



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT

Received By J. J. J. J.

Time 3:00 pm

Date 2/27/96

FEB 27 1996

The Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
424 West O'Brien Drive  
Julale Center - Suite 222  
Agana, Guam 96910

OFFICE OF THE CLERK

Date: 2/27/96

Time: 11:30A

Received By: [Signature]

Print Name: Hans Enami

LEGISLATIVE SECRETARY

Dear Speaker Parkinson:

Enclosed please find a copy of Substitute Bill No. 300 (LS), "AN ACT TO ADD NEW §§3330, 3331, AND 3332 TO TITLE 10, GUAM CODE ANNOTATED, TO REQUIRE THAT JUVENILES CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES, AND RELATIVE TO THE DISCLOSURE OF TEST RESULTS AND NOTICE TO VICTIMS", which I have signed into law today as **Public Law No. 23-71**.

This legislation corrects a deficiency in previous legislation requiring testing for sexually transmitted diseases, due to language which failed to include minors convicted of criminal sexual conduct offenses.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment

231000

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

This is to certify that Substitute Bill No. 300 (LS), "AN ACT TO ADD NEW §§3330, 3331, AND 3332 TO TITLE 10, GUAM CODE ANNOTATED, TO REQUIRE THAT JUVENILES CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES, AND RELATIVE TO THE DISCLOSURE OF TEST RESULTS AND NOTICE TO VICTIMS," was on the 22nd day of February, 1996, duly and regularly passed.



\_\_\_\_\_  
D. PARKINSON  
Speaker

Attested:



\_\_\_\_\_  
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 23 day of February,  
1996, at 6:20 o'clock P.M.



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

APPROVED:



\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: 2-27-96

Public Law No. 23-71

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 300 (LS)

As substituted by the author,  
and further substituted on the floor

Introduced by:

T. S. Nelson  
T. C. Ada  
J. P. Aguon  
E. Barrett-Anderson  
A. C. Blaz  
J. M. S. Brown  
F. P. Camacho  
M. C. Charfauros  
H. A. Cristobal  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
L. Leon Guerrero  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO ADD NEW §§3330, 3331, AND 3332 TO TITLE 10, GUAM CODE ANNOTATED, TO REQUIRE THAT JUVENILES CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES, AND RELATIVE TO THE DISCLOSURE OF TEST RESULTS AND NOTICE TO VICTIMS.

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

2           **Section 1. Legislative Findings and Intent.** The Legislature finds that  
3 Public Law 22-116, which requires individuals convicted of criminal sexual  
4 conduct to submit to testing for sexually transmitted diseases, does not apply  
5 to minors. The Legislature further finds that the intent of the Twenty-Second  
6 Guam Legislature was to include minors among such individuals required to  
7 submit to testing. The Legislature finds that it is necessary to provide  
8 comprehensive protection to the public in response to the increasing cases of  
9 criminal sexual conduct being reported and prosecuted. The Legislature finds  
10 that Guam may not receive \$132,200 from the Federal Government if we do  
11 not require minors convicted of criminal sexual conduct to submit to such  
12 testing, when requested by the victim. The Legislature further finds that in  
13 order to avoid this penalty, the Legislature must comply with this regulation  
14 by September 30, 1995. The intent of this Legislature is to provide the  
15 necessary protection to the public and to comply with Federal regulations by  
16 specifically requiring juveniles convicted of criminal sexual conduct to submit  
17 to testing to determine the presence of sexually transmitted diseases, when  
18 requested by the victim.

19           **Section 2. §3330 is added to Chapter 3, Article 3 of Title 10, Guam Code**  
20 **Annotated, to read:**

21           "§3330. **Testing of juveniles for human immunodeficiency**  
22 **virus, and any other sexually transmitted diseases upon conviction**  
23 **or adjudication of having committed act or acts of criminal sexual**  
24 **assault.** (a) The court shall issue an order requiring a juvenile, who  
25 has been certified to the criminal court for prosecution as an adult  
26 and convicted of criminal sexual conduct, as defined in sections 25.15,  
27 25.20, 25.25, and 25.30 of Title 9, Guam Code Annotated, or a

1 juvenile adjudicated to have committed an act or acts of criminal  
2 sexual conduct or placed in a deferred admission status for criminal  
3 sexual conduct, to submit to testing to determine the presence of  
4 human immunodeficiency virus (HIV), or any other sexually  
5 transmitted disease, if the victim requests the test."

