

FEB 15 2016

The Honorable Judith T. Won Pat, Ed.D.

Speaker

*I Mina' Trentai Tres Na Liheslaturan Guahan*

155 Hesler Place

Hagåtña, Guam 96910

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

RE: Committee Report on As Substituted by the Committee Bill No. 231-33 (LS)

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on *As Substituted by the Committee* Bill No. 231-33 (LS) - "An Act to Add a New Chapter 20 to Title 9, Guam Code Annotated, Relative to Acts of Violence Against an Unborn Child."

Committee votes are as follows:

- 10 TO DO PASS
- 0 TO NOT PASS
- 0 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE

Respectfully,

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

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

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Senator  
FRANK B. AGUON, JR.  
Chairman

Senator  
Thomas C. Ada  
Vice Chairman

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Senator  
Rory J. Respicio  
Member

Senator  
Dennis G. Rodriguez, Jr.  
Member

Senator  
Dr. Nerissa B. Underwood, Ph.D.  
Member

Senator  
V. Anthony Ada  
Member

Senator  
Frank F. Blas Jr.  
Member

Senator  
James V. Espaldon  
Member

Senator  
Brant T. McCreadie  
Member

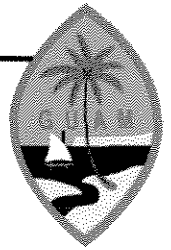
Speaker  
Dr. Judith T. Won Pat, Ed.D.  
Ex-Officio



COMMITTEE ON

Guam U.S Military Relocation | Public Safety | Judiciary

I MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN | 33<sup>RD</sup> GUAM LEGISLATURE



Senator  
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Brant T. McCreadie  
Member

Speaker  
Dr. Judith T. Won Pat, Ed.D.  
Ex-Officio

# COMMITTEE REPORT ON

*AS SUBSTITUTED BY THE COMMITTEE*

**BILL NO. 231-33 (LS)**


**"An Act to Add a New Chapter 20 to Title 9,  
Guam Code Annotated, Relative to Acts of  
Violence Against an Unborn Child."**



February 12, 2016

**MEMORANDUM**

**To:** All Members  
Committee on U.S. Military Relocation, Public Safety and Judiciary

**From:** SENATOR FRANK B. AGUON, JR.   
Committee Chairperson

**Subject:** Committee Report on *as substituted by the Committee* Bill No. 231-33 (LS)

Transmitted herewith for your consideration is the Committee Report on *as substituted by the Committee* Bill No. 231-33 (LS) – “An Act to Add a New Chapter 20 to Title 9, Guam Code Annotated, Relative to Acts of Violence Against an Unborn Child.”

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 231-33 (LS)
- Copy of *as Substituted by the Committee* Bill No. 231-33 (LS)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Copy of COR Referral of Bill No. 231-33(LS)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Related News Reports

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'ase'!*

Senator  
FRANK B. AGUON, JR.  
Chairman

Senator  
Thomas C. Ada  
Vice Chairman

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Senator  
Rory J. Respicio  
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Senator  
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Senator  
Dr. Nerissa B. Underwood, Ph.D.  
Member

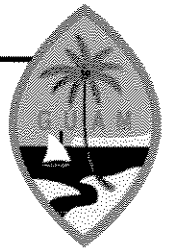
Senator  
V. Anthony Ada  
Member

Senator  
Frank F. Blas Jr.  
Member

Senator  
James V. Espaldon  
Member

Senator  
Brant T. McCreadie  
Member

Speaker  
Dr. Judith T. Won Pat, Ed.D  
Ex-Officio



COMMITTEE VOTING SHEET

Bill No. 231-33 (LS) – As Substituted by the Committee– “An Act to Add a New Chapter 20 to Title 9, Guam Code Annotated, Relative to Acts of Violence Against an Unborn Child.” (Sponsors: F.F. Blas, Jr. / V. A. Ada / J.V. Espaldon / T.A. Morrison / D.G. Rodriguez, Jr. / T. R. Muña Barnes / B.T. McCreadie / T. C. Ada / R. J. Respicio / M.F.Q. San Nicolas / M.C. Torres)

Senator FRANK B. AGUON, JR. Chairman

Senator Thomas C. Ada Vice Chairman

Vice-Speaker Benjamin J.F. Cruz Member

Senator Rory J. Respicio Member

Senator Dennis G. Rodriguez, Jr. Member

Senator Dr. Nerissa B. Underwood, Ph.D. Member

Senator V. Anthony Ada Member

Senator Frank F. Blas Jr. Member

Senator James V. Espaldon Member

Senator Brant T. McCreadie Member

Speaker Dr. Judith T. Won Pat, Ed.D. Ex-Officio

Table with 7 columns: COMMITTEE MEMBERS, SIGNATURE, TO DO PASS, TO NOT PASS, TO REPORT OUT ONLY, TO ABSTAIN, TO PLACE IN INACTIVE FILE. Rows include AGUON, FRANK B. JR., ADA, THOMAS C., VICE-SPEAKER CRUZ, RESPICIO, RORY J., RODRIGUEZ, DENNIS G. JR., UNDERWOOD, NERISSA B. PH.D., ADA, V. ANTHONY, BLAS, FRANK F. JR., ESPALDON, JAMES V., MCCREADIE, BRANT T., and SPEAKER WON PAT.



**COMMITTEE REPORT DIGEST**

Senator  
FRANK B. AGUON, JR.  
Chairman

Senator  
Thomas C. Ada  
Vice Chairman

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Senator  
Rory J. Respicio  
Member

Senator  
Dennis G. Rodriguez, Jr.  
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Senator  
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Senator  
Frank F. Blas Jr.  
Member

Senator  
James V. Espaldon  
Member

Senator  
Brant T. McCreadie  
Member

Speaker  
Dr. Judith T. Won Pat. Ed.D  
Ex-Officio

**I. OVERVIEW**

Bill No. 231-33 (LS) was introduced on January 19, 2016, by Senators F.F Blas, V.A. Ada, J.V. Espaldon, T.A. Morrison, D.G. Rodriguez, Jr., T.R. Muña Barnes, B.T. McCreadie, T.C. Ada, R.J. Respicio, M.F.Q. San Nicolas, and M.C. Torres, and was subsequently referred by the Committee on Rules to the Committee on Guam US Military Relocation, Public Safety and Judiciary on January 19, 2016.

The Committee on Guam US Military Relocation, Public Safety and Judiciary convened a public hearing on Bill No. 231-33 (LS) on a Tuesday, February, 9 2016 at 2:00PM in I *Liheslatura's* Public Hearing Room.

**Public Notice Requirements**

Public Hearing notices were disseminated via e-mail to all senators and all main media broadcasting outlets on Tuesday, February 2, 2016 (5-Day Notice), and again on Friday, February 5, 2016 (48-Hour Notice).

**Senators Present**

Senator Frank B. Aguon, Jr., Chairman  
Senator Frank F. Blas, Jr., Committee Member  
Senator Mary Torres

The public hearing was Called-to-Order at 2:00 PM.

**II. SUMMARY OF TESTIMONY & DISCUSSION**

**Chairman Aguon:**

This public hearing sponsored by the Committee on Guam U.S. Military Relocation, Public Safety and Judiciary is hereby convened. There is one item on the agenda and that's Bill No. 231-33 (LS), which is relative to the acts of violence against an unborn child sponsored by my good colleague the Honorable Frank F. Blas. Just for the information of members of the community in conformance with the public notification open government act, the initial notice for this particular public hearing was disseminated to all the stakeholders as well as to our media partners on the second of February and then the subsequent notice was sent out on the fifth of February.

**Chairman Aguon:**

We will proceed with the recognition of the sponsor of the legislation, I want to thank you senator for joining us this afternoon, and as I provide him the opportunity to share with us a brief explanation of Bill No. 231-33 I would like to invite Senator Bob Klitzkie. Please if you can join us upfront. If there is anyone else in the audience that would like to provide testimony, please I encourage you to sign in at the table. In my left. You. Senator absolutely.

**Senator Frank Blas:**

I believe so. I believe so.

