



*Territory of Guam*  
*Territorio Guam*

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

RECEIVED  
OFFICE OF THE SPEAKER  
DATE: 4/5/94  
TIME: 10:10am  
RECD BY: [Signature]

MAR 31 1994

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

LEGISLATIVE

[Signature]

Dear Mr. Speaker:

Transmitted herewith is Bill No. 104 which I have signed into law this date as  
Public Law 22-98.

Sincerely yours,

[Signature]  
JOSEPH F. ADA  
Governor of Guam

220605

Attachment




Commonwealth Now!

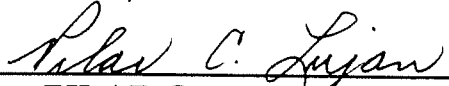
TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

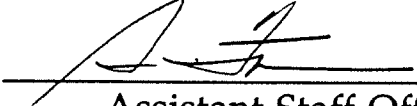
This is to certify that Substitute Bill No. 104 (LS), "AN ACT TO ADD A NEW §505 TO TITLE 6, GUAM CODE ANNOTATED, MAKING MATTERS SUBJECT TO MEDIATION CONFIDENTIAL," was on the 14th day of March, 1994, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

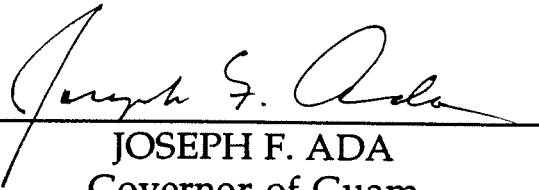
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 21<sup>st</sup> day of March,  
1994, at 11:02 o'clock A.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: MAR 31 1994

Public Law No. 22-98

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 104 (LS)  
As substituted by the  
Committee on Rules.

Introduced by:

P. C. Lujan  
F. E. Santos  
T. C. Ada  

---

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

AN ACT TO ADD A NEW §505 TO TITLE 6, GUAM  
CODE ANNOTATED, MAKING MATTERS SUBJECT  
TO MEDIATION CONFIDENTIAL.

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**  
2           **Section 1.** A new §505 is hereby added to Title 6, Guam Code  
3 Annotated, to read:

1           "§505. Confidentiality of the mediation process. Except where  
2 mediation or conciliation is a part of an ongoing action already filed  
3 in either the Superior or District Courts of Guam, all memoranda,  
4 work products, or case files of a mediator or conciliator are  
5 privileged and **not** subject to disclosure in any judicial or  
6 administrative proceedings. Any communications relating to the  
7 subject matter of the resolution process by any participant, mediator,  
8 or other person present at the dispute resolution shall be privileged  
9 communication."

**TWENTY-SECOND GUAM LEGISLATURE**  
**1994 (SECOND) Regular Session**

Date: 3/14/94

**VOTING SHEET**  
 (AS REVISED)

Bill No. 104

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
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 C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

21 \_\_\_\_\_

Twenty-Second Guam Legislature

Senator Pilar Cruz Lujan

*Legislative Secretary*

Chairperson - Committee on Judiciary and Criminal Justice

February 17, 1994

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

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred Bill No.104, wishes to report its findings and recommendation for passage of **Bill No. 104**.

The Committee voting record is as follows:

<u>10</u>	TO PASS
<u>1</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.

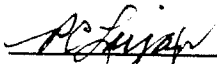
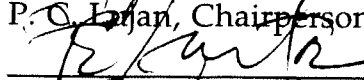

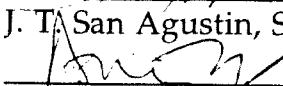

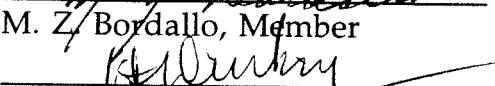


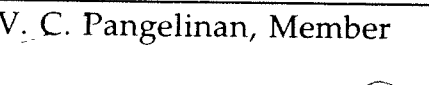

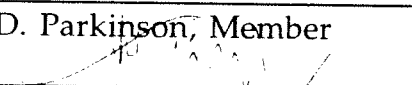
Sincerely,

  
PILAR C. LUJAN

**COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE  
VOTE SHEET  
ON BILL NO. 104**

**"AN ACT TO ADD A NEW §505 OF TITLE 6 GUAM CODE  
ANNOTATED PERTAINING TO CONFIDENTIALITY OF  
MATTERS SUBJECT TO MEDIATION."**

**RECOMMENDATION TO DO PASS**

COMMITTEE MEMBERS:	TODO PASS	NOT TO PASS	INACTIVE FILE:	ABSTAIN:
 P. C. Lujan, Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 F. E. Santos, Vice-Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 J. T. San Agustin, Speaker & Ex-Officio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 A. C. Blaz, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 M. Z. Bordallo, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 H. D. Dierking, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 C. T.C. Gutierrez, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 V. C. Pangelinan, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 D. Parkinson, Member	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 T. V.C. Tanaka, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 A. R. Unpingco, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# Profile on Bill No. 104

Short Title: "CONFIDENTIALITY OF MATTERS SUBJECT TO MEDIATION."

