



SENATOR DENNIS G. RODRIGUEZ, JR.

JUN 16 2016

Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina' Trentai Tres Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

*Rory J. Respicio*

VIA: The Honorable Rory J. Respicio  
Chairperson, Committee on Rules

RE: Committee Report – Bill No. 168-33 (COR), as Substituted by the Author

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report on Substituted Bill 168-33 (COR) - An act to Add new items (5) through (11) to subsection (a) of § 3208, to amend subsections (a), (c), (e), (k), and (m) of § 3218, all of article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new § 55.65, to Chapter 55, Title 9, Guam Code Annotated, Relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement;** Sponsored by Senator Frank B. Aguon, Jr., Dennis G. Rodriguez, Jr. and referred to the Committee on Health, Economic Development, Homeland Security and Senior Citizens. Bill No. 168-33 (COR) was publicly heard on September 11, 2015 and a Second Public Hearing was conducted on Substituted Bill 168-33 (COR) which was publicly heard on May 4, 2016.

Committee votes are as follows:

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

Senseramente,

Senator Dennis G. Rodriguez, Jr.  
Chairman

Attachments

Chairman, Committee on Health, Economic Development, Homeland Security & Senior Citizens

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2016 JUN 22 PM 2:56



SENATOR DENNIS G. RODRIGUEZ, JR.

**COMMITTEE REPORT  
ON**

**BILL NO. 168-33 (COR)**

**as Substituted by the Author**

**Sponsored by Senator Frank B. Aguon, Jr., Dennis G.  
Rodriguez, Jr.**

**An act to Add new items (5) through (11) to subsection (a) of § 3208, to amend subsections (a), (c), (e), (k), and (m) of § 3218, all of article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new § 55.65, to Chapter 55, Title 9, Guam Code Annotated, Relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement**



SENATOR DENNIS G. RODRIGUEZ, JR.

JUN 09 2016

MEMORANDUM

**To:** ALL MEMBERS  
Committee on Health, Economic Development, Homeland Security and Senior Citizens

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

**Subject:** Committee Report on Bill No. 168-33 (COR), as Substituted by the Author

Transmitted herewith, for your consideration, is the **Committee Report on Substituted Bill 168-33 (COR) - An act to Add new items (5) through (11) to subsection (a) of § 3208, to amend subsections (a), (c), (e), (k), and (m) of § 3218, all of article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new § 55.65, to Chapter 55, Title 9, Guam Code Annotated, Relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement; Sponsored by Senator Frank B. Aguon, Jr., Dennis G. Rodriguez, Jr.** This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 168-33 (COR)
- Copy of Bill No. 168-33 (COR) as Substituted by the Author
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copies of Submitted Testimony and Supporting Documents for Second Public Hearing on Substituted Bill No. 168-33 (COR)
- Copy of COR Referral of Bill No. 168-33(COR)
- Notices of Public Hearing (1<sup>st</sup> and 2<sup>nd</sup>)
- 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'osMa'åse'!*

Attachments



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE VOTING SHEET

Substituted Bill No. 168-33 (COR) - An act to Add new items (5) through (11) to subsection (a) of § 3208, to amend subsections (a), (c), (e), (k), and (m) of § 3218, all of article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new § 55.65, to Chapter 55, Title 9, Guam Code Annotated, Relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement; Sponsored by Senator Frank B. Aguon, Jr., Dennis G. Rodriguez, Jr.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman		✓ 6/16/14				
V. ANTHONY ADA Vice Chairman					✓	
BENJAMIN J.F. CRUZ					✓	
RORY J. RESPICIO		6/16/14 no				
TINA ROSE MUNA-BARNES						
THOMAS C. ADA					✓	
FRANK B. AGUON, Jr. <sup>6/8/14</sup>		✓				
NERISSA B. UNDERWOOD					✓	
FRANK F. BLAS, Jr.						
THOMAS A. MORRISON		2				
BRANT T. MCCREADIE						



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE REPORT DIGEST

Bill No. 168-33 (COR)

I. **OVERVIEW:** The Committee on Health, Economic Development, Homeland Security and Senior Citizens conducted a public hearing on September 11, 2015. The hearing convened at 9am in I Liheslatura’s Public Hearing Room. Among the items on the agenda was the consideration of **Bill 168-33 (COR) - An act to add a new subsection (q) to § 3218, amend subsections (f) and (g) of § 3218.1, and add a new subsection (h) to § 3218.1, all of article 2, chapter 3, title 10, Guam Code Annotated, relative to increasing the penalties for non-compliance and adding reporting mechanisms to better ensure enforcement; Sponsored by Senator Frank B. Aguon, Jr., Dennis G. Rodriguez, Jr.**

Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on September 2, 2015 (5-day notice), and again on September 8, 2015 (48-hour notice)

Senators Present

Senator Dennis G. Rodriguez, Jr. Chairman  
Senator Benjamin J.F. Cruz Committee Member  
Senator Nerissa B. Underwood Committee Member

The public hearing on agenda item Bill No. 168-33 (COR) was reconvened at 2:03pm.

II. **SUMMARY OF TESTIMONY & DISCUSSION.**

**Senator Dennis G. Rodriguez, Jr.:** We have Mr. Carl Espaldon to provide testimony, Director Gillan from Public Health, Bob Klitzkie. Thank you. **Bill 168-33, (Title read).** This was introduced by Senator Frank Aguon and myself, Senator Aguon will not be able to join us this morning, he does provide a sponsor statement which I will read for the record. (Senator Aguon’s sponsor statement read). Senator Klitzkie we’ll call you on the next panel and Mr. Tim Rohr. (Recognized Mr. Espaldon).

**Mr. Karl Espaldon:** Thank you Mr. Chair. (Read Written Testimony). Our reason for being here today Mr. Chair is to point out to you in terms of how this would actually work or what this would do, we think that in one section, the reporting section it may look to see, it may be thinking that the Attorney General’s Office when it’s called for us to report back on the status of non-compliance it may presupposed we’re actually involved in the enforcement of the penalty of the civil penalty. Now the criminal side yes we would be involved in , if there’s a release in private confidential information that are contained in these reports. That will eventually get to us, we don’t believe we don’t think that was the intent of the new section that’s being proposed and as for the second section, I think the director can speak more comprehensively about that type



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of information that they would report to us regarding non-compliance. Thank you for the opportunity to testify and I'll be available for any questions.

**Senator Dennis G. Rodriguez, Jr.:** Great, thank you very much sir. Senator Underwood, do you have any questions? Senator Espaldon?

**Senator Jim Espaldon:** Actually I'd like to read that testimony one more time, I guess the question, the very basic question is it seems to me that your pointing out to this committee that the AG's office may find itself in a conflict. Could potential find itself in a conflict, is that true? So I guess the implied recommendation is to really take a look at that section of whether the AG's office should be included as part of the Administrative Process.

**Mr. Karl Espaldon:** Right because it's unclear to us when DPHSS reports to us non-compliance what our role would be at that point because DPHSS, they have to make the determination of non-compliance and if after that they can determine whether or not they're going to be imposing a fine, that's not the AG's decision to do that and then whenever you impose a fine like this and the fines here are pretty hefty from the minimum of ten-thousand (\$10,000) to a maximum of one-hundred-thousand (\$100,000), you can bet there's actually going to be a requirement of due process appeals hearings and that's also an agency function, so you see it's issue of not only a conflict but a separation on the roles, of the proper roles of the agency and the AG in this case and then the conflict may come in later on and there's always a potential conflict that if, we're involved in the administrative process and it eventually gets to the court, we're basically essentially defending our own actions and not the actions in where we're supposed to be defending the actions of the agency and not ourselves. So that would put us in a conflict position.

**Senator Jim Espaldon:** I appreciate that. Thank you Mr. Chair.

**Senator Dennis G. Rodriguez, Jr.:** Thank you Senator Espaldon. Mr. Espaldon we'll take that into consideration, if you can provide us a written copy of the testimony and as we move forward in the mark up we'll sure that we invite you as we move this forward, so we can report this out.

**Mr. Karl Espaldon:** We'll do it, we'll report a written statement and thank you.

**Senator Dennis G. Rodriguez, Jr.:** Great thank you. (Recognize Director Jim Gillan)

**Mr. Jim Gillan:** Good morning senators. I wasn't really going to say anything because we submitted just a short note saying we support the intent to get positions who we are doing these things to comply with the law but as pointed out there are some conflicts here with whether we report to the Attorney General's Office non-compliance and they'll report back to us on what they did and because of the fines that are going to be imposed here and these are going to be crim. law you can bet there's going to be requests for administrative adjudication. We're going to spend a lot of time in court, I understand why people want to have this happen, because there have been some physicians that been fairly careless about their report and we'd been admonished by the AG's Office every report that's required under 3218. It must be filled. We realize that, we're going to make sure that stops. Then there's a requirement to report to them and also report to that



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finding to the board of medical examiners without understanding what the medical examiners are going to do with the report. Then we get into 3218.1 which is the women's right to know and informed consent which is called brought out, may imply issues on how we gain access to the questionnaire that is supposed to be signed off by the women. We all agree that this intention was good, another 24-hours to think about what the women is planning and with all the information they can get regarding what's available for them and what the options are. We all agree that, that makes good sense but now to really subject a non-reporting and I'm not sure how that works because the questionnaire is really the only record and that record is a medical record and I don't know how we access that unless the women brings some action. It's not clear to us how that gets operationalized and that's all I think about when people provide these pieces of legislation, how am I supposed to make it work? How are we going to make it work efficiently and effectively, but this one raises those questions again because that is a medical record. Outside of that, those other issues with the AG's Office potentially having to represent us but at the same time doing some administrative work which puts them in a conflict. We need to clean this up a little bit or be a lot.

**Senator Dennis G. Rodriguez, Jr.:** Okay, great. Thank you very much Mr. Gillan. Any questions for Mr. Gillan? None. Thank you we'll excuse you know. We'll call the next two (2) individuals, Senator Klitzkie and Mr. Tim Rohr.

**Mr. Bob Klitzkie:** Good Morning Mr. Chairman, Senator Underwood and Senator Espaldon. Mr. Chairman might I have your leave to allow my friend Tim Rohr to proceed first, couple of reasons, I think his testimony is very appointed tense fully a foundation for the things I'm going to say, Second I would like to get the last word.

**Senator Dennis G. Rodriguez, Jr.:** No problem. Mr. Rohr.

**Mr. Tim Rohr:** (Inaudible). Due to a lack of enforcement we just don't have. Additionally, whether it is the present Bill or modification thereof, I believe you will see that an enforcement mechanism for the responsible supporting of abortions is needed and there needs to be some agency that has the authority to see to compliance. So if I draw your attention to a couple of charts.

**Senator Dennis G. Rodriguez, Jr.:** If you can use the mic because this is recorded.

**Mr. Tim Rohr:** (Inaudible) Start with this one. So as you can see, what we've done is we requested the, well lets back up a bit. In 2008, I first requested all abortion reports that Guam Medical Records had on file. We received reports beginning in 2000-2007 at the time. The abortion reporting law has been in place since 1994, so there was six (6) years that was completely missing and of the reports we did see and I attached them, we did get one for 2000, 2001 was completely missing, 2002 was a completely blank report showing zero (0), and then we had 20,66, 47, 20, 61, and then in 2008 we had 700 percent increase to 327, now why is that? Well, public law 29-115, what was that law? That was the imposition of the fine. It's important to notice because in this very law battle of trying to get some sort of regulation for abortion as a matter a fact the reason why got started in 2008 is because in a study by American United for Life is a large national prolife organization, Guam came out dead last in its protection for the unborn. In fact, out of fifty (50) points we had four (4). (Unaudible), So Guam is the most dangerous in the United States for the unborn, yet we celebrate

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ourselves as this wonderful prolife culture. So we decide to do something about it, so you can see that physician's need motivation and that's why you see this is. You know they don't want to get fined so I'm going to actually turn in the data that's required by law, that's important because in this battle we have been constantly criticized, who are we to tell doctors what to do, they know what to do, they know their job, politic shouldn't be getting involved in medicine, we're just making it hard for doctors to do their job. Sorry but they have to follow laws like every other business man and I have to turn in my reports as a business man and so do they. So that's a seven hundred (700) percent increase, you might just call that a little bit more honesty but then as you can see as the abortions kind of go, well we're up over two hundred (200), we average an abortion one (1) and (7) days right now, 73 percent of which are Chamorro children by the way. So since that law with the fine came in place of course what they didn't realize was at first I mean they did start reporting a little bit better but there was no enforcement mechanism and I think they figured that out pretty quickly. Because, I'm not going to go over all this but you have all the reports in front of you and you can go through them. I noted a total of 3,136 missing required pieces of information on the abortion reports starting in 2008 when that public law first went into place. I calculated that out and that a maximum of 5000 dollars, we could all get our tax refunds back no problem for a long time, that's a joke. I hope getting the tax refund back is not a joke but fact is, there is a consistent and persistent ignoring of the law and Mr. Gillan can share with you if he wants to, but he knows that we've been in contact with this because last year with a bill you introduced. The abortion reports were redirected to his office instead of the medical records and they became the agency beginning at 2014 of actually collecting those abortion reports. So we have already gone through this with medical records here, we've already contacted every year and ask where is the missing data? Every year they told us, well we can't do anything about it and we understand that but we're just going to keep trying because here you have an issue that nobody wants to see, everybody agrees that abortion is a tragedy. But we can't make responsible policies without reliable data. So this is not a prolife/pro-abortion thing at this point. This is about whether or not you as legislators care as whether or not the laws of Guam are actually followed because there were some good laws in place, there's the abortion reporting law and by the way the information that's required to be reported is simply statistical data, has nothing to do with the privacy of the patient, the patient's name can't even be on the report that's submitted to the office. It's just the numbers and by the way the checklist certifications with the informed consent law, they don't have to turn those in, they have to turn in the number that they actually collected, a number like 1 and 5, 15. That's all they have to do, that law was implemented in June of 2015, I'm sorry 2014 and this year we did a FOIA requests on how many of those reports were turned in, zero (0) , zero (0) reports were turned in by the abortionists. There was some media attention to it, I think a total of 106 abortions were unaccounted for, 106 times. The doctors were in the paper quoted as saying, "We're following the law." Well the law says you have to turn in the number, you turned in nothing. We're following the law, why because they're not afraid. So the data is undeniable, the law is being ignored, it's being ignored why? Because there's no enforcement mechanism, that has to be addressed, otherwise law making is a joke. And this law is a joke and we're losing a lot of children here. We need to address the societal factors that are underlying this basic tragedy of disposing a child of almost once a day. 73% of which of course are local, something needs to be done, we need to get the data. We can only say, you need to ban this, you need to ban that but everybody knows that there's underlying societal factors that need to be addressed. Those can't be addressed without the proper data, we can't get the data because there's no

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enforcement mechanism. I advocate, I realize there's some issues with the bill, but I advocate and support the intention of the bill and ask you to move forward on that. Thank you. Any questions?

