

1                   **Section 30.90. Training Course for Handling Family**  
2 **Violence Complaints.**

3                   (a) The Guam Police Department shall implement a course  
4 or courses of instruction for the training of police officers in  
5 Guam in the handling of family violence complaints and also shall  
6 develop guidelines for law enforcement response to family violence.  
7 The course or courses of instruction and the guidelines shall  
8 stress enforcement of criminal laws in family violence situations,  
9 availability of civil remedies and community resources, and  
10 protection of the victim.

11                   **Section 30.100. Maintenance of Systematic Records.**

12                   (a) Law enforcement agencies shall maintain a complete  
13 and systematic record of all protection orders with respect to  
14 family violence incidents, including orders which have not yet been  
15 served, restraining orders, and proofs of service in effect. This  
16 shall be used to inform law enforcement officers responding to  
17 family violence calls of the existence, terms, and effective dates  
18 of protection orders in effect.

19                   (b) The terms and conditions of the protection under  
20 order remain enforceable, notwithstanding the acts of the parties,  
21 and may be changed only by order of the court.

22                   (c) Upon request, law enforcement agencies shall serve  
23 the court orders specified in Section 30.40 upon the party to be  
24 restrained at the scene of a family violence incident or at any  
25 time the party is in custody.

26                   **Section 3. Impact Statement and Report of Costs.** Within  
27 sixty (60) days of enactment of this Act, the appointing authority

1 or directors of the Superior Court of Guam, Office of the Attorney  
2 General, Public Defender Service Corporation, Guam Police  
3 Department, Department of Corrections, Department of Youth Affairs,  
4 Department of Mental Health and Substance Abuse, Department of  
5 Public Health and Social Services, and Guam Housing and Urban  
6 Renewal Authority shall transmit to the Legislature the impact of  
7 this Act upon their respective agencies and the cost estimates for  
8 additional resources which may be necessary to effectuate the  
9 provisions of this Act.

10 **Section 4. Severability Clause.** If any provision of this  
11 Act, or the application thereof to any person or circumstance, is  
12 held invalid, such invalidity shall not affect any other provision  
13 or application of this Act, which can be given effect without the  
14 invalid provision or application, and to this end the provisions of  
15 this Act are severable.

16 **Section 5. Legislative Findings.** Due to the serious and  
17 growing problem of family violence in the Territory of Guam, the  
18 Legislature finds that in addition to the enactment of legislation  
19 in the area of family violence, there is a need to further develop  
20 and fund public education, and prevention and treatment programs.  
21 In assessing the need for such programs, the Legislature will seek  
22 input from the Family Violence Task Force, created by Executive  
23 Order No. 93-14, and from the community-at-large.

**Committee  
On  
Judiciary & Criminal Justice**

**Report  
On  
Bill 1132**

Bill 1132---An act to add a new Chapter 30 to Title 9, Guam Code Annotated, on Family Violence, and to repeal Section 31.60, Title 9 Guam Code Annotated.

**Preface**

The Committee on Judiciary and Criminal Justice convened at **10:30 a.m., Wednesday, November 23, 1994 in the Legislative Public Hearing Room** to hear testimony on Bill 1132.

In attendance, alongside Chairwoman Pilar C. Lujan was Vice-Chairman Francis E. Santos and members Ben C. Pangelinan and Antonio R. Unpingco. Senator Marilyn D. A. Manibusan also participated in the hearing.

**Overview**

In recent years, the territory's public safety has been threatened with increased reports and arrests involving domestic violence.

This trend has reflected national increases which have intensified recently with the pending Simpson-Brown murder case.

According to Federal Bureau of Investigation records, for every 1 reported case of domestic violence there are 10 unreported cases.

Locally, in the past two years, according to Guam Police Department statistics, 1,346 domestic offenses were reported in 1993. This figure increased from 941 domestic offenses reported in 1992. Overall, last year's domestic offenses reported represented 10.7 percent of total offenses, up from 7.7 percent in 1992.

To further reflect the serious nature of domestic violence on island, the Prosecutor's office has had to create a unit to handle the influx of such cases.

Additionally, in response to this trend, Governor Joseph F. Ada created the Family Violence Task Force via Executive Order.

This working group, comprised of legal, social, and medical officials, crafted a domestic violence bill which aims at stemming the growing problem.

Senators Marilyn Manibusan, Pilar C. Lujan, Elizabeth P. Arriola, Herminia D. Dierking, Madeleine Z. Bordallo and Doris F. Brooks introduced the measure on behalf of the Task Force.

Unlike existing statutes which focus on spousal abuse and violence, this new measure takes into account physical abuse by spouses, former spouses, cohabitants, and/or individuals in boyfriend, girlfriend relationships, regardless of sexual preference. Further, the bill expresses policy that all persons are entitled to be left alone if they wish, and every person should be free of fear and assault from others.

### Committee Findings

Senator Marilyn D. A. Manibusan, chief author of the measure, expressed support for the measure and gratitude for the Committee's attention by conducting a public hearing on the bill itself.

Attorney Alicia Limtiaco, Chief Prosecutor for the Territory, appeared before the Committee expressing support for the passage of the measure.

Attorney Limtiaco also served as Chairperson for the Family Violence Task Force and cited a litany of statistics which reflected the current problems with domestic violence.

Attorney Limtiaco added that subsequent to the submission of Bill 1132, the Task Force received a Model Code of Domestic Violence which was crafted by the National Council of Family Court Judges. She added that the Model Code should be adopted locally and Bill 1132 should be amended appropriately.

Attorney Richard Dirx, a Public Defender, also served on the Task Force and expressed support for the measure.

Sister Eileen Mearns, a manager of the Alee Shelter (a safe haven for victims of domestic violence), articulated support for the passage of the measure.

Mrs. Joan Glang, a Rape Crisis Center official and member of the Task Force, urged support Bill 1132.

Ms. Gail L. Koeppen, attached to the Superior Court's Client Services Division and member of Victim Advocates Reaching Out (VARO) also testified in support of the measure.

Mrs. Connie Duenas, a member of VARO, also expressed support for the measure.

Attorney Phil Tydingco, the Guam Police Department's Legal Counsel urged passage of the measure and suggested treatment services be provided to perpetrators.

Superior Court Judge Benjamin J. F. Cruz echoed that sentiment by recommending provisions or comprehensive legislation which include emergency public assistance to victims and the establishment of educational curriculum in the school system which teaches parenting skills to students.

#### **Committee Recommendations**

Given the inadequacies of existing statutes to address the growing problems of domestic violence on island which place the community at great risk, the Committee believes that an updated, contemporary and comprehensive law be enacted to protect all victims of family violence in a fair, prompt and effective manner.

Moreover, the Committee believes it is necessary to prevent future violence in all families.

This sentiment has been articulated in the creation of the Family Violence Task Force which was tasked with crafting appropriate legal and remedial responses. With the receipt of the Model Code of Domestic Violence, the Task Force has reviewed and amended appropriately Bill 1132 for the Legislature's consideration.

The Committee, therefore recommends passage of Substitute Bill 1132 at the soonest date possible.

BILL NO. 1132(LS)

Introduced by:

M.D.A. Manibusan *mdm*  
P.C. Lujan *PC*  
E.P. Arriola *EPA*  
H.D. Dierking *H*  
M.Z. Bordallo  
D.F. Brooks

AN ACT TO ADD A NEW CHAPTER 30 TO TITLE 9,  
GUAM CODE ANNOTATED, ON DOMESTIC VIOLENCE

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

2 Section 1. **Legislative Findings.** The Legislature finds that many people are  
3 physically abused by their partners, whether they be spouses, former spouses, cohabitants,  
4 and/or individuals in boyfriend, girlfriend relationships, regardless of sexual preference.  
5 It is the sense of the Legislature that all persons are entitled to be left alone if they wish,  
6 and every person should be free of fear and assault from others

7 It is the intent of the Legislature in enacting this Chapter to ensure that the  
8 Superior Court shall issue protective, stay-away orders under this Chapter in appropriate  
9 domestic violence cases.