**Chairman Aguon:**

I would also like to recognize Senator Morrison. Thank you Senator Morrison also for joining us this afternoon. Senator Frank Blas on your legislation.

**Senator Frank Blas:**

Thank you Mr. Chair. ... So first off, thank you Mr. Chair and the Committee for bringing this public hearing in a timely manner and I also want to thank my ten colleagues who have joined me in sponsoring this piece of legislation, which is basically. Its an act to add Chapter 20, of Title 9 of the Guam Code Annotated relative to the acts of violence against an unborn child and what this legislation would provide Mr. Chair very simply is the ability to be able to protect that child that has not yet been conceived in the womb of a mother who wants the best and who is trying to provide a safe environment for her child and it provides for punishment if you will for those individuals who commit acts of violent act directed towards either the expected mother or even towards the child itself, the unborn child itself and I appreciate the opportunity to have this discourse with the public and I look forward to the presentations and what I guess here in this case Senator Klitzkie can provide to the conversation. Thank you very much.

**Chairman Aguon:**

Thank you very much Senator Blas. Senator Klitzkie if you can identify yourself for the record and proceed.

**Senator Robert Klitzkie:**

Oh. Excuse me. Try it again with the button turned on. I forgot how to do it already. Yes. I'm Robert Klitzkie, resident of Yigo, resident of Guam. Thank you Mr. Chair. Shall I begin.

**Chairman Aguon:**

Yes, please proceed.

**Senator Robert Klitzkie:**

Mr. Chairman and honorable members of the committee.

**[Written Testimony Attached]**

**Senator Robert Klitzkie:**

...or maybe best describes the constructional infirmity... Renvoi ad infinitum is a Latin term and its like considering an infinity of mirrors. I can demonstrate that. If I have two mirrors here and I look at one mirror. If I hold it just right, I can look at myself looking at myself, looking at myself, looking at myself, looking at myself looking at myself looking at myself in the mirror. That's pretty scary, but I wouldn't recommend. Maybe it would work better for you than it does for me, but that's what Renvoi ad infinitum is. Renvoi means to throw back ...

**[Continued Written Testimony]**

..that a child in utero or an entity in utero. The phrase entity in utero is really much more politically correct than child in utero. So for the rest of my testimony I am going to use child in utero..

**[Continued Written Testimony]**

Thus the description of the Renvoi ad infinitum. Put yourself in the place of a police officer called to a scene of the murder. When forces statute. Mr. X over there killed a child in utero. Okay so where's the child now? Well the child is dead. I'm sorry. I can't prosecute under 1105 because the child has to be born alive or it's a person or vice versa called it a scene. There was a murder. Where is the child? Well the child is right here. Well the child is not dead. Well how can there be a murder if the child is not dead? I think you can understand what I'm saying. This definition wont work in this context...

**[Continued Written Testimony]**

.. after the birth of the child. So if the assault occurs in the fourth month. Can't prosecute until the child is born 5 months later. Of course if a pregnant women had an abortion it would moot out the prosecution all together. So much for Section 1104. 9 GCA Ch. 16 and 19...

**[Continued Written Testimony]**

so that's really in essence what I came to say. You know parenthetically I say the reproductive rates of a women are protected here because no thug or bad person or evil person should cheat a woman out of her right to abort her child in utero. If you're looking at reproductive rights and then I just have a foot note here. The bill has a severability clause and my suspicion is, if I looked around the parking lot long enough, I'd find a severability clause out there because there seems to be this knee jerk reliance on severability clauses. If you were to look at 9 GCA Section 1.12 a severability clause in exactly the same language as is in the bill is included in that title, but in this particular case if you're concerned about severability clauses you might stop and ask yourself, do we want the provisions of this bill to be severable or do we want the entire bill to stand or fall? Examine that question in light of the question, if we were to sever one part of the bill, which part would it be? Thank you very much Mr. Speaker, uh Mr. Chairman.

**Chairman Aguon:**

Thank you very much Senator Klitzkie. I appreciate your testimony this afternoon. Senator Blas.

**Senator Frank Blas:**

Thank you Mr. Chair. Senator Klitzkie, thank you very much sir and I take to heart given the suggestions that you provide here and I understand and I recognize the argument that you bring. I will work with the committee and the Chairman on being able to tighten if you will or ensure that the definition does not come in conflict with what the true intent is of this bill and the true intent is to protect that child while they are in the mother's womb and provide those punishments for the individual, that thug who decides to cause harm to the mother who there by also causing harm to the child and then I want to make sure that that sticks and I appreciate also the comment with the suggestion in regards to severability. You're right and admittedly so that's probably because it seemed to have been more of a norm than the exception of some case. Here this appears to be. This has to be the norm. It can not sever any part of this legislation of this law to truly protect that life that mother would like to see come to fruition. So thank you very much.

**Senator Robert Klitzkie:**

You're Welcome.

**Chairman Aguon:**

Senator Morrison. Senator Tony Ada. If not, thank you again Senator Klitzkie. To my understanding the good sponsor of the legislation would like to have this piece of legislation reported out by the committee so that the larger body of the legislature may entertain it for schedule session next week. So I would like to extend to the public if by any chance there is any additional written testimony or comments you would like to provide to the committee that that would be provided no later than close of business on Thursday at 1700 and Senator Klitzkie, that's at 5PM. Am I correct?

**Senator Robert Klitzkie:**

Thursday at 5PM.

**Chairman Aguon:**

Yes. Then I will discuss with the sponsor in terms of his preference of how he would like to proceed.

**Senator Robert Klitzkie:**

I think I have probably written and said as much as I should. Okay.

**Chairman Aguon:**

Thank you again Senator Klitzkie. That to the general public once again written testimony on any of the provisions contained in Bill No. 231-33 is requested by 5PM Thursday and then the Committee will conclude the closure of the committee report and proceed with the circulation so that in fact the good sponsor, should he desire to place it on the agenda for the legislative session scheduled for next week that that would be an option available to him.

SUITE 503, DNA BLDG. 238 ARCHBISHOP FLORES STREET HAGATNA, GUAM 96910  
PHONE: (671) 475-GUM1/2 (4861/2) | FAX: (671) 475-GUM3 (4863) | EMAIL: AGUON4GUAM@GMAIL.COM

[WWW.FRANKAGUONJR.COM](http://WWW.FRANKAGUONJR.COM)



**Chairman Aguon:**

So I would like to thank everyone for their testimony this afternoon and this concludes our public hearing. Thank you.

The public hearing was adjourned at 2:18 PM.

**III. WRITTEN TESTIMONY**

The following individuals submitted written testimonies to the Committee on Guam U.S Military Relocation, Public Safety, and Judiciary before or after the scheduled public hearing on Tuesday, February 9<sup>th</sup> 2016 at 2:00PM in *I Liheslatura's* Public Hearing Room.

**1. Senator Robert Klitzkie, Resident of Yigo**

**IV. FINDINGS & RECOMMENDATIONS**

The Committee on Guam U.S Military Relocation, Public Safety, and Judiciary hereby reports out As *Substituted* Bill No. 231-33(LS) with the recommendation **TO DO PASS**.



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

Bill No. 231-33 (LS)

Introduced by:

Frank F. Blas, Jr. *ff*

LANTHONY ADA *@*

James V. Espaldon *JVE*

*Anthony Mark*

D.G. Rodriguez, Jr. *DGR*

*Antonio Barnes*

*J.C. Adams*  
*James C. Adams*

*Michael F. de San Nicolas*

*Mary C. Torres*

AN ACT TO ADD CHAPTER 20 TO TITLE 9 OF THE GUAM  
CODE ANNOTATED RELATIVE TO THE ACTS OF  
VIOLENCE AGAINST AN UNBORN CHILD.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 20 is hereby added to Title 9 of the Guam Code Annotated to read as follows:

“CHAPTER 20.

UNBORN VICTIMS OF VIOLENCE ACT.

§20.10.	Title.
§20.20.	Legislative Statement and Intent.
§20.30.	Definition.
§20.40.	Application.
§20.50.	Murder of an Unborn Child.
§20.60.	Manslaughter of an Unborn Child.
§20.70.	Aggravated Assault of an Unborn Child.
§20.80.	Assault of an Unborn Child.
§20.90.	Knowledge not a Defense.
§20.100.	No Prohibition.
§20.110.	Severability.