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Tim. (Recognized Senator Underwood).

**Senator Nerissa Underwood:** Thank you Mr. Rohr, I just have a question. Any given questionnaire, I imagine that this missing data is from a set of questions that is asked of the mother, right?

**Mr. Tim Rohr:** Correct

**Senator Nerissa Underwood:** And so would the missing data be as the result of the individual just not providing it?

**Mr. Tim Rohr:** The Doctor. If you want to change the law, change the law but the law requires that, that information be provided, period. So the Doctor then can refuse to do the abortion if the women won't provide the information, but he's required by law to provide that data.

**Senator Nerissa Underwood:** Every data element has to be provided before that abortion occurs.

**Mr. Tim Rohr:** No, if you look at the law 32-18 some of that has to do with post abortion complications, blood factors, all kinds of issues. I recommend to do a thorough examination of the law if there's anything there that you don't want you guys are in charge. You can just get rid of it, but majority of the information if you look is actually supplied by the abortionists. They're the ones that determine age, all of those kinds of things. I would say fifty- fifty if you look at it but the law requires it, if the women refuses to give it the doctor can refuse the abortion.

**Senator Dennis G. Rodriguez, Jr.:** Thank you Senator Underwood. Senator Espaldon? Okay thank you Mr. Rohr. (Recognize Senator Klitzkie).

**Mr. Bob Klitzkie:** Thank you very much Mr. Chairman. The remarks that we've heard this morning provide a nice predicate for my testimony. We've heard or we've (inaudible) that there are failures to do the report that are required by law. I suspected we asked any senator he'd say, "we don't like it when we pass laws and people don't pay attention to our laws." If the legislature passes the law and no one obeys it, is there sound? You'll philosophical question. Jim Gillan has told us that, he'd like to but there really isn't much that he can do given the current tools that's available to him. So with that predicate this morning, I'm going to start out by saying that the scofflaw prevention act of 2015 would make a nice short title for the bill that's going to result from this public hearing. By increasing penalties and strengthening enforcement mechanisms for failure to make statutorily required reports, the law would make it more costly more abortionists to calm their noses at the law. This is as it should be, a public perception that some can ignore the law with impunity tends to bring disrespect for the law by all. The key officials in the enforcement process are the director of public health and social services and the registrar of vital statistics. The apparent efficacious point of enforcement is the registrar. In the spirit of Senator Frank Aguon's remarks, which you read this morning Senator Rodriguez, asking us to help them make a good law better I do have a few rather humbly submitted suggestions here. Section 32-18 labeled partial birth abortion and abortion report I suggest inserting the word, "complete" at the

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beginning of the section because part of the problem has been is abortionists turn in reports that aren't complete and I suppose there's some to talk about, well I turned in the report, I just forgot half the items or whatever. So inserting the word, "complete" I think addresses that by requiring that the report be submitted under penalty of perjury a certain fudge factor is eliminated, people tend to pay more attention to papers that they submit over the seal of a notary republic or under penalty of perjury. The papers aren't to be filed as oppose to transmitted, I don't know how you would transmit a report but they're to be filed and file has a particular meaning that lawyers pretty well understand what the word file means. And they're to be filed with the registrar of vital statistics. Throughout the statute the term, office of vital statistics is used and I would suggest that a one liner be inserted in the statute that says, where ever vital statistics is mentioned it means the registrar, because you can't hold an office accountable as a matter of law and office really doesn't exist, it's not a fictive person or whatever. A week would seem to be the appropriate time to submit these reports and my second suggestion goes along the same line, file with the registrar seven days under penalty of perjury and the same with my third suggestion. Then I suggest that it might be efficacious to add a new section 1101 reading the director of public health and social services shall take cognizant of require the enforcement of the mandates of sections 3218 and 3218.1. Believe it or not, I looked through Title 10 and I couldn't find very much language on what the director of public health and social services is supposed to do, I don't think we really need to tell him but it's hopeful to have a statutory mandate that goes about enforcing the law. Technically, if you go about enforcing this statute that even as address to your department and you don't have a statutory mandate to enforce that statute, you're nothing but an officious intermeddler. So by inserting this section here we give the director not a hammer, maybe just a little tac-hammer or something that he could use here as a tool. I would suggest that new items 5 through 9 be added to section 3208 which deals with the duties of the registrar of vital statistics, 5 insure the completeness of all forms filed with her pursuant to 10GCA etc. I think under the current state of the law, it's arguable that the registrar is sort of like the clerk of courts. A abortionists file the papers, the registrar takes it and that's it. But this addition to the statue would require the registrar to examine the paper and make sure that it's in compliance with the statute and if it isn't, the registrar then gives proud notice to the abortionist that his papers are not complete and that a 25 item paper from which only 1 item is missing is the non-filing of a report basically. It's either complete or it's a non-filing and that the abortionist would have 7 days to file a complete paper or it would then force to be a failure to file and a couple of penalties arise, the attorney general is noticed with respect to criminal sanctions which I'll get to a little later on and while on board of examiners is notified as to this failure to file. I submit that 10GCA Section 3218(k) requires some clarification, that section reads, "Failure to report of this section will subject physicians to a fine no less than \$10,000 or no more than \$100,000. " And my comment there is if the fine is to be levied as a criminal offense, subsection (k) should be cited in 9GCA that's where we put our criminal laws and it should be set forth in standard criminal law language so that the nature of the offense is set out and references made to the penalties provision and as I point out, language properly cited limited to violations of 10GCA 3218 and 3218.1 could work. If you look at (k) from another angle, it doesn't appear to be opposed as civil penalty as a requisite mechanisms are lacking as per the testimony of Attorney Espaldon. For instance, citation notice to appear adjudication due process etc. consideration might be given to a statutory regime that empowers the director to issue citations for violations of 10GCA 3218 and 3218.1, with adjudication to be accomplished by the use of 5GCA chapter 9 article 2, that's the second part of our administrative adjudication law that provides for notice hearing, appeal, etc. While it might need to be

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tweaked to accomplish this but I think it could be done in such a manner to meet as to pass what I'm going to refer to as the Espaldon test. Several of the provisions in the bill deal with reports and reporting requirements none of which appear to be non-germane. The rest of the bill that is all of section 3 except for subsection (f) deal with medical mal-practice and distinctly different subject and dealt with by the other sections of the bill giving rise to a finding that the 2 prompts of the bill are not germane intersay. I don't think I need to talk about the pitfalls overly broad demits drafting of bills anyhow. Medical mal-practice is a complicated and complex subject perhaps best dealt with by a standalone bill. Sections 2 and 4 of the bill, again which the deputy attorney general commented on, would add statutory language to the law which appear to be at best, placatory, and could be removed from the bill without diminishing it's effect. In the sincere hope that my humble offerings would be of assistance, I urge the committee on Health etc., perhaps after a markup or whatever expeditiously report out Bill 168-33 incorporating such changes as the committee finds appropriate with a due pass. Let it be said, we just say no scofflaws. Thank you Mr. Chairman.

**Senator Dennis G. Rodriguez, Jr.:** Senator, thank you very much for that comprehensive testimony, it's very clear that we do need a mark up and to make revisions and to make this bill work so we'll definitely do that, we'll reach out to you as well when we do have that mark up. I want to ask my colleagues now if they have any questions or comments? Senator Underwood?

**Senator Nerissa Underwood:** This question may probably not be necessary but, you have certain suggestions that I felt would be covered by standard operating procedures, the rules and regs., in implementing the law. Like for example, if the report isn't complete, then they would simply reject it, right? Would that be something that would have to be included in the law? Or would that be something that could be specifically address in the standard operating procedures in implementing the law?

**Mr. Bob Klitzkie:** Well there are a couple of different kind of rules and regulations, there are rules and regulations called and interpretive rules, and an interpretive rules is an agency's own interpretation of its organic statute. In a litigation situation and interpretive rule has its power to persuade and nothing more, but it can't add to the law, it can only be an interpretation of something that is at least arguably present statute underlying the agency, promulgating the interpretive reg. a legislative regulation is a little different, it goes farther because a legislative regulation can't actually an act substantive law provided that the statute that would permit the promulgation of regulations contains standards. First of all, there is no regulatory language in the law right now that would allow the director to promulgate rules concerning this. There aren't any legislative rules to start with. Second the way my suggestions are set up, the failure to file a complete report as we've discussed here today gives rise to penalties and when it comes to asserting penalties that's not easy, probably not something you should not entrust to an agency through the rule making process because it requires a very carefully drafted statute and it is a surrender of one of the legislatures prime prerogatives that is to penalize, punish, misconduct, misfeasance, or maybe even nonfeasance. So I would think that if the director had taken it upon himself to say an incomplete is a non report it might be seen especially in the absents of any statutory authority for him to get involve. It might close more problems than would necessarily arise in the enforcement of this especially in the face of some might say a very clearly worded provision, Senator.



## SENATOR DENNIS G. RODRIGUEZ, JR.

**Senator Nerissa Underwood:** Thank you very much.

**Senator Dennis G. Rodriguez, Jr.:** Thank you Senator. (Recognize Senator Espaldon.)

**Senator Jim Espaldon:** Mr. Chair, at this time I was wondering if we could call back the director of public health now that he's heard this testimony, it kind of changes the perspectives from the original bill, and I was wondering if he might want to comment on that or at least give his initial reaction, I would appreciate that.

**Senator Dennis G. Rodriguez, Jr.:** Okay and then just also please consider that I will call a markup meeting so that we can have what we received here this morning and discuss it there too but yes we will allow the director at this point.

**Senator Jim Espaldon:** Thank you

**Mr. Jim Gillan:** Thank you for inviting me back.

**Senator Espaldon:** Well, thank you director and again you heard Mr. Klitzski's testimony and some of the changes that he's advocating for and they sound reasonable but again from your perspective in terms of what you need to do and what the agency needs to do, do you have any initial thoughts at this point? I realize this is still going to go through some kind of mutation after all this testimony has been provided, but just your initial thoughts.

**Mr. Jim Gillan:** As I said earlier, my job is to operationalize a lot of things that which you folks pass as laws and I think Mr. Klitzkie is right on point. We need to make sure that we do this right, for the registrar to find a report is incomplete and then there's no way to do anything about it, we need to go through that process, make sure we get that right, we need to look at how we're going to relate our actions to the board of medical examiners even though there's some language in the law, that they can take some action but that's not clear what it would be unless they found a malpractice but that's another can that we open that might be a problem for us. So this needs more work and I think we all should be sitting down making sure this is right. I think Mr. Rohr is correct, there's a lot of things happening, no one is standing up for the unborn and getting more data will help. The only thing I get concerned about again is access to the data that may be able to identify an individual even though there's no name being presented. When you have 24 data points, there are people that are very skillful that being able to identify who the person is. I've seen that and it's been a concern with HIPA for a very long time and when you see obituaries and you get somebody's name and you can back track just what it is that cause their death. We have to make sure that we're very careful about access to the data, who gets to look at it but I agree. This is more than just a matter of an abortionist do what they do, it's trying to find out what the societal problems are, where the points are in the society that we need to get to, to see if we can help cure some of this. Because it's more than just the reporting requirement it's really an ethical and moral issue that we have to deal with. So I would like to do more work on this, because if we do this we have to do it right.

**Senator Jim Espaldon:** (Inaudible)



## SENATOR DENNIS G. RODRIGUEZ, JR.

**Senator Dennis G. Rodriguez, Jr.:** Thank you Senator, we'll definitely consider that. Absolutely. Thank you very much gentlemen, senator.

**Mr. Tim Rohr:** On the copy of the abortion reports that you do have, if I could draw your attention, well actually to every single one of them list the facilities or possible, supposedly do abortions, you'll notice it's almost always the women's clinic or the poly clinic, those are the two known abortion facilities. There's also a space there for Guam Memorial Hospital. Guam Memorial Hospital is consistently said that they don't do abortions there, there is an issue that will be addressed separately that there are a lot of, well I don't know a lot of, but there are fully formed children in the morgue that certain funeral homes pick up and dispose of their bodies on a regular basis. A couple of years ago the catholic church buried 30 at a time, full formed children not just blood spots. So something is going on and I just would like to draw your attention to this and you can deal with it as you will, in the 2007 report if you would go to that, you will see, sorry let me get my own copy here. 2007 report you will see that only 61 abortions are reported, in the facility you'll see that there are only 1 place that they were done, the women's clinic. However if you turn to the page you will see attached to that, separate pieces of paper that are not reports that have numbers from Grilly's clinic, the Poly Clinic, also for 2007 and over the course of January, March, May, and July there were 151 abortions and August, September, October, November, December another 73. 234 extra abortions that happened that are not on the report from Guam Medical Records. Only 61 of Women's Clinic was reported, so that's official report but there's 2 other pieces of the paper, I don't know how I ended up with them, they were actually given to us from Guam Medical Record probably by mistake but we have them showing 230 something extra abortions that are not recorded as part of the official, now that's a lot. And that clinic was completely left out, additionally I'd like to draw your attention to the 1 piece from the poly clinic, where it says total number for 5 months, it says 73. If you look below it says total number of sailing abortion completed and delivered at GMH 10. But GMH consistently tells us they don't do abortions, Grilly says they do. In fact I have a lot of other evidence that says that they do but I'm going to do it here. But the main thing is that Dr. Grilly says that he did 10 sailing abortion. Sailing is late term, full body abortions. He says he did 10 at GMH, GMH reported 0. I don't know how that's going to be looked into, but by giving the tools to the Office of Vital Statistics to be able to follow up on these things, perhaps we can get the real numbers and we can begin to seriously address the underlying social causes of what's going on. One of the most important things here, you'll see the most outstanding number is 1582 missing pieces of data, guess what's that next too. Highest education level and I hear from the legislature so often about the importance of education in this matter, yet that's number one missing part of data. We don't know what the education level is of many of these people. So those are just some numbers for you, thanks for the second opportunity.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Mr. Rohr. Thank you to the panel. We do have additional individuals who wish to testify. Maria Espinosa, Patricia Perry, Marilu Martinez, Sirena Mafnas, Michelle Moore, and Jessica Rohr. Did you wish to provide oral testimony? If not, we do have you here in favor of the legislation. I just want to request that if you do present testimony, we do have another scheduled item on the agenda at 10:30am. If we can just limit the amount of time of testimony. I appreciate it. Thank you. You may start.



## SENATOR DENNIS G. RODRIGUEZ, JR.

**Ms. Patricia Perry:** I will support this bill and I will support this bill that will impede abortion but support the protection of all human life from conception to natural death, thank you.

**Ms. Marilu Martinez:** Good morning my name is Marilu Martinez I'm here just to go on the record to say that I support the intent of the bill. Thank you.