10 Section 2. A new Chapter 30 is hereby added to Title 9, Guam Code  
11 Annotated, to read:

12 "CHAPTER 30"

13 DOMESTIC VIOLENCE

14 Section 30.10. **Definitions.** As used in this Chapter:

15 (a) "Abuse" means intentionally or recklessly causing or attempting to cause  
16 bodily injury, or placing another person in reasonable apprehension of imminent serious  
17 bodily injury to himself or herself, or another.

18 (b) "Domestic Violence" is abuse committed against an adult or a fully

1 emancipated minor who is a spouse, former spouse, cohabitant, or person with whom the  
2 suspect is having or has had a dating or engagement relationship.

3 (c) "Malice" means an intent to vex, annoy, harm, or injure in any way  
4 another person, or to thwart or interfere in any manner with the orderly administration  
5 of justice.

6 (d) "Peace Officer" means any person so defined by Section 5.55 of Title  
7 8, Guam Code Annotated.

8 (e) "Stay-Away Order" means a judgment of the court on the motion to have  
9 the defendant stay away from the victim.

10 (f) "Victim" means any natural person with respect to whom there is reason  
11 to believe that any crime as defined under the laws of this Territory or of the United  
12 States is being or has been perpetrated or attempted to be perpetrated.

13 (g) "Witness" means any natural person, (i) having knowledge of the  
14 existence or nonexistence of facts relating to any crime, or (ii) whose declaration under  
15 oath is received or has been received as evidence for any purpose, or (iii) who has  
16 reported any crime to any peace officer, prosecutor, probation or parole officer,  
17 correctional officer or judicial officer, or (iv) who has been served with a subpoena issued  
18 under the authority of any court in the state, or of any other state or of the United States,  
19 or (v) who would be believed by any reasonable person to be an individual described in  
20 subparagraphs (i) or (iv), inclusive.

21 **Section 30.20. Section 31.60 of 9 G.C.A., Chapter 31, is hereby repealed**  
22 **and reenacted to read as follows: Infliction of injury on spouse, cohabitee or parent of**  
23 **child; Counseling as condition of probation; Imprisonment on subsequent offense;**  
24 **Participation in batterer's treatment program.**

25 (a) Any person who willfully inflicts upon his or her spouse, or any person  
26 who willfully inflicts upon any person with whom he or she is cohabitating, or any person  
27 who willfully inflicts upon any person who is the mother or father of his or her child,  
28 corporal injury resulting in a traumatic condition, is guilty of a third-degree felony.

29 (b) Holding oneself out to be the husband or wife of the person with whom  
30 one is cohabitating is not necessary to constitute cohabitation as the term is used in this

1 section.

2 (c) As used in this section, "traumatic condition" means a condition of the  
3 body, such as a wound or external or internal injury, whether of a minor or serious nature  
4 caused by a physical force.

5 (d) For the purpose of this section, a person shall be considered the father  
6 or mother of another person's child if the alleged male parent is presumed the natural  
7 father as set forth in Section 4104, Title 19, Guam Code Annotated.

8 (e) In any case in which a person is convicted of violating this section and  
9 probation is granted, the court shall require participation in a batterer's treatment  
10 program as a condition of probation unless, considering all of the facts and the  
11 circumstances, the court finds participation in a batterer's treatment program  
12 inappropriate for the defendant.

13 (f) If probation is granted, or the execution or imposition of a sentence is  
14 suspended, for any person convicted under subdivision (a) who previously has been  
15 convicted under subdivision (a) for an offense that occurred within seven (7) years of the  
16 offense of the second conviction, it shall be a condition thereof that he or she be punished  
17 by imprisonment in the custody of the Department of Corrections for not less than ten  
18 (10) days, and that he or she participate in for no less than one (1) year, and successfully  
19 complete a batterer's treatment program, as designated by the court. However, the  
20 court, upon a showing of good cause, may find that the mandatory minimum  
21 imprisonment, or the participation in a batterer's treatment program, or both the  
22 mandatory minimum imprisonment and participation in a batterer's treatment program,  
23 as required by this subdivision, shall not be imposed and grant probation or the suspension  
24 of the execution or imposition of a sentence.

25 (g) If probation is granted, or the execution or imposition of a sentence is  
26 suspended, for any person convicted under subdivision (a) who previously has been  
27 convicted of two (2) or more violations of subdivision (a) for offenses that occurred within  
28 seven (7) years of the most recent conviction, it shall be a condition thereof that he or she  
29 be punished by imprisonment in the custody of the Department of Corrections for not less  
30 than thirty (30) days and that he or she participate in, for not less than one (1) year, and



1 successfully complete, a batterer's treatment program as designated by the court.  
2 However, the court, upon a showing of good cause, may find that the mandatory  
3 minimum imprisonment, or the participation in a batterer's treatment program or both the  
4 mandatory minimum imprisonment and participation in a batterer's treatment programs  
5 as required by this subdivision, shall not be imposed and grant probation or the suspension  
6 of the execution of a sentence.

7 Section 30.30. Intimidation or Dissuasion of witnesses and Victims;  
8 Offenses; Penalties; Enhancement; Aggravation.

9 (a) Except as provided in subdivision (c), any person who does any  
10 of the following is guilty of a misdemeanor:

11 (1) Knowingly and maliciously prevents or dissuades any  
12 witness or victim from attending or giving testimony at any trial, proceeding, or inquiry  
13 authorized by law.

14 (2) Knowingly and maliciously attempts to prevent or dissuade  
15 any witness or victim from attending or giving testimony at any trial, proceeding, or  
16 inquiry authorized by law.

17 (b) Except as provided in subdivision (c), every person who attempts  
18 to prevent or dissuade another person who has been the victim of a crime or who is  
19 witness to a crime from doing any of the following is guilty of a misdemeanor:

20 (1) Making any report of such victimization to any peace  
21 officer or local law enforcement officer or probation or parole or correctional officer or  
22 prosecuting agency or to any judge.

23 (2) Causing a complaint, indictment, information, probation,  
24 or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

25 (3) Arresting or causing or seeking the arrest of any person in  
26 connection with such victimization.

27 (c) Every person doing any of the acts described in subdivision (a) or  
28 (b) knowingly and maliciously under any one or more of the following circumstances, is  
29 guilty of a third-degree felony punishable by imprisonment at the Department of  
30 Corrections under any of the following circumstances:

1 (1) Where the act is accompanied by force or by an express  
2 or implied threat of force or violence, upon a witness or victim or any third person or the  
3 property of any victim, witness, or any third person.

4 (2) Where the act is in furtherance of a conspiracy.

5 (3) Where the act is committed by any person who has been  
6 convicted of any violation of this section, any predecessor law hereto or any federal  
7 statute or statute of any other state which, if the act prosecuted was committed in this  
8 jurisdiction, would be a violation of this section.

9 (4) Where the act is committed by any person for pecuniary  
10 gain or for any other consideration acting upon the request of any other person. All  
11 parties to such a transaction are guilty of a third-degree felony.

12 (d) Every person attempting the commission of any act described in  
13 subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success  
14 or failure of such attempt. The fact that no person was injured physically, or in fact  
15 intimidated, shall be no defense against any prosecution under this section.

16 (e) Nothing in this section precludes the imposition of an enhanced  
17 sentence for great bodily injury where the injury inflicted is significant or substantial.

18 (f) The use of force during the commission of any offense described  
19 in subdivision (c) shall be considered a circumstance in aggravation of the crime in  
20 imposing a term of imprisonment.

21 **Section 30.40. Orders Relating to Intimidation or Dissuasion of Victim**  
22 **or Witness; Orders When Crime of Domestic Violence is Charged.**

23 Upon a good cause belief that intimidation or dissuasion of a victim  
24 or witness has occurred or is reasonably likely to occur, any court with jurisdiction over  
25 a criminal matter may issue orders including, but not limited to, the following:

26 (a) An order that a defendant shall not violate any provision of  
27 Section 30.30.

28 (b) An order that a person before the court other than a defendant,  
29 including, but not limited to, a subpoenaed witness or other person entering the  
30 courtroom of the court, shall not violate any provisions of Section 30.30.

1 (c) An order that any person described in this section shall have no  
2 communication whatsoever with any specified witness or any victim, except through an  
3 attorney under such reasonable restrictions as the court may impose.

