

Territory of Guam Teritorion Guam

OFFICE OF THE GOVERNOR I FISINAN I MAGAILAHI AGANA, GUAM 90910 U.S.A

MAR 0 3 1994

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 704 which I have signed into law this date as Public Law 22-84.

Sincerely yours,

JOSEPH F. ADA Governor of Guam

220558

Attachment



TWENTY-SECOND GUAM LEGISLATURE 1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 704 (LS), "AN ACT TO AMEND

SUBITEM (3) OF SUBSECTION (a)	AND SUBSECTIONS (b) AND (c) O
§1111, TITLE 10, GUAM CODE AN	INOTATED, AND TO ADD A NEW
SUBITEM (5) TO SUBSECTION (d) OF SAID \$1111. TO ALLOW HIX
TESTING OF, AND COUNSELING	Γ O, MINORS," was on the 18th day o
February, 1994, duly and regularly pas	ssed.
	Jac J. An Alg. to
	JOE T. SAN AGUSTIN
	Speaker
Attested:	•
PILAR C. LØJAN Senator and Legislative Secretary	
This Act was received by the Governor 1994, at 4:00 o'clock p.M.	this 23rd day of Jebmany
	Therese Duenas
	Assistant Staff Officer
A. T. T. C.	Governor's Office
APPROVED:	
JOSEPH F. ADA Governor of Guam	

Date: <u>March</u> 3, 1994

Public Law No. 22-84

TWENTY-SECOND GUAM LEGISLATURE 1993 (FIRST) Regular Session

Bill No. 704 (LS)
As substituted by the Committee on Rules

Introduced by:

Committee on Health, Ecology and Welfare

D. L. G. Shimizu

M. D. A. Manibusan

A. C. Blaz

E. P. Arriola

T. C. Ada

J. P. Aguon

M. Z. Bordallo

H. D. Dierking

C. T. C. Gutierrez

P. C. Lujan

T. S. Nelson

V. C. Pangelinan

D. Parkinson

E. D. Reyes

J. T. San Agustin

F. E. Santos

J. G. Bamba

D. F. Brooks

F. P. Camacho

T. V. C. Tanaka

A. R. Unpingco

AN ACT TO AMEND SUBITEM (3) OF SUBSECTION (a) AND SUBSECTIONS (b) AND (c) OF §1111, TITLE 10, GUAM CODE ANNOTATED, AND TO ADD A NEW SUBITEM (5) TO SUBSECTION (d) OF SAID §1111, TO ALLOW HIV TESTING OF, AND COUNSELING TO, MINORS.

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

1 Section 1. Legislative findings. The Legislature finds that the Department of Public Health and Social Services (the "Department") 2 currently offers Human Immune-deficiency Virus ("HIV") testing and 3 counseling as part of its Acquired Immune Deficiency Syndrome ("AIDS") 4 5 program, but is concerned about providing such tests and counseling to minors without parental consent. The Department also recognizes the need 6 of strict confidentiality in view of the fact that many minors would not submit 7 to testing and counseling if parental permission were required. 8 Legislature finds that because of this concern, the Department requested a 9 10 legal opinion thereon, and on April 13, 1991, the Attorney General's Office advised the Department that there is no clear legislative authority to test 11 12 minors for HIV antibodies without parental consent and thus to cease further testing and counseling of minors. In view of the rising incidence of HIV on the 13 island and in order to fill the void in the law vis-a-vis HIV testing and 14 counseling of minors, the health professionals at the Department, through 15 16 the Administrator of Communicable Disease Control Division, have 17 petitioned the Legislature to address this concern. This Act is the product of 18 such petition.

Section 2. Subitem (3) of subsection (a) of §1111, Title 19, Guam Code Annotated, is amended to read:

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"(3) Medical care and services mean the diagnostic examination, prescription and administration of medication and other items in the treatment of sexually transmitted diseases, the HIV virus, or AIDS, pregnancy and substance abuse. It shall not include surgery or any treatment to induce abortion."