**Ms. Michelle Rohr:** My name is Michelle Rohr, I am a board member of the Women's Resource center and I'm here to go on record that I support the intent of Bill 168-33.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Ms. Rohr. (Recognize Ms. Maria Espinoza)

**Ms. Maria Espinoza:** I do have written testimony but not in front of me I emailed to your office and there's a little technicality and I've just jotted down some basic notes so I can give you the overall testimony that I have. I do support the intent of this bill. However, as I read thoroughly 3218, it's specifically says, first of all Article 2 refers to Vital Statistics and so as I was reading all the details it just seemed like some sections were inappropriately placed, in general, not knowing really where it belongs, but some things are not related specifically to Vital Statistics and could be re-stated in another section of Title 10, okay. I had to make that clear because I was wondering where all these numbers represent and then specifically Section 3218 is partial abortion, okay. First of all, it's illegal to have partial birth according to Title 10 Chapter 91 (a) if I remember correctly from my notes and under Section 3218, it talks about, in section (m) and (n) specifically that reporting of partial birth abortions, has to be reported by 2 different entities and so I felt that because this is already illegal to have partial birth abortion, that we should insert a few words to purpose those reporting because it is data. We still need the data but I felt that it so that nobody is confused that we should at least insert the words, "Although illegal, partial birth abortion should be reported." And it's in subsections (m) and (n). And then that specifically addresses 3218 and then when I went to 3218.1. That's the inform consent act and I don't remember the subsection right off but there's one area where it does refer to that the women may not be liable if she withdraw, she says no at the last minute, that she doesn't want to have the abortion or if she continues to have the abortion whether she decides that she should feel confident that if she should require any kind of medical follow up as a result of either having the abortion or not because maybe she undergoes some physical illness that she should feel confident that she will not be deprived of any medical attention from the local funding or federal funding. So that means either MIP, if she doesn't have any insurance or Medicaid if she qualifies under Medicaid. So even though on this particular part of my testimony does not specifically relate to this bill but I feel given the act there are at least 7 states which I have already gone to the defunding of abortion in their states and their jurisdictions that we should address that issue because why should an elected procedure of a women who chooses to have an abortion, why should our government fund her abortion? It's an elective procedure, it's a personal choose, she should pay for it herself. And so this particular item is not specifically be addressed in this bill but hopefully there will be a follow up meeting to maybe, not maybe but hopefully introduce a separate bill to ensure, to investigation, have any money from MIP fund any abortion and have any money been used from Medicaid. Certainly, we're budget for Medicaid is very very limited here on Guam and we shouldn't have anything that's elective. At least for abortion shouldn't be funded. Those two areas, one from 3218 and 3218.1, I have those specific suggestions. Thank you for your time.



## SENATOR DENNIS G. RODRIGUEZ, JR.

**Senator Dennis G. Rodriguez, Jr.:** Great, thank you very much Ms. Espinoza. We do have your written testimony and we'll ensure that we include it in the committee report and take all your suggestions into consideration, Okay?

**Ms. Maria Espinoza:** Thank you

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much. Thank you to the Panel. There are two others, Ms. Sirena Mafnas, Ms. Jessica Rohr. This will be the last two for this Bill.

**Ms. Jessica Rohr:** Morning, my name is Jessica Rohr, I'm the president from the Women's Resource Center. I'm here to support the intention of the Bill and I agree with Mrs. Espinoza, we shouldn't be funding that kind of procedure, it doesn't cure anything. I just want to also say if I can that the organization, the Women's Resource Center, our intention is to provide positive alternative for women, we will not be Government funded. So our intention is to reach out to those people who feel the need to have an abortion and educate them on abortion, which is why I support this Bill, because it's hard to educate people on abortion if we don't know how many abortions are actually taking place on Guam. I support this Bill.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Jessica and perhaps on another time we can invite you and you will do a round table and you can do a presentation on the Women's Resource Center so that the public as well can be informed of what you can provide, so thank you. Serena.

**Ms. Sirena Mafnas:** Good Morning Senator Rodriguez, Senator Underwood, Senator Espaldon. My name is Sirena Mafnas, twenty (22) years old, from the Talafofo. I'm also a board member of the Women's Resource Center and to have the data of the reporting of abortions is so crucial to what we do so that we can understand how to help more women and to understand that there are how many women that actually need help as far as making these really life changing decisions? I also just wanted to address to kind of bring up the importance of asking yourselves why is it that there's such a hard difficulty in getting the reports? Something as so simple as statistics and from the Doctors who we trust and to who we trust to help us women. I'm a women and as a women I want to know that my Doctor is a law abiding citizen and it's just really important to know that and I just wanted to say that I support the intent of this bill and we hope that on this Bill will help just help everybody to understand how this, like Tim Rohr said, and a few of the other gentlemen said how this effects our society. That's all I have to say.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Ma'am. Thank you, so we'll keep the record open for a few days or until such time we report this out of committee and so those who wish to provide written testimony can still do by sending it directly to my office. This now concludes the hearing on Bill 168-33.

**Fiscal Note:** Waiver received, dated July 14, 2015 (attached).



SENATOR DENNIS G. RODRIGUEZ, JR.

**SECOND PUBLIC HEARING**  
**COMMITTEE REPORT DIGEST**

Bill No. 168-33 (COR), as Substituted by the Author

- I. **OVERVIEW:** The Committee on Health, Economic Development, Homeland Security and Senior Citizens conducted a public hearing on May 4, 2016. The hearing convened at 2:05pm in I Liheslatura’s Public Hearing Room. Among the items on the agenda was the consideration of **Substitute Bill 168-33 (COR) - An act to Add new items (5) through (11) to subsection (a) of § 3208, to amend subsections (a), (c), (e), (k), and (m) of § 3218, all of article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new § 55.65, to Chapter 55, Title 9, Guam Code Annotated, Relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement; Sponsored by Senator Frank B. Aguon, Jr., Dennis G. Rodriguez, Jr.**

**Public Notice Requirements**

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on April 26, 2016 (5-day notice), and again on May 2, 2016 (48-hour notice).

**Senators Present**

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Frank B. Aguon, Jr.	Member

**The Public Informational Hearing was called to order at 2:05PM**

**II. SUMMARY OF TESTIMONY & DISCUSSION.**

**Senator Dennis G. Rodriguez, Jr.:** Hafa Adai everybody, thank you very much for being here. The Committee on Health, Economic Development, Homeland Security and Senior Citizens convenes this Public Hearing, Public Hearing Notices were provided to the media. First Notice was on Tuesday, April 26, 2016 and Second Notice on Monday, May 2, 2016. For the record today is Wednesday, May 4, 2016 and the time now is 2:10 p.m. The Committee will hear and accept testimonies both oral and written on the following:

**(Bill 297-33 (COR); Title Read)**

**(Bill 168-33 (COR); Title Read).** This is a Second Public Hearing on this measure as the author has provided us a Substituted version for the committee’s consideration.

**(Resolution 308-33 (LS); Title Read)**





## SENATOR DENNIS G. RODRIGUEZ, JR.

Before I recognize the Senator's here with me today I want to recognize former Vice-Speaker Ted Nelson for being here and former Senator Robert Klitzskie, thank you very much sir for joining us this afternoon. Okay I'd also like to recognize Senator Frank B. Aguon, Jr. Thank you Senator for being here. We're going to move on and first do Bill No. 168 and this is the Bill that was substituted by the Author and is being considered by the Committee for it to eventually be reported out and provided to the entire body, so I'll go ahead and recognize Senator Aguon to give a brief synopsis of what the Bill is and at the same time if I can call on Dr. Kaneshiro and Mr. Tim Rohr to please come forward.

(Recognized Senator Frank B. Aguon, Jr.)

**Senator Frank B. Aguon, Jr.:** Thank you very much Mr. Chairman. First of all I want to thank you for having this second hearing on Bill No. 168-33 (COR) as substituted by the Author and I want to thank also those who provided initial testimony during the first public hearing because as a result of the discussion and the testimony that was provided during that initial public hearing we took the piece of legislation back to the office and we had invited several individuals by any chance we can get a much clearer presentation in regards to the intent and the compliance, the ability to be able to carry out the enforcement of Bill No. 168. To those who assisted in my office in terms of being able to present what we have before us today, I extend an appreciation and Mr. Chairman I think you're going to find that not only is this amended version much clearer and to the point but it does provide for a mechanism whereby in fact individuals who have to comply with the finding of appropriate reports that they have that opportunity to be able to file and that a regular report be provided to the respective Government of Guam entities so that they acknowledge the timely reporting of these particular information and statistics. Thank you very much Mr. Chairman.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Senator Aguon.

(Recognized Dr. Suzanne Kaneshiro)

**Dr. Suzanne Kaneshiro:** Good afternoon, my name is Dr. Suzanne Sison Kaneshiro, I'm the Chief Public Health Officer at the Department of Public Health and Social Services. The Office of Vital Statistics is under my division, so I oversee the division. I am in favor of Bill 168-33, because according to the territory registrar, physicians are still submitting incomplete abortion reports. So this Bill, will maybe force them to actually complete these forms before they submit them to the Office of Vital Statistics, she said it's not her job to constantly call the offices to complete these reports. So with this Bill, hopefully it'll eliminate that duty for her, so we are in favor of this Bill.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Dr. Kaneshiro, before we call Mr. Rohr, I'd also like to recognize the Counsel of the Philippines, Counsel Garry Esciliana and also the Mayor of Dededo, My village of Dededo, Mayor Savares, thank you for being here.



## SENATOR DENNIS G. RODRIGUEZ, JR.

(Recognized Mr. Tim Rohr)

**Mr. Tim Rohr:** Good afternoon Senators, my name is Tim Rohr and I'm here to testify. I run The Esperansa Project which is essentially constituted to advanced prolife legislation wherever possible and I'm here to testify in favor of Bill 168. These are my remarks. **(Read Written-Testimony).**

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Mr. Rohr.

(Recognized Senator Frank B. Aguon, Jr.)

**Senator Frank B. Aguon, Jr.:** Thank you Mr. Chairman. I forgot to mention at the inception that the Chairman is also a co-sponsor of this legislation, so Mr. Chairman thank you for your support of the intent of this particular provision. Dr. Kaneshiro, I want to thank you for your testimony this afternoon because you highlighted a point in your brief testimony that not all the reports or the information and the statistics that are required are being reported at this point in time and this legislation will provide a mechanism so that, yes it's going to be a requirement in law in terms of reporting these and the reports will be submitted to specific parties in the Government of Guam so that they can have access to that information. In addition to the Office of Vital Statistics, so I appreciate your testimony and Mr. Rohr, thank you for all your ongoing efforts. I think that in this particular case it was quite alarming at least for my personal perspective when I saw the numbers for the last year and I think that this legislation will address some of those components in terms of providing us better information so that the laws that are passed will be able to pursue the objectives that you highlighted in your testimony, so thank you very much. Thank you Mr. Chair.

**Senator Dennis G. Rodriguez, Jr.:** Thank you very much Senator Aguon. Again, Dr. Kaneshiro thank you for being here and proving your testimony. Mr. Rohr as well and the Esperansa Project for really being in the forefront as we move these type of legislations forward, so thank you very much. The Committee will continue to keep the record open for a few days, we invite the public who wish to provide any written testimony to continue to do so and that the committee will and the intention is to report this out and be ready for the next legislative session. So now this completes the Public Hearing on Bill 168-33 and again I would like reiterate that this is a proposed substitute version, this is a second hearing of the committee for this Bill, it was at the request of the main author that we do have this second hearing to give the public the opportunity to see the changes that were made and not have anyone be surprised when it does get reported out and moved on the floor and for those in the listening public that wishes to obtain a copy, they can contact my office and we can provide that to them. Thank you.



SENATOR DENNIS G. RODRIGUEZ, JR.

III. FINDINGS AND RECOMMENDATIONS


The Committee on Health, Economic Development, Homeland Security and Senior Citizens, hereby **reports out Substitute Bill No. 168-33 (COR)**, with the recommendation to

TO REPORT OUT ONLY.

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

Bill No. 168-33 (Cor)

Introduced by:

FRANK B. AGUON, JR.   
D. G. Rodriguez, Jr.

**AN ACT TO ADD A NEW SUBSECTION (q) TO § 3218, AMEND SUBSECTIONS (f) AND (g) OF § 3218.1, AND ADD A NEW SUBSECTION (h) TO § 3218.1, ALL OF ARTICLE 2, CHAPTER 3, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE PENALTIES FOR NON-COMPLIANCE AND ADDING REPORTING MECHANISMS TO BETTER ENSURE ENFORCEMENT.**

2015 APR 21 AM 10:42

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

1        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
2        that certain abortion providers have been failing to comply with §§ 3218 and  
3        3218.1 of Article 2, Chapter 3, Title 10, Guam Code Annotated. It is the hope of *I*  
4        *Liheslaturan Guåhan* that this Act, which increases the penalty for violating §  
5        3218.1 and adds a new reporting requirement to both §§ 3218 and 3218.1 relative  
6        to events of non-compliance, will increase compliance with §§ 3218 and 3218.1.

7        **Section 2.** A new Subsection (q), as set forth below, is hereby *added* to §  
8        3218 of Article 2, Chapter 3, Title 10, Guam Code Annotated:

1       “(q) Report of Non-Compliance. Within fifteen (15) days of  
2       discovery by the Director of the Department of Public Health and  
3       Social Services of any failure to comply with this Section or any rule  
4       or regulation promulgated pursuant to this Section, the Director of the  
5       Department of Public Health and Social Services shall deliver written  
6       notice which details the nature of such non-compliance to the  
7       Attorney General and the chairperson of the Guam Board of Medical  
8       Examiners. On a quarterly basis, the Attorney General shall deliver a  
9       report to the Director of the Department of Public Health and Social  
10       Services and I Liheslatura which states in summary form what steps  
11       the Office of the Attorney General has taken in response to the events  
12       of non-compliance reported to the Attorney General in the previous  
13       quarter and the status of such non-compliance.”

14       **Section 3.** Subsections (f) and (g) of § 3218.1 of Article 2, Chapter 3, Title  
15       10, Guam Code Annotated, are hereby *amended* to read as follows:

16       “(f) Criminal Penalties. Any person who intentionally, knowingly,  
17       or recklessly violates this Act is guilty of a ~~misdemeanor~~ felony in the  
18       third degree; and, for each violation, shall be sentenced to a term of  
19       imprisonment in accordance with Title 9 Guam Code Annotated  
20       Chapter 80, Article 2 and pay a fine of not less than Ten Thousand

1        Dollars (\$10,000) and no more than One Hundred Thousand Dollars  
2        (\$100,000).

3        (g) Civil and Administrative Claims. In addition to whatever  
4        remedies are available under the common law or statutory laws of  
5        Guam, failure to comply with any of the requirements of this Act  
6        shall:

7            (1) ~~in the case of an intentional violation of this Act~~before  
8        any civil court, arbiter, or administrative adjudicator, constitute *prima*  
9        *facie* evidence of a failure to obtain informed consent. When  
10       requested, the court, arbiter, or administrative adjudicator shall allow  
11       a woman upon whom an abortion was performed or attempted to be  
12       performed allegedly in violation of this Act to be identified in any  
13       action brought pursuant to this Act using solely her initials or the  
14       pseudonym "Jane Doe." Further, with or without a request, the court,  
15       arbiter, or administrative adjudicator may close any proceedings in the  
16       case from public attendance, and the court, arbiter, or administrative  
17       adjudicator may enter other protective orders in its discretion to  
18       preserve the privacy of the woman upon whom the abortion was  
19       performed or attempted to be performed allegedly in violation of this  
20       Act.