6 **Section 3. A new §3331 is added to Title 10, Guam Code Annotated, to**  
7 **read:**

8 "§3331. **Disclosure of test results.** The date and results of a test  
9 performed under Section 3330 of this Chapter must be made  
10 available, on request, to the victim or, if the victim is a minor, to the  
11 victim's parent or guardian and positive test results shall be reported  
12 to the Director of Public Health, as required under Sections 3302,  
13 3303, and 3304 of this Chapter. Data regarding administration and  
14 results of the test shall not be accessible to any other person for any  
15 purpose and shall not be maintained in any record of the court or  
16 court services or any other record."

17 **Section 4. A new §3332 is added to Title 10, Guam Code Annotated, to**  
18 **read:**

19 "§3332. **Notice of risk of sexually transmitted disease. (a)**  
20 **Notice required.** A hospital shall give a written notice about sexually  
21 transmitted diseases to a person receiving medical services in the  
22 hospital who reports or evidences a sexual assault or other  
23 unwanted sexual contact or sexual penetration. When appropriate,  
24 the notice must be given to the parent or guardian of the victim.

25 **(b) Contents of notice.** The Chief of Police, or his designee, in  
26 consultation with sexual assault victim advocates and health care

1 professionals, shall develop the notice required by subsection (a).

2 The notice must inform the victim of:

3 (1) the risk of contracting sexually transmitted diseases  
4 as a result of a sexual assault;

5 (2) the symptoms of sexually transmitted diseases;

6 (3) recommendations for periodic testing for the  
7 diseases, where appropriate;

8 (4) locations where confidential testing is done and the  
9 extent of the confidentiality provided;

10 (5) information necessary to make an informed  
11 decision whether to request a test of the offender under  
12 10 GCA §3330; and

13 (6) other medically relevant information."

**TWENTY-THIRD GUAM LEGISLATURE**

1996 (SECOND) Regular Session

Date: 2/22/96

**VOTING SHEET**

Bill No. 300

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

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

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21 0 0 0

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Recording Secretary

23-71  
PL

# Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

October 10, 1995

SPEAKER DON PARKINSON  
Twenty-Third Guam Legislature  
155 Hesler St.  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 300**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 300- As substituted by the author** "AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES."


The voting record is as follows:

TO PASS	<u>9</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Attachments

  
MARK C. CHARFAUROS



● Senator Mark C. Charfauros ●  
Chairman

**Committee on Judiciary, Criminal Justice and Environmental Affairs**  
**Twenty-Third Guam Legislature**

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

September 25, 1995

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 300 - As substituted by the author** "AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES." Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

1. Original Bill 300; Bill 300 as substituted by the author;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

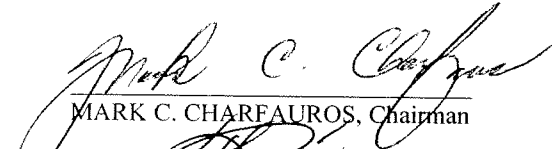

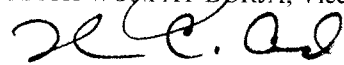

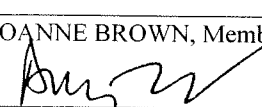
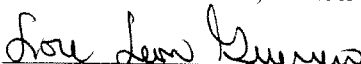



Your attention and cooperation in this matter is greatly appreciated.

  
MARK C. CHARFAUROS

Attachments.

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND  
ENVIRONMENTAL AFFAIRS  
23rd Guam Legislature  
VOTING RECORD**

**Bill No. 300 - As substituted by the author** "AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT-BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
JOANNE BROWN, Member	—	—	—	—
 ANTHONY A. BLAZ, Member	✓	—	—	—
HOPE CRISTOBAL, Member	—	—	—	—
A. TONY LAMORENA, Member	—	—	—	—
 LOU LEON GUERRERO, Member	✓	—	—	—
 TED S. NELSON, Member	✓	—	—	—
 VICENTE C. PANGELINAN, Member	✓	—	—	—
ANGEL L.G. SANTOS, Member	—	—	—	—
 DON PARKINSON, Ex-Officio Member	✓	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL  
JUSTICE AND ENVIRONMENTAL  
AFFAIRS

*Twenty-Third Guam Legislature*

COMMITTEE REPORT

on

Bill No. 300

**As Substituted by the author**

"AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES."