Section 3. Subsection (b) of §1111, Title 19, Guam Code Annotated, is amended to read:

"(b) Consent valid. The consent to the provision of medical care and service by public and private hospitals or public or private clinics, or the performance of medical care and services by a physician licensed to practice medicine or osteopathy, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with or is concerned with being afflicted with a sexually transmitted disease, the HIV virus, or AIDS, or by a minor who suffers or professes to suffer from a substance abuse shall be valid and binding as if the minor had achieved his or her majority as the case may be; that is, a female minor who is or professes to be pregnant, or a minor who is or professes to be afflicted with or is concerned with being afflicted with a sexually transmitted disease, the HIV virus, or AIDS, or a minor who suffers or professes to suffer from substance abuse, or a minor who requests, shall be deemed to have and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent to the provision of medical care and services by such hospitals and such clinics, and such physicians as a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority, and the consent of no other person or persons (including, but not limited to a spouse or parent) shall be necessary in order to authorize the provision of medical care or services by such hospitals and such clinics and by such physicians to the minor."

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Section 4. Subsection (e) of §1111, Title 19, Guam Code Annotated, is amended to read:

1	"(e) Patient counseling. The treatment of sexually transmitted
2	diseases, the HIV virus, or AIDS, pregnancy and substance abuse,
3	shall include individual counseling for each minor patient by a
4	qualified person. Such counseling shall seek to open the lines of
5	communication between parent and child."
6	Section 5. A new subitem (5) is hereby added to subsection (a) of §1111
7	Title 19, Guam Code Annotated, to read:
8	"(5) Sexually transmitted disease means any disease that is
9	transmitted through sexual contact."

TWENTY-SECOND GUAM LEGISLATURE

1994 (SECOND) Regular Session

	- helail
Date:	2//8/94

VOTING SHEET

(AS REVISED)

Bill No	(NO REVIOLO)
Resolution No.	
Question:	

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



December 13, 1993



The Honorable Joe T. San Agustin Speaker, 22nd Guam Legislature Agana, Guam

via: Committee on Rules

Dear Mr. Speaker:

Dr. DAVID L.G. SHIMIZU Senator The Committee on Health, Ecology & Welfare, to which was referred Bill No. 704: AN ACT TO AMEND 19 GUAM CODE ANNOTATED, § 1111(a) (3), (b) and (e), AND TO ADD A NEW § 1111 (a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS, herein reports back and recommends **TO DO PASS**.

 CHAIRMAN:
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 To Pass

 Committee on Health.
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 Not To Pass

 Ecology
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 To The Inactive File

 and Welfare
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 Abstained

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 Off-Island

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 Not Available

324 West Soledad Ave. Suite 202.

Agaña, Guam

96910

Telephone:

(671)472-3543/44/45

Facsimile:

(671)472-3832

Enclosures

Printed on Described Paper

Sincerely,

VOTE SHEETCommittee on Health, Ecology & Welfare

BIII NO. 704: AN ACT TO AMEND 19 GUAM CODE ANNOTATED, § 1111(a) (3), (b) AND (e), AND TO ADD A NEW § (a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

SENATOR ,	TO PASS	TO PASS	ABSTAIN	FILE
Shimizu, David L.O.				
Arriola, Elizabeth P.	·			
Aguon, J.P.	<u>/</u>		· _	
Bordallo, Madeleire Z.	,			
Brooks, Doris F.				
Blaz, Anthony				
Camacho, Felix P.				
Dierking, Herminia				
Marilyn Manilusar Manibusan, Marilyn D.A.	12993 VAMEN!			
San Agustin, J.T., Speaker				

HEALTH, ECOLOGY AND WELFARE COMMITTEE

COMMITTEE REPORT ON

BILL NO. 704: AN ACT TO AMEND 19 GUAM CODE ANNOTATED, §1111 (a), (b) AND (e), AND TO ADD A NEW §1111 (a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

BACKGROUND

Bill No. 704 (Attachment 1) was introduced by the Committee on Health, Ecology and Welfare on October 26, 1993, and referred to the Health, Ecology and Welfare Committee on October 27, 1993 (Attachment 2). No Fiscal Note from the Bureau of Budget and Management Research was submitted.