1           (2) Provide a basis for professional disciplinary action under  
2           10 GCA § 11110.

3           (3) Provide a basis for recovery for the woman for the  
4           wrongful death of her unborn child under 7 GCA § 12109 or any other  
5           cause of action for wrongful death which may exist at the time,  
6           whether or not the unborn child was born alive or was viable at the  
7           time the abortion was performed. In an action brought pursuant to 7  
8           GCA § 12109 or any other cause of action for wrongful death which  
9           may exist at the time, failure to comply with the Act shall be taken as  
10           conclusive evidence that the person who violated the Act breached a  
11           duty of care owed to the unborn child, and that such breach constitutes  
12           the actual and proximate cause of death of the unborn child; and the  
13           fact that the woman elected to have the abortion shall not operate as a  
14           defense or diminish the damages otherwise available.

15           (4) Provide a basis for a medical malpractice action, and  
16           provide standing to any woman upon whom an abortion was  
17           performed or attempted allegedly in violation of this Act to bring such  
18           an action. In an action for medical malpractice, failure to comply with  
19           the Act shall be taken as conclusive evidence that the physician  
20           breached the standard of care owed to the woman.”

1           **Section 4.** A new Subsection (h), as set forth below, is hereby *added* to  
2   § 3218.1 of Article 2, Chapter 3, Title 10, Guam Code Annotated:

3           “(h) Report of Non-Compliance. Within fifteen (15) days of  
4           discovery by the Director of the Department of Public Health and  
5           Social Services of any failure to comply with this Section or any rule  
6           or regulation promulgated pursuant to this Section, the Director of the  
7           Department of Public Health and Social Services shall deliver written  
8           notice which details the nature of such non-compliance to the  
9           Attorney General and the chairperson of the Guam Board of Medical  
10           Examiners. On a quarterly basis, the Attorney General shall deliver a  
11           report to the Director of the Department of Public Health and Social  
12           Services and I Liheslatura which states in summary form what steps  
13           the Office of the Attorney General has taken in response to the events  
14           of non-compliance reported to the Attorney General in the previous  
15           quarter and the status of such non-compliance.”

16           **Section 5. Severability.** Any provision of this Act held to be invalid *or*  
17   unenforceable by its terms or as applied to any person or circumstance, *shall* be  
18   construed so as to give it the maximum effect permitted by law unless such holding  
19   shall be one of utter invalidity or unenforceability, in which event, such provision  
20   *shall* be deemed severable herefrom and *shall not* affect the remainder hereof *or*



1 the application of such provision to other persons not similarly situated *or* to other  
2 dissimilar circumstances.

3 **Section 6. Effective Date.** This Act *shall* be effective immediately upon  
4 enactment.

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

**Bill No. 168-33 (COR)**  
as substituted by the Author

Introduced by:

FRANK B. AGUON, JR.  
D. G. Rodriguez, Jr.

**AN ACT TO ADD NEW ITEMS (5) THROUGH (11)  
TO SUBSECTION (a) OF § 3208, TO AMEND  
SUBSECTIONS (a), (c), (e), (k), AND (m) OF § 3218,  
ALL OF ARTICLE 2, CHAPTER 3, TITLE 10,  
GUAM CODE ANNOTATED, TO ADD A NEW §  
55.65, TO CHAPTER 55, TITLE 9, GUAM CODE  
ANNOTATED, RELATIVE TO INCREASING THE  
PENALTIES FOR NON-COMPLIANCE BY  
ADDING REPORTING MECHANISMS TO  
BETTER ENSURE ENFORCEMENT.**

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

1       **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
2 that certain abortion providers have failed to file a complete individual abortion  
3 report for each abortion with the Territorial Registrar of Vital Statistics pursuant to  
4 § 3218 Article 2, Chapter 3, Title 10, Guam Code Annotated.

5       *I Liheslaturan Guåhan* further finds that this Act, which increases the  
6 penalty for those abortion providers who knowingly fail to file a complete  
7 individual abortion report for each abortion with the Territorial Registrar of Vital  
8 Statistics by adding a new § 55.65 to Chapter 55, Title 9, Guam Code Annotated,

1 will increase compliance with § 3218 Article 2, Chapter 3, Title 10, Guam Code  
2 Annotated.

3 Therefore, it is the intent of *I Liheslaturan Guåhan* to *add new* items (5)  
4 through (11) to Subsection (a) of § 3208, to *amend* Subsections (a), (c), (e), (k),  
5 and (m) of § 3218, All of Article 2, Chapter 3, Title 10, Guam Code Annotated,  
6 and to *add a new* § 55.65, to Chapter 55, Title 9, Guam Code Annotated relative to  
7 increasing penalties for non-compliance by adding reporting mechanisms to better  
8 ensure enforcement.

9 **Section 2.** Items (5) through (11) are *added* to § 3208 (a) of Article 2,  
10 Chapter 3, Title 10, Guam Code Annotated to read:

11 “(5) prepare, provide, and distribute forms to physicians as  
12 required by 10 GCA §§ 3218 and 3218.1.

13 (6) insure the completeness of all forms filed with the  
14 Territorial Registrar of Vital Statistics pursuant to 10 GCA § § 3218  
15 and 3218.1.

16 (7) reject incomplete forms filed with the Territorial Registrar  
17 of Vital Statistics pursuant to 10 GCA §§ 3218 and 3218.1.

18 (8) give prompt notice to the filer of the rejection of an  
19 incomplete form filed with the Territorial Registrar of Vital Statistics  
20 pursuant to 10 GCA §§ 3218 and 3218.1 that failure to file a

1 completed form within seven (7) days will be deemed a failure to file.

2 The notice shall advise the filer of the penalties for failure to file.

3 (9) promptly report to the Attorney General violations of 10  
4 GCA §§ 3218 and 3218.1.

5 (10) promptly report to the Guam Board of Medical Examiners  
6 violations of 10 GCA §§ 3218 and 3218.1.

7 (11) on the first day of each month, publish a report of the  
8 actives of 10 GCA § 3218.”

9 **Section 3.** Subsection (a) of § 3218 of Article 2, Chapter 3, Title 10, Guam  
10 Code Annotated, is hereby *amended* to read as follows:

11 “(a) ~~An~~ complete individual abortion report for each abortion *shall* be  
12 completed under penalty of perjury on a form provided by the Territorial Registrar  
13 of Vital Statistics by the mother's attending physician, and *shall* be filed forthwith  
14 with the Territorial Registrar of Vital Statistics. ~~transmitted directly to the Office of~~  
15 ~~Vital Statistics of the Department of Public Health and Social Services.~~ The report  
16 *shall* be confidential and it shall not contain the name of the mother involved. This  
17 report *shall* include:

18 (1) patient number;

19 (2) name and address of the abortion facility or hospital;

20 (3) date of the abortion;

- 1 (4) zip code or other residential identification of the pregnant woman;
- 2 (5) age of the pregnant woman;
- 3 (6) ethnic origin of the pregnant woman;
- 4 (7) marital status of the pregnant woman;
- 5 (8) number of previous pregnancies;
- 6 (9) number of years of education of the pregnant woman;
- 7 (10) number of living children;
- 8 (11) number of previous induced abortions;
- 9 (12) date of the last induced abortion;
- 10 (13) date of the last live birth;
- 11 (14) method of contraception used, if any, at the time of conception;
- 12 (15) date of the beginning of the last menstrual period;
- 13 (16) medical condition of the pregnant woman at the time of abortion;
- 14 (17) RH type of the pregnant woman;
- 15 (18) type of abortion procedure used;
- 16 (19) complications, if any;
- 17 (20) type of procedure done after the abortion;
- 18 (21) type of family planning recommended;
- 19 (22) type of additional counseling given, if any;
- 20 (23) signature of attending physician;

1 (24) certification provided for in this Section; and

2 (25) gestational age, as measured in weeks, of the unborn child  
3 terminated by the abortion. ”

4 **Section 4.** Subsection (c) of § 3218 of Article 2, Chapter 3, Title 10, Guam  
5 Code Annotated, is hereby *amended* to read as follows:

6 “(c) All abortion reports shall be signed by the attending physician  
7 under penalty of perjury and shall be filed with the Territorial Registrar ~~submitted~~  
8 ~~to the Office~~ of Vital Statistics within seven (7) ~~thirty (30)~~ days from the date of  
9 the abortion. All complication reports shall be signed by the physician providing  
10 the post-abortion care under penalty of perjury and filed with ~~submitted to the~~  
11 Registrar Office of Vital Statistics within seven (7) ~~thirty (30)~~ days from the date  
12 of the post-abortion care.”

13 **Section 5.** Subsection (e) of § 3218 of Article 2, Chapter 3, Title 10, Guam  
14 Code Annotated, is hereby *amended* to read as follows:

15 “(e) The ~~Office of Vital Statistics~~ Territorial Registrar of Vital  
16 Statistics ~~shall be responsible for collecting all abortion reports and~~  
17 ~~complication reports, and collating and evaluating all data gathered~~  
18 ~~therefrom, and shall~~ collect and annually publish a statistical report based on  
19 such data from abortions performed in the previous calendar year.”

1           **Section 6.** Subsection (k) of § 3218 of Article 2, Chapter 3, Title 10, Guam  
2 Code Annotated, is hereby *amended* to read as follows:

3                   “(k) Failure to file a complete individual abortion report for each  
4 abortion with the Territorial Registrar of Vital Statistics within seven (7)  
5 days from the date of the abortion is a misdemeanor, as defined in § 55.65  
6 of Chapter 55, Title 9, Guam Code Annotated ~~report under this Section will~~  
7 ~~subject physicians to a fine of no less than Ten Thousand Dollars (\$10,000)~~  
8 ~~but no more than One Hundred Thousand Dollars (\$100,000) per offense.”~~

9           **Section 7.** Subsection (m) of § 3218 of Article 2, Chapter 3, Title 10, Guam  
10 Code Annotated, is hereby *amended* to read as follows:

11                   “(m) The Territorial Registrar ~~Office~~ of Vital Statistics shall receive,  
12 ascertain the completeness of, compile and retain all partial birth abortion  
13 reports filed with her ~~she receives~~ under this Section and collate and  
14 evaluate all data gathered therefrom, and shall annually publish a statistical  
15 report based on such data from partial-birth abortions performed in the  
16 previous calendar year no later than January 31st of the following calendar  
17 year.”

18           **Section 8.** A *new* § 55.65 is *added* to Chapter 55 of Title 9, Guam Code  
19 Annotated, to read:

1                   “§ 55.65. Failure to file a complete Partial-Birth Abortion and  
2 **Abortion Report.**       A person commits a misdemeanor who knowingly fails  
3 to file a complete individual abortion report for each abortion with the Territorial  
4 Registrar of Vital Statistics within seven (7) days from the date of the abortion.”







**Chairman**  
Committee on  
Guam U.S. Military  
Relocation, Public Safety & Judiciary  
**Vice Chairman**  
Committee on  
Appropriations & Adjudication  
**Member**  
Federal, Foreign & Micronesia  
Affairs,  
Human & Natural Resources,  
Election Reform &  
Capitol District



Office of  
**Senator Frank B. Aguon, Jr.**

I MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN | 33<sup>rd</sup> GUAM LEGISLATURE

**Member**  
Transportation, Infrastructure  
Lands, Border Protection,  
Veterans' Affairs &  
Procurement  
**Member**  
Finance & Taxation, General  
Government Operations &  
Youth Development  
**Member**  
Early Learning, Juvenile  
Justice, Public Education &  
First Generation Initiatives

September 11, 2015

**The Honorable Senator Dennis Rodriguez, Jr.**  
**Chairman,**  
**Committee on Health, Economic Development,**  
**Homeland Security, and Senior Citizens**  
176 Serenu Avenue Suite 107  
Tamuning, Guam 96931

**RE: SPONSOR STATEMENT ON BILL NO. 168-33 (COR)**

Dear Chairman Rodriguez:

*Buenas yan Hafa Adai!* I want to begin by thanking you for holding today's public hearing relative to Bill No. 168-33 (COR), "An act to add a new subsection (q) to § 3218, amend subsections (f) and (g) of § 3218.1, and add a new subsection (h) to § 3218.1, all of article 2, chapter 3, title 10, Guam Code Annotated, relative to increasing the penalties for non-compliance and adding reporting mechanisms to better ensure enforcement." Unfortunately, I could not be here with you today because of prior off-island commitments.

In my statement this morning, I would like to thank those of you in attendance today to testify on behalf of this measure and I ask you to join me and Senator Rodriguez in making this measure better where necessary. Bill 168-33 (COR) provides a reporting mechanism for non-compliance that would require, within 15 days of discovery, the Director of Department of Public Health and Social Services deliver written notice which details the nature of such non-compliance to the Attorney General and the chairperson of the Guam Board of Medical Examiners. Furthermore, on a quarterly basis, the Attorney General shall deliver a report to the Director of the Department of Public Health and Social Services and I Liheslatura which states in summary form what steps the Office of the Attorney General has taken in response to the events of non-compliance reported to the Attorney General in the previous quarter and the status of such non-compliance.

It is remarkably clear that past abortion reports that were submitted to the Office of Vital Statistics by these current abortion providers have been incomplete and to date, these providers have yet to comply with the abortion reporting laws. Additionally, this measure would allow us to address the loop holes within current statute by providing enforcement provisions for the Director of Department of Public Health and Social Services, so we can ensure full compliance with these reports.

As such, I hope that the Chairman, his Committee on Health, Economic Development, Homeland Security, and Senior Citizens, and those in attendance today will join me in making this measure better where necessary – allowing it to move to the floor during the next available session. *Un Dangkolo' na Si Yu'os Ma'ase!*

Very Respectfully,

**SENATOR FRANK B. AGUON, JR.**

Committee Chairman on Guam U.S. Military Relocation | Public Safety | Judiciary  
*I Mina' Trentai Tres Na Liheslaturan Guåhan* | 33rd Guam Legislature

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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


SEP 1 0 2015

Testimony for Bill 168-33

The Department of Public Health and Social Services Office of Vital Statistics (OVS) is in support of Bill 168-33 which imposes stricter penalties for failure to comply to the abortion reporting requirements. As the agency tasked to collect the abortion reports from the healthcare providers who perform abortions, it is difficult to submit an accurate annual abortion report when physicians fail to provide all the required information. The staff at OVS also have a difficult time deciphering physicians' handwriting and request that responses be typed.

