



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
UFISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 9/27/93
TIME: 4:55 PM
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REFER TO
LEGISLATIVE SECRETARY
SEP 27 1993

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

A handwritten signature in cursive script, likely belonging to Joseph F. Ada.

Dear Mr. Speaker:

Transmitted herewith is Bill No. 265 which I have signed into law this date as
Public Law 22-35.

Sincerely yours,

A handwritten signature in cursive script, reading "Joseph F. Ada".
JOSEPH F. ADA
Governor of Guam

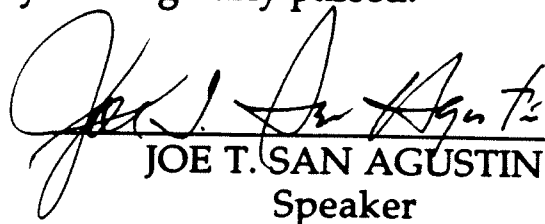
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Attachment


TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

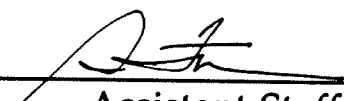
This is to certify that Substitute Bill No. 265 (LS), "AN ACT TO ADD NEW §§19.69 AND 19.70 TO CHAPTER 19 OF TITLE 9, GUAM CODE ANNOTATED, CRIMINALIZING THE ACT OF STALKING," was on the day of 15th, day of Setember, 1993, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

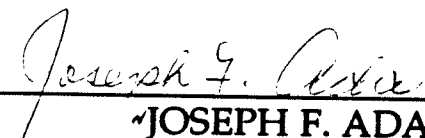
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 17th day of September
1993, at 10:19 o'clock A.M.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: SEP 27 1993

Public Law No. 22-35

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 265 (LS)

As substituted by the Committee on
Judiciary and Criminal Justice and
as further substituted by the
Committee on Rules.

Introduced by:

C. T. C. Gutierrez
P. C. Lujan
A. C. Blaz

M. Z. Bordallo
T. S. Nelson
T. C. Ada
J. P. Aguon
E. P. Arriola
H. D. Dierking
V. C. Pangelinan
D. Parkinson
E. D. Reyes
J. T. San Agustin
D. L. G. Shimizu
J. G. Bamba
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO ADD NEW §§19.69 AND 19.70 TO CHAPTER 19 OF
TITLE 9, GUAM CODE ANNOTATED, CRIMINALIZING THE
ACT OF STALKING.

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

2 **Section 1. (a) Legislative findings.** The Legislature finds Guam law to
3 be woefully lacking in the adequate protection of persons who are threatened

1 by the menacing presence of another person. It is assumed that scores of
2 assaults and homicides could have been prevented in Guam over the last
3 several years with adequate protective statutes in effect. The Legislature
4 finds a need for a criminal statute to deter and punish the act of stalking, as
5 defined in this Act.

6 (b) **Short title.** This Act shall be known as the "Guam Stalking Law".

7 **Section 2.** A new §19.69 is added to Chapter 19 of Title 9, Guam Code
8 Annotated, to read:

9 "§19.69. **Definitions.** Unless otherwise indicated, as used in
10 §19.70:

11 (a) 'Harasses' or 'harassment' means a knowing and willful
12 course of conduct, whether physical, verbal, electronic, telephonic,
13 written, or otherwise, directed at a specific person which alarms,
14 annoys, or distresses the person, and which serves no legitimate
15 purpose. Such course of conduct must be of a nature to cause a
16 reasonable person to suffer substantial emotional distress, and
17 must cause substantial emotional distress.

18 (b) 'Course of conduct' means a pattern of conduct
19 composed of a series of acts over a period of time, however short,
20 evidencing continuity of purpose. Constitutionally and statutorily
21 protected activity, including but not limited to picketing as a result
22 of a labor dispute, is not included in this definition.

23 (c) 'Credible threat' means any threat, physical or verbal,
24 overtly or subtly manifested, constituting a threat with the intent
25 and apparent ability to carry out the threat with the person who is
26 the target of the threat to reasonably fear for his or her safety or
27 the safety of his or her immediate family. Such threatening

1 advance must be against the life of, or a threat to cause bodily
2 injury to, the person threatened or to a member of his or her
3 immediate family."