The Health, Ecology and Welfare Committee held a public hearing on Tuesday, November 23, 1993, at the Legislative Hearing Room to receive testimony on Bill No. 704. The hearing was conducted by the Committee Chairperson, Senator David L. G. Shimizu, and attended by Senator Felix P. Camacho.

TESTIMONY

The Committee heard and received written testimony from Dr. Leticia Espaldon, Director, Department of Public Health and Social Services, Mr. Luis S. N. Reyes, Acting Director of Education and Mr. Richard G. Punzalan, President, Arrow, Inc.

The following is a synopsis of the testimony presented.

1. Mr. Wayne Antkwoiak, Administrator, Bureau of Communicable Disease Control, Department of Public Health and Social Services, presented the testimony of the Director (Attachment 4), Dr. Leticia Espaldon, saying that the Department " ... strongly supports without reservation Bill No. 704." He went on and said that waiving the need for parental consent would eliminate a significant barrier that currently discourages minors form receiving testing. Through testing, a minor will be informed of his/her HIV infection status. If the minor is not infected, he/she would receive counseling in reference to reducing risk of becoming infected. If the individual is infected, he/she would receive counseling dealing with the emotional trauma that the

individual would most likely be experiencing. Of prime importance would be counseling that would occur that would encourage the minor to inform his/her parent of his/her condition or have the AIDS social worker inform the parents of the minor of the HIV status of the minor. Under the current law, all the foregoing cannot be done because of an Attorney General's opinion indicating that HIV testing and counseling is not included under definition of venereal disease.

- 2. Mr. Richard G. Punzalan, President of Arrow, Inc., submitted a written testimony (Attachment 5) saying that "Arrow is in full support of Bill 704 as written." He also said that Arrow is concerned with the prevention of the further spread of HIV/AIDS on Guam and that minors are not Currently offered HIV testing without parental consent. Any delay in seeking testing for the virus that causes AIDS is not consistent with the principles of early identification, counseling and medical intervention.
- 3. Mr. Luis S. N. Reyes, Acting Director of Education, also submitted a written testimony (Attachment 6) saying the Department of Education "fully supports the intent of Bill 704." He said Bill No. 704 encourages adolescents to seek the health services they need without having to let their parents know the kinds of high risk activities they are involved in. It gives the adolescent a sense of privacy. For many adolescents, seeking help is easier if their parents were not involved. For the adolescent who need help, this is good because early detection means early intervention because the sooner an adolescent knows what is wrong, the sooner it can be treated.

FINDINGS

The Committee on Health, Ecology and Welfare finds that the Department of Public Health and Social Services at a certain time offered HIV testing and counseling as part of its AIDS Program. The Department of Public Health and Social Services is concerned about providing the test and counseling to minors without parental consent. However, the Department of Public Health and Social Services also recognizes the value of strict confidentiality in view of the fact that many minors would not submit to testing and counseling if parental permission was required.

The Committee also finds that because of this concern, the Department of Public Health and Social Services requested for a legal opinion on March 13, 1991. The Attorney General's Office, on April 3, 1991, responded by advising the Department of Public Health and Social Services that there is no clear legislative authority to test minors for HIV antibodies without parental consent and to cease further testing and counseling.

In view of the rising incidence of Human Immunodeficiency Virus (HIV) on the Island and in order to fill the void in the law vis-a-vis HIV

testing and counseling of minors, the Committee is of the opinion that Bill No. 704 would be an appropriate public policy and passage is recommended without any amendments.

RECOMMENDATION

The Health, Ecology and Welfare Committee, having heard and received testimonies on Bill No. 704, recommends that subject bill TO DO PASS.