2016 JUN 15 AM 9:56

§20.10. Title. This may be cited or referred to as “The Unborn Victims of Violence Act of 2015.”

1                   **§20.20. Legislative Statement and Intent.**    *I Liheslaturan Guåhan*  
2 understands that the physical harm or death of an expectant woman could equally result in  
3 the physical harm and death to the unborn child in her womb. For the woman who desires to  
4 carry and care for her unborn child to term, the protection and safety of the living being in  
5 her womb is something she should not have to worry about. To this statement, former  
6 President George W. Bush once expressed, “Any time an expectant mother is a victim of  
7 violence, two lives are in the balance, each deserving protection, and each deserving justice.”  
8 *I Liheslaturan Guåhan* finds that “The Unborn Victims of Violence Act of 2015” (“Act”) is a  
9 step towards protecting an expectant mother and her unborn child, and recognizes that an  
10 unborn child is a legal victim if he or she is injured or killed during the commission of crimes  
11 of violence. Moreover, *I Liheslaturan Guåhan* affirms the definition of an unborn child as  
12 provided in 19 GCA §1104 as “A child conceived, but not yet born, is to be deemed an  
13 existing person, so far as may be necessary for its interests in the event of its subsequent  
14 birth.”

15                   *I Liheslaturan Guåhan* believes and further recognizes that while an expectant mother  
16 has a legal right to determine the fate of her unborn child, she should also be assured that any  
17 harm to her unborn child caused from unwarranted and unexpected harm directed at her will  
18 result in additional criminal sanctions against the responsible person(s).

19                   **§20.30. Definition.** For purpose of this Chapter, the following term has been  
20 defined to mean:

21                   (a)    “*person*” shall not include the pregnant woman whose unborn child is  
22 harmed.

23                   **§20.40. Application.** This Chapter shall not apply to acts which cause bodily  
24 harm to an unborn child if those acts were committed during any legal abortion, as defined in  
25 the Partial-Birth Abortion Ban Act, as amended, to which the pregnant woman has  
26 consented. This Chapter shall not apply to acts which were committed to usual and  
27 customary standards of medical practice during diagnostic testing or therapeutic treatment.

28                   **§20.50. Murder of an Unborn Child.** (a) A person commits the offense of  
29 murder of an unborn child if, in performing acts which cause the death of an unborn child  
30 without lawful jurisdiction:

1                   (1) either intended to cause the death of, or do serious bodily injury to the  
2 pregnant woman or her unborn child, or knew that such acts would cause death or  
3 serious bodily injury to the pregnant woman or her unborn child; or

4                   (2) is committed recklessly under circumstances manifesting extreme  
5 indifference to the value of the life of the pregnant woman or her unborn child.

6                   (b) The penalty for murder of an unborn child shall be the same as the penalty for  
7 Murder defined in Chapter 16 of Title 9, Guam Code Annotated.

8                   **§20.60. Manslaughter of an Unborn Child.** (a) A person who kills an  
9 unborn child without lawful justification commits manslaughter of an unborn child if at the  
10 time of the killing, the person was acting under a sudden and intense passion resulting from  
11 serious provocation by another who the offender endeavors to kill, but the person negligently  
12 or accidentally causes the death of the unborn child.

13                   (b) Manslaughter of an unborn child is a felony of the first degree and is  
14 punishable to the same extent and manner as the offense of Manslaughter defined in Chapter  
15 16 of Title 9, Guam Code Annotated.

16                   **§20.70. Aggravated Assault of an Unborn Child.** (a) A person commits  
17 aggravated assault of an unborn child when, in committing assault against a pregnant woman,  
18 he or she causes serious bodily injury to an unborn child.

19                   (b) Aggravated assault of an unborn child is punishable to the same extent and  
20 manner as the offense of aggravated assault in the second degree defined in Chapter 19 of  
21 Title 9, Guam Code Annotated.

22                   **§17.80. Assault of an Unborn Child.** (a) A person commits assault of an  
23 unborn child if he or she, without legal justification and by any means, commits assault on a  
24 pregnant woman as defined in §19.30 of Chapter 19 of Title 9, Guam Code Annotated.

25                   (b) It is not a defense that no injury was caused to the unborn child as a result of  
26 the assault.

27                   (c) Assault of an unborn child is punishable to the same extent and manner as the  
28 offense of assault defined in Chapter 19 of Title 9, Guam Code Annotated.

29                   **§20.90 Knowledge not a Defense.** An offense committed under this Act  
30 does not require proof that:

1 (a) the person committing the offense had knowledge or should have had knowledge  
2 that the victim of the underlying offense was pregnant; or

3 (b) the person committing the offense did not intend to cause the death of, or bodily  
4 injury to, the unborn child.

5 **§20.100. No Prohibition.** The provisions of this Act shall not be construed to  
6 prohibit the prosecution of any person under any other provision of law.

7 **§20.110. Severability.** *If* any provision of this Act, or its application to any  
8 person or circumstances, is found to be invalid or contrary to law, such invalidity shall *not*  
9 affect other provisions or applications of this Act which can be given effect without the  
10 invalid provisions and to this end the provisions of this Act are severable.”

***I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN***  
**2016 (SECOND) Regular Session**

**Bill No. 231-33 (LS)**

As Substituted by the Committee on  
the Guam U.S. Military Relocation,  
Public Safety, and Judiciary

Introduced by:

Frank F. Blas, Jr.  
V. Anthony Ada  
James V. Espaldon  
Thomas A. Morrison  
Dennis G. Rodriguez, Jr.  
Tina Muna Barnes  
Brant McCreadie  
Thomas C. Ada  
Rory J. Respicio  
Michael F.Q. San Nicolas  
Mary Camacho Torres

**AN ACT TO *ADD* A NEW CHAPTER 20 TO TITLE 9,  
GUAM CODE ANNOTATED RELATIVE TO ACTS  
OF VIOLENCE AGAINST AN UNBORN CHILD.**

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

**Section 1.** Chapter 20 is hereby *added* to Title 9, Guam Code Annotated, to  
read as follows:

**“CHAPTER 20.**

**UNBORN VICTIMS OF VIOLENCE ACT.**

**§ 20.10. Title.**

**§ 20.20. Legislative Statement and Intent.**

**§ 20.30. Definition.**

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- § 20.40. Application.**
- § 20.50. Murder of an Unborn Child.**
- § 20.60. Manslaughter of an Unborn Child.**
- § 20.70. Aggravated Assault of an Unborn Child.**
- § 20.80. Assault of an Unborn Child..**
- § 20.90. Knowledge not a Defense.**
- § 20.100. No Prohibition.**

**§ 20.10. Title.** This Act may be cited or referred to as “*The Unborn Victims of Violence Act of 2015.*”

**§ 20.20. Legislative Statement and Intent.** *I Liheslaturan Guåhan* understands that the physical harm or death of an expectant woman could equally result in the physical harm and death to the unborn child in her womb. For the woman who desires to carry and care for her unborn child to term, the protection and safety of the living being in her womb is something she should not have to worry about. To this statement, former President George W. Bush once expressed, “Any time an expectant mother is a victim of violence, two lives are in the balance, each deserving protection, and each deserving justice.” *I Liheslaturan Guåhan* finds that “The Unborn Victims of Violence Act of 2015” (“Act”) is a step toward protecting an expectant mother and her unborn child, and recognizes that an unborn child is a legal victim if he or she is injured or killed during the commission of crimes of violence.

*I Liheslaturan Guåhan* believes and further recognizes that while an expectant mother has a legal right to determine the fate of her unborn child, she should also be assured that any harm to her unborn child caused from unwarranted and unexpected harm directed at her will result in additional criminal sanctions against the responsible person(s).

1           **§ 20.30. Definition.** For purpose of this Chapter, the following terms  
2 are defined to mean:

3           (a) “*person*” shall not include the pregnant woman whose unborn  
4 child is harmed.