4 (d) An order calling for a hearing to determine if an order as  
5 described in subdivisions (a) to (c), inclusive, should be issued.

6 (e) An order that a particular law enforcement agency within the  
7 jurisdiction of the court provide protection for a victim or a witness, or both, or for  
8 immediate family members of a victim or a witness who reside in the same household as  
9 the victim or witness or within reasonable proximity of the victim's or witness's  
10 household, as determined by the court. The order shall not be made without the consent  
11 of the law enforcement agency except for limited an specified periods of time and upon  
12 an express finding by the court of a clear and present danger of harm to the victim or  
13 witness or immediate family members of the victim or witness.

14 For purposes of this subdivision, "immediate family members" include  
15 the spouse, children, or parents of the victim or witness.

16 (f) Any order protecting victims of violent crime from contact, with  
17 the intent to annoy, harass, threaten, or commit acts of violence, by the defendant.

18 Any person violating any order made pursuant to subdivisions (a) and  
19 (f), inclusive, may be punished for any substantive offense described in Section 30.30, or  
20 for a contempt of the court making the order. No finding of contempt shall be a bar to  
21 prosecution for a violation of Section 30.30. However, any person so held in contempt  
22 shall be entitled to credit for any punishment imposed therein against any sentence  
23 imposed upon conviction of an offense described in Section 30.30. Any conviction or  
24 acquittal for any substantive offense under Section 30.30 shall be a bar to a subsequent  
25 punishment for contempt arising out of the same act.

26 (g) In all cases where the defendant is charged with a crime of  
27 domestic violence, as defined in Section 30.10, the court shall consider issuing the above-  
28 described orders on its own motion. In order to facilitate this, the court's records of all  
29 criminal cases involving domestic violence shall be marked to clearly alert the court to  
30 this issue.

1 (h) The Judicial Council shall adopt forms for orders under this  
2 section upon enactment.

3 **Section 30.50. Violation of Domestic Violence Order.**

4 (a) Any willful and knowing violation of any of the court orders set  
5 forth in Subsection (c) herein shall be a misdemeanor or punishable by a fine of not more  
6 than One Thousand Dollars (\$1,000), or by imprisonment in the custody of the  
7 Department of Corrections for not more than one (1) year, or by both the fine and  
8 imprisonment.

9 (b) In the event of a violation of subsection (a) which results in  
10 physical injury, the person shall be imprisoned at the Department of Corrections for at  
11 least forty-eight (48) hours, whether a fine or imprisonment is imposed, or the sentence  
12 is suspended.

13 (c) Subsection (a) and (b) shall apply to the following court orders:

14 (1) An order enjoining any party from molesting, attacking,  
15 striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by  
16 mail with the intent to harass, or disturbing the peace of the other party, or other named  
17 family and household members.

18 (2) An order excluding one party from the family dwelling or  
19 from the dwelling of the other.

20 (3) An order enjoining a party from specified behavior which  
21 the court determined was necessary to effectuate the orders under subsections (a) or (d).

22 (d) A second or subsequent conviction for a violation of an order  
23 issued pursuant to subsection (a) occurring within seven (7) years of a prior conviction for  
24 a violation of the order and involving an act of violence or "a credible threat" of violence  
25 is punishable by imprisonment at the Department of Corrections not to exceed one (1)  
26 year.

27 (e) In the event of a second or subsequent violation of subsection (a)  
28 resulting in a conviction occurring within one (1) year of a prior conviction for a violation  
29 of the order that results in physical injury to the same victim, the person shall be punished  
30 by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment at the

1 Department of Corrections for not less than six (6) months nor more than one (1) year, or  
2 by both the fine and imprisonment. Providing the person is imprisoned at the Department  
3 of the Corrections for at least thirty (30) days, the court may, in the interest of justice and  
4 for reasons stated in the record, reduce or eliminate the six (6) month minimum  
5 imprisonment required by this subsection. The court shall consider the seriousness of the  
6 facts before the court, whether there were additional allegations of a violation of the  
7 order during the pendency of the case before the court, the probability of future  
8 violations, the safety of the victim, and whether or not the defendant has successfully  
9 completed counseling.

10 (f) The Prosecution Division of the Office of the Attorney General  
11 of Guam shall have the primary responsibility for the enforcement of orders issued  
12 pursuant to the provisions listed in subdivisions (a), (b), and (d).

13 **Section 30.60. Disclosure of Domestic Violence Shelter.**

14 (a) Any person who maliciously publishes, disseminates or otherwise  
15 discloses the location of any domestic violence shelter or any place designated as a  
16 domestic violence shelter, without the authorization of that domestic violence shelter, is  
17 guilty of a misdemeanor.

18 (b) (1) For purposes of this section, "domestic violence shelter"  
19 means a confidential location which provides emergency housing on a 24-hour basis for  
20 victims of domestic violence, and their families.

21 (2) Domestic violence includes but is not limited to the  
22 following crimes: Aggravated Assault (Felony), 9 G.C.A. Section 19.20; Terrorizing  
23 (Felony), 9 G.C.A. Section 19.60; Criminal Sexual Conduct (Felony or Misdemeanor), 9  
24 G.C.A. Chapter 25; Homicide (Felony), 9 G.C.A. Section 16.20; Assault (Misdemeanor), 9  
25 G.C.A. Section 19.30; Reckless Conduct (Misdemeanor), 9 G.C.A. Section 19.40; Criminal  
26 Trespass (Misdemeanor or Petty Misdemeanor), 9 G.C.A. Section 37.30; Criminal Mischief  
27 (Felony or Misdemeanor), 9 G.C.A. Section 34.50; Custodial Interference (Felony or  
28 Misdemeanor), 9 G.C.A. Section 22.50; Child Abuse (Felony or Misdemeanor), 9 G.C.A.  
29 Section 3130; Harassment (Misdemeanor or Petty Misdemeanor), 9 G.C.A. Section 61.20;  
30 and Stalking (Felony), 9 G.C.A. Sections 19.69 and 19.70.



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- (1) A full description of the procedures of diversionary investigation.**
  - (2) A general explanation of the roles and authorities of the court, the prosecuting attorney, the probation department, and the community program in the diversion process.**
  - (3) A clear statement that the court may decide in a hearing not to divert such person and that he or she may have to stand trial for the alleged offense.**
  - (4) A clear statement that, for the period for diversion, the divertee may be enjoined from contacting, and shall be enjoined from annoying, molesting, attacking, striking, threatening, harassing, sexually assaulting, battering, or disturbing the peace of, the victim.**
  - (5) A clear statement that should such person fail in meeting the terms of his or her diversion, or should he or she be convicted of any offense involving violence, he or she may be required, after a court hearing, to stand trial for the original alleged offense.**
  - (6) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his or her arrest and diversion following successful completion of the diversion program.**
    - (b) If the defendant consents and waives his or her right to a speedy trial, the court shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior incidents of violence, treatment history, if any, demonstrable motivation, and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court.**
- Section 30.80.1. Diversion.**
- (a) The court shall hold a hearing and, after consideration of the**

1       probation department's report and any other information considered by the court to be  
2       relevant to its decision, shall determine if the defendant consents to further proceedings  
3       under this chapter and waives his right to a speedy trial and if the defendant should be  
4       diverted and referred for batterer's treatment counseling directed specifically to the  
5       violent conduct of the defendant. The court, in determining the defendant's eligibility for  
6       diversion, shall consider the nature and extent of the injury inflicted upon the victim, any  
7       prior incidents of domestic violence by the defendant, and any factors which would  
8       adversely influence the likelihood of successful completion of the diversion program. If  
9       the court does not deem the defendant a person who would be benefited by diversion, or  
10      if the defendant does not consent to participate, the proceedings shall continue as in any  
11      other case. If the court orders a defendant to be diverted, the court shall make inquiry  
12      into the financial condition of the defendant and upon a finding that the defendant is able  
13      in whole or part to pay the expense of such counseling the court may order him or her  
14      to pay for all or part of such expense.

15                       Nothing in this subdivision shall prohibit the placement of a defendant  
16      in another appropriate counseling program if the court determines that there is no  
17      available batterer's treatment counseling program.

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

21                       (c) The period during which further criminal proceedings against a  
22      person may be diverted pursuant to this chapter shall be no less than six (6) months nor  
23      longer than two (2) years.