TWENTY-SECOND GUAM LEGISLATURE 1993 (FIRST) REGULAR SESSION

Bill No. 704 Introduced by:

Committee on Health, Ecology and Welfare

AN ACT TO AMEND 19 GUAM CODE ANNOTATED, § 1111(a) (3), (b) AND (e), AND TO ADD A NEW § 1111 (a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

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

- 3 Section 1. Legislative Findings. The Legislature finds that the Department of
- 4 Public Health and Social Services currently offers HIV testing and counseling
- 5 as part of its AIDS Program. The Department of Public Health and Social
- 6 Services is concerned about providing the test and counseling to minors
- 7 without parental consent. However, the Department of Public Health and
- 8 Social Services also recognizes the value of strict confidentiality in view of
- 9 the fact that many minors would not submit to testing and counseling if
- 10 parental permission was required.
- 11 The Legislature also finds that because of this concern, the Department of
- 12 Public Health and Social Services requested for a legal opinion on March 13,
- 13 1991. The Attorney General's Office, on April 3, 1991, responded by advising
- 14 the Department of Public Health and Social Services that there is no clear
- 15 legislative authority to test minors for HIV antibodies without parental
- 16 consent and to cease further testing and counseling.
- 17 In view of the rising incidence of Human Immunodeficiency Virus (HIV) on
- 18 the Island and in order to fill the void in the law vis-a-vis HIV testing and
- 19 counseling of minors, the health professionals at the Department of Public
- 20 Health and Social Services, through the Administrator, Communicable
- 21 Disease Control petitioned the Legislature to address this concern. This Act is
- 22 the end product of that petition.
- 23 Section 2. § 1111 (a) (3),(b) and (e), 19 Guam Code Annotated, are amended to
- 24 read as follows:
- 25 "(3) Medical care and services mean the diagnostic examination,
- 26 prescription and administration of medication and other items in the
- 27 treatment of [venereal diseases,] sexually transmitted diseases, HIV virus, or

AIDS, pregnancy and substance abuse. It shall not include surgery or any treatment to induce abortion.

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- (b) Consent Valid. The consent to the provision of medical care and 3 service by public and private hospitals or public or private clinics, or the 4 performance of medical care and services by a physician licensed to practice 5 medicine or osteopathy, when executed by a female minor who is or professes 6 to be pregnant, or by a minor who is or professes to be afflicted with or is 7 concerned with being afflicted with a [venereal-disease,] sexually transmitted 8 disease, HIV virus, or AIDS, or by a minor who suffers or professes to suffer 9 from a substance abuse shall be valid and binding as if the minor had 10 11 achieved his or her majority as the case may be; that is, a female minor who is or professes to be pregnant, or a minor who is or professes to be afflicted with 12 or is concerned with being afflicted with a [venereal disease,] sexually 13 transmitted disease, HIV virus, or AIDS, or a minor who suffer or professes to 14 suffer from substance abuse, or a minor who requests, shall be deemed to 15 have and shall have the same legal capacity to act, and the same legal 16 obligations with regard to the giving of such consent to the provision of 17 medical care and services by such hospitals and such clinics, and such 18 19 physicians as a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding, and such consent shall 20 not be subject to later disaffirmance by reason of such minority, and the 21 22 consent of no other person or persons (including, but not limited to a spouse or parent) shall be necessary in order to authorize the provision of medical 23 care or services by such hospitals and such clinics and by such physicians to 24 25 the minor.
 - (e) Patient Counseling. The treatment of [venereal diseases,] sexually transmitted diseases, HIV virus, or AIDS, pregnancy and substance abuse, shall include individual counseling for each minor patient by a qualified person. Such counseling shall seek to open the lines of communication between parent and child."
- Section 3. A new §1111 (a) (5) is hereby added to 19 Guam Code Annotated to read as follows:
- 33 "(5) Sexually Transmitted Disease means any disease that is 34 transmitted through sexual contact."



DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

GOVERNMENT OF GUAM P.O. BOX 2816 AGANA, GUAM 96910



Dr. David L.G. Shimizu Senator Chairperson Committee on Health, Ecology and Welfare Twenty Second Guam Législature

Dear Senator Shimizu:

Attached please find testimony presented by the Department of Public Health and Social Services in reference to Bill 704: AN ACT TO AMEND 19 GUAM CODE ANNOTATED, 1111(A)(3), (B) AND (E), AND TO ADD A NEW 1111 (A)(5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

If you should have any questions or need clarification please contact Wayne Antkowiak at 734-7135.