5           (b) “*unborn child*” shall mean a child *in utero*, and the term “child *in*  
6 *utero*” or “child, who is *in utero*” means a member of the species *homo sapiens*,  
7 at any stage of development, who is carried in the womb.”

8           **§ 20.40. Application.** This Chapter shall not apply to acts that cause  
9 bodily harm to an unborn child if those acts were committed during any legal  
10 abortion, in accordance with Guam law. This Chapter shall not apply to acts  
11 that were committed under usual and customary standards of medical practice  
12 during diagnostic testing or therapeutic treatment.

13           **§ 20.50. Murder of an Unborn Child.** (a) A person commits the  
14 offense of murder of an unborn child if, in performing acts, which cause the  
15 death of an unborn child without lawful jurisdiction, the person:

16           (1) either intended to cause the death of, or cause serious bodily  
17 injury to, the pregnant woman or her unborn child, or knew that such acts  
18 would cause death or serious bodily injury to the pregnant woman or her  
19 unborn child; or

20           (2) commits such acts recklessly under circumstances  
21 manifesting extreme indifference to the value of the life of the pregnant  
22 woman or her unborn child.

23           (b) The penalty for murder of an unborn child shall be the same as the  
24 penalty for murder defined in Chapter 16 of Title 9, Guam Code Annotated.

25           **§ 20.60. Manslaughter of an Unborn Child.** (a) A person who kills  
26 an unborn child without lawful justification commits manslaughter of an unborn  
27 child if, at the time of the killing, the person was acting under a sudden and



1 intense passion resulting from serious provocation by another who the offender  
2 endeavors to kill, but the person negligently or accidentally causes the death of  
3 the unborn child.

4 (b) Manslaughter of an unborn child is a felony of the first degree and  
5 is punishable to the same extent and manner as the offense of manslaughter  
6 defined in Chapter 16 of Title 9, Guam Code Annotated.

7 **§ 20.70. Aggravated Assault of an Unborn Child.** (a) A person  
8 commits aggravated assault of an unborn child when, in committing assault  
9 against a pregnant woman, he or she causes serious bodily injury to an unborn  
10 child.

11 (b) Aggravated assault of an unborn child is punishable to the same  
12 extent and manner as the offense of aggravated assault in the second degree  
13 defined in Chapter 19 of Title 9, Guam Code Annotated.

14 **§ 20.80. Assault of an Unborn Child.** (a) A person commits assault  
15 of an unborn child if he or she, without legal justification and by any means,  
16 commits assault on a pregnant woman as defined in § 19.30 of Chapter 19, Title  
17 9, Guam Code Annotated.

18 (b) It is not a defense that no injury was caused to the unborn child as  
19 a result of the assault.

20 (c) Assault of an unborn child is punishable to the same extent and  
21 manner as the offense of assault defined in Chapter 19 of Title 9, Guam Code  
22 Annotated.

23 **§ 20.90 Knowledge not a Defense.** An offense committed under  
24 this Act does not require proof that:

25 (a) the person committing the offense had knowledge or should have had  
26 knowledge that the victim of the underlying offense was pregnant; or

1 (b) the person committing the offense did not intend to cause the death of,  
2 or bodily injury to, the unborn child.

3 § 20.100. **No Prohibition.** The provisions of this Act *shall not* be  
4 construed to prohibit the prosecution of any person under any other provision of  
5 law. ”

**COMMITTEE ON GUAM U.S. MILITARY RELOCATION, PUBLIC SAFETY & JUDICIARY**

*I Mina' Trentai Tres Na Liheslaturan Guahan | 33rd Guam Legislature*



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

**Bill No. 231-33 (LS):** - An act to add chapter 20 to Title 9 of the Guam Code Annotated relative to the acts of violence against an unborn child.

Sponsored by: Senators F.F. Blas, Jr. / V. A. Ada / J.V. Espaldon / T.A. Morrison / D.G. Rodriguez, Jr. / T. R. Muña Barnes / B.T. McCreadie / T. C. Ada / R. J. Respicio / M.F.Q. San Nicolas / M.C. Torres

Name (Please Print)	Agency/Organization	Contact Number	Oral Testimony	Written Testimony	In favor	Not In Favor
KITZKIE	no	653 6607	yes	yes	yes	no

Testimony of Robert Klitzkie on Bill 231-33  
On February 9, 2016

*Kudos* is in order for this bill's sponsor, Senator Frank Blas, Jr. for this humanitarian offering which promotes the potentiality of human life while at the same time protecting the reproductive rights of women. The senator's concern for the unborn is clearly expressed in § 20.20 **Legislative Statement and Intent**. While § 20.20 is praiseworthy, it's adoption of 19 GCA § 1104 as the key definition in the bill is problematic<sup>1</sup>.

19 GCA § 1104 reads:

“Unborn Child. A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth.”

The cited section is one of sixteen in Ch.1 of Title 19, which deals with personal rights *e.g.* minority, contracts and litigation. Assigning § 1104 the heavy burden of being the essential term in a criminal statute does not serve the statute well.

§ 1104 won't work in the criminal statute to be enacted by this bill. *Renvoi ad infinitum*<sup>2</sup> or maybe Catch 22 best describes the constructional infirmity created by the interplay of § 1104's "... not yet born..." and "...in the event of its subsequent birth" in the context of murder and manslaughter.

The word “deemed” is often used in statutes to mean something like “treat as if” or perhaps, in everyday language, “pretend.” “Deemed an existing person” then means we'll pretend that a child or entity<sup>3</sup> *in utero*, *i.e.* “a person not yet born,” is a only a person “in the event of its subsequent birth.” If there is no birth then the child *in utero*, *i.e.* “not yet born,” is not a person because it was not born! So what would have been a person had it been born is not a person if it is murdered in the womb. Employing 19 GCA § 1104 as the definition for an unborn child can only bring about the bizarre result that one who kills a child *in utero* can only be prosecuted for murder or manslaughter if the child is born alive!

Prosecution of the crimes set out in § 20.70 and the section erroneously numbered 17.80, *i.e.* aggravated assault and assault, would suffer from the same Catch 22, as no prosecution could lie until after the birth of the child. Of course if the pregnant woman had an abortion it would moot out the prosecution.

9 GCA Ch. 16 and 19 adequately define criminal homicide, assault, etc. when the definitional section of the bill is properly drawn to define a child *in utero*. Those chapters have been a part of Guam law since 1976 and are familiar and well understood

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<sup>1</sup> Defining “person” by indicating what it **doesn't** mean does not add clarity of the statutory scheme.

<sup>2</sup> Think—an infinity of mirrors.

<sup>3</sup> Although the term “entity *in utero*” is more politically correct, the term “child *in utero*” borrowed from the 18 USC § 1841 will be used herein.

by bench and bar. 9 GCA is based on the Model Penal Code of 1962. An abundance of interpretational materials and case law are available to assist in the application of those chapters.

The effectiveness of any potential criminal prosecution under the bill turns on an appropriate definition of what the politically correct refer to as a being *in utero*. Some possibilities are listed below:

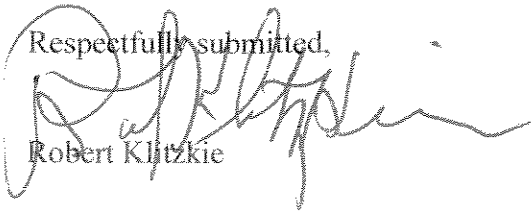
- Derived from 19 GCA § 1104: “Unborn Child. A child conceived, but not yet born, is to be deemed an existing person for purposes of punishing conduct prohibited under § § XXXXXX.
- A definition appearing in model acts reads: “Unborn Child means the offspring of human beings from conception to birth.”
- From The Unborn Victims of Violence Act of 2004 (Public Law 108-212): “...the term “unborn child” means a child *in utero*, and the term “child *in utero*” or “child, who is *in utero*” means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb.”

No matter what definition of the child *in utero* is used it is apparent that the live birth of the child can NOT be a condition precedent to a prosecution for killing or injuring the unborn child.

A proper definition of “child *in utero*,” reference to applicable sections of 9 GCA and other minor technical corrections suggested herein and a little fine tuning would give vent to the admirable sentiments expressed by Senator Blas and the bill’s ten cosponsors in § 20.20 of the bill.