4 **Section 3.** A new §19.70 is added to Chapter 19 of Title 9, Guam Code
5 Annotated, to read:

6 "§19.70. Stalking. (a) A person is guilty of simple stalking
7 if he or she willfully, maliciously, and repeatedly, follows or
8 harasses another person or who makes a credible threat with
9 intent to place that person or a member of his or her immediate
10 family in fear of death or bodily injury.

11 (b) A person is guilty of advanced stalking if he or she
12 violates subsection (a) of this section when there is a temporary
13 restraining order or an injunction or both or any other court order
14 in effect prohibiting the behavior described in that subsection
15 against the same party.

16 (c) A person is guilty of advanced stalking if he or she
17 violates subsection (a) of this section a second or subsequent time
18 against the same victim, within seven (7) years of a prior
19 conviction under that subsection, and involving an harassment or
20 a credible threat of violence, as defined in this §19.69 of this
21 Chapter.

22 (d) Simply stalking is a felony of the third degree.

23 (e) Advanced stalking is a felony of the second degree.

24 (f) This section shall not apply to conduct which occurs
25 during labor picketing."

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

6

Date: 9/15/93

VOTING SHEET

Bill No. 265
 Resolution No. _____
 Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.				
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL 20

Twenty-Second Guam Legislature



Senator Pilar Cruz Lujan

Legislative Secretary

Chairperson - Committee on Judiciary and Criminal Justice

June 5, 1993

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler St.
Agana, Guam 96910

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 265, wishes to report its findings and recommendations for passage of Substitute Bill No. 265.

The Committee voting record is as follows:

<u>11</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>0</u>	ABSTAIN
<u>0</u>	TO PLACE IN INACTIVE FILE

A copy of the Committee report and all pertinent documents are attached for your information.

Sincerely,

Handwritten signature of Pilar C. Lujan in cursive script.

PILAR C. LUJAN
Chairman

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 265

As Substituted by the
Committee on Judiciary
and Criminal Justice

Introduced by:

C. T. C. Gutierrez
P. C. Lujan
~~A. C. Blaz~~
M. J. Barotallo

AN ACT TO ADD NEW §§19.69 AND 19.70 TO
CHAPTER 19 OF TITLE 9, GUAM CODE
ANNOTATED, CRIMINALIZING THE ACT OF
STALKING.

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

2 Section 1. (a) Legislative Findings. The Legislature finds Guam law
3 to be woefully lacking in the adequate protection of persons who are
4 threatened by the menacing presence of another person. It is assumed
5 that scores of assaults and homicides could have been prevented in Guam
6 over the last several years with adequate protective statutes in effect. The
7 Legislature finds a need for a criminal statute to deter and punish the act
8 of stalking, as defined in this Act.

9 (b) Short Title. This Act shall be known as the "Guam Stalking Law".

10 Section 2. A new §19.69 is added to Chapter 19 of Title 9, Guam Code
11 Annotated, to read:

12 "§19.69. Definitions. Unless otherwise indicated, as used
13 in §19.70:

14 (a) 'Harasses' or 'harassment' means knowing and willful course
15 of conduct, whether physical, verbal, electronic, telephonic, written,
16 or otherwise, directed at a specific person which alarms, annoys, or
17 distresses the person, and which serves no legitimate purpose. Such
18 course of conduct must be of a nature to cause a reasonable person to
19 suffer substantial emotional distress, and must cause substantial
20 emotional distress.

1 (b) 'Course of conduct' means a pattern of conduct composed of
2 a series of acts over a period of time, however short, evidencing
3 continuity of purpose. Constitutionally and statutorily protected
4 activity, including but not limited to picketing as a result of
5 a labor dispute, is not included in this definition.

6 (c) 'Credible threat' means any [advance] threat, physical or
7 verbal, overtly or subtly manifested, constituting a threat with the
8 intent and apparent [li]ability to carry out the threat with the
9 person who is the target of the advance to reasonably fear for his or
10 safety or the safety of his or her immediate family. Such
11 threatening advance must be against the life of, or a threat to cause
12 bodily injury to, the person [~~so targeted~~] threatened or a
13 member of his or her immediate family."