Sinderely,

LETTICA . ESPALDON, M.D.



DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

GOVERNMENT OF GUAM P.O. BOX 2816 AGANA, GUAM 96910



NOV 2 3 1993

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES COMMENTS ON BILL No. 704 - " AN ACT TO AMEND 19 GUAM CODE ANNOTATED, 1111(a) (3), (b) AND (e) AND TO ADD A NEW 1111(a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

The Department of Public Health and Social Services strongly supports without reservation Bill No. 704, "AN ACT TO AMEND 19 GUAM CODE ANNOTATED, 1111(a) (3), (b) AND (e), AND TO ADD A NEW 1111(a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS".

Currently the DPHSS is permitted to provide testing and counseling and treatment to minors for venereal diseases. An Attorney General's opinion indicated that HIV testing and counseling is not included under the current code being that HIV may not fit under the definition of venereal disease.

Our AIDS Program has turned away minors who wished to be tested but were not willing to obtain parental consent. To this point, we have had no minors (testing with consent) test positive. This in part may be due to the fact that very few minors have undergone testing. We, are however concerned that HIV may be present in minors on island and could be further transmitted. Perhaps this transmission is already occurring. We are not sure at this time. At any rate, it will occur at some time.

By waiving the need for parental consent, we would eliminate a significant barrier that currently discourages minors from receiving testing. Through testing, a minor will be informed of his/her HIV infection status. If the minor is not infected, he/she would receive counseling in reference to reducing risk of becoming infected. If the individual is infected, he/she would receive counseling dealing with the emotional trauma that the individual would most likely be experiencing. Of prime importance would be counseling that would occur that would encourage the minor to inform his/her parent of his/her condition or have the AIDS Social Worker inform the parents of the minor of the HIV status of the minor.



In addition the minor would receive counseling in reference to behaviors that he/she could practice to reduce the risk of any additional transmission.

We strongly support Bill 704 and urge favorable action on the part of the Legislature.

Submitted by

LETICIA V. ESPALDON, M.D.

Directór

November 23, 1993

Senator David L.G. Shimizu, Chairman-Committee on Health, Ecology and Welfare Twenty-Second Guam Legislature

Dear Senator Shimizu

Thank you for the opportunity to submit testimony on Bill No. 704-An act to amend 19 Guam Code Annotated, Section 1111(a)(3),(b) and (e), and to add a new Section 1111(a)(5) to allow HIV testing and counseling to minors.

Arrow is concerned with the prevention of the further spread of HIV/AIDS on Guam.

Arrow is concerned that minors are not currently offered HIV testing without parental consent.

Arrow is concerned that the long term effect of requiring parental permission is that minors will not seek testing. Any delay in seeking testing for the virus that causes AIDS is not consistent with principles of early identification, counseling and medical intervention.

When medical intervention and counseling are postponed, there is more opportunity for the further spread of HIV on Guam.

Accordingly, Arrow is in full support of Bill 704 as written. Please give minors the right to seek confidential HIV testing the same as they already have for other sexually transmitted diseases.

Sincerely,

Richard Punzalan President The issue of disclosure of a person's medical test results speaks directly from the premise that if a person knows what diseases another has, the public in general is better off. Arrow is of the opinion that the reverse is true. In the case of AIDS, we believe that the knowledge that a person is or is not infected brings consequences which are harmful to society. The public cannot protect themselves from the virus that causes AIDS by sunning the infected person. Neither is the public safe from infection if the public believes that someone is not infected with the virus that causes AIDS.

The false perception that if the public knew who is infected that others could somehow avoid becoming HIV infected is unfortunately the sort of misconception that drives legislation such as this. Since this premise is faulty and would neither prevent the spread of AIDS nor engender compassion for those infected. Arrow does not support Section 4 of Bill 552. Arrow would suggest revision in Section 4 of Bill No. 552 to state that "The results of such examinations shall be furnished to the convict and that the victim be informed in accordance with established procedures only when there is potential exposure to any sexually transmitted disease.