Physicians are required to answer 24 questions for the Abortion Report. According to the 2014 Abortion Report, in which there were 209 abortions reported, most of the missing data pertained to the following questions: the "highest education completed: by the patient (only 18% were filled out) and "date of last live birth" (only 46% were filled out). Other questions with missing information included the patient's age, ethnic origin, place of residence, number of previous pregnancies, blood type, method of contraception used, type of procedure done after abortion, and the type of abortion procedure performed.

The passage of this law will ensure that physicians who perform abortions will answer all the questions on the abortion report allowing OVS to submit accurate data to the Guam Legislature.

  
Carolyn Garrido  
Territorial Registrar

Law Office of  
**ARRIOLA COWAN & ARRIOLA**

ZACHARY C. TAIMANGLO

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September 11, 2015

**VIA HAND-DELIVER**

**HONORABLE FRANK BLAS AGUON, JR.**

Senator  
Suite 503, DNA Bldg.  
238 Archbishop Flores Street  
Hagatna, Guam 96910

**HONORABLE DENNIS G. RODRIGUEZ, JR.**

Sentator  
Suite 107  
176 Serenu Ave.  
Tamuning, Guam 96931

**Re: Bill 168-33**

Senators:

This is written in opposition to Bill 168-33, entitled "An Act . . . Relative to Increasing the Penalties for Non-Compliance and Adding Reporting Mechanisms to Better Ensure Enforcement." The penalties for violation of the so-called "informed consent" and reporting law are so far out of proportion to the violations that the purpose of the Act is not enforcement or compliance, it is merely seeking the highest and worst form of punishment without any reasonable basis.

Section 3 of Bill 168-33 provides that a person who intentionally, knowingly, or recklessly violates the Act is guilty of a felony and shall be sentenced to imprisonment and fined not less than \$10,000 and not more than \$100,000. In other words, if an abortion provider fails to provide *any one piece* of the information required in 10 G.C.A. 3218.1, he or she shall be incarcerated and fined between \$10,000 and \$100,000. Really? Both of you believe that this is an appropriate punishment if a physician, a nurse, or other health care provider fails, for example, to provide a woman seeking an abortion information that the father is liable to assist in child support?

I have reviewed several statutes on Guam concerning penalties and fines. There are few statutes which impose fines of \$10,000. Most of these statutes concern *repeated* acts concerning offenses regarding controlled substances (9 GCA 67.491.4(g) and (j)); theft of copper wire (9

September 11, 2015

Re: Bill 168-33

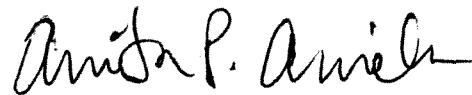
GCA 43.50(i)); or flagrant and willful use of child labor (11 GCA 11109). There are even fewer statutes imposing a fine of \$100,000, such as where there is more than one conviction of offenses involving Schedule II narcotic drugs (9 GCA 67.401.4(b)). Yet the two of you would impose ridiculous fines for a physician, nurse or other health care provider who fails to provide even one piece of information to a woman seeking an abortion.

Another section of the bill states that the failure to comply with the Act shall provide a basis for recovery for the woman for the wrongful death of her unborn child "or any other cause of action for wrongful death which may exist at the time". The phrase is vague in the extreme – what other cause of action for wrongful death is contemplated here? Using the example above, if a physician, nurse or other health care provider failed to give information that the father is liable to assist in child support, this failure would constitute a basis for a wrongful death action. What does one have to do with the other? How can anyone prove that a wrongful death of an unborn child or the woman was caused by the failure to give information that a father is liable for child support? There is no logical or rational relationship between the two.

If you are going to try to outlaw abortions in Guam, at least have the honesty to say what you are doing, instead of hiding behind an obsequious title relating to "non-compliance" and "enforcement." This bill has no logical or rational relationship to either goal.

I urge all senators to vote against this bill.

Very truly yours,



ANITA P. ARRIOLA



# Office of the Attorney General of Guam

590 S. Marine Corps Dr., ITC Bldg., Ste. 706, Tamuning, Guam 96913



**Testimony of**  
**Karl P. Espaldon, Deputy Attorney General**  
**before the**  
**Committee on Health, Economic Development,**  
**Homeland Security and Senior Citizens**  
**September 11, 2015**

Good morning, Chairman Rodriguez and Members of the Committee. I am Deputy Attorney General Karl Espaldon appearing on behalf of the Office of the Attorney General to provide testimony on Bill 168-33.

The Attorney General has previously communicated some of her thoughts and comments on the legislation with the bill's sponsor, Sen. Aguon, and she asked me here to present them to the Committee and to be available for any questions you may have.

Bill 168, in an effort to increase compliance with Title 10 abortion reporting requirements in Sec. 3218 and informed consent requirements in 3218.1, adds new subsections that would require the Dept. of Public Health and Social Services (DPHSS) to report non-compliance to the AG and the Chair of the Guam Board of Medical Examiners. In turn, the AG would then be required to report to DPHSS the steps that have been taken to address the non-compliance and the status of the non-compliance.

We have the following comments:

- Sec. 3218 has four penalty sections for non-compliance with the abortion reporting requirements, three of which can be characterized as involving governmental action.
- There are two subsections in this section that make the release of confidential information in abortion, post abortion, and partial abortion reports a misdemeanor.

- There is also a civil penalty for failure to report which is to subject a physician to a fine of 10K to 100K. As the bill appears to focus on the reporting mechanism, we believe that the language in the bill having to do with non-compliance refers to this civil enforcement action in Section 3218(k).

The language of Section 2 of Bill 168-33 appears to presuppose that the Attorney General's office is involved in the administrative enforcement of the reporting requirements. The Attorney General's position is that the OAG does not and should not handle administrative enforcement action, which includes the finding of non-compliance; the imposition of fines; and the administrative due process procedures (i.e. appeals) that should be a part of this process. These are more properly executive agency functions.

The Attorney General's role in the overall process would be to enforce an imposed fine or penalty in court and to get a judgment paid. Or, it may also represent the agency if a plaintiff appeals an administrative fine decision to court. There would be a conflict in our roles if the Office were involved in the administrative enforcement portion of any regulatory process.

Section 4 of the bill requires a similar mutual reporting process involving DPHSS and the OAG for Section 3218.1 of Title 10, the Women's Reproductive Health Information Act, essentially the Informed Consent law.

For this bill section, it is even less clear as to the non-compliance that DPHSS would or could report to the OAG. The only reporting requirement in Section 3218.1 of the law is for the physician to report to GMH the number of checklist certifications that were completed on a monthly basis. The checklist certifications themselves are required to be a part of the patient's medical file and are most likely protected by the privacy protections of HIPAA, the Health Insurance Portability and Accountability Act.

We thank the Chair and the Committee for this opportunity to present our testimony.



Testimony in favor of Bill 168-33 submitted by  
Robert Klitzkie on 11 September 2015

**THE SCOFFLAW PREVENTION ACT OF 2015** might well be the short title of this bill. By increasing penalties and strengthening enforcement mechanisms for failure to make statutorily required reports, the law would make it more costly for abortionists to thumb their noses at the law. This is as it should be. A public perception that some can ignore the law with impunity tends to breed disrespect for the law by all.

The key officials in the enforcement process are the Director of Public Health and Social Services (Director) and the Registrar of Vital Statistics (Registrar) [Note 5.] The apparent efficacious point of enforcement is the Registrar. Set out below is suggested language that adds “teeth” to the enforcement mechanisms starting with three amendments to 10 GCA § 3218:

1. § 3218. Partial-Birth Abortion and Abortion Report. (a) ~~A~~ A complete individual abortion report for each abortion shall be completed under penalty of perjury by the mother's attending physician, and filed forthwith with the Registrar ~~shall be transmitted directly to the Office~~ of Vital Statistics of the Department of Public Health and Social Services. The report shall be confidential and it shall not contain the name of the mother involved. This report shall include: \*\*\*
2. (c) All abortion reports shall be signed by the attending physician under penalty of perjury and shall be filed with the Registrar ~~submitted to the Office~~ of Vital Statistics within seven (7) thirty (30) days from the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care under penalty of perjury and filed with ~~submitted to the Registrar Office~~ of Vital Statistics within seven (7) thirty (30) days from the date of the post-abortion care.
3. (m) The Registrar Office of Vital Statistics shall receive, ascertain the completeness of, compile and retain all partial birth abortion reports filed with her ~~she receives~~ under this Section and collate and evaluate all data gathered therefrom, and shall annually publish a statistical report based on such data from partial-birth abortions performed in the previous calendar year no later than January 31st of the following calendar year.

A new 10 GCA § 1101 can be added to read:

§ 1101. Director of Public Health and Social Services. The Director of Public Health and Social Services shall take cognizance of and require the enforcement of the mandates of § § 3218 and 3218.1 of this title.

New items (5) through (9) can be added to 10 GCA § 3208 as follows:

§ 3208. Duties of the Registrar. (a) The Territorial Registrar of Vital Statistics shall:

\*\*\*

(5) insure the completeness of all forms filed with her pursuant to 10 GCA § § 3218 and 3218.1.

(6) reject incomplete forms filed with her pursuant to 10 GCA § § 3218 and 3218.1.

(7) give prompt notice to the filer of the rejection of an incomplete form filed with her pursuant to 10 GCA § § 3218 and 3218.1 that failure to file a completed form within seven (7) days will be deemed a failure to file. The notice shall advise the filer of the penalties for failure to file.

(8) promptly report to the Attorney General criminal violations of 10 GCA §§ 3218 and 3218.1.

(9) promptly report to the Guam Board of Medical Examiners violations of 10 GCA § § 3218 and 3218.1.

10 GCA § 3218 (k) requires clarification.

(k) reads:

“(k) Failure to report under this Section will subject physicians to a fine of no less than Ten Thousand Dollars (\$10,000) but no more than One Hundred Thousand Dollars (\$100,000) per offense.” [Note 6] If the fine is to be levied for a criminal offense (k) should be sited in 9 GCA and should be set forth in standard criminal law language. § 3 of the bill amends 10 GCA § 3218.1 (f)] That language, properly sited, limited to violations of 10 GCA § § 3218 and 3218.1 could work.

(k) doesn't appear to impose a civil penalty as the requisite mechanisms are lacking, *e.g.* citation, notice to appear, adjudication, due process, *etc.* Consideration might be given to a statutory regime that empowers the Director to issue citations for violations of 10 GCA § § 3218 and 3218.1 with adjudication accomplished by the use of 5 GCA Ch. 9 Art 2.

Several of the provisions of the bill deal with reports and reporting requirements none of which appear to be non-germane *inter se*. The rest of the bill, *i.e.* all of § 3 except for (f), deal with medical malpractice *i.e.* a distinctly different subject then that dealt with by other sections of the bill giving rise to a finding that the two prongs of the bill are not germane *inter se*. [Note 7.] Medical malpractice is a complicated and complex subject perhaps best dealt with by a stand-alone bill.

§ § 2 and 4 of the bill would add statutory language to the law which would appear to be at best precatory and could be removed from the bill without diminishing its effect.

In the sincere hope that my humble offerings would be of assistance, I urge the Committee on Health to expeditiously report out Bill 33-168, incorporating such changes as the Committee finds appropriate, with a DO PASS. Let it be said that:

**WE JUST SAY NO TO SCOFFLAWS!**

Respectfully submitted,

Robert Klitzkie

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Notes:

- 1 The first sentence of § 1 refers to “certain abortion providers.” Given the civil and criminal sanctions involved, an argument lies that 168-33 is a bill of attainder.
- 2 § 2 of the bill adds a new subsection (q) to 10 GCA § 3218. The proffered subsection (q) is underscored thus in violation of Standing Rules § 6.02.
- 3 § 5 is entitled “Severability.” The section purports to deal with judicial construction of the provisions of the act. However, the provisions of 1 GCA §§ 700 and 721 render § 5 superfluous.
- 4 § 6 of the bill, “Effective date” is likewise superfluous as 1 GCA § 102 specifies the effective date of a statute.
- 5 There are two statutory officers vested with responsibilities under 10 GCA Ch. 3 Art. 2: the Director of Public Health and Social Services and the Registrar of Vital Statistics:

“§ 3202. Supervision. The **Director of Public Health and Social Services** (the Director) has general supervision of vital statistics and is responsible for the implementation of the provisions of this article.

§ 3203. Personnel. The Director shall appoint a **Territorial Registrar of Vital Statistics**, and such other officers and personnel as may be required to carry out the provisions of this article. Such employees shall be members of the classified services of the government of Guam.” [Emphasis supplied.]

- 6 § 3 of the bill amends 10 GCA § 3218.1 (f) by enhancing criminal penalties for “violating this act.” Since (f) deals with criminal law it is more properly placed in Title 9. A substitution of applicable code sections for the ambiguous “this act” would facilitate prosecution of violations.
- 7 2 GCA § 2108 reads in pertinent part: “§ 2108 (a) Any bill introduced, considered or passed by I Liheslaturan Guåhan, or any of its Members, shall not contain **more than one (1) subject** matter, and shall not contain **unrelated subjects** or pertain to **multiple projects**,...” [Emphasis supplied.] Accord: Standing Rules Rule VI § 6.01 (a) which reads in pertinent part: “(a) One Subject Matter. No bill introduced, considered or passed by I Liheslaturan Guåhan (the Guam Legislature), or any of its Members, shall contain **more than one (1) subject matter**, and shall not contain **unrelated subjects** or pertain to **multiple projects**,...”[Emphasis supplied.]

September 11, 2015

Dear Honorable Senators,

I'm writing to you to contribute my comments for your consideration as you weigh the potential impact of Bill 168-33 on this island community if it should become law.

Years ago, my mother, my aunts, my godmother, my grandmother faced the possibility that they might be forced to have a child whether or not they wanted one, or whether it was a risk to have one. It didn't matter if they were raped, if their birth control failed, if carrying a child to term meant that their health would suffer. It was illegal to terminate their pregnancy, regardless of how the pregnancy began and regardless of the danger. Many women were so desperate to end their pregnancy, they lost their lives as a result of their efforts. I'm so grateful that I can have the family that I want thanks to the U.S. Supreme Court decision on Roe vs. Wade. I'm able to have a safe, legal, private procedure at a doctor's office if I need to end a pregnancy at no risk to my life — that's not the case in many countries. In Paraguay, an 11-year-old girl was recently forced to give birth after a family friend raped her because of strict abortion bans. Our women and our girls are protected from this type of scenario.

My ability to make a healthy reproductive choice relies on my doctor's abilities, abilities that would be restricted by Bill 168-33. Furthermore, the stigma against abortion, reinforced by bills like Bill 168-33, is another barrier to women's health.