SEPTEMBER 20, 1995

## I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on September 20, 1995 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the September 19, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman

Senator Ben Pangelinan

Senator Ted Nelson

Senator Judith WonPat-Borja

Senator Hope Cristobal

Senator Angel L.G. Santos

Senator Tom Ada

Senator Lou Leon Guerrero

Senator Alberto Lamorena

Senator Mark Forbes, nonmember

Appearing before the Committee to testify on the bill were:

Mr. Charles Stake, Chief Prosecutor, Department of Law, **oral, written.**

Mr. Anthony Sanchez, Administrative Director, Superior Court of Guam, **written.**

Mr. Calvin Holloway, Attorney General, Department of Law, **written.**

## II. SUMMARY OF TESTIMONY

Mr. Charles Stake, Chief Prosecutor, Department of Law, testified in support of Bill 300 as substituted by the author. He stated that it is necessary to amend the current law which would place the statute under Title 10, which is necessary to satisfy Federal mandates for Grant Purposes; written; **attached**.

Mr. Anthony Sanchez, Administrative Director, Superior Court of Guam, testified in support of Bill 300 as substituted by the author; written, **attached**.

Mr. Calvin Holloway, Attorney General, Department of Law, testified in favor of Bill 300 as substituted by the author; written, **attached**.

### III. FINDING AND RECOMMENDATION

The Committee finds that Bill 300 as substituted is essential because of Federal Funding. Under the current statute, we stand to lose \$132,200 in Federal Grants. The Committee finds that Public Law 22-116, which requires individuals convicted of criminal sexual conduct to submit to testing for sexually transmitted diseases, does not apply to minors. The Committee further finds that the intent of the Twenty-Second Guam Legislature was to include minors among such individuals required to submit to testing.

The Committee finds that it is necessary to provide comprehensive protection to the public in response to the increasing cases of criminal sexual conduct being reported and prosecuted.

The Committee finds that Guam may not receive \$132,200 from the Federal Government if we do not require minors convicted of criminal sexual conduct to submit to such testing, when requested by the victim. The Committee further finds that in order to avoid this penalty, the Legislature must comply with this regulation by September 30, 1995.

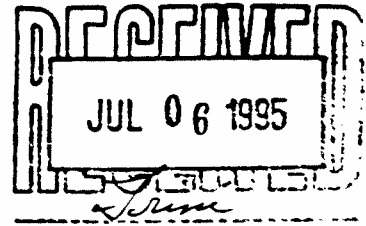
The Committee finds that the intent of this Bill is to provide the necessary protection to the public and to comply with Federal regulations by specifically requiring juveniles convicted of criminal sexual conduct to submit to testing to determine the presence of sexually transmitted diseases, when requested by the victim.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 300**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 300 As substituted by the author** "AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES."



# COMMITTEE ON RULES

Twenty-Third Guam Legislature  
155 Hesler St., Agana, Guam 96910



July 5, 1995

## MEMORANDUM

**TO:** Chairman, Committee on Judiciary, Criminal Justice  
and Environmental Affairs

**FROM:** Acting Chairman, Committee on Rules

**SUBJECT:** Referral - Bill No. 300

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

  
**JOHN P. AGUON**

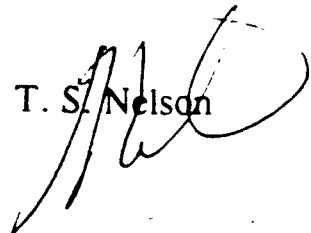
Attachment:

Twenty Third Guam Legislature  
1995 (First) Regular Session

Bill No. 300

Introduced by:

T. S. Nelson



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AN ACT TO AMEND PUBLIC LAW 22-116 TO INCLUDE  
JUVENILES CONVICTED OF SEXUAL ASSAULT UPON  
ANOTHER PERSON TO UNDERGO MANDATORY TESTING  
FOR HIV OR OTHER SEXUAL DISEASES

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

3  
4 Section 1. Legislative intent. During the 22nd Guam Legislature hearings  
5 on Bill No. 552, which became Public Law 22-116, juveniles found guilty of  
6 sexual misconduct were inadvertently left out. As a result of this omission, Guam  
7 stands to lose One Hundred Thirty Two Thousand Two Hundred Dollars  
8 (\$132,200) of a federal grant. If this error is corrected prior to September 30,  
9 1995, the withheld funds will be restored to Guam's use.

