5 shelter.

6 (3) Failure to provide medical care for the physical and
7 mental health of the elderly or adult with a disability. No
8 person shall be deemed neglected or abused for the sole
9 reason that he or she voluntarily relies on treatment by
10 spiritual means through prayer alone in lieu of medical
11 treatment.

12 (4) Failure to protect an elderly or adult with a disability
13 from health, safety hazards, or physical harm.

14 (p) *Physical Abuse* means the willful infliction of injury that
15 results in physical harm. It includes, but is not limited to, cruel
16 punishment resulting in physical harm or pain or mental
17 anguish, such as direct beatings, slapping, kicking, biting,
18 choking, burning or unreasonable physical restraint or
19 confinement resulting in physical injury.

20 (q) *Physical Harm* means bodily pain, injury, impairment or
21 disease.

22 (r) *Self-Neglect* is characterized as the behavior of an elderly or
23 adult with a disability that threatens his/her own health or
24 safety. Self-neglect generally manifests itself in an older
25 person as a refusal to provide him/herself with adequate food,
26 clothing, shelter, personal hygiene, medication (when
27 indicated), and safety precautions. The definition of self-

1 neglect excludes a situation in which a mentally competent
2 older person or adult with a disability, who understands the
3 consequences of his/her decisions, makes a conscious and
4 voluntary decision to engage in acts that threaten his/her health
5 or safety as a matter of personal choice.

6 (s) *Serious Abuse* means an act or omission resulting in serious
7 bodily injury that requires immediate medical attention,
8 permanent disfigurement, severe or intense physical pain,
9 protracted loss or permanent impairment of a bodily function,
10 organ or death; or sexual offenses pursuant to Chapter 25 of
11 Title 9, Guam Code Annotated.

12 (t) *Sexual Abuse* means any form of nonconsensual sexual
13 contact, including but not limited to unwanted or inappropriate
14 sexual gratification, touching, rape, sodomy, sexual coercion,
15 sexually explicit photographing, sexual harassment, involuntary
16 exposure to sexually explicit material or language, and as
17 defined in the penal code of Guam.

18 (u) *Substantiated Report* means a report made pursuant to this
19 Chapter if an investigation by the Bureau of Adult Protective
20 Services, or its authorized agency, determines that there is
21 sufficient evidence to support the existence of the abuse or
22 neglect.

23 (v) *Unsubstantiated Report* means a report made pursuant to
24 this Chapter if an investigation by the Bureau of Adult
25 Protective Services or its authorized agency determines that
26 there is insufficient or inconclusive evidence of abuse but

1 existence of the abuse cannot be disproved to the satisfaction of
2 the Bureau of Adult Protective Services.”

3 **Section 3.** 10 GCA § 2952 through § 2954 are *amended* to read:

4 **“§ 2952. Reporting of Elderly or ~~Disabled~~ Adult with a Disability**
5 **Abuse.**

6 (a) Any person who, in the course of his or her employment,
7 occupation or professional practice comes into contact with elderly or
8 ~~disabled~~ adults with disabilities, has actual knowledge or reasonable
9 cause to believe that an elderly or ~~disabled~~ adult with a disability is
10 suffering from or has died as a result of abuse as defined in § 2951,
11 *shall* immediately make a verbal report of such information or cause a
12 report to be made to the Bureau of Adult Protective Services Unit and
13 *shall*, within forty-eight (48) hours, make a written report to the ~~unit~~
14 bureau or its authorized agency. If a verbal report is made on a
15 Friday, a written report will be made by the next workday.

16 (b) Persons required to report abuse under subsection (A) (a) include
17 but are not limited to physicians, medical interns, medical examiners,
18 nurses, chiropractors, hospital personnel engaged in the admission,
19 examination, care or treatment of persons, social workers, employees
20 of nursing homes, and adult day care facilities, police officers,
21 probation officers and employees of homemaker service agencies,
22 emergency medical service (EMS) providers, non-emergency medical
23 transport providers, medical and allied health care providers, banking
24 or financial institution personnel, pension providers, and practicum
25 students in the field of health and human services.

26 (c) In addition to persons required to report under subsections (a) ~~A~~

1 and (b) ~~B~~, any other person may make such report to the Bureau of
2 Adult Protective Services Unit if any such person has a reasonable
3 cause to believe ~~that~~ that an elderly or disabled adult with a disability
4 is suffering from or has died as a result of abuse.