If I should need an abortion here in Guam, my doctor must ask me a set of questions. If I'm not comfortable answering any of them, I must do so anyway. Right now, if I refuse to answer questions that I feel are invasive, my doctor risks a misdemeanor charge because my answers won't be included on a report. If it becomes a law, Bill 168-33 would make the risk so much higher for my doctor if I don't answer these invasive questions. I'm forced to provide personal information not just about my health, but about my education and my marital status. My answers go into a report that doesn't seem to benefit the overall health of women or their families. These reports don't influence the creation of policy that would prevent the need for abortion, such as comprehensive sex education that includes information about birth control and consent; enhanced, fully-funded support services for foster families; or increased access to affordable birth control. The bill doesn't explain why this data is so necessary that its absence would risk the career of my doctor and my life.

The stigma of abortion is so great that any kind of identifying information women provide would be a risk to their privacy. I've heard anecdotes about women here in Guam being shamed, of being scorned by their family members because of their choice. The very idea of abortion raises the hackles of many concerned individuals who would use the language of shame to condemn bad behavior instead of empathize with a suffering woman. I hope these women, who I trust have good reasons for seeking this kind of care, I hope they know there's someone out there that understands that they did what they needed to do. I hope you can be advocates for people who need support during a

difficult time. I hope you will open the doors to good, legal healthcare instead of create barriers.

Motherhood is a privilege that has blessed so many women. However, motherhood is not in the cards for everyone. Women have different dreams and stories — some of us can't be moms for so many unique, individual reasons, reasons that we shouldn't have to report to anyone. That's our right and it's a right that should be protected. We should not have to sacrifice our dignity or be shamed for our sexuality because we can't have kids. Our doctors shouldn't risk their careers caring for us.

Data that comes from a questionnaire given to women who abort provides insight into the issues that lead women to need the procedure. Data can reveal the root causes and deeper socio-economic disparities that lead women to make these decisions. Though valuable, this data collection should not be mandatory. Its absence should not threaten a medical professional's career or ability to perform a vital operation.

Our island is already suffering from a limited health care system. If it becomes law, Bill 168-33 would make it so much more difficult to undergo a life-saving procedure safely and legally.

Sincerely,

Dance Aoki  
Ipan, Talofoto

Maria G. P. Espinoza  
P.O. Box 4910  
Hagatna, Guam 96932  
[espinozamp@gmail.com](mailto:espinozamp@gmail.com)

September 11, 2015

Congressman Frank B. Aguon, Jr. and  
Congressman Dennis G. Rodriguez, Jr.

I write this testimony in support of Bill 168-33; however,

After **reviewing 3218 in its entirety**, I would like to make an observation and recommendation:

My Observation of is that sub-section (m) and (n) both refer to partial birth abortions which are illegal, according to Title 10, Chapter 91A, the Partial-Birth Abortion Ban Act of 2008. I feel that it would be most appropriate to preface that fact before subsections (m) and (n).

Subsection (m) states that, " The Office of Vital Statistics shall compile and retain all partial birth abortion reports it receives under this Section and collate and evaluate all data gathered therefrom, and shall annually publish a statistical report based on such data from partial-birth abortions performed in the previous calendar year no later than January 31st of the following calendar.

Sub-section (n) The Office of Vital Statistics shall make available to physicians performing partial-birth abortions on Guam and the Guam Board of Medical Examiners forms for partial-birth abortion reports.

After **reviewing 3218.1 in its entirety**, I notice that (b), (2), (F) states that,

her "she is free to withhold or withdraw her consent to the abortion at any time without affecting right to future care or treatment and without the loss of any locally or federally funded benefits to which she might otherwise be entitled."

Because abortion is a personal choice and not a mandate, I feel that the Government of Guam should not fund such an elective procedure. A research should be done to identify whether MIP or Medicaid funds have been used to pay for any abortions and, if so, I would like to recommend that, if not in the context of Bill 168-33, then a separate, follow-up bill will be introduced to de-fund abortions on Guam.

I thank you for giving me this opportunity to express my views.

Sincerely,

Maria G. P. Espinoza



## Bill 168-33: The Abortion Act

1 message

Janna Fernandez <janna.fernandez@gmail.com>

Tue, Sep 8, 2015 at 11:27 AM

To: senatordrodriguez@gmail.com, aguon4guam@gmail.com

Cc: speaker@judiwonpat.com, senatorunderwood@guamlegislature.org, marycamachotorres@gmail.com

Hafa Adai Senator Rodriguez and Senator Aguon,

My only question, is what issue is Bill 168-33 trying to solve. Reporting requirements are already in place, as well as the requirement to wait 24-hours after the initial consultation where the physician walks his patient through an educational pamphlet that dramatizes that growth of a fetus. It's clear that even this pamphlet intends to guilt the mother into foregoing the procedure. However, a few months ago the media reported that abortion rates had risen after that law was in place. In this pamphlet, there's even a section reminding women about the rights and responsibility of the "male" in the situation, and God know just how effective that can be.

Back to my question, what issue will Bill 168-33 resolve? Is it an attempt to put pressure on the physicians and hinder their ability to provide such a valuable service to women?

Do you believe women make the choice to put their bodies through such a traumatic procedure, for fun? Is that what lawmakers believe when a woman decides that a baby is not right for her or her family at the time? Maybe she cannot handle the financial responsibility to provide her baby with the best care, maybe she cannot and will not bring a child into a bad relationship, maybe she is not ready to see her body transform into a life-bearing vessel, or she is not capable of loving a child the way she wants too, despite what society tells us about maternal instinct being "natural." Whatever her choice is, let her make it.

This Bill is just another roadblock, another useless, haphazard solution for something that isn't really an issue right now. You are preventing women from accessing such a necessary service.

What we need to focus on is making healthcare more affordable for women—pre cancer screenings, HPV Vaccines, yearly mammograms as early as 22 years old, and STD screenings on a yearly basis.

The legislature needs to start funding programs with a realistic approach to sexual education class in our schools, as opposed to preaching abstinence. There should be a law that prevents businesses from making condoms so difficult to purchase (aka, behind counters, or locked in shelves...) better yet, more free contraceptives should be available. Sex is so publicly shamed here on our island—so asking a clerk to unlock the condom vault is just something our youth and young adults are too afraid to do. Even now, at 26 years old, I am ashamed having to ask to purchase condoms to ensure that I stay protected.

Although I respect your authority and work as senators, MEN really need to stop directing the female journey, and start empowering them to make the best choices they need to make. I am asking for the women of our legislature to stand up for those of us you represent. You represent all the young women who are learning to make choices that best suit them—despite the pressure men continue to put on them. Let this choice be accessible to them.

I would like to share the following excerpt from a friend's Facebook post about this issue, her message to all women:

You deserve respect. You deserve someone to fight for you. Sen. Aguon doesn't believe you deserve that, he doesn't trust you to make an informed decision about your health. Sen. Aguon doesn't want to make sure you have access to safe, legal health care, he wants to take that access away from you. That's what his bill would do. If the bill passes, Gov. Calvo will sign it into law.

To the women that surround me: you deserve to have the family you want. That is called reproductive justice. You have the right to have the family that you want. Abortion is not taboo. Abortion is not evil. If you need one, you should get one and it will not diminish your value as a woman, as a human. Your privacy deserves respect.



Sincerely and with the utmost respect,

Janna B. Fernandez

**Janna B. Fernandez**

(671) 685-5275

*janna.fernandez@gmail.com*

*"Do the best you can, until you know better. Then when you know better, do better."- Maya Angelou*

Timothy J. Rohr  
The Esperansa Project  
P.O. Box 9001, Agat, GU 96928  
[timrohr.guam@gmail.com](mailto:timrohr.guam@gmail.com)

May 4, 2016

Honorable Dennis G. Rodriguez, Jr.  
Suite 107  
176 Serenu Ave.  
Tamuning, GU 96931  
[senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com)  
Committee on Health, Economic Development, Homeland Security, and Senior Citizens.

**RE: TESTIMONY IN SUPPORT OF BILL NO. 168-33 (COR) AS SUBSTITUTED BY THE AUTHOR, INTRODUCED BY SEN. FRANK B. AGUON, JR.**

As a society, we normally take great care in obtaining, collating, reporting, and analyzing data relative to many aspects of our lives especially in matters wherein public health is concerned.

Careless attention to data collection impairs attempts to address our ills whatever they may be. There is little question then that responsible social policy requires reliable data, and this is what Bill No.168-33, as substituted by the author, is aimed at.

Despite the continuing moral controversy over the issue of direct abortion, few would deny that the intentional termination of a pregnancy is evidence of something gone wrong - be it economic lack, psychological stress, or as we saw in the investigation into the Blue House case, abortion employed as means to assist in the coverup of a sex-trafficking criminal enterprise.

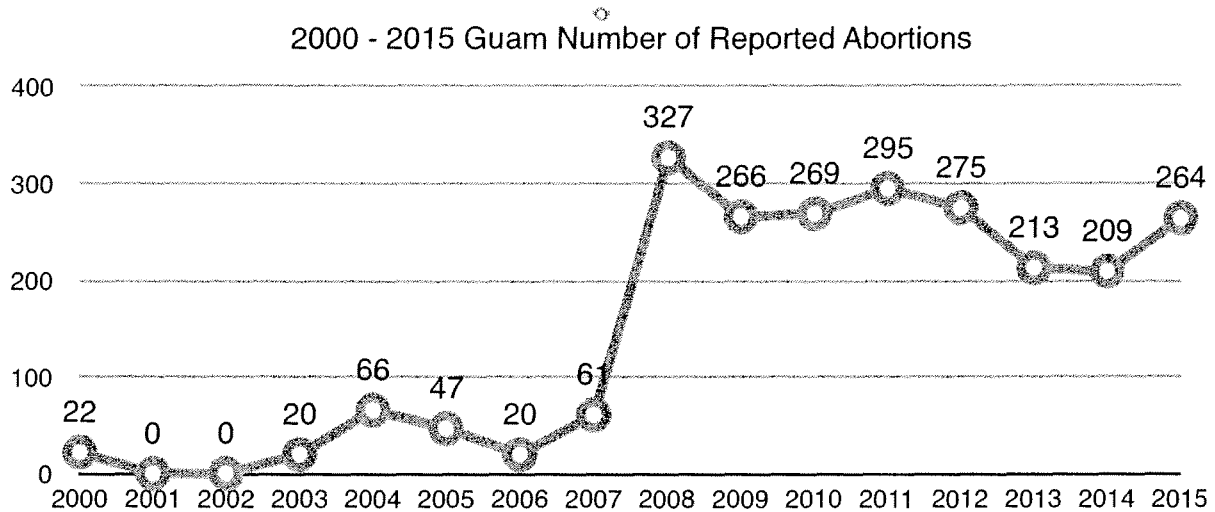
This is why, as a community, we continue to attempt to address the issue of preventing unwanted pregnancies on a multitude of levels. Despite our efforts, however, our abortion rate continues to average nearly one termination per day with nearly 8% of pregnancies ending in abortion.

(Based on 263 abortions reported in 2015 versus an estimated 3300 live births.)

**ABORTION REPORTING PROBLEM**

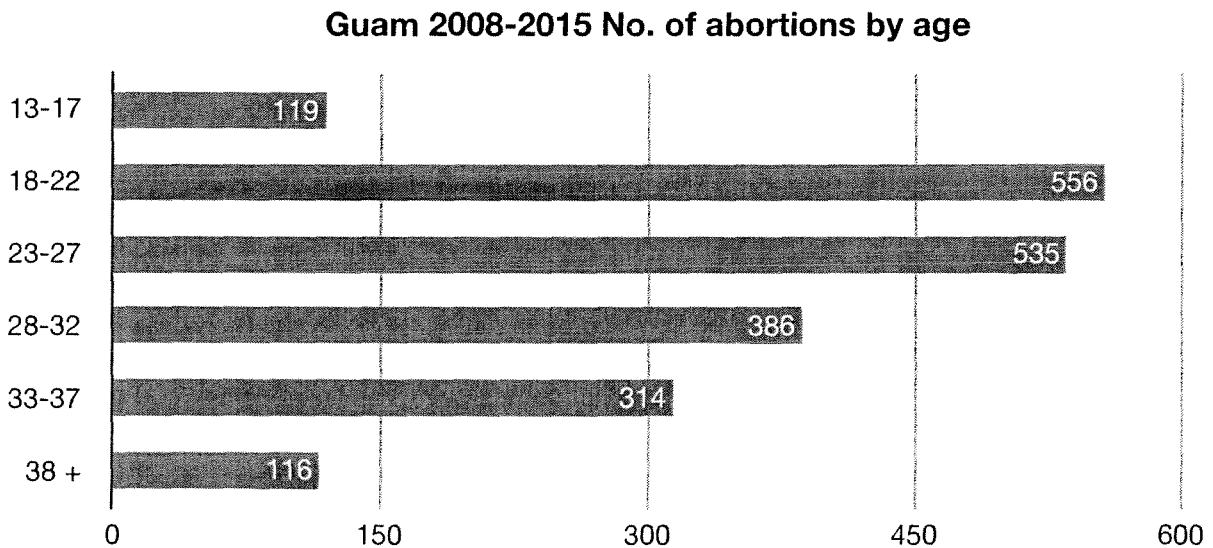
While Guam has had an abortion reporting law on the books since 1994, abortion reporting was spotty prior to 2008 due to lack of enforcement. In that year, Public Law 29-115 was enacted banning a particular abortion procedure known as partial birth abortion, and in the same law a penalty was included for violating the abortion reporting law as found in 10 GCA §3218.

The enactment of P.L. 29-115 - though it was largely unenforceable - at least encouraged more complete reporting from the abortion providers as the following chart demonstrates.



Source: Guam Medical Records 2000-2014; DPHHS 2014-2015.