24                       The court shall set forth in writing or stated on the record its reason  
25      for granting or denying diversion. The court's decision in such a matter shall be final and  
26      shall not constitute an appealable order.

27                       **Section 30.80.2. Reinstitution of Criminal Proceedings; Dismissal.**  
28      If it appears to the prosecuting attorney, the court, or the probation department that the  
29      divertee is performing unsatisfactorily in the assigned program, or that the divertee is not



1 benefiting from counseling, or that he or she is convicted of any offense involving  
2 violence, after notice to the divertee, and upon required of the probation officer or on its  
3 own motion, the court shall hold a hearing to determine whether the criminal proceedings  
4 should be reinstated. If the court finds that the divertee is not performing satisfactorily  
5 in the assigned program, or that the divertee is not benefiting from diversion, or the court  
6 finds that the divertee has been convicted of a crime as indicated above, the criminal case  
7 shall be referred back to the court for resumption of the criminal proceedings. If the  
8 divertee has performed satisfactorily during the period of diversion, at the end of the  
9 period of diversion, the criminal charges shall be dismissed.

10 **Section 30.80.3. Use of Arrest Record Following Successful**  
11 **Completion of Diversion Program.** Any records filed with the Guam Police Department  
12 and the Prosecutor's Division of the Attorney General's Office shall indicate the  
13 disposition in those cases diverted pursuant to this chapter. Upon successful completion  
14 of a diversion program the arrest upon which the diversion was based shall be deemed to  
15 have never occurred. The divertee may indicate in response to any question concerning  
16 his or her prior criminal record that he or she was not arrested or diverted for such  
17 offense. A record pertaining to an arrest resulting in successful completion of a diversion  
18 program shall not, without the divertee's consent, be used in any way which could result  
19 in the denial of any employment, benefit, license, or certificate.

20 **Section 30.80.4. Admissibility of Statement or Information Procured**  
21 **Therefrom Made During Determination of Defendant's Eligibility For Diversion.** No  
22 statement, or any information procured therefrom, with respect to the specific offense  
23 with which the defendant is charged, which is made to any probation officer or  
24 community program worker during the process of determining the defendant's eligibility  
25 for diversion or subsequent to the granting of diversion, shall be admissible.

26 **Section 10. Adoption of Written Policies on Responding to Domestic**  
27 **Violence Calls; Standards.**

28 Every law enforcement agency shall develop, adopt, and implement  
29 written policies and standards for officers' response to domestic violence call. These  
30 policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall

1 reflect existing policy that a request for assistance in a situation involving domestic  
2 violence is the same as any other request for assistance where violence has occurred.  
3 These existing local policies and those developed shall be in writing and shall be available  
4 to the public upon request and shall include specific standards for the following:

5 (a) Felony arrests.  
6 (b) Misdemeanor arrests.  
7 (c) Use of citizen arrests.  
8 (d) Verification and enforcement of temporary restraining orders  
9 when (1) the suspect is present and (2) when the suspect has fled.

10 (e) Verification and enforcement of stay-away orders.

11 (f) Cite and release policies.

12 (g) Emergency assistance to victims, such as medical care,  
13 transportation to a shelter, and police standbys for removing personal property.

14 (h) Assisting victims in pursuing criminal options, such as giving the  
15 victim the report number and directing the victim to the proper investigation unit.

16 (i) Furnishing written notice to victims at the scene, including, but  
17 not limited to, all of the following information:

18 (1) (A) A statement informing the victim that despite official  
19 restraint of the person alleged to have committed domestic violence, the restrained person  
20 may be released at any time.

21 (B) A statement that, "For further information about  
22 a shelter you may contact \_\_\_\_\_."

23 (C) A statement that, "For information about other  
24 services in the community, where available, you may contact \_\_\_\_\_."

25 (2) A statement informing the victim of domestic violence that  
26 he or she can ask the prosecuting attorney to file a criminal complaint.

27 (3) A statement informing the victim of the right to go to the  
28 Superior Court of Guam and file a petition requesting any of the following orders for  
29 relief:

30 (A) An order restraining the attacker from abusing the

1 victim and other family members.

2 (B) An order directing the attacker to leave the  
3 household.

4 (C) An order preventing the attacker from entering the  
5 residence, school, business, or place of employment of the victim.

6 (D) An order awarding the victim or the other parent  
7 custody of or visitation with a minor child or children.

8 (E) An order retraining the attacker from molesting or  
9 interfering with minor children in the custody of the victim.

10 (F) An order directing the party not granted custody to  
11 pay support of minor children, if that party has legal obligation to do so.

12 (G) An order directing the defendant to make specified  
13 debit payments coming due while the order is in effect.

14 (H) An order directing that either or both parties  
15 participate in counseling.

16 (4) A statement informing the victim of the right to file a civil  
17 suit for losses suffered as a result of the abuse, including medical expenses, loss of  
18 earnings, and other expenses for injuries sustained and damage to property, and any other  
19 related expenses incurred by the victim or any agency that shelters the victim.

20 (j) Writing of reports.

21 In the development of these policies and standards, each local  
22 department is encouraged to consult with domestic violence experts, such as the staff of  
23 the local shelter for battered women and their children. Departments may utilize the  
24 response guidelines developed by the commission in developing local policies.

25 **Section 30.90.1. Recording of Domestic Violence-Related Calls;**  
26 **Reports; Incident Report Forms.**

27 (a) The Guam Police Department shall develop a system for recording  
28 all domestic violence-related calls for assistance made to the department including  
29 whether weapons are involved. Monthly, the total number of domestic violence calls

1 received and the numbers of such cases involving weapons shall be compiled by the Guam  
2 Police Department and submitted to the Office of the Attorney General, Prosecution  
3 Division.

4 (b) The Chief Prosecutor shall report annually to the Governor, the  
5 Legislature, and the public, the total number of domestic violence-related calls, whether  
6 or not an arrest was made, received by the Guam Police Department, including a  
7 breakdown of the types of crimes involved, whether a weapon was used, whether an  
8 arrest was effectuated, the gender of the victim and the perpetrator, and the relationship  
9 between the victim and the perpetrator.

10 (c) In all incidents of domestic violence, the Guam Police Department  
11 shall prepare a written report and identify on the face of the report that the incident is  
12 one of domestic violence by writing the words "Domestic Violence." All reports of  
13 domestic violence shall be submitted to the Office of the Attorney General, Prosecution  
14 Division.

15 **Section 30.90.2 Training Course For Handling Domestic Violence**  
16 **Complaints.**

17 (a) The Guam Police Department shall implement a course or courses  
18 of instruction for the training of law enforcement officers in Guam in the handling of  
19 domestic violence complaints and also shall develop guidelines for law enforcement  
20 response to domestic violence. The course or courses of instruction and the guidelines  
21 shall stress enforcement of criminal laws in domestic violence situations, availability of  
22 civil remedies and community resources, and protection of the victim. Where  
23 appropriate, the training presenters shall include domestic violence experts with expertise  
24 in the delivery of direct services to victims of domestic violence, including utilizing the  
25 staff of shelters for battered women in the presentation of the training.

26 (b) The course of basic training for law enforcement officers shall  
27 include adequate instruction in the procedures and techniques described below:

28 (1) The provisions relating to response, enforcement of court  
29 orders, and data collection.

30 (2) The legal duties imposed on police officers to make arrests

1 and offer protection and assistance including guidelines for making felony and  
2 misdemeanor arrests.

3 (3) Techniques for handling incidents of domestic violence that  
4 minimize the likelihood of injury to the officer and that promote the safety of the victim.

5 (4) The nature and extent of domestic violence.

6 (5) The legal rights of, and remedies available to, victims of  
7 domestic violence.

8 (6) The use of an arrest by a private person in a domestic  
9 violence situation.

10 (7) Documentation, report writing, and evidence  
11 collection.

12 (8) Domestic violence diversion.

13 (9) Tenancy issues and domestic violence.

14 (10) The impact on children of law enforcement intervention  
15 in domestic violence.

16 (11) The services and facilities available to victims and  
17 batterers.

18 (12) The use and applications of this code in domestic violence  
19 situations.