5 (d) Oral or written reports from persons required to report under
6 subsection (a) A and (b) ~~B~~ shall include the following information, if
7 available:

8 (1) The name of the person making the report and where he or
9 she can be reached. The identity of the person making the report
10 shall be confidential, but made available to an agency
11 contracted authorized by the Bureau of Adult Protective
12 Services to provide case investigation.

13 (2) The name, address and approximate age of the elderly or
14 ~~disabled~~ adult with a disability.

15 (3) Information regarding the nature and extent of the abuse, the
16 name of the person's caretaker, if known, and any medical
17 treatment being received or immediately required, if known.

18 (4) The name of the person or persons responsible for causing
19 the suspected abuse.

20 (5) The source of the report.

21 (6) Any other information which may assist in the investigation
22 of the suspected abuse. ~~The identity of the person making the~~
23 ~~report shall be confidential.~~

24 (7) The identity of the person making the report shall be
25 confidential.

26 (e) Reports of elderly or ~~disabled~~ adult with a disability abuse may be
27 made anonymously under this Chapter.

1 **§ 2953. Immunity from Liability.**

2 (a) Any person who in good faith makes a report under this ~~an~~Article or
3 testifies in any administrative or judicial proceeding related to the
4 report is immune from civil or criminal liability for reporting or
5 testifying.

6 (b) Any officer, agent or employee of the Bureau of Adult Protective
7 Services Unit who performs his or her duties in good faith is not liable
8 for civil or criminal damages as a result of acts or omissions in
9 rendering service or care to an elderly or disabled adult with a
10 disability.

11 (c) For the purpose of any proceeding, civil or criminal, the good faith
12 referred to in subsections ~~A~~(a) and ~~B~~(b) shall be presumed.

13 **§ 2954. Failure to Report.**

14 Any person required by subsection ~~A~~(a) and ~~B~~(b) of §2952 to report a
15 case of suspected elderly or disabled adult with a disability abuse who fails
16 to so report shall be liable for a fine of not more than Five Hundred Dollars
17 (\$500.00), except that for a second or subsequent offense, such person shall
18 be guilty of a misdemeanor. Funds shall be deposited in the manner
19 prescribed in § 2954(a), *infra*.”

20 **Section 4.** A new 10 GCA, § 2954(a) is added to read.

21 There is hereby created, separate and apart from other funds of the
22 government of Guam, a fund known as the Bureau of Adult Protective
23 Services Fund. The funds shall not be commingled with the General Fund,
24 is exempt from the Governor’s transfer authority and shall be kept in a
25 separate bank account. All funds collected shall be expended exclusively for
26 purposes used to support the operations of the Bureau of Adult Protective

1 Services.

2 **Section 5.** 10 GCA § 2955 through § 2960 are amended to read:

3 **“§ 2955. Bureau of Adult Protective Services Unit.**

4 The Division of Senior Citizens of the Department of Public Health and
5 Social Services, (the Department) shall establish a Bureau of Adult
6 Protective Services Unit which shall have sufficient staff to fulfill the
7 purposes of this Article and organized in such a way as to maximize the
8 continuity of responsibility, care and services of individual workers toward
9 individual adults and families. Therefore, at a minimum, the Bureau shall be
10 organized and staffed with:

11 (a.) One (1) Human Services Administrator to serve and lead the
12 Bureau.

13 (b.) One (1) Social Services Supervisor I to provide support for the
14 daily operations and supervision of the Bureau.

15 (c.) Three (3) Social Worker III to staff the Case Investigation Unit.

16 (d.) One (1) Social Worker III to staff the Intake and Aftercare Unit.

17 (e.) One (1) Program Coordinator III to staff the Education and
18 Outreach Unit to include the management of the Emergency
19 Receiving Home.

20 The ~~Unit~~ Bureau shall be the sole ~~unit~~ bureau responsible for receiving
21 and investigating all reports of elderly or ~~disabled~~ adult with a disability
22 abuse made pursuant to this Article, specifically including but not limited to
23 reports of abuse in facilities operated by the Department and other public or
24 private agencies and in private residences. The ~~Unit~~-Bureau shall have
25 authority to delegate to other social service agencies the responsibility of
26 investigating reports of abuse, but shall monitor the investigations conducted

1 by such other authorized agencies.

2 The Office of the Attorney General will provide legal services to the
3 Bureau of Adult Protective Services at no cost to the Bureau.