Main Sponsor(s): Senators Pilar C. Lujan & Francis E. Santos.

Date Introduced: Monday, January 4, 1993.

Committee Referral: To the Committee on Judiciary and Criminal Justice on Tuesday, January 19, 1993

Public Hearing: Friday, March 12, 1993.

Official Title: "AN ACT TO ADD A NEW §505 OF TITLE 6 GUAM CODE ANNOTATED PERTAINING TO CONFIDENTIALITY OF MATTERS SUBJECT TO MEDIATION."

Co-Sponsor(s):

Recommendation: To do pass as reported by the Committee.

## Committee Findings

Legislation, similar to Bill No. 104 has been introduced every term. The basic purpose and intent was initiated by the Christian Conciliation Council. Mediation by nature is not something that gets into the public eye. Through mediation, people with differences do not go public with their dispute(s).

The difference between "Arbitration" and "Mediation":

1. "ARBITRATION" is where you have a hearing with (1, 2 or 3) arbiters. They hear the evidence and then issue a written decision saying this is how its going to be. Also, this is done pursuant to an underlying contract.



2. "MEDIATION" is where (1, 2 or 3) mediators work to get the parties themselves to agree to resolve whatever dispute they may have. In the Christian context, the idea is the reconciliation of the people rather than the solution to any particular technical issue. Although in other areas, such as divorce cases, mediation is used to try to heal a relationship.

The intent of the legislation is to protect the mediators and parties engaged from not being subpoenaed by attorneys to court to reveal and make public the discussion that took place during the mediation process. Although several attorneys in the past have attempted to subpoena mediators and their records, so far they haven't succeeded. A majority of these cases have been settled without decisions. Some attorneys just use it as scare tactics.

If passed, Bill No. 104 it will make a very good law. It will, in civil disputes, encourage the parties to reconcile their differences through mediation. When it comes to civil disputes, the courts, basically, should be the place of last resort, not the place of first resort.

Mediation in Guam has been used quite frequently, especially in matters pertaining to family disputes. Sometimes it is used as an attempt to keep couples from filing for divorce and spare them from having to go through the most painful and trying times of their lives.

Alternative dispute resolution (Mediation) is fast becoming a trend wherein people would resolve their disputes rather than go to court. It is a way of resolving disputes without the trauma, expense and time delays of going to court.

Here on Guam, mediators are all volunteers. However, before any person can mediate, they are provided with a minimum 15 hour training. The training includes an explanation of how the mediation process works. Basically, mediators facilitate communication, they help empower the parties to talk out their differences and focus on the real issues that separate them and help them to reach an understanding, an agreement, and hopefully translate the agreement to writing.

Therefore, the Committee recommends that Bill No. 104 as reported by the Committee on Judiciary and Criminal Justice be acted on favorably by the members of the Legislature.

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

REPORT ON BILL NO. 104

"AN ACT TO ADD A NEW §505 OF TITLE 6 GUAM  
CODE ANNOTATED PERTAINING TO  
CONFIDENTIALITY OF MATTERS SUBJECT TO  
MEDIATION."

Introduced by Senators  
Pilar C. Lujan and Francis E. Santos

**PREFACE:**

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 104, "AN ACT TO ADD A NEW §505 OF TITLE 6 GUAM CODE ANNOTATED PERTAINING TO CONFIDENTIALITY OF MATTERS SUBJECT TO MEDIATION," conducted a public hearing on Friday, March 12, 1993, at 11:30 a.m. in the Legislative Public Hearing Room. Committee members present were Senator Pilar C. Lujan, Chairperson and Senator and Vicente C. Pangelinan.

**NOTIFICATION:**

Letters were sent to the Governor, the Chief of Police, the Attorney General the Committee members; the news media. The general public was notified via the Legislative Weekly Calendar and a paid notice.

**TESTIMONY AND DISCUSSION:**

Mr. Troutman testified that legislation, similar to Bill No. 104 has been introduced for several terms. The basic purpose and intent was initiated by the Christian Conciliation Council. However, he went on to say that Mediation by nature is not something that gets into the public eye. Through mediation, people with differences do not go public with their dispute(s)."