20 (13) Verification and enforcement of temporary restraining  
21 orders when (A) the suspect is present and (B) the suspect has fled.

22 (14) Verification and enforcement of stayaway orders.

23 (15) Cite and release policies.

24 (16) Emergency assistance to victims and how to assist victims  
25 in pursuing criminal justice options.

26 The guidelines developed by the commission shall also incorporate the  
27 foregoing factors.

28 (c) All law enforcement officers who have received their basic  
29 training shall participate in supplementary training on domestic violence subjects, as  
30 prescribed and certified by the commission.







# Twenty-Second Guam Legislature

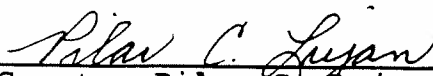

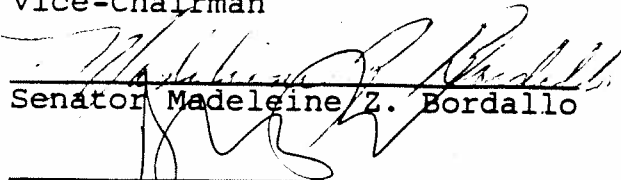
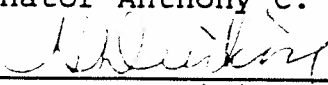
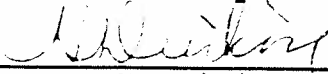
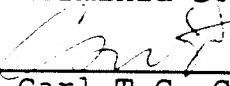

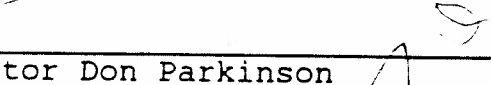
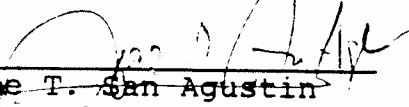
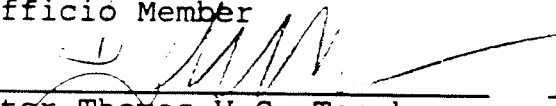
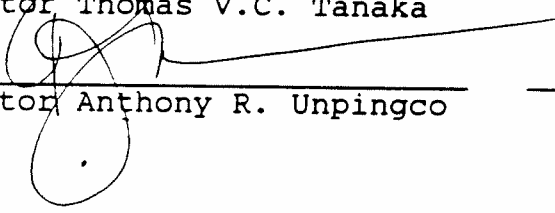
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## COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

VOTE SHEET ON: Substitute Bill 1132

<u>COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
 Senator Pilar C. Lujan Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Francis E. Santos Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Madeleine Z. Bordallo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Anthony C. Blaz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Herminia D. Dierking	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Carl T.C. Gutierrez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Vicente C. Pangelinan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Don Parkinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Speaker Joe T. San Agustin Ex-Officio Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Thomas V.C. Tanaka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Anthony R. Unpingco	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) REGULAR SESSION

AUG 17 '94

BILL NO. 1132 (LS)

Introduced by:

M.D.A. Manibusan *mdm*  
P.C. Lujan *PL*  
E.P. Arriola *epa*  
H.D. Dierking *HD*  
M.Z. Bordallo  
D.F. Brooks *DFB*

AN ACT TO ADD A NEW CHAPTER 30 TO TITLE 9,  
GUAM CODE ANNOTATED, ON DOMESTIC VIOLENCE

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

2 Section 1. Legislative Findings. The Legislature finds that many people are  
3 physically abused by their partners, whether they be spouses, former spouses, cohabitants,  
4 and/or individuals in boyfriend, girlfriend relationships, regardless of sexual preference.  
5 It is the sense of the Legislature that all persons are entitled to be left alone if they wish,  
6 and every person should be free of fear and assault from others

7 It is the intent of the Legislature in enacting this Chapter to ensure that the  
8 Superior Court shall issue protective, stay-away orders under this Chapter in appropriate  
9 domestic violence cases.

10 Section 2. A new Chapter 30 is hereby added to Title 9, Guam Code  
11 Annotated, to read:

"CHAPTER 30"  
DOMESTIC VIOLENCE

14 Section 30.10. Definitions. As used in this Chapter:

- 15 (a) "Abuse" means intentionally or recklessly causing or attempting to cause  
16 bodily injury, or placing another person in reasonable apprehension of imminent serious  
17 bodily injury to himself or herself, or another.  
18 (b) "Domestic Violence" is abuse committed against an adult or a fully

1 emancipated minor who is a spouse, former spouse, cohabitant, or person with whom the  
2 suspect is having or has had a dating or engagement relationship.

3 (c) "Malice" means an intent to vex, annoy, harm, or injure in any way  
4 another person, or to thwart or interfere in any manner with the orderly administration  
5 of justice.

6 (d) "Peace Officer" means any person so defined by Section 5.55 of Title  
7 8, Guam Code Annotated.

8 (e) "Stay-Away Order" means a judgment of the court on the motion to have  
9 the defendant stay away from the victim.

10 (f) "Victim" means any natural person with respect to whom there is reason  
11 to believe that any crime as defined under the laws of this Territory or of the United  
12 States is being or has been perpetrated or attempted to be perpetrated.

13 (g) "Witness" means any natural person, (i) having knowledge of the  
14 existence or nonexistence of facts relating to any crime, or (ii) whose declaration under  
15 oath is received or has been received as evidence for any purpose, or (iii) who has  
16 reported any crime to any peace officer, prosecutor, probation or parole officer,  
17 correctional officer or judicial officer, or (iv) who has been served with a subpoena issued  
18 under the authority of any court in the state, or of any other state or of the United States,  
19 or (v) who would be believed by any reasonable person to be an individual described in  
20 subparagraphs (i) or (iv), inclusive.

21 **Section 30.20. Section 31.60 of 9 G.C.A., Chapter 31, is hereby repealed**  
22 **and reenacted to read as follows: Infliction of injury on spouse, cohabitee or parent of**  
23 **child; Counseling as condition of probation; Imprisonment on subsequent offense;**  
24 **Participation in batterer's treatment program.**

25 (a) Any person who willfully inflicts upon his or her spouse, or any person  
26 who willfully inflicts upon any person with whom he or she is cohabitating, or any person  
27 who willfully inflicts upon any person who is the mother or father of his or her child,  
28 corporal injury resulting in a traumatic condition, is guilty of a third-degree felony.

29 (b) Holding oneself out to be the husband or wife of the person with whom  
30 one is cohabitating is not necessary to constitute cohabitation as the term is used in this

1 section.

2 (c) As used in this section, "traumatic condition" means a condition of the  
3 body, such as a wound or external or internal injury, whether of a minor or serious nature  
4 caused by a physical force.

5 (d) For the purpose of this section, a person shall be considered the father  
6 or mother of another person's child if the alleged male parent is presumed the natural  
7 father as set forth in Section 4104, Title 19, Guam Code Annotated.

8 (e) In any case in which a person is convicted of violating this section and  
9 probation is granted, the court shall require participation in a batterer's treatment  
10 program as a condition of probation unless, considering all of the facts and the  
11 circumstances, the court finds participation in a batterer's treatment program  
12 inappropriate for the defendant.

13 (f) If probation is granted, or the execution or imposition of a sentence is  
14 suspended, for any person convicted under subdivision (a) who previously has been  
15 convicted under subdivision (a) for an offense that occurred within seven (7) years of the  
16 offense of the second conviction, it shall be a condition thereof that he or she be punished  
17 by imprisonment in the custody of the Department of Corrections for not less than ten  
18 (10) days, and that he or she participate in for no less than one (1) year, and successfully  
19 complete a batterer's treatment program, as designated by the court. However, the  
20 court, upon a showing of good cause, may find that the mandatory minimum  
21 imprisonment, or the participation in a batterer's treatment program, or both the  
22 mandatory minimum imprisonment and participation in a batterer's treatment program,  
23 as required by this subdivision, shall not be imposed and grant probation or the suspension  
24 of the execution or imposition of a sentence.