4 **§ 2956. Duties of the ~~Unit~~ Bureau of Adult Protective Services.**

5 The ~~Unit~~ Bureau shall:

6 (a) Receive on a twenty-four (24) hour, seven (7) days a week basis
7 all reports, both oral and written, of suspected elderly or ~~disabled~~
8 adult with a disability abuse in accordance with this ~~a~~Article and the
9 regulations of the Department.

10 (b) Investigate and evaluate the information in the reports, either
11 through its own investigators or through investigators of other
12 authorized agencies. The investigation and evaluation shall be made
13 within twenty-four (24) hours if the ~~Unit~~ Bureau has reasonable cause
14 to believe the adult's health or safety is in ~~immediate~~ imminent danger
15 from further abuse and within seven (7) days for all other such
16 reports. The investigation shall include a visit to the facility or
17 residence, an interview with the adult allegedly abused, a
18 determination of the nature, extent and cause or causes of the abuse,
19 the identity of the person or persons responsible for the abuse, and all
20 other pertinent facts. The investigation shall be completed within
21 thirty (30) days. If the investigating social worker of the ~~Unit~~ Bureau
22 or other authorized investigating agency determines that it is
23 appropriate, the social worker may request a law enforcement officer
24 to accompany and assist the worker in the investigation. No social
25 worker of the ~~Unit~~ Bureau or other authorized investigating agency
26 shall enter the home of any individual pursuant to the provisions of

1 this ~~a~~Article without the consent of the individual, unless authorized
2 pursuant to subsection ~~C~~ (c) of § 2957 of this ~~a~~Article.

3 (c) Determine within sixty (60) days whether the report is
4 substantiated or unsubstantiated. If the assessment results in
5 determination that the elderly or ~~disabled~~ adult with a disability has
6 suffered serious abuse as defined in §2951, report such determination
7 to the Attorney General within forty-eight (48) hours. The Attorney
8 General ~~may~~ shall investigate and decide whether to initiate criminal
9 proceedings.

10 (d) Develop a coordinated system of protective services to prevent
11 further abuses to adults and to provide or arrange for and monitor the
12 provision of those services necessary to safeguard and ensure the
13 adult's well-being and development and preserve and stabilize family
14 life wherever appropriate.

15 (e) Make available, among its services for the prevention and
16 treatment of elderly and ~~disabled~~ adult with a disability abuse, through
17 authorized individuals and through inter-agency and intra-agency
18 assistance and cooperation, instruction in caring for elderly and
19 ~~disabled~~ adults with a disability, protective and preventive social
20 ~~counseling~~ care, and emergency shelter care.

21 (f) Appoint a ~~m~~Multi-~~d~~Disciplinary ~~t~~Team (MDT) for the purpose of
22 providing case consultation, interagency treatment strategies and
23 collaborative planning to address complex cases and service gaps
24 involving an elderly or adult with a disability who is a victim of abuse
25 and/or neglect.

26 The MDT ~~which~~ may include, but is not limited to,

1 ~~representatives from the Department of Mental Health and Substance~~
2 ~~Abuse, the Guam Medical Society, Guam Legal Services Corporation,~~
3 ~~Advocacy Office, Catholic Archdiocese of Guam, the Guam~~
4 ~~Ministerial Association. Such members shall receive Forty Five~~
5 ~~Dollars (\$45) as compensation for attendance at any meetings of the~~
6 ~~team, but such compensation shall not apply to more than two (2)~~
7 ~~meetings in any one (1) calendar month. No member shall receive any~~
8 ~~other compensation, but shall be reimbursed for actual travel,~~
9 ~~subsistence and out of pocket expenses incurred in the discharge of~~
10 ~~such member's responsibilities, including authorized attendance at~~
11 ~~meetings held away from Guam. a Bureau of Adult Protective~~
12 ~~Services social worker, a representative of a law enforcement agency,~~
13 ~~the medical profession, a mental health agency, the hospital, the~~
14 ~~public guardian, a representative of any private or government social~~
15 ~~service agency or advocacy office, Guam Legal Services Corporation,~~
16 ~~and a representative of the Mayors' Council of Guam. The MDT shall~~
17 ~~document all actions and efforts in addressing the needs of the client.~~
18 ~~(g) Functions of the Bureau are subject to the appropriation of funding~~
19 ~~and allocation of personnel sufficient to carryout the operations of the~~
20 ~~Bureau.~~