At this time he explained the difference between "Arbitration" and "Mediation":

1. **"ARBITRATION"** is where you have a hearing with (1, 2 or 3) arbiters. They hear the evidence and then issue a written decision saying this is how its going to be. Also, this is done pursuant to an underlying contract.
2. **"MEDIATION"** is where (1, 2 or 3) mediators work to get the parties themselves to agree to resolve whatever dispute they may have. In the Christian context, the idea is the reconciliation of the people rather than the solution to any particular technical issue. Although in other areas, such as divorce cases, mediation is used to try to heal a relationship.

The intent of the legislation, said Mr. Troutman, is to protect the mediators and parties engaged from not being subpoenaed by attorneys to court to reveal and make public the discussion that took place during the mediation process. Although several attorneys in the past have attempted to subpoena mediators and their records, so far they haven't succeeded. A majority of these cases, according to Mr. Troutman, have been settled without decisions. Some attorneys just use it as a scare tactic.

Mr. Troutman informed the Committee that if passed, Bill No. 104 will make a very good law. It will, in civil disputes, encourage the parties to reconcile their differences through mediation. When it comes to civil disputes, the courts, basically, should be the place of last resort, not the place of first resort.

According to Mr. Pat Wolff, mediation in Guam has been used quite frequently, especially in matters pertaining to family disputes. Sometimes it is used as an attempt to keep couples from filing for divorce and spare them from having to go through the most painful and trying times of their lives.

Alternative dispute resolution (Mediation) said Mr. Wolff, is fast becoming a trend wherein people would resolve their disputes rather than go to court. It is a way of resolving disputes without the trauma, expense and time delays of going to court. He went on to say that here on Guam, mediators are all volunteers. However, before any person can mediate, they are provided with a minimum 15 hours of training. The training includes an explanation of how the mediation process works. Basically, mediators facilitate communication, they help empower the parties to talk out their differences and focus on the real issues that separate them and help them to

reach an understanding, an agreement, and hopefully translate the agreement to writing.

**ADJOURNMENT:**

There being no further questions, the Chairperson taking into consideration the comments presented, adjourned the Committee hearing on Bill No. 104.

**FINDINGS AND SECTION ANALYSIS:**

Please refer to page entitled "Profile on Bill No. 104."

**RECOMMENDATION:**

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 104, "AN ACT TO ADD A NEW §505 OF TITLE 6 GUAM CODE ANNOTATED PERTAINING TO CONFIDENTIALITY OF MATTERS SUBJECT TO MEDIATION," has had the same under consideration, and now wishes to report back the same with the recommendation to do pass.

TWENTY SECOND GUAM LEGISLATURE  
FIRST (1993) Regular Session

Bill No. 104 (LS)  
As reported by the Committee on  
Judiciary and Criminal Justice  
February 14, 1993.

Introduced by:

P. C. Lujan  
F. E. Santos

---

AN ACT TO ADD A NEW §505 OF TITLE 6  
GUAM CODE ANNOTATED PERTAINING TO  
CONFIDENTIALITY OF MATTERS SUBJECT  
TO MEDIATION.

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

2 Section 1. A new §505 is hereby added to Title 6, Guam Code Annotated  
3 to read as follows:

4 **"§505. Confidentiality of the Mediation Process.** Except where  
5 mediation or conciliation is a part of an ongoing action already filed in  
6 either the Superior or District Court of Guam, all memoranda, work  
7 products, or case files of a mediator or conciliator are privileged and  
8 not subject to disclosure in any judicial or administrative proceedings.  
9 Any communications relating to the subject matter of the resolution  
10 process by any participant, mediator or other persons present at the  
11 dispute resolution shall be privileged communication."

JAN 04 '93

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 104(LS)

Introduced by:

P. C. Lujan *PL*

-----  
AN ACT TO ADD A NEW SECTION 505 TO TITLE  
6 GUAM CODE ANNOTATED RELATIVE TO  
CONFIDENTIALITY OF MATTERS SUBJECT TO  
MEDIATION.

*LS*

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

2 Section 1. A new 6 GCA Section 505 is added to read:

3 "§505. Confidentiality of the Mediation Process.

4 Except where mediation or conciliation is a part of an  
5 ongoing action already filed in either the Superior or  
6 District Court of Guam, all memoranda, work products, or  
7 case files of a mediator or conciliator are privileged and  
8 not subject to disclosure in any judicial or administrative  
9 proceedings. Any communications relating to the subject  
10 matter of the resolution process by any participant,  
11 mediator or other persons present at the dispute  
12 resolution shall be privileged communication."