25 (g) If probation is granted, or the execution or imposition of a sentence is  
26 suspended, for any person convicted under subdivision (a) who previously has been  
27 convicted of two (2) or more violations of subdivision (a) for offenses that occurred within  
28 seven (7) years of the most recent conviction, it shall be a condition thereof that he or she  
29 be punished by imprisonment in the custody of the Department of Corrections for not less  
30 than thirty (30) days and that he or she participate in, for not less than one (1) year, and

1 successfully complete, a batterer's treatment program as designated by the court.  
2 However, the court, upon a showing of good cause, may find that the mandatory  
3 minimum imprisonment, or the participation in a batterer's treatment program or both the  
4 mandatory minimum imprisonment and participation in a batterer's treatment programs  
5 as required by this subdivision, shall not be imposed and grant probation or the suspension  
6 of the execution of a sentence.

7 Section 30.30. Intimidation or Dissuasion of witnesses and Victims;  
8 Offenses; Penalties; Enhancement; Aggravation.

9 (a) Except as provided in subdivision (c), any person who does any  
10 of the following is guilty of a misdemeanor:

11 (1) Knowingly and maliciously prevents or dissuades any  
12 witness or victim from attending or giving testimony at any trial, proceeding, or inquiry  
13 authorized by law.

14 (2) Knowingly and maliciously attempts to prevent or dissuade  
15 any witness or victim from attending or giving testimony at any trial, proceeding, or  
16 inquiry authorized by law.

17 (b) Except as provided in subdivision (c), every person who attempts  
18 to prevent or dissuade another person who has been the victim of a crime or who is  
19 witness to a crime from doing any of the following is guilty of a misdemeanor:

20 (1) Making any report of such victimization to any peace  
21 officer or local law enforcement officer or probation or parole or correctional officer or  
22 prosecuting agency or to any judge.

23 (2) Causing a complaint, indictment, information, probation,  
24 or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

25 (3) Arresting or causing or seeking the arrest of any person in  
26 connection with such victimization.

27 (c) Every person doing any of the acts described in subdivision (a) or  
28 (b) knowingly and maliciously under any one or more of the following circumstances, is  
29 guilty of a third-degree felony punishable by imprisonment at the Department of  
30 Corrections under any of the following circumstances:

1 (1) Where the act is accompanied by force or by an express  
2 or implied threat of force or violence, upon a witness or victim or any third person or the  
3 property of any victim, witness, or any third person.

4 (2) Where the act is in furtherance of a conspiracy.

5 (3) Where the act is committed by any person who has been  
6 convicted of any violation of this section, any predecessor law hereto or any federal  
7 statute or statute of any other state which, if the act prosecuted was committed in this  
8 jurisdiction, would be a violation of this section.

9 (4) Where the act is committed by any person for pecuniary  
10 gain or for any other consideration acting upon the request of any other person. All  
11 parties to such a transaction are guilty of a third-degree felony.

12 (d) Every person attempting the commission of any act described in  
13 subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success  
14 or failure of such attempt. The fact that no person was injured physically, or in fact  
15 intimidated, shall be no defense against any prosecution under this section.

16 (e) Nothing in this section precludes the imposition of an enhanced  
17 sentence for great bodily injury where the injury inflicted is significant or substantial.

18 (f) The use of force during the commission of any offense described  
19 in subdivision (c) shall be considered a circumstance in aggravation of the crime in  
20 imposing a term of imprisonment.

21 **Section 30.40. Orders Relating to Intimidation or Dissuasion of Victim**  
22 **or Witness; Orders When Crime of Domestic Violence is Charged.**

23 Upon a good cause belief that intimidation or dissuasion of a victim  
24 or witness has occurred or is reasonably likely to occur, any court with jurisdiction over  
25 a criminal matter may issue orders including, but not limited to, the following:

26 (a) An order that a defendant shall not violate any provision of  
27 Section 30.30.

28 (b) An order that a person before the court other than a defendant,  
29 including, but not limited to, a subpoenaed witness or other person entering the  
30 courtroom of the court, shall not violate any provisions of Section 30.30.

1 (c) An order that any person described in this section shall have no  
2 communication whatsoever with any specified witness or any victim, except through an  
3 attorney under such reasonable restrictions as the court may impose.

4 (d) An order calling for a hearing to determine if an order as  
5 described in subdivisions (a) to (c), inclusive, should be issued.

6 (e) An order that a particular law enforcement agency within the  
7 jurisdiction of the court provide protection for a victim or a witness, or both, or for  
8 immediate family members of a victim or a witness who reside in the same household as  
9 the victim or witness or within reasonable proximity of the victim's or witness's  
10 household, as determined by the court. The order shall not be made without the consent  
11 of the law enforcement agency except for limited an specified periods of time and upon  
12 an express finding by the court of a clear and present danger of harm to the victim or  
13 witness or immediate family members of the victim or witness.

14 For purposes of this subdivision, "immediate family members" include  
15 the spouse, children, or parents of the victim or witness.

16 (f) Any order protecting victims of violent crime from contact, with  
17 the intent to annoy, harass, threaten, or commit acts of violence, by the defendant.

18 Any person violating any order made pursuant to subdivisions (a) and  
19 (f), inclusive, may be punished for any substantive offense described in Section 30.30, or  
20 for a contempt of the court making the order. No finding of contempt shall be a bar to  
21 prosecution for a violation of Section 30.30. However, any person so held in contempt  
22 shall be entitled to credit for any punishment imposed therein against any sentence  
23 imposed upon conviction of an offense described in Section 30.30. Any conviction or  
24 acquittal for any substantive offense under Section 30.30 shall be a bar to a subsequent  
25 punishment for contempt arising out of the same act.

26 (g) In all cases where the defendant is charged with a crime of  
27 domestic violence, as defined in Section 30.10, the court shall consider issuing the above-  
28 described orders on its own motion. In order to facilitate this, the court's records of all  
29 criminal cases involving domestic violence shall be marked to clearly alert the court to  
30 this issue.

1 (h) The Judicial Council shall adopt forms for orders under this  
2 section upon enactment.

3 **Section 30.50. Violation of Domestic Violence Order.**

4 (a) Any willful and knowing violation of any of the court orders set  
5 forth in Subsection (c) herein shall be a misdemeanor or punishable by a fine of not more  
6 than One Thousand Dollars (\$1,000), or by imprisonment in the custody of the  
7 Department of Corrections for not more than one (1) year, or by both the fine and  
8 imprisonment.

9 (b) In the event of a violation of subsection (a) which results in  
10 physical injury, the person shall be imprisoned at the Department of Corrections for at  
11 least forty-eight (48) hours, whether a fine or imprisonment is imposed, or the sentence  
12 is suspended.

13 (c) Subsection (a) and (b) shall apply to the following court orders:

14 (1) An order enjoining any party from molesting, attacking,  
15 striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by  
16 mail with the intent to harass, or disturbing the peace of the other party, or other named  
17 family and household members.

18 (2) An order excluding one party from the family dwelling or  
19 from the dwelling of the other.

20 (3) An order enjoining a party from specified behavior which  
21 the court determined was necessary to effectuate the orders under subsections (a) or (d).

22 (d) A second or subsequent conviction for a violation of an order  
23 issued pursuant to subsection (a) occurring within seven (7) years of a prior conviction for  
24 a violation of the order and involving an act of violence or "a credible threat" of violence  
25 is punishable by imprisonment at the Department of Corrections not to exceed one (1)  
26 year.

27 (e) In the event of a second or subsequent violation of subsection (a)  
28 resulting in a conviction occurring within one (1) year of a prior conviction for a violation  
29 of the order that results in physical injury to the same victim, the person shall be punished  
30 by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment at the

1 Department of Corrections for not less than six (6) months nor more than one (1) year, or  
2 by both the fine and imprisonment. Providing the person is imprisoned at the Department  
3 of the Corrections for at least thirty (30) days, the court may, in the interest of justice and  
4 for reasons stated in the record, reduce or eliminate the six (6) month minimum  
5 imprisonment required by this subsection. The court shall consider the seriousness of the  
6 facts before the court, whether there were additional allegations of a violation of the  
7 order during the pendency of the case before the court, the probability of future  
8 violations, the safety of the victim, and whether or not the defendant has successfully  
9 completed counseling.

10 (f) The Prosecution Division of the Office of the Attorney General  
11 of Guam shall have the primary responsibility for the enforcement of orders issued  
12 pursuant to the provisions listed in subdivisions (a), (b), and (d).