14 Section 3. A new §19.70 is added to Chapter 19 of Title 9, Guam
15 Annotated, to read:

16 "§19.70 Stalking. (a) A person is guilty of simple stalking if he
17 or she willfully, maliciously, and repeatedly, follows or harasses
18 another person and who makes a credible threat with intent to place
19 that person or a member of his or her immediate family in
20 fear of death or bodily injury.

21 (b) A person is guilty of advanced stalking if he or she violates
22 Subsection (a) of this Section when there is a temporary restraining
23 order or an injunction or both or any other court order in effect
24 prohibiting the behavior described in that Subsection against the
25 same party.

26 (c) A person is guilty of advanced stalking if he or she violates
27 Subsection (a) of this Section a second or subsequent time against the
28 same victim, within seven (7) years of a prior conviction under that
29 Subsection, and involving an harassment or a credible threat of
30 violence, as defined in this §19.69 of this Chapter.

31 (d) Simple stalking is a felony of the third degree.

32 (e) Advanced stalking is a felony of the second degree.

33 [(f) This Section shall not apply to conduct which
34 occurs during labor picketing.]
35
36

Committee On Judiciary and Criminal Justice

Committee Report On Bill 265

Bill 265---An act to add new §§ 19.69 and 19.70 Chapter 19 of Title 9, Guam Code Annotated, criminalizing the act of stalking.

Preface

The Committee on Judiciary and Criminal Justice convened at 1:00 p.m., Wednesday, April 20, 1993 in the Legislative Public Hearing Room to receive testimony on Bill 265.

Committee members alongside Chairwoman Pilar C. Lujan were Senators Don Parkinson and Antonio R. Unpingco.

Overview

In recent years several communities have strengthened their harassment, terrorizing, and assault laws by criminalizing the act of stalking.

Many victims have noted that perpetrators stalked them by following or harassing before committing additional crimes against them.

Stalking laws are designed to prevent perpetrators from committing such additional crimes before they occur.

Committee Findings

Assistant Attorney General John Glang, a territorial prosecutor, appeared before the committee registering support for the measure with modifications.

A former California prosecutor, Attorney Glang noted that Bill 265 is patterned after the constitutionally upheld California statute which was enacted in 1990.

Attorney Glang suggested the bill be modified to extend "*the protection not merely to a threat to the target but to threats that are to the immediate family of the target.*"

Attorney Glang added that the definition of stalking should be revised to include not only harassing a person but also following a person, including the immediate family of that person.

Further, he suggested that the enhanced stalking provision should prohibit perpetrators under all court orders from following or harassing any person or his immediate family.

Attorney Glang testified that "*there are many cases that have received a great deal of notoriety in the press involving celebrities that have been the target or the victim of this kind of conduct. We need to criminalize it.*"

Committee Chairwoman Pilar Lujan inquired if stalking has taken place on island and dismissed because of a lack of a statute.

Attorney Glang responded that he wasn't aware of any local stalking cases, however, he did note that Guam's terrorizing statute is good and has been employed.

Committee Chairwoman Lujan then queried Attorney Glang on patterning our statutes after another jurisdiction and the legal interpretations of such patterned laws. Attorney Glang noted that legislative intent should be noted to spell out what the law aims at, particularly for the purpose of determining precedent.

Committee Chairwoman noted the inapplicability of this statute to labor picketing and the local teacher's strike when her neighbor, the Director of Education, was harassed.

Attorney Glang pointed out that exemption is directly from California's statute.

Senator Tony Unpingco asked if public officials are denied of privacy by virtue of their public positions and subjected to demonstrations anytime, anywhere by anyone.

Attorney Glang noted that there may be a limit on such activity. Attorney Glang observed that *"this is an interesting illustration of what may be different or competing concerns between California and the one here on Guam. And the other may be that this clause or subsection is not the sort of thing that we would want on Guam."*

Senator Unpingco recommended deletion of the subsection.

Committee Chairwoman Lujan suggested that amendments be made to allow picketing. However, such activity should not affect innocent bystanders and take into consideration picketing after duty hours at a public official's home.