An attractive alternative to the above would be to adopt into our law the provisions of The Unborn Victims of Violence Act of 2004 codified at 18 USC § 1841.

Respectfully submitted,

  
Robert Klitzkie



**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**EDDIE BAZA CALVO**  
GOVERNOR

**RAY TENORIO**  
LIEUTENANT GOVERNOR

**JOSE S. CALVO**  
DIRECTOR

**LESTER L. CARLSON JR.**  
DEPUTY DIRECTOR

21

The Bureau requests that Bill No. 231-33 (LS) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

The above referenced Bill is administrative in nature and does not have any potential impact upon the revenues or the expenditure of any funds of the Government of Guam.

  
JOSE S. CALVO

Attachment(s)



## COMMITTEE ON RULES

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

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

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Legislative Secretary  
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Member

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Member

Senator  
Michael F.Q. San Nicolas  
Member

Senator  
Nerissa Bretania Underwood  
Member

V. Anthony Ada  
MINORITY LEADER

Mary C. Torres  
MINORITY MEMBER

January 20, 2016

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. 231-33(LS) through 236-33(LS)

*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
231-33 (LS)	Frank F. Blas, Jr. V. Anthony Ada James V. Espaldon Tommy Morrison Dennis G. Rodriguez, Jr. T.R. Muña Barnes Brant T. McCreadie T. C. Ada R. J. Respicio Michael F.Q. San Nicolas Mary Camacho Torres	AN ACT TO ADD CHAPTER 20 TO TITLE 9 OF THE GUAM CODE ANNOTATED RELATIVE TO THE ACTS OF VIOLENCE AGAINST AN UNBORN CHILD.
232-33 (LS)	Brant T. McCreadie James V. Espaldon V. Anthony Ada Frank F. Blas, Jr. T.A. Morrison Mary C. Torres Dennis G. Rodriguez, Jr.	AN ACT TO AMEND §74108 OF CHAPTER 74, TITLE 11 GUAM CODE ANNOTATED RELATIVE TO INCREASING THE CIVIL PENALTIES FOR SCRAP METAL BUSINESSES WHO FAIL TO PROPERLY FOLLOW REPORTING REQUIREMENTS AS PER GUAM LAW.
233-33 (LS)	Brant T. McCreadie	AN ACT TO AMEND §74103 AND §74104, AND TO ADD A NEW §74110 TO CHAPTER 74, TITLE 11 GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING MANDATORY INSPECTION AND CERTIFICATION OF ALL NONFERROUS METAL PROPERTY PRIOR TO A TRANSACTION OF SALE AT A SCRAP METAL BUSINESS.
234-33 (LS)	T. C. Ada	AN ACT TO APPROPRIATE THE BALANCE AMOUNT IN THE FISCAL YEAR 2014 HOTEL OCCUPANCY TAX (HOT) SURPLUS FUND TO THE GUAM VISITORS BUREAU (GVB) FOR SAFETY RELATED CAPITAL IMPROVEMENT PROJECTS IN TUMON.
235-33 (LS)	Judith T. Won Pat, Ed.D. B. J.F. Cruz	AN ACT TO AMEND SECTION 1 (X)(2)(B) OF CHAPTER 5 OF PUBLIC LAW 33-66, RELATIVE TO THE OPERATIONAL START UP COSTS OF THE GUAM MUSEUM.
236-33 (LS)	V. Anthony Ada FRANK B. AGUON, JR. Frank F. Blas, Jr. Brant T. McCreadie	AN ACT TO AMEND §§ 60108(b)(2) AND 60109.1(a)(1) OF CHAPTER 60 OF 10 GCA RELATIVE TO POSSESSION OF FIREARMS BY ALIENS.





## COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
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Senator

Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

January 19, 2016

Senator

Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER


### MEMORANDUM

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

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

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

Vice-Speaker  
Benjamin J.F. Cruz  
Member

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

Legislative Secretary  
Tina Rose Muna Barnes  
Member

**Subject: Referral of Bill No. 231-33(LS)**

Senator  
Dennis G. Rodriguez, Jr.  
Member

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 231-33(LS)**.

Senator  
Frank Blas Aguon, Jr.  
Member

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*.

Senator  
Michael F.Q. San Nicolas  
Member

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

Senator  
Nerissa Bretania Underwood  
Member

*Si Yu'os Ma'åse!*

V. Anthony Ada  
MINORITY LEADER

Attachment

Mary C. Torres  
MINORITY MEMBER

*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
231-33 (LS)	Frank F. Blas, Jr. V. Anthony Ada James V. Espaldon Tommy Morrison Dennis G. Rodriguez, Jr. T. R. Muña Barnes Brant T. McCreddie T. C. Ada R. J. Respicio Michael F.Q. San Nicolas Mary Camacho Torres	AN ACT TO ADD CHAPTER 20 TO TITLE 9 OF THE GUAM CODE ANNOTATED RELATIVE TO THE ACTS OF VIOLENCE AGAINST AN UNBORN CHILD.	01/19/16 9:56 a.m.	01/19/16	Committee on the Guam U.S. Military Relocation, Public Safety, and Judiciary			



Office of Senator Frank B. Aguon, Jr. &lt;admin@frankaguonjr.com&gt;

---

**1st Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.**


---

Office of Senator Frank Aguon, Jr. Admin &lt;admin@frankaguonjr.com&gt;

Tue, Feb 2, 2016 at 8:52 AM

To: "Office of Senator Frank B. Aguon, Jr." &lt;admin@frankaguonjr.com&gt;

Cc: "Senator Frank B. Aguon Jr." &lt;aguon4guam@gmail.com&gt;, Committee &lt;committee@frankaguonjr.com&gt;, Tricia Benavente &lt;media@frankaguonjr.com&gt;, Lourdes Eclavea &lt;staff@frankaguonjr.com&gt;, Senator Aguon's Assistant &lt;officeassistant@frankaguonjr.com&gt;, Communications Specialist &lt;communications@frankaguonjr.com&gt;

Bcc: antoniot@guamairport.net, arthur.paulino@gpd.guam.gov, bobcamacho@guamairport.net, chuck.ada@guamairport.net, cimiculka@guam.gannett.com, cme.guam@gmail.com, communications@guam.gov, dcaguero@portguam.com, ebanderson@guamag.org, elaine.gogue@guam.gov, euntalan@fhh.com, faguon@portguam.com, gerry@postguam.com, gerrypartido.mvguam18@gmail.com, governor@guam.gov, guamwardeny2k@yahoo.com, janela@spbgguam.com, madeleine.bordallo@mail.house.gov, michael.cura@dpr.guam.gov, michael.uncangco@gfd.guam.gov, philip.taijeron@cqa.guam.gov, phnotice@guamlegislature.org, "Raffaele.sgambelluri@cqa.guam.gov" <raffaele.sgambelluri@cqa.guam.gov>, " <raymond.blas@dpr.guam.gov>" <raymond.blas@dpr.guam.gov>, Carla Borja <carla.borja@doc.guam.gov>, Cathy Gogue <cgogue@guampdsc.net>, "Chief J. I. Cruz" <joseph.i.cruz@gpd.guam.gov>, "chris.duenas" <chris.duenas@guam.gov>, Christopher Budasi <cbudasi@guamcourts.org>, "clynt@spbgguam.com" <clynt@spbgguam.com>, Colonel Maurice Sayama <maurice.sayama@gpd.guam.gov>, Cynthia Ige <cynthia.ige@gpd.guam.gov>, Eric Miller <emiller@guampdsc.net>, Gerry Partido <gerrypartido@gmail.com>, "Honorable Robert J. Torres" <guamjustice@hotmail.com>, "hottips@kuam.com" <hottips@kuam.com>, Joey San Nicolas <joey.sannicolas@gfd.guam.gov>, John O'Connor <john@mvguam.com>, Jon Calvo <jon.calvo@mail.house.gov>, "jose.sanagustin" <jose.sanagustin@doc.guam.gov>, "Joseph I. Cruz" <joseph.i.cruz66@gmail.com>, "joseph.duenas" <joseph.duenas@guam.gov>, Joshua Tenorio <jtenorio@guamcourts.org>, Joy Unpingco <joy.unpingco@guam.gov>, Ken Quintanilla <kenq@kuam.com>, kim santos <kim.santos@gpd.guam.gov>, "Lt. Andrew Quitugua" <andrew.quitugua@gpd.guam.gov>, "Lt. Paul Sayama" <paul.sayama@gpd.guam.gov>, "manuel.babauta" <manuel.babauta@gpd.guam.gov>, Marianas Variety-Guam <editor@mvguam.com>, Mark Calvo <mark.calvo@guam.gov>, Matt Sablan <matt.sablan12@yahoo.com>, "monica.salas" <monica.salas@gpd.guam.gov>, "news@guampdn.com" <news@guampdn.com>, "Pedro A. Leon Guerrero, Jr." <pedro.leonguerrero@cqa.guam.gov>, Ray Tenorio <ray.tenorio@guam.gov>, Robert Tupaz <robert@mvguam.com>, "ronald.taitano" <ronald.taitano@gpd.guam.gov>, Rose Ramsey <rose.ramsey@guam.gov>, Shaina Santos <reporter4@glimpsesofiguam.com>, Shawn Raymundo <rraymundo@guam.gannett.com>, "susan.reyes" <susan.reyes@gpd.guam.gov>, Valerie Cruz <vcruz@guamcourts.org>, Tim Rohr <timrohr.guam@gmail.com>, Senator Bob Klitzkie <klitzkie@hotmail.com>, howardtrappinc@hotmail.com, archbishop@archagana.org, matt.sablan@agriculture.guam.gov, Basil O'Mallan <bomallan@guamag.org>, "Deputy A.G. Phil Tydingco" <ptydingco@guamag.org>, "Anita P. Arriola" <anitaarriola@arriolacowan.com>, Shane Ngata <Shane.Ngata@doa.guam.gov>