13 **Section 30.60. Disclosure of Domestic Violence Shelter.**

14 (a) Any person who maliciously publishes, disseminates or otherwise  
15 discloses the location of any domestic violence shelter or any place designated as a  
16 domestic violence shelter, without the authorization of that domestic violence shelter, is  
17 guilty of a misdemeanor.

18 (b) (1) For purposes of this section, "domestic violence shelter"  
19 means a confidential location which provides emergency housing on a 24-hour basis for  
20 victims of domestic violence, and their families.

21 (2) Domestic violence includes but is not limited to the  
22 following crimes: Aggravated Assault (Felony), 9 G.C.A. Section 19.20; Terrorizing  
23 (Felony), 9 G.C.A. Section 19.60; Criminal Sexual Conduct (Felony or Misdemeanor), 9  
24 G.C.A. Chapter 25; Homicide (Felony), 9 G.C.A. Section 16.20; Assault (Misdemeanor), 9  
25 G.C.A. Section 19.30; Reckless Conduct (Misdemeanor), 9 G.C.A. Section 19.40; Criminal  
26 Trespass (Misdemeanor or Petty Misdemeanor), 9 G.C.A. Section 37.30; Criminal Mischief  
27 (Felony or Misdemeanor), 9 G.C.A. Section 34.50; Custodial Interference (Felony or  
28 Misdemeanor), 9 G.C.A. Section 22.50; Child Abuse (Felony or Misdemeanor), 9 G.C.A.  
29 Section 3130; Harassment (Misdemeanor or Petty Misdemeanor), 9 G.C.A. Section 61.20;  
30 and Stalking (Felony), 9 G.C.A. Sections 19.69 and 19.70.



1 (c) Nothing in this section shall apply to confidential communications  
2 between an attorney and his or her client.

3 **Section 30.70. Application of Chapter.**

4 (a) Upon the determination of the judge presiding, this chapter shall  
5 apply whenever a case is before the court upon an accusatory pleading for an act of  
6 domestic violence which is charged as, or reduced to, a misdemeanor and all of the  
7 following apply to the defendant:

8 (1) The defendant has no conviction for any offense involving  
9 violence within seven (7) years prior to the alleged commission of the charged divertible  
10 offense.

11 (2) The defendant's record does not indicate that probation or  
12 parole has ever been revoked without thereafter being completed.

13 (3) The defendant has not been diverted pursuant to this  
14 chapter within five (5) years prior to the charged divertible offense.

15 (b) The prosecuting attorney shall, and the defense attorney may,  
16 review his or her file to determine whether or not paragraphs (1) and (3), inclusive, of  
17 subdivision (a) are applicable to the defendant. If the defendant is found eligible, the  
18 prosecuting attorney shall notify the court, the defendant, and the defense attorney, and  
19 the defense attorney may move that the defendant be diverted pursuant to this chapter.  
20 If the defendant is found by the prosecuting attorney to be ineligible for diversion, the  
21 prosecuting attorney shall file with the court a declaration in writing or state for the  
22 record the grounds upon which the determination is based, and shall make this  
23 information available to the defendant and his or her attorney.

24 (c) No admission of guilt shall be required of a defendant in order  
25 for this chapter to be applicable.

26 **Section 30.80. Notification That Chapter May Be Applicable to**  
27 **Defendant.**

28 (a) If the prosecuting attorney determines that this chapter may be  
29 applicable to the defendant, he or she shall advise the defendant and his or her attorney  
30 in writing of such determination. This notification shall include:

1 (1) A full description of the procedures of diversionary investigation.

2 (2) A general explanation of the roles and authorities of the court,  
3 the prosecuting attorney, the probation department, and the community program in the  
4 diversion process.

5 (3) A clear statement that the court may decide in a hearing not to  
6 divert such person and that he or she may have to stand trial for the alleged offense.

7 (4) A clear statement that, for the period for diversion, the diveree  
8 may be enjoined from contacting, and shall be enjoined from annoying, molesting,  
9 attacking, striking, threatening, harassing, sexually assaulting, battering, or disturbing the  
10 peace of, the victim.

11 (5) A clear statement that should such person fail in meeting the  
12 terms of his or her diversion, or should he or she be convicted of any offense involving  
13 violence, he or she may be required, after a court hearing, to stand trial for the original  
14 alleged offense.

15 (6) An explanation of criminal record retention and disposition  
16 resulting from participation in the diversion and the diveree's rights relative to answering  
17 questions about his or her arrest and diversion following successful completion of the  
18 diversion program.

19 (b) If the defendant consents and waives his or her right to a speedy  
20 trial, the court shall refer the case to the probation department. The probation  
21 department shall make an investigation and take into consideration the defendant's age,  
22 employment and service records, educational background, community and family ties,  
23 prior incidents of violence, treatment history, if any, demonstrable motivation, and other  
24 mitigating factors in determining whether the defendant is a person who would be  
25 benefited by education, treatment, or rehabilitation. The probation department shall also  
26 determine which community programs the defendant would benefit from and which of  
27 those programs would accept the defendant. The probation department shall report its  
28 findings and recommendation to the court.

29 **Section 30.80.1. Diversion.**

30 (a) The court shall hold a hearing and, after consideration of the

1 probation department's report and any other information considered by the court to be  
2 relevant to its decision, shall determine if the defendant consents to further proceedings  
3 under this chapter and waives his right to a speedy trial and if the defendant should be  
4 diverted and referred for batterer's treatment counseling directed specifically to the  
5 violent conduct of the defendant. The court, in determining the defendant's eligibility for  
6 diversion, shall consider the nature and extent of the injury inflicted upon the victim, any  
7 prior incidents of domestic violence by the defendant, and any factors which would  
8 adversely influence the likelihood of successful completion of the diversion program. If  
9 the court does not deem the defendant a person who would be benefited by diversion, or  
10 if the defendant does not consent to participate, the proceedings shall continue as in any  
11 other case. If the court orders a defendant to be diverted, the court shall make inquiry  
12 into the financial condition of the defendant and upon a finding that the defendant is able  
13 in whole or part to pay the expense of such counseling the court may order him or her  
14 to pay for all or part of such expense.

15           Nothing in this subdivision shall prohibit the placement of a defendant  
16 in another appropriate counseling program if the court determines that there is no  
17 available batterer's treatment counseling program.

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

21           (c) The period during which further criminal proceedings against a  
22 person may be diverted pursuant to this chapter shall be no less than six (6) months nor  
23 longer than two (2) years.

24           The court shall set forth in writing or stated on the record its reason  
25 for granting or denying diversion. The court's decision in such a matter shall be final and  
26 shall not constitute an appealable order.

27           **Section 30.80.2. Reinstitution of Criminal Proceedings; Dismissal.**

28           If it appears to the prosecuting attorney, the court, or the probation department that the  
29 divertee is performing unsatisfactorily in the assigned program, or that the divertee is not

1 benefiting from counseling, or that he or she is convicted of any offense involving  
2 violence, after notice to the divertee, and upon required of the probation officer or on its  
3 own motion, the court shall hold a hearing to determine whether the criminal proceedings  
4 should be reinstated. If the court finds that the divertee is not performing satisfactorily  
5 in the assigned program, or that the divertee is not benefiting from diversion, or the court  
6 finds that the divertee has been convicted of a crime as indicated above, the criminal case  
7 shall be referred back to the court for resumption of the criminal proceedings. If the  
8 divertee has performed satisfactorily during the period of diversion, at the end of the  
9 period of diversion, the criminal charges shall be dismissed.

10 **Section 30.80.3. Use of Arrest Record Following Successful**  
11 **Completion of Diversion Program.** Any records filed with the Guam Police Department  
12 and the Prosecutor's Division of the Attorney General's Office shall indicate the  
13 disposition in those cases diverted pursuant to this chapter. Upon successful completion  
14 of a diversion program the arrest upon which the diversion was based shall be deemed to  
15 have never occurred. The divertee may indicate in response to any question concerning  
16 his or her prior criminal record that he or she was not arrested or diverted for such  
17 offense. A record pertaining to an arrest resulting in successful completion of a diversion  
18 program shall not, without the divertee's consent, be used in any way which could result  
19 in the denial of any employment, benefit, license, or certificate.