10 Section 2. Section 120.60 of Title 8, Guam Code Annotated



1 amendment. Section 120.60 of Title 8 of the Guam Code Annotated is  
2 amended to read as follows:

3 "§120.60. Medical examinations of those convicted of criminal  
4 sexual abuse. Any person, including juveniles, convicted of criminal sexual  
5 conduct shall submit to the necessary medical examinations for determining  
6 whether such convicted person or juvenile is infected with the HIV virus or  
7 with any other sexually transmitted disease, such as, but not limited to, the  
8 examination of such convicted person's or juvenile's blood, urine, genital  
9 discharge or lesions. The Department of Public Health and Social Services  
10 shall administer and analyze such necessary medical examinations in  
11 accordance with standard medical procedures, and the results of such  
12 examinations shall be furnished to the victim of such conduct and to the  
13 convicted person. Any treatment for the victim made necessary as a result  
14 of such crime as determined by such examinations shall be furnished by the  
15 Guam Memorial Hospital, by the Sexual Abuse and Rape Crisis Center, or  
16 by the Department of Public Health and Social Services, which treatment  
17 shall not be construed to interfere with or diminish any medical support  
18 already provided by any health insurer, agency, or office."

**TWENTY-THIRD GUAM LEGISLATURE**  
**1995 (FIRST) REGULAR SESSION**

Bill No. 300

As substituted by the author

Introduced by:

**T. S. Nelson**

---

AN ACT TO ADD A NEW §3330 TO TITLE 10 GUAM CODE ANNOTATED, TO REQUIRE THAT MINORS CONVICTED OF CRIMINAL SEXUAL CONDUCT SUBMIT TO TESTING TO DETERMINE IF THEY ARE CARRIERS OF SEXUALLY TRANSMITTED DISEASES.

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

2           **SECTION 1. Legislative Findings and Intent.** The Legislature finds that Public Law 22-  
3 116, which requires individuals convicted of criminal sexual conduct to submit to testing for  
4 sexually transmitted diseases, does not apply to minors. The Legislature further finds that the intent  
5 of the Twenty-Second Guam Legislature was to include minors among such individuals required to  
6 submit to testing. The Legislature finds that it is necessary to provide comprehensive protection to  
7 the public in response to the increasing cases of criminal sexual conduct being reported and  
8 prosecuted. The Legislature finds that Guam may not receive \$132,200 from the Federal  
9 Government if we do not require minors convicted of criminal sexual conduct to submit to such  
10 testing, when requested by the victim. The Legislature further finds that in order to avoid this  
11 penalty, the Legislature must comply with this regulation by September 30, 1995. The intent of this  
12 Legislature is to provide the necessary protection to the public and to comply with Federal  
13 regulations by specifically requiring juveniles convicted of criminal sexual conduct to submit to  
14 testing to determine the presence of sexually transmitted diseases, when requested by the victim.

15           **SECTION 2. §3330 is added to Chapter 3, Article 3 of Title 10 Guam Code Annotated to read:**

16           **“§3330. Testing of minors for human immunodeficiency virus, and any other sexually**  
17 **transmitted diseases upon conviction of criminal sexual assault.** (a) The sentencing court shall  
18 issue an order requiring a minor convicted of criminal sexual conduct, as defined in sections 25.15,  
19 25.20, 25.25, and 25.30 of Title 9 Guam Code Annotated, to submit to testing to determine the

1 presence of human immunodeficiency virus (HIV), or any other sexually transmitted disease, if the  
2 victim requests the test.

3 **SECTION 3. Disclosure of test results.** The date and results of a test performed under  
4 section 2 of this Act must be made available, on request, to the victim or, if the victim is a minor,  
5 to the victim's parent or guardian and positive test results shall be reported to the Director of Public  
6 Health, as required under sections 3302, 3303, and 3304 of this Chapter. Data regarding  
7 administration and results of the test shall not be accessible to any other person for any purpose and  
8 shall not be maintained in any record of the court or court services or any other record.

9 **SECTION 4. Notice of risk of sexually transmitted disease.** (a) **Notice required.** A  
10 hospital shall give a written notice about sexually transmitted diseases to a person receiving medical  
11 services in the hospital who reports or evidences a sexual assault or other unwanted sexual contact  
12 or sexual penetration. When appropriate, the notice must be given to the parent or guardian of the  
13 victim.