February 2, 2016

**MEMORANDUM****To: All Senators, Media, and Stakeholders****Fr: SENATOR FRANK B. AGUON, JR.**

**Subject: 1<sup>st</sup> Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.**

In accordance with the *Open Government Law of Guam*, relative to notice for public meetings, please be advised that the *Committee on Guam U.S. Military Relocation, Public Safety & Judiciary*, will convene a **Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.** Included on the agenda is the following bill:

- **BillNo. 231-33 (LS)** - An act to add chapter 20 to Title 9 of the Guam Code Annotated relative to the acts of violence against an unborn child. (Sponsors: F.F. Blas, Jr. / V. A. Ada / J.V. Espaldon / T.A. Morrison / D.G. Rodriguez, Jr. / T. R. Muña Barnes / B.T. McCreadie / T. C. Ada / R. J. Respicio / M.F.Q. San Nicolas / M.C. Torres)

The Hearing will broadcast on local television, *GTA Channel 21 and Docomo Channel 117* or streamed online at: [www.guamlegislature.com](http://www.guamlegislature.com).

The Committee requests that, if written testimonies are to be presented at the Public Hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr. at Suite 503 DNA Bldg. 238 Archbishop Flores St. Hagatña, Guam, via fax to 475-GUM3(4863), or via email to: [aguon4guam@gmail.com](mailto:aguon4guam@gmail.com). Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Gauhån's* website at: [www.guamlegislature.com](http://www.guamlegislature.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations, auxiliary aids, or services should contact Lawrence Alcairo at 475-4861/2 or email at [committee@frankaguonjr.com](mailto:committee@frankaguonjr.com). Please feel free to contact my office should you have any additional questions or concerns.

–

**Thanks!**

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

Committee on Guam US Military Relocation, Public Safety, and Judiciary  
SUITE 503, DNA BLDG. 238 ARCHBISHOP FLORES STREET HAGATÑA, GUAM 96910  
Tel: (671) 475-GUM1/2 (4861/2)  
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 **1st Notice of Public Hearing.pdf**  
458K



February 2, 2016

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: SENATOR FRANK B, AGUON, JR.

Subject: 1<sup>st</sup> Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.

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Respectfully,

SENATOR FRANK B. AGUON, JR.

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

Senator  
FRANK B. AGUON, JR.  
Chairman

Senator  
Thomas C. Ada  
Vice Chairman

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Senator  
Rory J. Respicio  
Member

Senator  
Dennis G. Rodriguez, Jr.  
Member

Senator  
Dr. Nerissa B. Underwood, Ph.D.  
Member

Senator  
V. Anthony Ada  
Member

Senator  
Frank F. Blas Jr.  
Member

Senator  
James V. Espaldon  
Member

Senator  
Brant T. McCreadie  
Member

Speaker  
Dr. Judith T. Won Pat, Ed.D  
Ex-Officio



Office of Senator Frank B. Aguon, Jr. &lt;admin@frankaguonjr.com&gt;

---

## 2nd Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.

---

Office of Senator Frank Aguon, Jr. Admin &lt;admin@frankaguonjr.com&gt;

Fri, Feb 5, 2016 at 8:52 AM

To: "Office of Senator Frank B. Aguon, Jr." &lt;admin@frankaguonjr.com&gt;

Cc: "Senator Frank B. Aguon Jr." &lt;aguon4guam@gmail.com&gt;, Committee &lt;committee@frankaguonjr.com&gt;, Lourdes Eclavea &lt;staff@frankaguonjr.com&gt;, Senator Aguon's Assistant &lt;officeassistant@frankaguonjr.com&gt;, Tricia Benavente &lt;media@frankaguonjr.com&gt;

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February 5, 2016

## MEMORANDUM

To: All Senators, Media, and Stakeholders

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

**Subject: 2nd Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.**

In accordance with the *Open Government Law of Guam*, relative to notice for public meetings, please be advised that the *Committee on Guam U.S. Military Relocation, Public Safety & Judiciary*, will convene a **Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.** Included on the agenda is the following bill:

- **Bill No. 231-33 (LS)** - An act to add chapter 20 to title 9 of the Guam Code Annotated relative to the acts of violence against an unborn child. (Sponsors: F.F. Blas, Jr. / V. A. Ada / J.V. Espaldon / T.A. Morrison / D.G. Rodriguez, Jr. / T. R. Muña Barnes / B.T. McCreadie / T. C. Ada / R. J. Respicio / M.F.Q. San Nicolas / M.C. Torres)

The Hearing will broadcast on local television, *GTA Channel 21 and Docomo Channel 117* or streamed online at: [www.guamlegislature.com](http://www.guamlegislature.com).

The Committee requests that, if written testimonies are to be presented at the Public Hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr. at Suite 503 DNA Bldg. 238 Archbishop Flores St. Hagatña, Guam, via fax to 475-GUM3(4863), or via email to: [aguon4guam@gmail.com](mailto:aguon4guam@gmail.com). Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guahån's* website at: [www.guamlegislature.com](http://www.guamlegislature.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations, auxiliary aids, or services should contact Lawrence Alcairo at 475-4861/2 or email at [committee@frankaguonjr.com](mailto:committee@frankaguonjr.com). Please feel free to contact my office should you have any additional questions or concerns.

–  
**Thanks!**

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

Committee on Guam US Military Relocation, Public Safety, and Judiciary

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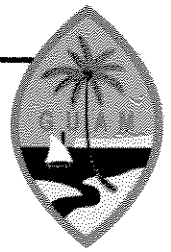
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February 5, 2016

MEMORANDUM

To: All Senators, Media, and Stakeholders

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Subject: 2<sup>nd</sup> Notice – Public Hearing on Tuesday, February 9, 2016 at 2:00 P.M.

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Respectfully,

SENATOR FRANK B. AGUON, JR.