20 **Section 30.80.4. Admissibility of Statement or Information Procured**  
21 **Therefrom Made During Determination of Defendant's Eligibility For Diversion.** No  
22 statement, or any information procured therefrom, with respect to the specific offense  
23 with which the defendant is charged, which is made to any probation officer or  
24 community program worker during the process of determining the defendant's eligibility  
25 for diversion or subsequent to the granting of diversion, shall be admissible.

26 **Section 10. Adoption of Written Policies on Responding to Domestic**  
27 **Violence Calls; Standards.**

28 Every law enforcement agency shall develop, adopt, and implement  
29 written policies and standards for officers' response to domestic violence call. These  
30 policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall

1 reflect existing policy that a request for assistance in a situation involving domestic  
2 violence is the same as any other request for assistance where violence has occurred.  
3 These existing local policies and those developed shall be in writing and shall be available  
4 to the public upon request and shall include specific standards for the following:

5 (a) Felony arrests.

6 (b) Misdemeanor arrests.

7 (c) Use of citizen arrests.

8 (d) Verification and enforcement of temporary restraining orders  
9 when (1) the suspect is present and (2) when the suspect has fled.

10 (e) Verification and enforcement of stay-away orders.

11 (f) Cite and release policies.

12 (g) Emergency assistance to victims, such as medical care,  
13 transportation to a shelter, and police standbys for removing personal property.

14 (h) Assisting victims in pursuing criminal options, such as giving the  
15 victim the report number and directing the victim to the proper investigation unit.

16 (i) Furnishing written notice to victims at the scene, including, but  
17 not limited to, all of the following information:

18 (1) (A) A statement informing the victim that despite official  
19 restraint of the person alleged to have committed domestic violence, the restrained person  
20 may be released at any time.

21 (B) A statement that, "For further information about  
22 a shelter you may contact \_\_\_\_\_."

23 (C) A statement that, "For information about other  
24 services in the community, where available, you may contact \_\_\_\_\_."

25 (2) A statement informing the victim of domestic violence that  
26 he or she can ask the prosecuting attorney to file a criminal complaint.

27 (3) A statement informing the victim of the right to go to the  
28 Superior Court of Guam and file a petition requesting any of the following orders for  
29 relief:

30 (A) An order restraining the attacker from abusing the

1 victim and other family members.

2 (B) An order directing the attacker to leave the  
3 household.

4 (C) An order preventing the attacker from entering the  
5 residence, school, business, or place of employment of the victim.

6 (D) An order awarding the victim or the other parent  
7 custody of or visitation with a minor child or children.

8 (E) An order restraining the attacker from molesting or  
9 interfering with minor children in the custody of the victim.

10 (F) An order directing the party not granted custody to  
11 pay support of minor children, if that party has legal obligation to do so.

12 (G) An order directing the defendant to make specified  
13 debit payments coming due while the order is in effect.

14 (H) An order directing that either or both parties  
15 participate in counseling.

16 (4) A statement informing the victim of the right to file a civil  
17 suit for losses suffered as a result of the abuse, including medical expenses, loss of  
18 earnings, and other expenses for injuries sustained and damage to property, and any other  
19 related expenses incurred by the victim or any agency that shelters the victim.

20 (j) Writing of reports.

21 In the development of these policies and standards, each local  
22 department is encouraged to consult with domestic violence experts, such as the staff of  
23 the local shelter for battered women and their children. Departments may utilize the  
24 response guidelines developed by the commission in developing local policies.

25 **Section 30.90.1. Recording of Domestic Violence-Related Calls;**  
26 **Reports; Incident Report Forms.**

27 (a) The Guam Police Department shall develop a system for recording  
28 all domestic violence-related calls for assistance made to the department including  
29 whether weapons are involved. Monthly, the total number of domestic violence calls

1 received and the numbers of such cases involving weapons shall be compiled by the Guam  
2 Police Department and submitted to the Office of the Attorney General, Prosecution  
3 Division.

4 (b) The Chief Prosecutor shall report annually to the Governor, the  
5 Legislature, and the public, the total number of domestic violence-related calls, whether  
6 or not an arrest was made, received by the Guam Police Department, including a  
7 breakdown of the types of crimes involved, whether a weapon was used, whether an  
8 arrest was effectuated, the gender of the victim and the perpetrator, and the relationship  
9 between the victim and the perpetrator.

10 (c) In all incidents of domestic violence, the Guam Police Department  
11 shall prepare a written report and identify on the face of the report that the incident is  
12 one of domestic violence by writing the words "Domestic Violence." All reports of  
13 domestic violence shall be submitted to the Office of the Attorney General, Prosecution  
14 Division.

15 **Section 30.90.2 Training Course For Handling Domestic Violence**  
16 **Complaints.**

17 (a) The Guam Police Department shall implement a course or courses  
18 of instruction for the training of law enforcement officers in Guam in the handling of  
19 domestic violence complaints and also shall develop guidelines for law enforcement  
20 response to domestic violence. The course or courses of instruction and the guidelines  
21 shall stress enforcement of criminal laws in domestic violence situations, availability of  
22 civil remedies and community resources, and protection of the victim. Where  
23 appropriate, the training presenters shall include domestic violence experts with expertise  
24 in the delivery of direct services to victims of domestic violence, including utilizing the  
25 staff of shelters for battered women in the presentation of the training.

26 (b) The course of basic training for law enforcement officers shall  
27 include adequate instruction in the procedures and techniques described below:

28 (1) The provisions relating to response, enforcement of court  
29 orders, and data collection.

30 (2) The legal duties imposed on police officers to make arrests

1 and offer protection and assistance including guidelines for making felony and  
2 misdemeanor arrests.

3 (3) Techniques for handling incidents of domestic violence that  
4 minimize the likelihood of injury to the officer and that promote the safety of the victim.

5 (4) The nature and extent of domestic violence.

6 (5) The legal rights of, and remedies available to, victims of  
7 domestic violence.

8 (6) The use of an arrest by a private person in a domestic  
9 violence situation.

10 (7) Documentation, report writing, and evidence  
11 collection.

12 (8) Domestic violence diversion.

13 (9) Tenancy issues and domestic violence.

14 (10) The impact on children of law enforcement intervention  
15 in domestic violence.

16 (11) The services and facilities available to victims and  
17 batterers.

18 (12) The use and applications of this code in domestic violence  
19 situations.

20 (13) Verification and enforcement of temporary retraining  
21 orders when (A) the suspect is present and (B) the suspect has fled.

22 (14) Verification and enforcement of stayaway orders.

23 (15) Cite and release policies.

24 (16) Emergency assistance to victims and how to assist victims  
25 in pursuing criminal justice options.

26 The guidelines developed by the commission shall also incorporate the  
27 foregoing factors.

28 (c) All law enforcement officers who have received their basic  
29 training shall participate in supplementary training on domestic violence subjects, as  
30 prescribed and certified by the commission.



1                   Local law enforcement agencies are encouraged to include, as part  
2 of their advanced officer training program, periodic updates and training on domestic  
3 violence. The commission shall assist where possible.

4                   (d) The course of instruction, the learning and performance  
5 objectives, the standards for the training, and the guidelines shall be developed by the  
6 commission in consultation with appropriate groups and individuals having an interest and  
7 expertise in the field of domestic violence.

8                   The commission, in consultation with these groups and individuals,  
9 shall review existing training programs to determine in what ways domestic violence  
10 training might be included as part of ongoing programs.

11                   **Section 30.90.3 Maintenance of Systematic Records.**

12                   (a) Law enforcement agencies shall maintain a  
13 complete and systematic record of all protection orders with respect to domestic violence  
14 incidents, including orders which have not yet been served, restraining orders, and proofs  
15 of service in effect. This shall be used to inform law enforcement officers responding to  
16 domestic violence calls of the existence, terms, and effective dates of protection orders  
17 in effect.

18                   (b) The terms and conditions of the protection order remain  
19 enforceable, notwithstanding the acts of the parties, and may be changed only by order  
20 of the court.

21                   (c) Upon request, law enforcement agencies shall serve the party to  
22 be restrained at the scene of a domestic violence incident or at any time the party is in  
23 custody.