14 (b) **Contents of notice.** The Chief of Police, or his designee, in consultation with sexual  
15 assault victim advocates and health care professionals, shall develop the notice required by  
16 subsection (a). The notice must inform the victim of:

- 17 (1) the risk of contracting sexually transmitted diseases as a result of a sexual assault;
- 18 (2) the symptoms of sexually transmitted diseases;
- 19 (3) recommendations for periodic testing for the diseases, where appropriate;
- 20 (4) locations where confidential testing is done and the extent of the confidentiality provided;
- 21 (5) information necessary to make an informed decision whether to request a test of the  
22 offender under section 2; and
- 23 (6) other medically relevant information.





# SUPERIOR COURT OF GUAM

OFFICE OF THE ADMINISTRATIVE DIRECTOR

GUAM JUDICIAL CENTER  
120 WEST O'BRIEN DRIVE  
AGANA, GUAM 96910



**ANTHONY P. SANCHEZ**  
ADMINISTRATIVE DIRECTOR

TELEPHONE: (671) 475-3544  
FACSIMILE: (671) 477-3184

September 20, 1995

The Honorable Mark Charfauros  
Chairman & Senator  
Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty Third Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Chairman:

I would like to extend support for the intent of Bill 263 which echoes the Presiding Judge Alberto C. Lamorena, III call for stricter penalties for crimes involving the use of "ice" or crystal methamphetamine -- which he delivered in his 1995 State of the Judiciary address. As you know the epidemic of "ice" and other drugs, as well as the efforts that have been launched to remove it from our shores is a battle that must be fought on all fronts. I thank your committee in advance for its efforts and concerns in this regards. I look forward to the finalized form of the legislation and any other laws or bills that will contribute to ending this terrible drug's hold on our people and the effects it is having on our community.

In addition, the Superior Court supports Bill 300 which would amend Public Law 22-116. The protection of victims is a paramount concern for the Guam Crime Commission. In addition, this bill will prevent our government from losing 5-10% of the Edward Byrne's Drug Grant money and other Federal monies whose compliance requires the testing outlined in the bill.

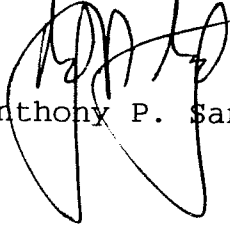
Likewise the amendments to the Criminal Injuries Compensation Commission contained in Bill #313 take into account DUI cases, increase the overall fines, and broaden the scope of restitution in compensating victims in line with existing Federal standards. Criminal acts effect lives long after a case is resolved within the Judicial system. Compensation for injuries of victims in any form will assist an individuals or families' return to a normal life.

The Honorable Mark Charfauros  
Page Two

In addition the new amendments raises our standards to the national level, which makes Guam eligible for additional Federal funding and grants.

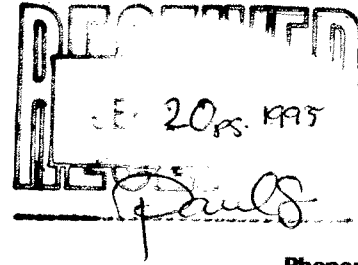
Should you have any questions, concerns or input please feel free to contact me at your convenience.

Sincerely,



Anthony P. Sanchez

cc: Presiding Judge  
Judicial Council



**Calvin E. Holloway, Sr.**  
*Attorney General*

**Gus F. Diaz**  
*Chief Deputy Attorney General*

**Office of the Attorney General  
Territory of Guam**

**Phone: (671) 475-3324**  
**Telefax: (671) 472-2493**

September 19, 1995

The Honorable Mark C. Charfauros  
Chairman, Committee on Judiciary, Criminal Justice and Environmental Affairs  
Twenty-Third Guam Legislature  
Ada's Commercial & Professional Center  
138 East Marine Drive, Suite 101C-Annex  
Agana, Guam 96910

Re: Bill Nos. 263, 295, 300, 313, 363 and 316

Dear Senator Charfauros:

Hafa Adai!