Committee Chairman on Guam U.S. Military Relocation | Public Safety | Judiciary  
*I Mina Trentai Tres Na Liheslaturan Guahan* | 33<sup>rd</sup> Guam Legislature

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Updated: December 2, 2015

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February 2, 2016

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Ex-Officio

The Honorable Edward J. Calvo  
Governor of Guam

513 West Marine Corps Drive  
Ricardo J. Bordallo Complex  
Hagåtña, Guam 96910

Sent via email to: [governor@guam.gov](mailto:governor@guam.gov)

**Subject: INVITATION – Public Hearing on Tuesday, February 9, 2016 at 2:00 PM**

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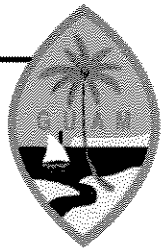
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*Un Dangal to Iva Si Yu'os Ma'ase!*

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

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



February 2, 2016

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Ex-Officio

**The Honorable Ray Tenorio**  
**Lieutenant Governor of Guam**  
513 West Marine Corps Drive  
Ricardo J. Bordallo Complex  
Hagåtña, Guam 96910  
Sent via email to: [ray.tenorio@guam.gov](mailto:ray.tenorio@guam.gov)

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*Un Dangkolon No Si Yu'os Ma'ase!*

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



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The Honorable Robert J. Torres, Jr.  
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February 2, 2016

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Speaker  
Dr. Judith T. Won Pat, Ed.D.  
Ex-Officio

Mr. Joshua Tenorio  
Administrator of Courts  
Judiciary of Guam  
Suite 300, Guam Judicial Center 120 West O'Brien Drive  
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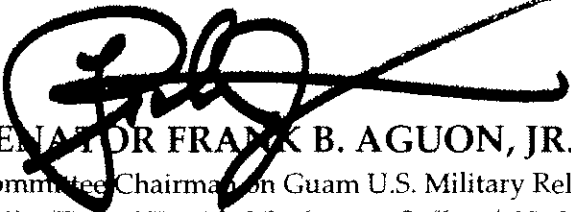
Subject: **INVITATION – Public Hearing on Tuesday, February 9, 2016 at 2:00 PM**

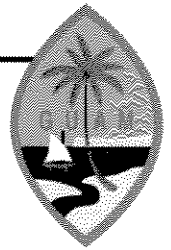
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*Un Dangkolo Na Si Yu'os Ma'ase!*

  
SENATOR FRANK B. AGUON, JR.  
Committee Chairman on Guam U.S. Military Relocation | Public Safety | Judiciary  
*I Mina' Trentai Tres Na Liheslaturan Guahan | 33rd Guam Legislature*



February 2, 2016

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Dr. Judith T. Won Pat, Ed.D  
Ex-Officio

The Honorable Elizabeth Barrett Anderson  
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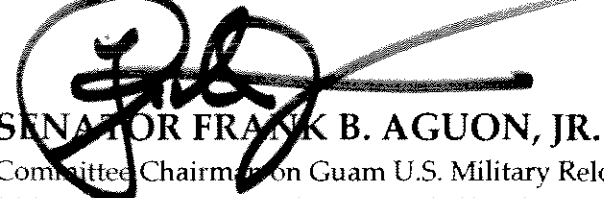
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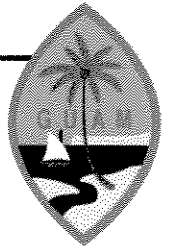
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*I Mina' Trentai Tres Na Liheslaturan Guahân | 33rd Guam Legislature*



February 2, 2016

Mr. Tim Rohr

P.O. Box 9001

Agat, GU 96928

Sent via email to: [timrohr.guam@gmail.com](mailto:timrohr.guam@gmail.com)

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

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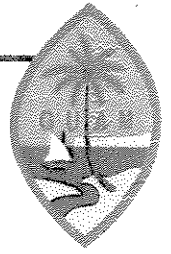
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Brant T. McCreadie  
Member

Speaker  
Dr. Judith T. Won Pat. Ed.D  
Ex-Officio





February 2, 2016

Senator  
FRANK B. AGUON, JR.  
Chairman

Anita P. Arriola  
Attorney at Law  
259 Martyr Street, Suite 201  
Hagåtña, Guam 96910

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Sent via Hand delivery and Email to: [anitaarriola@arriolacowan.com](mailto:anitaarriola@arriolacowan.com)

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Vice Chairman

**Subject: INVITATION – Public Hearing on Tuesday, February 9, 2016 at 2:00 PM**

Vice-Speaker  
Benjamin J.F. Cruz  
Member

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Senator  
V. Anthony Ada  
Member

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

Senator  
Frank P. Blas Jr.  
Member

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

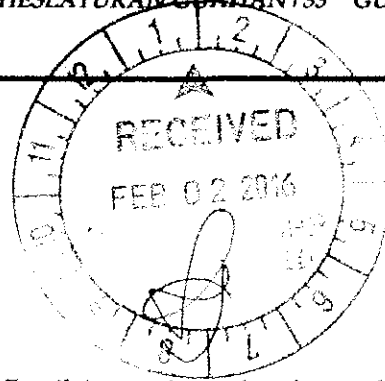
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Member

Senator  
Brant T. McCreadie  
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Speaker  
Dr. Judith T. Won Pat, Ed.D.  
Ex-Officio



February 9, 2016



Howard G. Trapp

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Hagåtña, Guam 96910

Sent via Hand Delivery and Email: [howardtrappinc@hotmail.com](mailto:howardtrappinc@hotmail.com)

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*Un Dangloto Na Si'ngos. Ma'ase!*

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

Committee Chairman on Guam U.S. Military Relocation | Public Safety | Judiciary

*I Mina' Trentai Tres Na Liheslaturan Guahan* | 33rd Guam Legislature

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Speaker  
Dr. Judith T. Won Pat, Ed.D  
Ex-Officio

**PUBLIC HEARING AGENDA**

Tuesday, February 9, 2016 at 2:00 PM

*I Liheslaturan Guahan's Public Hearing Room, Hagåtña***AGENDA**

Senator  
FRANK B. AGUON, JR.  
Chairman

Senator  
Thomas C. Ada  
Vice Chairman

Vice-Speaker  
Benjamin J.F. Cruz  
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Senator  
Brant T. McCreddie  
Member

Speaker  
Dr. Judith T. Won Pat, Ed.D.  
Ex-Officio

- I. Call to Order at 2:00PM
- II. Opening remarks/Announcements
  - **Bill No. 231-33 (LS)** - An act to add chapter 20 to Title 9 of the Guam Code Annotated relative to the acts of violence against an unborn child.  
*(Sponsors: F.F. Blas, Jr. / V. A. Ada / J.V. Espaldon / T.A. Morrison / D.G. Rodriguez, Jr. / T. R. Muña Barnes / B.T. McCreddie / T. C. Ada / R. J. Respicio / M.F.Q. San Nicolas / M.C. Torres)*
- III. Closing Remarks
- IV. Adjournment

GENERAL INFORMATION

Lobby hours are 8 a.m. to 5 p.m. Monday to Friday and closed on Saturday and Sunday. For classified ads, call 472-1PDN (1736) from 8 a.m. to 5 p.m. Monday to Friday. To start or stop home delivery or if you missed your paper, call customer service at 472-1PDN (1736) 6:30 a.m. to 5 p.m. Monday to Friday and 7 a.m. to 11 a.m. on Saturday and Sunday. Subscription rates on Page 13.

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CLEARING THE RECORD

We care about accuracy. If you would like to clear the record, call the Pacific Daily News at 479-0419.

guampdn.com Pacific Daily News Wednesday, February 10, 2016

Barrett-Anderson raises, which she publicly determined as illegal in a Dec. 10, 2015 memo to the governor, "can only be resolved through repayment of the retroactive pay adjustments by each individual employee, or through legislative action."

Although the AG's stance on the issue has already been pub-

lified that the governor's office understood the attorney general had a problem with the pay raise "process," and the office went about correcting the problem.

"We fixed it the way we thought we needed to," she said. "She didn't tell us how to fix it."

Ngirairiki later added the governor's office corrected the problem "in a way we thought

the illegal pay raises they received — and they signed the checks back to the government of Guam, creating a "repayment."

Staffers didn't have to pay actual cash, a move which the AG disagrees.