Sincerely,

Richard Punzalan President



OFFICE OF THE DIRECTOR

DEPARTMENT OF EDUCATION GOVERNMENT OF GUAM P.O. BOX DE AGANA, GUAM 96910 TEL: (671) 472-8901/2/3/4 FAX: (671) 472-5003



TOMAS J. PAULINC Deputy Director

LUIS S.N. REYES Director of Education Acting

November 23, 1993

Senator David LG Shimizu Chairperson Committee on Health, Ecology & Welfare Twenty-Second Guam Legislature 324 West Soledad, Suite 202 Agana, Guam 96910

Dear Senator Shimizu:

Good morning, Mr. Chairman and members of the Committee on Health, Ecology and Welfare. I am here this morning to testify in support of Bill No. 704, AN ACT TO AMEND 19 GUAM CODE ANNOTATED § 1111(a)(3),(b) AND (e) AND TO ADD A NEW § 1111(a)(5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

of Committee...The members the Chairman and Mr. Department of Education fully supports the intent of Bill 704 to amend Section 2 § 1111(a)(3),(b) and (e) of the 19 Guam Code Annotated so that the terminology is changed from "venereal disease" to "sexually transmitted disease, HIV or AIDS, pregnancy and substance abuse". The Department further supports the changes that will allow for minors to be tested for sexually transmitted diseases, HIV or AIDS, pregnancy, and substance abuse without parental permission and to receive individual counseling by a qualified person.

Mr. Chairman and members of the committee, if we take a good look around our island and observe our young people between the ages of 13 and older, we can probably assume that many of our young people are sexually active based on the number of pregnant teenagers we see or based on conversations we've heard or have been a part of. We can also presume that many of the young people who are not visible proofs of sexual activity are nonetheless engaging in high risk behaviors, not necessarily sex but activities that may eventually lead them to engaging in sexual activity.

Commonwealth Now!

Testimony on Bill #704 Page 2

It is a proven fact that sexual activity is a method for transmitting diseases such as syphilis, gonorrhea, chlamydia, and other sexually transmitted disease. It is a fact that sexual activity contributes to unwanted or unplanned pregnancies. And it is a fact that sexual activity is a method for transmitting the Human Immunodeficiency Virus, the virus that causes AIDS.

Under the current law, adolescents under the age of eighteen can be tested and treated for a sexually transmitted disease or be tested for pregnancy without parental permission. This encourages adolescents to seek the health services they need without having to let their parents know the kinds of high risk activities they are involved in. It gives the adolescent a sense of privacy. For many adolescents seeking help is easier if their parents weren't involved. For the adolescent who needs help, this is good because early detection means early intervention. The sooner an adolescent knows what is wrong, the sooner it can be treated.

But what about the adolescents who have engaged in a behavior that may put them at risk for infection with the Human Immunodeficiency Virus? The way the law adolescents cannot readily seek testing or written. counseling because he or she needs parental consent. Although the law allows for the testing of sexually transmitted diseases, it does not provide of the testing of the Human Immunodeficiency Virus. Needing parental consent can be a strong deterrent for these young people who need to find out what their serostatus is. Because many adolescents would "rather die" than tell their parents what they've been doing, these adolescents may literally do just that if they do not get tested early enough to benefit from early intervention and treatment.

Because the bottom line for HIV infection is eventual death, early detection is important so that these young people can have a chance to learn how to live healthier lives and to receive treatment that may mean a longer life span. The law must be changed to allow minors under eighteen years of age to be counseled and tested for the Human Immunodeficiency Virus without parental consent.

Testimony on Bill #704 Page 3

In conclusion, the benefits to HIV counseling and testing can be substantial. Early detection can give health care intervene providers a chance to early in disease progression, motivate behavior change, lower adolescent's anxiety and help pregnant adolescents make an informed decision on whether to continue the pregnancy an if so, whether to breastfeed the baby. But we must also be aware of the possible consequences that may result in the testing of minors. Testing should never be administered without pre counseling. and post Adolescents should be tested only where on-going followup medical and mental health care is available and where adolescents will return for care. Testing sites should provide a confidential and nonstigmatizing environment that enhances trust. Caregivers should be nonjudgemental and available to meet the adolescent's needs. We also need to consider the implications that may occur with a seropositive test which may include social ostracism and rejection by families and peers. Adverse psychological effects may include depression and even thoughts and attempts of suicide. Seronegative test results perpetuate feelings of denial and invulnerability to the potential risk of HIV. It is therefore of greatest importance that along with allowing minors to be tested without parental consent, Bill 704 should also provide specific guidelines for testing sites to appropriate and adequate counseling services specifically for the adolescent.

