EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUN 1 2 2015

2015 JUN 15 PM 1:01

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 21-33 (COR) **"AN ACT TO *ADD* A NEW SUBSECTION (d) TO § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING DISCRETION IN THE AUTOMATIC CERTIFICATION OF MINORS AS ADULTS FOR CERTAIN CRIMES"** which I signed into law on June 10, 2015, as **Public Law 33-33.**

Senseramente,

EDDIE BAZA CALVO

33-15-0521

Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 06-15-15
Time: 11:13 AM
Received By:

0521

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

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

This is to certify that **Substitute Bill No. 21-33 (COR), "AN ACT TO *ADD* A NEW SUBSECTION (d) TO § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING DISCRETION IN THE AUTOMATIC CERTIFICATION OF MINORS AS ADULTS FOR CERTAIN CRIMES,"** was on the 29th day of May 2015, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1st day of June, 2015, at 5:20 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: JUN 10 2015

Public Law No. 33-33

OFFICE OF THE GOVERNOR
RECEIVED
JUN 01 2015
TIME 5:20
REC'D BY
CENTRAL FILES

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

Bill No. 21-33 (COR)
As substituted by the Committee on
Early Learning, Juvenile Justice, Public Education, and
First Generation Initiatives; and amended on the Floor.

Introduced by:

Brant T. McCreadie
T. C. Ada
V. Anthony Ada
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
B. J.F. Cruz
James V. Espaldon
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW SUBSECTION (d) TO § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING DISCRETION IN THE AUTOMATIC CERTIFICATION OF MINORS AS ADULTS FOR CERTAIN CRIMES.

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

2 **Section 1. Short Title.** This Act *shall* be cited as the "*Juvenile Justice*
3 *Reform Act of 2015.*"

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that current Guam law provides that any child of the age of sixteen (16) years or older,

who is charged with a second or first degree felony is automatically certified as an adult. Although many times appropriate, there are instances where the Office of the Attorney General has seen that the charged minor would greatly benefit from being charged with the respective second or first degree felony, but have their criminal proceedings be adjudicated in Family Court. Unfortunately, no mechanism currently exists in Guam law to provide Family Court jurisdiction for minors aged sixteen (16) or older who are charged with second or first degree felonies.

Therefore, it is the intent of *I Liheslaturan Guåhan* to ensure discretion as to Family Court jurisdiction of children aged sixteen (16) years or older who are charged with second or first degree felonies by adding a new § 5106(d) of Chapter 5, Title 19, Guam Code Annotated.

Section 3. A new Subsection (d) is hereby *added* to § 5106 of Chapter 5, Title 19, Guam Code Annotated, to read:

"(d) Notwithstanding Subsection (a) of this Section, on motion of either the prosecutor or defendant, or *sua sponte* by the Court, the complaint or indictment may be transferred to the jurisdiction of the Family Court upon a finding based on clear and convincing evidence that the best interest of the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

(1) the age of the minor;

(2) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor;

(B) any previous abuse or neglect history of the minor; and

(C) any mental health, physical or educational history of the minor, or a combination of these factors;

(3) the circumstances of the offense, including:

(A) the seriousness of the offense;

(B) whether the minor is charged through accountability;

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner;

(D) whether there is evidence the offense caused seriously bodily harm; and

(E) whether there is evidence the minor possessed a deadly weapon;

(4) the advantages of treatment within the juvenile justice system, including, whether there are facilities or programs, or both, particularly available in the juvenile system;

(5) whether the security of the public requires sentencing under Title 9, Chapter 80 of the Guam Code Annotated;

(6) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(7) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(8) the adequacy of the punishment or services.

In considering these factors, the court *shall* give greater weight to the seriousness of the alleged offense and the minor's

1 prior record of delinquency than to the other factors listed in this
2 Subsection."
3 **Section 4. Effective Date.** This Act *shall* be effective upon enactment.
4 **Section 5. Severability.** If any provision of this Law or its application to any
5 person or circumstance is found to be invalid or contrary to law, such invalidity shall
6 *not* affect other provisions or applications of this Law which can be given effect
7 without the invalid provisions or application, and to this end the provisions of this
8 Law are severable.