Committee Recommendations

The Committee notes the need to provide the community with a stalking law which prohibits perpetrators from following or harassing a person or his or her immediate family.

The Committee recommends passage of Substitute Bill 265 which contains necessary modifications.

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 265

Introduced by:


C.F.C. Gutierrez

JJ AN ACT TO ADD NEW §§ 19.69 AND 19.70 CHAPTER 19
OF TITLE 9, GUAM CODE ANNOTATED, CRIMINALIZING
THE ACT OF STALKING.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2

3 Section 1. (a) Legislative Findings. The Legislature finds Guam
4 law to be woefully lacking in the adequate protection of persons who are
5 threatened by the menacing presence of another person. In fact, scores of
6 assaults and homicides by stalkers or menacing suitors could have been
7 prevented in Guam over the last several years with adequate protective
8 statutes in effect. Therefore, the Legislature finds a need for a criminal
9 statute to deter and punish the act of stalking, as defined in this Act.

10 (b) Short Title. This Act shall be known as the "Guam
11 Stalking Law".

12 Section 2. A new §19.69 is added to Chapter 19 of Title 9, Guam
13 Code Annotated, to read:

14 "Definitions. Unless otherwise indicated, as used in §19.70:

15 (a) 'Harasses' or 'harrassment' means a knowing and
16 willful course of conduct, whether physical, verbal, electronic,
17 telephonic, written, or otherwise, directed at a specific person which
18 alarms, annoys, or distresses the person, and which serves no

1 legitimate purpose. Such course of conduct must be of a nature to
2 cause a reasonable person to suffer substantial emotional distress,
3 and must cause substantial emotional distress.

4 (b) 'Course of conduct' means a pattern of conduct
5 composed of a series of acts over a period of time, however short,
6 evidencing continuity of purpose. Constitutionally and statutorily
7 protected activity is not included in this definition.

8 (c) 'Credible threat' means any advance, physical
9 or verbal, overtly or subtly manifested, constituting a threat with the
10 intent and apparent liability to carry out the threat so as to cause the
11 person who is the target of the advance to reasonably fear for his or
12 her safety. Such threatening advance must be against the life of, or a
13 threat to cause bodily injury to, the person so targeted".

14 Section 3. A new §19.70 is added to Chapter 19 of Title 9, Guam
15 Code Annotated, to read:

16 "19.70 Stalking. (a) A person is guilty of simple stalking if he
17 or she willfully, maliciously, and repeatedly, harasses another person
18 and who makes a credible threat with intent to place that person in
19 fear of death or bodily injury.

20 (b) A person is guilty of advanced stalking if he or she
21 violates Subsection (a) of this Section when there is a temporary
22 restraining order or an injunction or both in effect prohibiting the
23 behavior described in that Subsection against the same party.

24 (c) A person is guilty of advanced stalking if he or she
25 violates Subsection (a) of this Section a second or subsequent time
26 against the same victim, within seven (7) years of a prior conviction

1 under that Subsection, and involving an harrassment or a credible
2 threat of violence, as defined in this §19.69 of this Chapter.

3 (d) Simple talking is a felony of the third degree.

4 (e) Advanced stalking is a felony of the second degree.

5 (f) This Section shall not apply to conduct which occurs
6 during labor picketing”.



Government of Guam
GUAM POLICE DEPARTMENT

287 West O'Brien Drive
Agaña, Guam 96910
U.S. Territory of Guam



JOSEPH F. ADA
Governor of Guam

COLONEL A.P. SGAMBELLURI
Chief of Police

FRANK F. BLAS
Lieutenant Governor

The Honorable Pilar C. Lujan
Chairperson, Committee on Judiciary and
Criminal Justice
Twenty-First Legislature
155 Hersler Street
Agana, Guam 69610

Subject: Bill No. 738 - An Act to Add a New Section 19.70
to 9 GCA Chapter 19. Criminalizing the Act of
Stalking.

Dear Senator Lujan:

The Guam Police Department opposes the enactment of Bill
738. Much of the substance of the bill is covered by
existing provisions of law, while the remainder is either
superfluous or unconstitutionally void for vagueness.