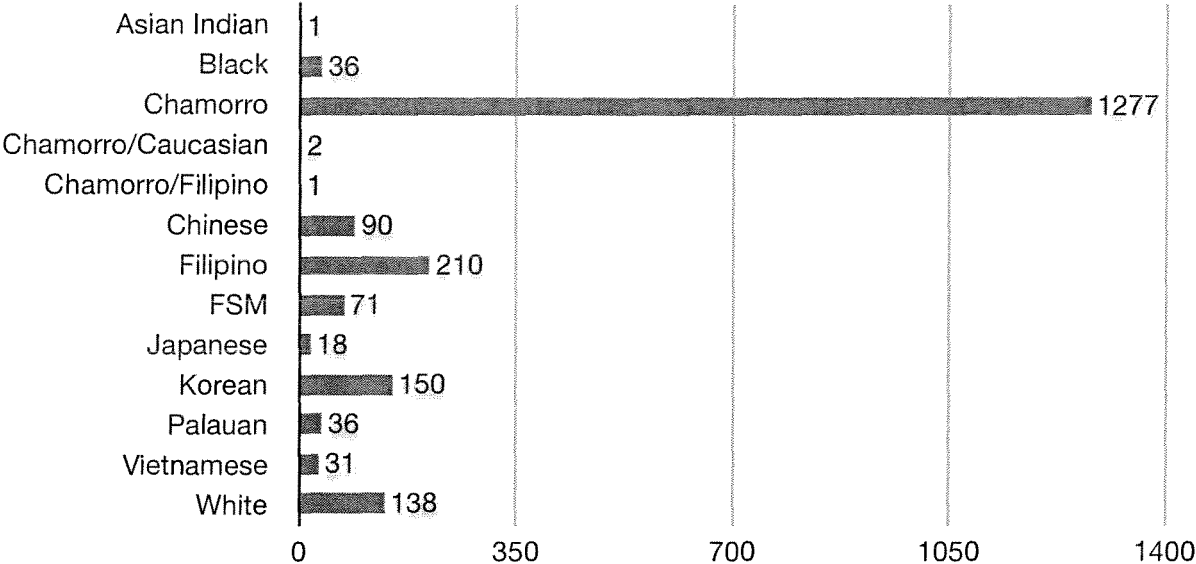
One example of how more complete abortion reporting would help our society address the abortion rate is the requirement to report the **age of the mother**. In the past it was commonly thought that abortion was largely a teen problem and thus our efforts have been focused on increased sex education in schools and the promotion of birth control. However, since the enactment of P.L. 29-115, we have seen that teenagers of school age are the least likely age group to procure an abortion. As this chart shows, of the more than 2000 abortions reported since 2008, mothers below the age of 18 procured less than 6% of the total abortions.



Source: Guam Medical Records 2000-2014; DPHHS 2014-2015.

Another useful data item is the **ethnicity of the mothers**. Prior to 2008, it was believed that abortion was not a local problem, especially since the local culture is so strongly Catholic. However, the evidence shows otherwise. Since 2008, while the 2010 census shows that the Chamorro population makes up only 37% of Guam's population, over 61% of abortions have been procured by women identifying their ethnicity as Chamorro.

**Guam 2008-2015 No. of abortions by ethnicity**



Source: Guam Medical Records 2000-2014; DPHHS 2014-2015.

Since most agree that abortion is not the desired outcome of pregnancy, this data indicates where help and resources might be directed. This also demonstrates that without reliable data, not only might our resources be misdirected, mothers seeking help may well be overlooked.

**GESTATIONAL AGE REQUIREMENT**

On December 29, 2014, Bill No. 412-32 was signed into law as P.L. 32-217. The new law required the abortion reporting law to be amended to include GESTATIONAL AGE as one of the abortion reporting data requirements. As per Section 4 of the bill, the law was to take effect THIRTY days after enactment, or on January 28, 2015.

This means that Gestational Age should have been reported by the abortion providers for at least ELEVEN months of 2015. However, the 2015 Abortion Report as produced by the Department of Public Health and Social Services, Office of Vital Statistics, on March 17, 2016 (ATTACHED) does not show this category.

I was advised that the reason Gestational Age was not reported was because the Office of Vital Statistics did not provide the proper form to the abortion providers. However, there is nothing in the abortion reporting law requiring OVS to provide a form to the providers.

Per 10 GCA § 3218(a), the law, as written, requires an individual abortion report to be completed by the mother's attending physician and then transmitted directly to OVS. The report requires the inclusion of 25 data points, with number 25 being **Gestational Age** as of January 28, 2015. Subsection (e) further requires OVS to "*publish an annual report based on such data from abortions performed in the previous calendar year.*"

The absence of Gestational Age data from the 2015 report is evidence that either the abortion providers did not comply with the law for ELEVEN months of 2015, or OVS chose not to include Gestational Age in the publication of its annual report.

Upon further investigation into the absence of Gestational Age as a category in the 2015 annual report as well as much missing data on the reports of previous years, it became evident that there was need for a measure to provide "*reporting mechanisms to better ensure enforcement*" and to "*increase compliance.*" (Per Section 1. Legislative Findings and Intent, Bill 168-33)

Bill 168-33 seeks to address this need and once enacted into law, will facilitate access to more complete data so that we might better address the need of mothers who find themselves with an unwanted pregnancy and do a better job of preventing them in the future.

Department of Public Health Social Services, Office of Vital Statistics  
2015 Abortion Report

2. FACILITY		4. PLACE OF RESIDENCE		7. PATIENT'S ETHNIC ORIGIN		7. MARITAL STATUS		11. NUMBER OF PREVIOUS INDUCED ABORTIONS		13. YEAR LAST LIVE BIRTH		15. MONTH LAST MENSTRUAL (LMP)		20. TYPE OF PROCEDURE DONE AFTER ABORTION		* Data Entered Only If Complications occurred	
GMHA	1	Agana	24	Asian Indian	1	Married	47			1997	1	Jan	26	Vaginal IUS	201		
Guam Polyclinic	200	Agana Heights	2	Black	5	Single	213			1998	1	Feb	19	Blood Transfusion	0		
Women's Clinic	62	Agat	6	Chamorro	160	Divorced	2			2001	1	Mar	26	Vacuum D&C	1		
Total	263	Barrigada	16	Chamorro/Cauc	2	Widowed	0	0	192	2003	3	Apr	20	Administered RU486	1		
TYPE OF ABORTION		Chalan Pago	1	Chamorro/Filipin	1	NP	1	1	39	2004	2	May	19	None	60		
Therapeutic	1	ComNavMar	6	Chinese	8	Total	263	2	18	2005	4	Jun	24	NP	0		
Voluntary Termination	261	Dededo	44	Chuukese	2	9. HIGHEST EDUCATION		3	8	2006	3	Jul	28	Total	263		
Partial-Birth Abortion & Certification	0	Harmon	6	Filipino	33	College Grad	12	4	2	2008	3	Aug	27	21. FAMILY PLANNING			
NP	1	Inarajan	1	FSM	6	College	21	5	1	2009	13	Sep	17	BCP	188		
Total	263	Maite	1	Japanese	4	HS Grad	91	6	2	2010	7	Oct	23	BCP & Condom	1		
3. DATE OF ABORTION (month)		Mangilao	14	Korean	8	HS-12	98	7	1	2011	12	Nov	16	BCP or BTL	4		
Jan	19	Merizo	1	Palauan	8	HS-11		8	0	2012	15	Dec	17	BCP OR DEPO	2		
Feb	9	Mongmong	3	Native American	1	HS-10		9	0	2013	16	NP	1	BTL	45		
Mar	31	Ordof	4	White	21	HS-9		10	0	2014	16	Total	263	BTL or BCP	1		
Apr	23	Piti	1	Marshalles	1	Middle School		NP	0	2015	8	17. BLOOD TYPE		BTL OR DEPO	2		
May	22	Santa Rita	3	96923	1	8th	21			NP	73	Positive	254	BTL or IUD	1		
Jun	25	Sinajana	2	96929	1	7th				NA	85	Negative	4	Condom	1		
Jul	17	Talofofo	4	TOTAL	263	6th	4	12. YEAR OF LAST ABORTION		Total	263	NP	5	Condom & BCP	2		
Aug	25	Tamuning	44	8. PREVIOUS PREGNANCIES		Not Provided	16	2000	1	14. METHOD OF CONTRACEPTION		Total	263	Depo	1		
Sep	26	Tumon	1	0	68	Total	263	2001	1	Condom	10	18. ABORTION PROCEDURES		Condom & BCP	2		
Oct	28	USAF	1	1	56	10. # OF LIVING CHILDREN		2005	1	Depo	1	Aspiration	0	Depo	1		
Nov	18	Yigo	25	2	47	0	86	2007	1	Herbal	5	D&E	11	Foam & Condom	1		
Dec	20	Yona	3	3	43	1	68	2008	4	Pill	3	D&E & Vacuum	2	IUD	11		
Total	263	GNAI	2	4	15	2	51	2009	3	Rhythm	17	Methotrexate	0	Tubal Ligation	3		
Younger than 13	0	Marshalls Isl	1	5	12	3	30	2010	9	Spermicide	0	RU 486	1	Grand Total	263		
13-17	5	Belau	4	6	5	4	12	2011	8	None	218	22. ADDITIONAL COUNSELING		263			
18-22	69	FSM	1	7	8	5	11	2012	15	Saline Solution	3	STL	2				
23-27	79	Japan	1	8	5	6	3	2013	8	Vacuum & D&C	186	Condom	199				
28-32	49	Korea	2	9	1	7	1	2014	11	Suction Curettage	60	Condom & Abstinence	1				
33-37	35	Philippines	1	10	1	8	0	2015	9	Thoracentesis/ Digoxin	0	Infection Prevention	61				
38 and Older	25	2703	1	11	1	9	1	NP	0	Total	263	Total	263				
NP	1	23435	1	NP	1	10	0	NA	192	16. MEDICAL CONDITION AT THE		19. COMPLICATIONS (IF ANY)					
Total	263	39501	1	Total	263	NP	0	Diabetic	1	a) During Procedure-None	262	a) During Procedure-None	262				
		96814	1	Total	263			Fine	58	b) IUD	1	b) IUD	1				
		96913	4					Rheumatic Heart Disease	1	Total	263	Total	263				
		96915	7					Satisfactory	202	B) Post Abortion -None	262	B) Post Abortion -None	262				
		96920	1					Chronic Hypertension- Referred to Internist	1	b) Separate Uterus	1	b) Separate Uterus	1				
		96921	7					Total	263	Total	263	Total	263				
		96923	1														
		96929	6														
		96931	1														
		96932	3														
		96951	1														
		NP	3														
		Total	263														

Source: DPHSS Office of Vital Statistics as of February 2, 2016.mls

Certified by:  
*Carolyn R. Garrido*  
CAROLYN R. GARRIDO

Date: 3-17-16



## COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature

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MAJORITY LEADER

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Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

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Senator  
Nerissa Bretania Underwood  
Member

V. Anthony Ada  
MINORITY LEADER

Mary C. Torres  
MINORITY MEMBER

September 2, 2015

**VIA E-MAIL**

[joey.calvo@bbmr.guam.gov](mailto:joey.calvo@bbmr.guam.gov)

**Jose S. Calvo**  
**Director**  
**Bureau of Budget & Management Research**  
**P.O. Box 2950**  
**Hagåtña, Guam 96910**

**RE: Request for Fiscal Notes – Bill Nos. 165-33(LS) through 170-33(COR)**

*Hafa Adai* Mr. Calvo:

Transmitted herewith is a listing of *I Mina'trentai Tres 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,

**Senator Rory J. Respicio**  
*Chairperson of the Committee on Rules*

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
165-33 (LS)	Dennis G. Rodriguez, Jr. R. J. Respicio Tommy Morrison	AN ACT TO CREATE THE GUAM BUREAU OF HEALTH PLANNING AND DEVELOPMENT (GBHPD) UNDER THE OFFICE OF THE GOVERNOR, AND TO TRANSFER THE HEALTH PROFESSIONAL LICENSING OFFICE TO GBHPD, ESTABLISH SPECIAL FUNDS, BY ADDING A NEW ARTICLE 11 TO CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED.
166-33 (LS)	Dennis G. Rodriguez, Jr.	AN ACT TO REPEAL AND REENACT § 103120 OF CHAPTER 103, TITLE 11, GUAM CODE ANNOTATED, AND TO AMEND § 15110 OF ARTICLE 1, CHAPTER 15, TITLE 22, GUAM CODE ANNOTATED, FOR THE PURPOSE OF REESTABLISHING AND FUNDING THE BANKING AND INSURANCE ENFORCEMENT FUND, AND THEREBY FACILITATING HEALTH INSURANCE REFORM PRACTICES.
167-33 (LS)	Dennis G. Rodriguez, Jr.	AN ACT ADD NEW §§ 103121 AND 103122 TO CHAPTER 103 OF TITLE 11, GUAM CODE ANNOTATED, TO PROVIDE UNDER GUAM LAW, THE EQUIVALENT STATUTORY APPLICATION OF SECTION 2794 [RATE REVIEW] AND SECTION 2718 [MEDICAL LOSS RATIO] OF THE UNITED STATES PUBLIC HEALTH SERVICE ACT, AS PROVIDED PURSUANT TO THE PATIENT PROTECTION & AFFORDABLE CARE ACT.
168-33 (COR)	FRANK B. AGUON, JR. Dennis G. Rodriguez, Jr.	AN ACT TO ADD A NEW SUBSECTION (q) TO § 3218, AMEND SUBSECTIONS (f) AND (g) OF § 3218.1, AND ADD A NEW SUBSECTION (h) TO § 3218.1, ALL OF ARTICLE 2, CHAPTER 3, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE PENALTIES FOR NON-COMPLIANCE AND ADDING REPORTING MECHANISMS TO BETTER ENSURE ENFORCEMENT.
169-33 (COR)	Judith T. Won Pat, Ed.D. N. B. Underwood, Ph.D.	AN ACT TO AMEND SECTION 18(i) OF PUBLIC LAW 31-277 AND ITEM (q)(1) OF SECTION 22425 OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO APPROVING LEASE-LEASEBACK AGREEMENTS BETWEEN THE UNIVERSITY OF GUAM AND THE UNIVERSITY OF GUAM ENDOWMENT FOUNDATION FOR THE CONSTRUCTION OF THE STUDENT SERVICES CENTER AND ENGINEERING ANNEX AT THE UNIVERSITY OF GUAM.
170-33 (COR)	T. R. Muña Barnes V. Anthony Ada B. T. McCreddie Dennis G. Rodriguez, Jr.	AN ACT TO AUTHORIZE THE DEPARTMENT OF INTERGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES (DISID) TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE GUAM TRADES ACADEMY FOR THE CONSTRUCTION OF THE GUAM REGIONAL WORKFORCE TRAINING AND DEVELOPMENT CENTER.





# COMMITTEE ON RULES

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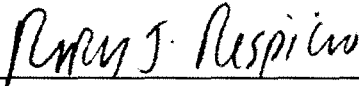
Mary C. Torres  
MINORITY MEMBER

## 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. 168-33(COR) –FRANK B. AGUON, JR., Dennis G. Rodriguez, Jr., “AN ACT TO ADD A NEW SUBSECTION (q) TO § 3218, AMEND SUBSECTIONS (f) AND (g) OF § 3218.1, AND ADD A NEW SUBSECTION (h) TO § 3218.1, ALL OF ARTICLE 2, CHAPTER 3, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE PENALTIES FOR NON-COMPLIANCE AND ADDING REPORTING MECHANISMS TO BETTER ENSURE ENFORCEMENT.”**– on September 2, 2015. COR hereby certifies that BBMR confirmed receipt of this request September 3, 2015 at 7:59 A.M.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 168-33(COR) to be included in the committee report on said bill, is hereby waived.**

Certified by:

  
**Senator Rory J. Respicio**  
*Chairperson of the Committee on Rules*

June 16, 2016  
Date



## COMMITTEE ON RULES

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MINORITY LEADER

Mary C. Torres  
MINORITY MEMBER

September 2, 2015

### MEMORANDUM

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

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

**Subject:** **Referral of Bill No. 168-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 168-33(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 Tres Na Liheslaturan Guåhan*.