21 **§ 2957. Consent of Victim; Guardianship.**

22 (a) An elderly or ~~disabled~~ adult with a disability who is a victim or
23 alleged victim of abuse may refuse to cooperate in the investigation,
24 or withdraw consent at any time to the provision of protective services
25 by the ~~Unit~~ Bureau or its authorized agency ~~The investigating agency~~
26 ~~shall act only with the consent of the victim or alleged victim of~~

1 ~~abuse.~~—~~However, the Unit Bureau shall have the responsibility to~~
2 ~~complete the investigation~~ is responsible to investigate all complaints
3 of abuse against the elderly or adults with a disability and shall have
4 the responsibility to complete and document the investigative
5 investigation efforts, regardless of the lack of cooperation of the
6 victim of abuse.

7 (b) If the elderly or ~~disabled~~ adult with a disability victim or alleged
8 victim of abuse is so incapacitated that he or she cannot legally give
9 or deny consent to an investigation or protective services, the ~~Unit~~
10 Bureau may initiate a petition for guardianship in accordance with
11 Chapter 38 of Title 15 Guam Code Annotated, or initiate a petition for
12 civil commitment pursuant to law.

13 (c) If a social worker of the ~~Unit~~ Bureau or other authorized agency
14 who is investigating a report of abuse is denied access to the alleged
15 victim by a caregiver or household member, such agency may petition
16 the Superior Court for an order allowing the ~~Unit~~ Bureau or agency
17 immediate access to the alleged victim. The court shall give notice to
18 the caregiver or household member who is denying access at least
19 twenty-four (24) hours prior to the hearing. The Court may dispense
20 with notice upon finding that immediate and reasonably foreseeable
21 harm to the alleged victim will result from the twenty-four (24) hour
22 delay. If, after the hearing, the court determines, based upon clear and
23 convincing evidence, that the caregiver or household member should
24 be required to allow access, the Court shall so order. The order
25 allowing access shall remain in effect for a period not to exceed
26 seventy-two (72) hours and may be extended for an additional

1 seventy-two (72) hours if the court finds that the extension is
2 necessary for the ~~Unit~~ Bureau or its authorized agency to gain access
3 to the alleged victim.

4 (d) No person shall interfere with the provision of protective services
5 to an elderly or ~~disabled~~ adult with a disability who requests or
6 consents to receive such services. In the event that interference occurs
7 on a continuing basis, the ~~Unit~~ Bureau, its ~~designated~~ authorized
8 protective services agency, or the public guardian may petition the
9 court to enjoin such interference.

10 **§ 2958. Central Registry.**

11 (a) The ~~Unit~~ authorized shall maintain a Central Registry of reports of
12 elderly or ~~disabled~~ adult with a disability abuse, which shall contain
13 and be limited to the following information:

14 (1) The name, address and birthdate of the elderly or ~~disabled~~
15 adult with a disability.

16 (2) The date or dates and the nature and extent of the suspected
17 abuse.

18 (3) The locality in which the suspected abuse occurred.

19 (4) The name of the person or persons suspected of causing the
20 abuse.

21 (5) The progress of any legal proceedings brought on the basis
22 of suspected abuse.

23 (b) Both ~~substantial~~ substantiated and unsubstantiated reports of
24 elderly or ~~disabled~~ adult with a disability abuse shall be placed and
25 maintained in the central registry. ~~for a period of ten (10) years.~~

1 (c) ~~If an~~ An investigation of a report of suspected elderly or ~~disabled~~
2 adult with a disability abuse, that does not determine within ninety
3 (90) days of the date of the initial report that it is a substantiated or an
4 unsubstantiated report, shall be classified as an inconclusive finding.
5 Therefore, all information identifying the named victim and
6 perpetrator or perpetrators shall be expunged.

7 **§ 2959. Confidentiality.**

8 (a) All records maintained by the ~~Unit~~ Bureau regarding reports of
9 abuse, including but not limited to information contained in the
10 central registry, shall be confidential and shall be released only with
11 the consent of the elderly or ~~disabled~~ adult with a disability or, if the
12 adult is not competent, only with the consent of the adult's guardian,
13 and shall be released only to individuals designated in this § 2959.

14 (b) Records may be released, only as necessary to serve and protect
15 the adult, to the following:

16 (1) Any agency or individual, authorized, contracted or licensed
17 through the ~~Unit~~ Bureau to care for, protect or provide services
18 to an elderly or ~~disabled~~ adult with a disability who is a victim
19 of abuse, which agency or individual shall share information
20 related to the abuse with the ~~Unit~~ Bureau.