"Harasses" is the first word defined in the definitional
section of the bill. The definition set out is not to
different from 9 GCA \$61.20(c), the statute dealing with
harassment, which has been declared unconstitutional by
the Superior Court. By removing the word "harasses" from
the 9 GCA \$19.70 which would be added by \$4 of the bill,
the prohibited conduct is reduced to "...willful, malicious
and repeatedly follows... "coupled with" ...a credible
threat with intent to place a person in fear of death or
bodily injury." A credible threat to place a person in
fear of death or bodily injury is already covered by 9
GCA \$19.60, Terrorizing. (See also 9 GCA \$19.20, Aggravated
Assault; \$19.30, Assault; \$19.40, Reckless Conduct; \$61.20,
Harassment).

"Advanced stalking" as defined by 9 GCA \$19.70(b) as enacted
by \$4 introduces the element of a "temporary restraining
order or injunction" into the charging mechanisms of the
statute along with the repeat offender provision set out
in subsection (c). The enhancement and charging provisions
would have the same defect as that contained in 9 GCA

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
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Letter to Senator Pilar C. Lujan
Subject: Bill No. 738
Page 2 of 2

\$19.70(a), i.e., without the vague term "harasses" what is left is the crime of terrorizing.

Another problem with the bill is the proposed 9 GCA \$19.70(f) which contains an exception for "labor picketing". The impact of this subsection is that in the context of "labor picketing", it is permissible to threaten a person with death or bodily injury.

For the reasons set out above, I oppose the enactment of Bill 786.

Sincerely,

Original signed By
A. P. SGAMBELLURI
A. P. SGAMBELLURI

GEN-0253-90
hee; 5/27/92



Twenty-Second Guam Legislature

155 Hesler Street
Agaña, Guam USA 96910

tel. (671)472-3444/5

Fax (671)477-9540

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

Vote Sheet on: Substitute Bill 265


<u>COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
<u><i>Pilar C. Lujan</i></u> Senator Pilar C. Lujan Chairman	✓	✓	✓	_____
<u><i>F.R. Santos</i></u> Senator Francisco R. Santos Vice Chairman	✓	_____	_____	_____
<u><i>Madeleine Z. Bordallo</i></u> Senator Madeleine Z. Bordallo	✓	_____	_____	_____
<u><i>Anthony C. Blaz</i></u> Senator Anthony C. Blaz	✓	_____	_____	_____
<u><i>Herminia D. Dierking</i></u> Senator Herminia D. Dierking	✓	_____	_____	_____
<u><i>Carl T. C. Gutierrez</i></u> Senator Carl T. C. Gutierrez	✓	_____	_____	_____
<u><i>Vicente C. Pangelinan</i></u> Senator Vicente C. Pangelinan	✓	_____	_____	_____
<u><i>Don Parkinson</i></u> Senator Don Parkinson	✓	_____	_____	_____
<u><i>Joe T. San Agustin</i></u> Speaker Joe T. San Agustin	✓	_____	_____	_____
<u><i>Thomas V. C. Tanaka</i></u> Senator Thomas V. C. Tanaka	✓	_____	_____	_____
<u><i>Antonio R. Unpingco</i></u> Senator Antonio R. Unpingco	✓	_____	_____	_____

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

FEB 26 '93

Bill No. 265 (LS)

Introduced by:


C.T.C. Gutierrez

AN ACT TO ADD NEW §§ 19.69 AND 19.70 CHAPTER 19
OF TITLE 9, GUAM CODE ANNOTATED, CRIMINALIZING
THE ACT OF STALKING.

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

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6 assaults and homicides by stalkers or menacing suitors could have been
7 prevented in Guam over the last several years with adequate protective
8 statutes in effect. Therefore, the Legislature finds a need for a criminal
9 statute to deter and punish the act of stalking, as defined in this Act.

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12 Section 2. A new §19.69 is added to Chapter 19 of Title 9, Guam
13 Code Annotated, to read:

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1 under that Subsection, and involving an harrassment or a credible
2 threat of violence, as defined in this §19.69 of this Chapter.

3 (d) Simple talking is a felony of the third degree.

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5 (f) This Section shall not apply to conduct which occurs
6 during labor picketing”.