Sincerely,

IXIS É.W. RÈYES Acting Director

Department of Education

Introduced

TWENTY-SECOND GUAM LEGISLATURE 1993 (FIRST) REGULAR SESSION

NOV 03'93

Bill No. 704(LS) Introduced by:

Committee on Health, Ecology and Welfare

elfare Share

AN ACT TO AMEND 19 GUAM CODE ANNOTATED, § 1111(a) (3), (b) AND (e), AND TO ADD A NEW § 1111 (a) (5) TO ALLOW HIV TESTING AND COUNSELING TO MINORS.

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

- Section 1. Legislative Findings. The Legislature finds that the Department of
- 4 Public Health and Social Services currently offers HIV testing and counseling
- 5 as part of its AIDS Program. The Department of Public Health and Social
- 6 Services is concerned about providing the test and counseling to minors
- 7 without parental consent. However, the Department of Public Health and
- 8 Social Services also recognizes the value of strict confidentiality in view of
- 9 the fact that many minors would not submit to testing and counseling if
- 10 parental permission was required.
- 11 The Legislature also finds that because of this concern, the Department of
- 12 Public Health and Social Services requested for a legal opinion on March 13,
- 13 1991. The Attorney General's Office, on April 3, 1991, responded by advising
- 14 the Department of Public Health and Social Services that there is no clear
- 15 legislative authority to test minors for HIV antibodies without parental
- 16 consent and to cease further testing and counseling.
- 17 In view of the rising incidence of Human Immunodeficiency Virus (HIV) on
- 18 the Island and in order to fill the void in the law vis-a-vis HIV testing and
- 19 counseling of minors, the health professionals at the Department of Public
- 20 Health and Social Services, through the Administrator, Communicable
- 21 Disease Control petitioned the Legislature to address this concern. This Act is
- 22 the end product of that petition.
- Section 2. § 1111 (a) (3),(b) and (e), 19 Guam Code Annotated, are amended to
- 24 read as follows:
- 25 "(3) Medical care and services mean the diagnostic examination, 26 prescription and administration of medication and other items in the
- 27 treatment of [venereal diseases,] sexually transmitted diseases, HIV virus, or

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- (b) Consent Valid. The consent to the provision of medical care and service by public and private hospitals or public or private clinics, or the performance of medical care and services by a physician licensed to practice medicine or osteopathy, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with or is concerned with being afflicted with a [venereal disease,] sexually transmitted disease, HIV virus, or AIDS, or by a minor who suffers or professes to suffer from a substance abuse shall be valid and binding as if the minor had achieved his or her majority as the case may be; that is, a female minor who is or professes to be pregnant, or a minor who is or professes to be afflicted with or is concerned with being afflicted with a [venereal disease,] sexually transmitted disease, HIV virus, or AIDS, or a minor who suffer or professes to suffer from substance abuse, or a minor who requests, shall be deemed to have and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent to the provision of medical care and services by such hospitals and such clinics, and such physicians as a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority, and the consent of no other person or persons (including, but not limited to a spouse or parent) shall be necessary in order to authorize the provision of medical care or services by such hospitals and such clinics and by such physicians to the minor.
- (e) Patient Counseling. The treatment of [venereal diseases,] sexually transmitted diseases, HIV virus, or AIDS, pregnancy and substance abuse, shall include individual counseling for each minor patient by a qualified person. Such counseling shall seek to open the lines of communication between parent and child."
- Section 3. A new §1111 (a) (5) is hereby added to 19 Guam Code Annotated to read as follows:
 - "(5) Sexually Transmitted Disease means any disease that is transmitted through sexual contact."