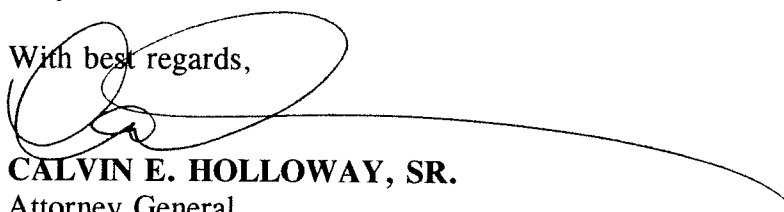
This is a follow-up to my earlier letter of today dated September 19, 1995, concerning the above bills. In addition to the bills commented on in my earlier letter, we would like to submit comments on Bill No. 316. Mr. Charles Troutman, Compiler of Laws, will appear before your honorable committee to provide testimony tomorrow morning on Bill No. 316. I have enclosed copies of his comments. In addition, I have provided copies of this correspondence to the other members of the Judicial Council.

If there are any questions, please call me.

With thanks in anticipation of your consideration.

Dangkolo Na Agradesimento - Thank You Very Much!

With best regards,

  
**CALVIN E. HOLLOWAY, SR.**  
Attorney General

Enclosure

cc: Presiding Judge, Superior Court of Guam  
Robert Torres, President, Guam Bar Association



GOVERNMENT OF GUAM  
AGAÑA, GUAM

September 19, 1995

MEMORANDUM

To: Attorney General

From: Compiler of Laws

Subject: Bill Relative to Judiciary Rules - Forms

Tomorrow, the Judiciary Committee will hear testimony on Bill No. 316, An Act to Require the Judicial Council . . . [to create Forms for Practice]. This Bill is unnecessary because the Guam Rules of Civil Procedure has contained standard forms since its adoption on Guam in 1969. Now, some of the subject matter described in this Bill are not suitable for forms. Temporary Restraining Orders are not actions *per se*, but are a part of an overall complaint. Likewise, TRO's are not *pro se* types of actions.

What is needed, really, is to restore the general rule-making power, which was inadvertently omitted when the Supreme Court was authorized. At the same time, it is completely inappropriate to make the rules subject to the Administrative Adjudication Law. Court Rules are not executive actions.

So, I suggest an amendment designed to keep the rules power in the Superior Court until there is a Supreme Court and then clarify the power in the Supreme Court.

§\_\_\_\_. **Rules of Procedure.** Until such time as the Supreme Court of Guam is operative, the Judicial Council shall have the power to prescribe by general rules, the form of procedure, writs, pleadings and motions, and the practice and procedure of the courts of Guam in civil actions, and appeals there to the extent of the Superior Court's jurisdiction, and the practice and procedure in proceedings for the judicial review and enforcement of orders of administrative agencies, boards, commissions and officers.

Such rules shall not abridge, enlarge, or modify any substantive right and shall preserve the right of trial by jury as provided in the Organic Act and in Guam law.

Such rules shall not take effect until they shall have been reported to the Legislature by the Chairman of the Judicial Council, and until the expiration of 60 days after they have been thus reported.



Any rules heretofore prescribed by the Judicial Council shall remain in effect until amended or repealed in accordance with this section. Any rule may be annulled or amended by a law limited to the purpose.

After the Supreme Court of Guam has become operational, the authority to make rules for the Superior Court under this section shall vest in the Supreme Court.

The above section is derived from CCP §123 as amended by the Court Reorganization Act of 1974, which tried to create the first Supreme Court. I have made changes to reflect changes to the laws since that time. I have made reference to and provision for both the present structure and the Supreme Court. I have deleted a sentence in the second-to-last paragraph dealing with repealing laws in conflict with the rules. This section caused much confusion, and is no longer needed since Titles 6 and 7 have been amended to conform to the Rules, so there should be no conflict, though there will remain areas of difficulty. In any event, new rules should not repeal existing laws.

This section covers all of the concerns of Senator Pangelinan. The original section comes from the United States Code adopting the federal rule system. It contains far more guidance than does Senator Pangelinan's bill and, I believe, should be substituted for it.

If you wish, I will testify to this effect on Wednesday.