21 (2) Courts of competent jurisdiction, upon finding that access to
22 the records may be necessary for determination of an issue
23 before the court. Access shall be limited to inspection by the
24 court only, unless the court determines that disclosure of the
25 records to interested parties is necessary for resolution of an
26 issue pending before it.

1 (3) Grand juries when connected with the prosecution of a case
2 of elderly or ~~disabled~~ adult with a disability abuse.

3 (4) Properly constituted authorities or agencies, including
4 police departments, prosecutors and attorneys general
5 investigating a report of known or suspected elderly or ~~disabled~~
6 adult with a disability abuse.

7 (5) A physician examining or treating an elderly or ~~disabled~~
8 adult with a disability where the physician suspects the adult of
9 having been abused.

10 (6) The guardian or attorney of the elderly or ~~disabled~~ adult's
11 guardian or attorney with a disability.

12 (7) A duly authorized official of the ~~Unit~~ Bureau.

13 (8) The victim or alleged victim of the abuse.

14 (9) After, and only after, a court proceeding has been initiated
15 regarding the abuse, the perpetrator or alleged perpetrator of the
16 abuse.

17 (c) Records may be released to sources other than those identified in
18 subsection ~~B~~ (b) only when a written authorization from the victim or
19 alleged victim, or his or her guardian specifically provides consent to
20 have the record released or reviewed. In the event the guardian is the
21 alleged perpetrator, this provision will not apply.

22 (d) Regardless of subsections ~~A~~(a), ~~B~~(b) and ~~C~~(c), identities of
23 persons reporting elderly or ~~disabled~~ adult with a disability abuse shall
24 remain anonymous and release of the identity of a person reporting
25 such abuse, or information which would identify the reporter of abuse,

1 is strictly prohibited.

2 (e) Students authorized by the Director of the Department may be
3 permitted, under direct supervision, access to Bureau of Adult
4 Protective Service ('BAPS') files for the purpose of field practice,
5 research and to gather statistical information. Such authorized
6 students, under supervision, may be permitted to receive BAPS
7 referrals and participate in BAPS intake, interviews and case
8 management assignments. Such authorized students shall be
9 registered in a field placement, practicum internship, or block
10 placement with an accredited college or university. Such authorized
11 students will be under the direct supervision of a social services
12 supervisor and subject to all conditions of this Chapter and
13 government of Guam policies, procedures and guidelines. Such
14 authorized students shall not disseminate any information beyond the
15 scope of the program objectives.

16 (f) Any person who willfully releases or permits the release of any
17 information or records is in violation of this Section and shall be
18 guilty of a misdemeanor.

19 **§ 2960. Appropriation.**

20 (a) ~~Two Hundred Thousand Dollars (\$200,000) are hereby~~ Funds shall
21 be appropriated from the General Fund to the Department for the
22 implementation operations of the Unit Bureau to allow the Bureau to
23 carry out its mandates. which The appropriation shall cover staffing
24 requirements, vehicles, cellphones, APS database and registry,
25 logistics, contracting of services, and emergency shelter for victims of
26 elderly and disabled adult with a disability abuse.

1 (b) Within three (3) months following the end of each fiscal year, the
2 ~~Unit Bureau~~ shall submit a report to the Governor, the Superior Court,
3 the Legislature, and the public, which shall include:

4 (1) Description of the activities of the Unit Bureau and all
5 designated agencies during the preceding year.

6 (2) Statistical information about the number and types of
7 reports received during the preceding year.

8 (3) Results of the assessments and evaluations conducted and
9 the amount, type, and costs of services provided.

10 (4) Information on the quality of services provided and the
11 result of such services in terms of alleviating abuse.

12 (5) Identification of problems that may arise in the
13 implementation of this article.

14 (6) Recommendation for action on the part of the Legislature
15 whenever deemed vital for the protection of the elderly and
16 ~~disabled~~ adults with a disability.

17 (7) Amount collected and use of funds of the "Bureau of Adult
18 Protective Services Fund," in accordance with § 2954(a),
19 supra."

20 **Section 6. Severability.** If any provision of this Act or its application
21 to any person or circumstance is found to be invalid or contrary to law, such
22 invalidity shall not affect other provisions or applications of this Act which
23 can be given effect without the invalid provisions application, and to this end
24 the provisions of this Act are severable.