The temporary pay adjustment for the staffers was done by giving certain staffers credit for 72 hours of paid work —

# 'Unborn victims' bill to move forward

SHAWN RAYMUNDO  
SRAYMUNDO@GUAMPDN.COM

A bill that would recognize unborn children as legal victims in cases where an expectant mother is injured or killed during a violent crime is likely to move to the Legislature's session floor for debate later this month.

Lawmakers held a public hearing Tuesday on Bill 231-33, authored by Republican Sen. Frank Blas Jr.

The measure, called the "Unborn Victims of Violence Act," provides "the ability to protect that child in utero ... (and) the mother who wants to provide a safe environment for her child," Blas said.

"It provides for punishment, if you will, for those individuals who committed violent acts directed toward the expectant mother or even of course the unborn child itself," he added.

Former Sen. Robert Klitzkie, the one person who testified at the public hearing, praised Blas for the introduction of the bill and his "humanitarian" effort.

"Kudos is in order for this bill's sponsor ... for this humanitarian offering in which promotes the potentiality of human life while at the same time protecting the reproductive rights of women," Klitzkie said.

If enacted, individuals who attack a pregnant woman, killing the baby in the womb, could be charged with manslaughter and murder of an unborn child as the measure imposes "fetal homicide laws."

In circumstances where the



Former Sen. Robert Klitzkie offers public testimony in support of Bill 231-33 at the Guam Legislature in Hagåtña on Feb. 9. The bill would recognize any unborn child in Guam as a victim if killed or harmed during a violent attack against the mother.

child lives through an attack without sustaining any harm, a person would be charged with assault of an unborn child. The suspect wouldn't be able to use the defense that no injury came to the child, the bill specifies.

Physicians performing legally sanctioned abortions or standard medical practices "during diagnostic testing or therapeutic treatment" would be exempt from the punishment provisions of the measure.

Klitzkie, however, noted one concern he had with the local statute's definition of an unborn child — an issue previously brought up in 2012 when Blas

introduced the bill the first time.

The 2012 version of the bill defined an unborn child as "any individual of the human species from fertilization until birth." Blas' first go at the bill failed in a 7-6 vote. He most recently explained the current form of the measure uses the definition in local law.

The Guam Code Annotated defines an unborn child as one that is "conceived, but not yet born," and "is deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth."

Klitzkie warned that using

document reflecting an employee's pay adjustment.

"It was used only for calculation purposes," the governor spokeswoman stated.

Ngirairiki also said the overtime pay adjustment for the staffers was dated for the Nov. 28, 2015 pay period, but "the actual processing and release of were done on Dec. 12, 2015 indicated on the check date."

the definition of an unborn child in the GCA in the context of murder and manslaughter could create legal loopholes when prosecutors are charging suspects in such crimes that involve an unborn child.

"If there is no birth then the child in utero, i.e. 'not yet born' is not a person because it was not born," he said. "So why would have been a person had been born is not a person if it is murdered in the womb."

As an alternative, Klitzkie offered possible changes to the bill. His preferred suggestion was to use the definition that in the federal version of the act which defines an unborn child in utero as "a member of the species homo sapiens, at an stage of development, who is carried in the womb."

Former President George W. Bush enacted "Unborn Victim of Violence Act of 2004" allowing prosecutors to charge assailants for the death of unborn children so long as the crime was committed on federal property, such as a military installation.

Since the federal law was enacted, nearly 40 U.S. state have passed similar legislation.

Sen. Blas thanked Klitzkie for his testimony, assuring him that he would "tighten" up the language in the bill.

"I take to heart given the suggestions you've got here," Blas said. "I will work with the (Committee on Public Safety and Judiciary) and the chairman on being able to tighten, if you will, or ensure that the definition does not come in conflict with the true intent of this bill."

# Legislative measures on unborn, children's health heard

By Robert Q. Tupaz  
robert@postguam.com

Public hearings for a couple of legislative measures, dealing with the young and the unborn, were held yesterday at the Guam Legislature in Hagåtña.

The first hearing was held for Bill 231-33, which is intended to recognize a "child in utero" as a legal victim, if he or she is injured or killed during the commission of a violent crime. Introduced by Sen. Frank Blas Jr., the measure has already garnered the support of nine of the 15 members of the legislature.

Former Sen. Robert "Bob" Klitzkie was the lone person who provided oral testimony on the measure. Klitzkie called the measure "admirable" and suggested minor technical amendments including to the definition of "unborn child." He said the reproductive rights of a woman would be protected by the legislation and suggested the measure encompass more of the language contained in the federal "Unborn Victims of Violence Act of 2004" which Bill 231 is intended to mirror.

Blas said he would make the definition more precise and ensure the measure protects the unborn child as intended.

Blas said the reasoning for the



**PUBLIC HEARING:** Former Sen. Bob Klitzkie testifies during a public hearing on Bill 231, the Unborn Victims of Violence Act at the Guam Legislature in Hagåtña on Tuesday, Feb. 9. Norman Taruc/For the Post

measure in the bill's legislative intent was, "The physical harm or death of an expectant woman could equally result in the physical harm and death to the unborn child in her womb. For the woman who desires to carry and care for her unborn child to term, the protection and safety of the living being in her womb is something she should not have to worry about."

### Reconcile

Blas said when he introduced the measure that if it becomes law, it will, as Klitzkie noted, reconcile with the federal law passed in 2004. The federal law makes it a federal crime to cause the same to an unborn child.

Blas said the need for local legislation stems from certain instances where the federal statute would only apply to certain offenses, such as crimes committed on federal properties, against certain federal officials and employees, and by members of the military. Blas said 38 states have adopted similar legislation.

The public hearing on the measure was held by the Committee on Guam Public Safety and the Judiciary. Commit-

tee chairman Frank Aguon Jr. noted that Blas intended for the measure to be included in the February legislative session agenda, with session expected to be called next week. Aguon said he expected a committee report to be filed accordingly.

Sens. Tony Ada, James Espaldon, Thomas Morrison, Dennis Rodriguez Jr., Tina Muna Barnes, Brant McCreadie, Thomas Ada, Rory Respicio, Michael San Nicolas and Mary Torres joined Blas in sponsoring the bill.

### Funding health care

A second measure heard yesterday, Bill 246-33, authored by Aguon,

would provide additional funding for health care premiums to insure children placed in the foster care system.

The old formula accounted for an average of 90 children placed in foster care in Guam annually and provided for a budget of \$250,000. The fund needed an additional \$400,000 because the number of children in the foster care system has grown to an average of 200. The funding was identified from the island's Healthy Futures Fund.

The University of Guam Social Workers Student Alliance said that funding health care insurance for foster children was more than a necessity. They explained that it was, in many cases, a lifeline. Before Public Law 32-189 was enacted in 2014, foster children were placed under Medicaid.

A foster mother, Bethany Taylor, said that she and her husband have had 25 foster children since coming to Guam and praised the care the children receive since the availability of health insurance versus the prior practice of placing foster kids under Medicaid. Taylor said with health insurance, children have immediate access to a health plan through the funding.

Appropriations chairman, Vice Speaker Benjamin Cruz said he expected to usher the legislation through the February session as well.



Eddie Baza Calvo  
Governor

GUAM

ECONOMIC DEVELOPMENT AUTHORITY

Auridat buadilamon Ikaamtham Guahan



Ray Tenorio  
Lieutenant Governor

## NOTICE OF A PUBLIC HEARING ON AN APPLICATION TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA) FOR A QUALIFYING CERTIFICATE AUTHORIZING THE ABATEMENT AND REBATE OF CERTAIN GUAM TAXES

PLEASE TAKE NOTICE that

1. PUBLIC HEARING: In accordance with Chapter 58, Division 2, Title 12, Guam Code Annotated ("the OCL Law") and pursuant to the Administrative Adjudication Law, GEDA will conduct a public hearing of

## PUBLIC NOTICE

### GUAM BOARD OF EXAMINERS FOR DENTISTRY

REGULAR Board Meeting Wednesday, February 17, 2016, 3:00PM at the Health Professional Licensing Office Board Conference Room, Terlaje Professional Bldg, 2nd Floor Suite 209, Hagåtña.

For more information contact Board office at 735-7410 thru 12. Persons with disabilities needing special accommodations may call Jimmy Sian at 735-7102 or