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

*Si Yu'os Ma'åse!*

Attachment

*I Mina'Trentai Tres Na Liheslaturan Received*  
**Bill Log Sheet**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
168-33 (COR)	FRANK B. AGUON, JR. Dennis G. Rodriguez, Jr.	AN ACT TO ADD A NEW SUBSECTION (q) TO § 3218, AMEND SUBSECTIONS (f) AND (g) OF § 3218.1, AND ADD A NEW SUBSECTION (h) TO § 3218.1, ALL OF ARTICLE 2, CHAPTER 3, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE PENALTIES FOR NON-COMPLIANCE AND ADDING REPORTING MECHANISMS TO BETTER ENSURE ENFORCEMENT.	08/31/15 10:42 a.m.	09/02/15	Committee on Health, Economic Development, Homeland Security, and Senior Citizens			



John Luces <johnluces@toduguan.com>

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## FIRST NOTICE OF PUBLIC HEARINGS on Friday, Sept. 11, 2015

1 message

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Joe Mesngon <joe@toduguan.com>

Wed, Sep 2, 2015 at 3:40 PM

To: phnotice@guamlegislature.org

September 2, 2015

### MEMORANDUM

To: All Senators

From: Senator Dennis G. Rodriguez, Jr.

Subject: FIRST NOTICE of PUBLIC HEARINGS

Hafa Adai!

The Committee on Health, Economic Development, Homeland Security and Senior Citizens will conduct a hearing on Friday, September 11, 2015 at the Public Hearing Room of I Liheslatura.

The Committee will hear and accept testimony on the following:

#### 9am

- The Executive appointment of Ms. Sharon Davis as a Member of the Guam Memorial Hospital Authority Board of Trustees.
- **Bill No. 72-33 (COR) - D.G. Rodriguez, Jr.**- An act to *amend* Section 9(c) of Public Law 32-054, relative to requiring that the National Clinical Mental Health Counselor Exams for licensure Mental Health Counselor.
- **Bill No. 168-33 (COR) - F.B. Aguon, Jr. / D.G. Rodriguez, Jr.**- An act to add a new subsection (q) to § 3218, amend subsections (f) and (g) of § 3218.1, and add a new subsection (h) to § 3218.1, all of article 2, chapter 3, title 10, Guam Code Annotated, relative to increasing the penalties for non-compliance and adding reporting mechanisms to better ensure enforcement.

#### 10:30am

- Status Hearing with Guam Economic Development Authority to provide an update on the Hotel Occupancy Tax Bond Projects: Guam Museum construction and Flood Mitigation project in Tumon.

#### 2pm

- **Bill No. 143-33 (COR) - D.G. Rodriguez, Jr. / J.T. Won Pat, Ed.D. / R.J. Respicio / T.R. Muña Barnes / B.T. McCreadie / V.A. Ada / B.J.F. Cruz / T. Morrison / N.B. Underwood, Ph.D.**- An act to *amend* §77302 of Article 3, Chapter 77 and §§ 90105, 90107, 90109, and 90114 of Chapter 90, both of Title 10, Guam Code Annotated and to *add* a new §§ 9010.1 and 90109.2 to Chapter 90, Title 10, Guam Code Annotated, relative to expanding the Natasha Protection Act of 2005 to smoking regulation; providing increased enforcement; and providing for enforcement training.

Individuals who wish to submit written testimony may address: Sen. Dennis G. Rodriguez, Jr., Chairman, and send to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com) or deliver to 176 Serenu Ave. Suite 107 Tamuning, Guam or the Legislature's Mailroom at 155 Hesler Pl. Hagatna, Guam.

Individuals who may require special accommodations are asked to contact 649-8638/0511 no later than 48 hours prior to the hearing.

Si Yu'os Ma'ase!

## **Joseph A. Q. Mesngon**

Office of Senator Dennis G. Rodriguez, Jr.  
Committee on Health, Economic Development,  
Homeland Security and Senior Citizens  
*I Mina'trentai Tres Na Libeslaturan Guahan*  
33rd Guam Legislature  
176 Serenu Ave. Suite 107  
Tamuning, Guam 96931  
649-8638/0511  
[www.toduguam.com](http://www.toduguam.com)



John Luces <johnluces@toduguam.com>

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## SECOND NOTICE of Public Hearing, Friday, Sept. 11, 2015

1 message

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Joe Mesngon <joe@toduguam.com>

Tue, Sep 8, 2015 at 8:36 PM

To: phnotice@guamlegislature.org

September 8, 2015

### MEMORANDUM

To: All Senators, media & members of the public

From: Senator Dennis G. Rodriguez, Jr.

Subject: SECOND NOTICE of Public Hearing

Hafa Adai!

The Committee on Health, Economic Development, Homeland Security and Senior Citizens will conduct a hearing on Friday, September 11, 2015 at the Public Hearing Room of I Liheslatura.

The Committee will hear and accept testimony on the following:

#### 9am

- The Executive appointment of Ms. Sharon Davis as a Member of the Guam Memorial Hospital Authority Board of Trustees.
- **Bill No. 72-33 (COR) - D.G. Rodriguez, Jr.**- An act to *amend* Section 9(c) of Public Law 32-054, relative to requiring that the National Clinical Mental Health Counselor Exams for licensure Mental Health Counselor.
- **Bill No. 168-33 (COR) - F.B. Aguon, Jr. / D.G. Rodriguez, Jr.**- An act to add a new subsection (q) to § 3218, amend subsections (f) and (g) of § 3218.1, and add a new subsection (h) to § 3218.1, all of article 2, chapter 3, title 10, Guam Code Annotated, relative to increasing the penalties for non-compliance and adding reporting mechanisms to better ensure enforcement.

#### 10:30am

- Status Hearing with Guam Economic Development Authority to provide an update on the Hotel Occupancy Tax Bond Projects: Guam Museum construction and Flood Mitigation project in Tumon.

#### 2pm

- **Bill No. 143-33 (COR) - D.G. Rodriguez, Jr. / J.T. Won Pat, Ed.D. / R.J. Respicio / T.R. Muña Barnes / B.T. McCreadie / V.A. Ada / B.J.F. Cruz / T. Morrison / N.B. Underwood, Ph.D.**- An act to *amend* §77302 of Article 3, Chapter 77 and §§ 90105, 90107, 90109, and 90114 of Chapter 90, both of Title 10, Guam Code Annotated and to *add* a new §§ 9010.1 and 90109.2 to Chapter 90, Title 10, Guam Code Annotated, relative to expanding the Natasha Protection Act of 2005 to smoking regulation; providing increased enforcement; and providing for enforcement training.

Individuals who wish to submit written testimony may address: Sen. Dennis G. Rodriguez, Jr., Chairman, and send to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com) or deliver to 176 Serenu Ave. Suite 107 Tamuning, Guam or the Legislature's Mailroom at 155 Hesler Pl. Hagatna, Guam.

Individuals who may require special accommodations are asked to contact 649-8638/0511 no later than 48 hours prior to the hearing.

Si Yu'os Ma'ase!

**Joseph A. Q. Mesngon**

Office of Senator Dennis G. Rodriguez, Jr.  
Committee on Health, Economic Development,  
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**Joseph A. Q. Mesngon**

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John Luces <johnluc@toduguan.com>

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## FIRST NOTICE of PUBLIC HEARING on Wednesday, May 4, 2016 at 2pm

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John Luces <johnluc@toduguan.com>  
To: phnotice@guamlegislature.org

Tue, Apr 26, 2016 at 5:04 PM

April 26, 2016

### MEMORANDUM

To: All Senators, Stakeholders and Media

From: Sen. Dennis G. Rodriguez, Jr.

Subject: FIRST NOTICE of PUBLIC HEARING on Wednesday, May 4, 2016

Hafa Adai!

The Committee on Health, Economic Development, Homeland Security and Senior Citizens will conduct a Public Hearing at 2pm on Wednesday, May 4, 2016 in the Guam Legislature's Public Hearing Room.

The Committee will accept oral and written testimony on:

**\*Bill No. 297-33 (COR)** - Introduced by Sen. D.G. Rodriguez, Jr.

An Act to add a new § 3107.1 to Article 1 of Chapter 3, Title 10, Guam Code Annotated, mandating the promulgation of a fee schedule for services provided to clients of the family planning program, and to establish an interim fee schedule by authorizing and adopting the fee schedule of the Regional Community Health centers.

**\*Bill No. 168-33 (COR)**- As substituted by the Author, Introduced by Sen. Frank B. Aguon, Jr.

An Act to add items (5) through (11) to subsection (a) of Subsection 3208, to amend subsections (a), (c), (e), (k), and (m) of Subsection 3218, all of Article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new Subsection 55.65, to Chapter 55, Title 9, Guam Code Annotated, relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement.

**\*Resolution No. 308-33 (LS)** - Introduced by Sen. D.G. Rodriguez, Jr.

Relative to encouraging I Maga'lahaen Guahan to pursue the U.S. Department of Homeland Security's inclusion of Vietnam and the Philippines to the Consolidated Natural Resources Act of 2008, the Guam-CNMI Visa Waiver Program and to express the people of Guam's support for such.



Individuals who wish to submit written testimony may address: Sen. Dennis G. Rodriguez, Jr., Chairman, and send via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com) or hand deliver to 176 Serenu Ave. Suite 107 Tamuning, Guam or 155 Hesler Pl. Hagatna, Guam.

Individuals who may require special accommodations are asked to contact the office of Sen. Rodriguez no later than 48 hours prior to the scheduled hearing at 649-8638/0511.

**Si Yu'os Ma'ase'!**

--  
*Si Yu'os Ma'ase'!*

**JOHN DEREK A. LUCES**

**-POLICY ANALYST**

**Office of Senator Dennis G. Rodriguez, Jr.**  
***I Mina'Trentai Tres Na Liheslaturan Guåhan***  
*Chairman,*  
*Committee on Health, Economic Development,*  
*Homeland Security, and Senior Citizens*

*33<sup>rd</sup> Guam Legislature*

**176 Serenu Avenue Suite 107**

**Tamuning, Guam, USA**

**96931**

**Tel: (671) 649-TODU 8638/0511**

**Office Hours: M-F 8:00 A.M. - 5:00 P.M.**

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John Luces <johnluces@toduguam.com>

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## SECOND NOTICE of PUBLIC HEARING on Wednesday, May 4, 2016 at 2pm

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Joe Mesngon <joe@toduguam.com>  
To: phnotice <phnotice@guamlegislature.org>

Mon, May 2, 2016 at 8:08 AM

May 2, 2016

### MEMORANDUM

To: All Senators, Stakeholders and Media

From: Sen. Dennis G. Rodriguez, Jr.

Subject: SECOND NOTICE of PUBLIC HEARING on Wednesday, May 4, 2016

Hafa Adai!

The Committee on Health, Economic Development, Homeland Security and Senior Citizens will conduct a Public Hearing at 2pm on Wednesday, May 4, 2016 in the Guam Legislature's Public Hearing Room.

The Committee will accept oral and written testimony on:

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Individuals who may require special accommodations are asked to contact the office of Sen. Rodriguez no later than 48 hours prior to the scheduled hearing at 649-8638/0511.

**Si Yu'os Ma'ase'!**

## **Joseph A. Q. Mesngon**

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Committee on Health, Economic Development,  
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Public Hearing Notice Listserv  
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Updated: August 31, 2015

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Public Hearing Notice Listserv  
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Updated: August 31, 2015

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## SENATOR DENNIS G. RODRIGUEZ, JR.

### PUBLIC HEARING AGENDA

Friday, September 11, 2015 9am and 2pm Public Hearing Room, *I Liheslatura*

#### I. Call to order

#### II. Items for public consideration:

##### 9:00 A.M.

- The Executive Appointment of Ms. Sharon Davis as a Member of the Guam Memorial Hospital Authority Board of Trustees.
- **Bill No. 168-33 (COR)** – Introduced by F.B. Aguon, Jr. / D.G. Rodriguez, Jr. - An act to add a new subsection (q) to § 3218, amend subsections (f) and (g) of § 3218.1, and add a new subsection (h) to § 3218.1, all of article 2, chapter 3, title 10, Guam Code Annotated, relative to increasing the penalties for non-compliance and adding reporting mechanisms to better ensure enforcement.
- Status Hearing with Guam Economic Development Authority to provide an update on the Hotel Occupancy Tax Bond Projects: Guam Museum construction and Flood Mitigation project in Tumon.

##### 2:00 P.M.

- **Bill No. 143-33 (COR)** – Introduced by D.G. Rodriguez, Jr. / J.T. Won Pat, Ed.D. / R.J. Respicio / T.R. Muña Barnes / B.T. McCreadie / V.A. Ada / B.J.F. Cruz / T. Morrison / N.B. Underwood, Ph.D. - An act to *amend* §77302 of Article 3, Chapter 77 and §§ 90105, 90107, 90109, and 90114 of Chapter 90, both of Title 10, Guam Code Annotated and to *add* a new §§ 9010.1 and 90109.2 to Chapter 90, Title 10, Guam Code Annotated, relative to expanding the Natasha Protection Act of 2005 to smoking regulation; providing increased enforcement; and providing for enforcement training.

#### III. Adjournment

**Thank you for your participation in today's hearing.**





## SENATOR DENNIS G. RODRIGUEZ, JR.

### PUBLIC HEARING AGENDA

Wednesday, May 4, 2016

2:00 pm Public Hearing Room, *I Liheslatura*

- I. Call to order
- II. Items for public consideration:

#### 2:00 P.M.

- **Bill No. 297-33 (COR)** – Introduced by Senator D.G. Rodriguez, Jr. – An Act to add a new § 3107.1 to Article 1 of Chapter 3, Title 10, Guam Code Annotated, mandating the promulgation of a fee schedule for services provided to clients of the family planning program, and to establish an interim fee schedule by authorizing and adopting the fee schedule of the Regional Community Health centers.
- **Bill No. 168-33 (COR)** As Substituted by the Author – Introduced by Senator Frank B. Aguon, Jr. / D.G. Rodriguez, Jr. - An Act to add items (5) through (11) to subsection (a) of Subsection 3208, to amend subsections (a), (c), (e), (k), and (m) of Subsection 3218, all of Article 2, Chapter 3, Title 10, Guam Code Annotated, to add a new Subsection 55.65, to Chapter 55, Title 9, Guam Code Annotated, relative to increasing the penalties for non-compliance by adding reporting mechanisms to better ensure enforcement.
- **Resolution No. 308-33 (LS)** – Introduced by Senator D.G. Rodriguez, Jr. – Relative to encouraging I Maga'lahren Guahan to pursue the U.S. Department of Homeland Security's inclusion of Vietnam and the Philippines to the Consolidated Natural Resources Act of 2008, the Guam-CNMI Visa Waiver Program and to express the people of Guam's support for such.

### III. Adjournment

**Thank you for your participation in today's hearing.**