CHARLES H. TROUTMAN

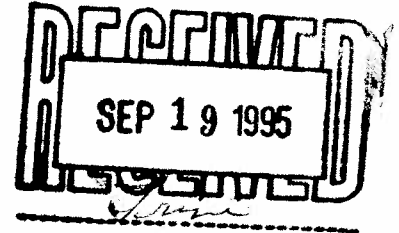


Calvin E. Holloway, Sr.  
*Attorney General*

Office of the Attorney General  
Territory of Guam

Phone: (671) 475-3324  
Telefax: (671) 472-2493

Gus F. Diaz  
*Chief Deputy Attorney General*



September 19, 1995

The Honorable Mark C. Charfauros  
Chairman, Committee on Judiciary, Criminal  
Justice and Environmental Affairs  
Twenty-Third Guam Legislature  
Ada's Commercial & Professional Center  
138 East Marine Drive, Suite 101C-Annex  
Agana, Guam 96910

Re: Bill Nos. 263, 295, 300, 313, and 363

Dear Senator Charfauros:

Hafa Adai!

Thank you for your letter of September 13, 1995, concerning the Public Hearing on Wednesday, September 20, 1995, regarding subject bills.

Mr. Charles Stake, our Chief Prosecutor will testify on those bills which concern our Prosecution Division...Bill Nos. 263, 295, 300, and 313. Mr. Eric Heisel will provide testimony on Bill No. 363. Our written comments on each of the subject bills is enclosed.

If there are any questions, please call me.

With thanks in anticipation of your consideration.

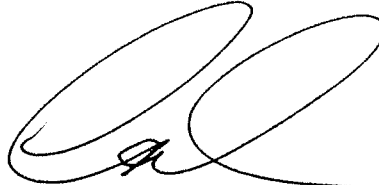


Commonwealth Now!

Ltr. to Sen. Mark Charfauros  
September 19, 1995  
Page 2

Dangkolo Na Agradesimento - Thank You Very Much!

With best regards,



CALVIN E. HOLLOWAY, SR.  
Attorney General

Enclosures

cc: Chief Prosecutor, Prosecution Division  
Eric Heisel, Assistant Attorney General, Civil Division

senmacha.of5  
CEH.jrc



Commonwealth Now!



GOVERNMENT OF GUAM  
AGANA, GUAM 96910

September 18, 1995

Intra-Department Memorandum

To: Attorney General *[Signature]* 9/19/95  
Via: Chief Deputy Attorney General *[Signature]* 9/19/95  
From: Chief Prosecutor  
Subject: Comments on Bills 263, 295, 300 and 313

RECEIVED  
SEP 18 1995  
*Armen*  
ATTORNEY GENERAL'S OFFICE

Set out below, please find the comments you requested on Bills 263, 295, 300, and 313.

**Bill No. 263**

p. 2, LL: 30-31 I would seek to have the exception read:

"and has been convicted of a felony for the first time relative to the possession of ~~crystal methamphetamine~~ any controlled substance . . . ."

p. 2, L: 33 A mandatory fine of \$5,000.00 may work against one of the concerns noted in the findings, the economic hardship that ice use causes families. There should be a hardship exception which the court can apply at its discretion.

Page 3- I like the idea of fines going into a drug treatment and enforcement fund. It should be noted that the drug that contributes most to crime on Guam is alcohol. It may be appropriate to suggest that, if the legislature is serious about curbing crime and substance abuse, that the alcohol tax be increased and the additional revenues placed in this fund.

This Bill, **Bill No. 295**, and the entirety 9 GCA Chapter 67, would benefit from several broad ranging provisions:

A section that clarifies that residual amounts of controlled substances qualify for purposes of "possession".

A provision that equates use with possession, by including in the definition of possession, the possession

Intra-Dept. Memo to A.G.  
Subj: Comments on Bills 263, 295, 300 and 313  
September 18, 1995  
Page 2

in one's bloodstream of the drug (or a similar formula). The statute could make the presence of metabolites (in blood or urine) expressly admissible as evidence of possession in the bloodstream. This could also be accomplished by having a provision that directly penalizes USE of controlled substances.

**Bill No. 295**

As noted above, this Bill would be improved by a provision making clear that knowing use necessarily incorporates knowing possession. This would have a significant impact on the sanctions imposed on folks who test positive. Rather than the administrative provisions discussed in section 88.40, they could also be prosecuted. Prisoners would be liable for Possession and for Promoting Prison Contraband. Folks on Parole or Probation could be processed for revocation as well as outright prosecution. It is important that the Bill NOT limit sanctions imposable so as to preclude prosecution.

Consideration should be given to adding a provision that mandates urine testing for all persons ARRESTED for any felony. [This last idea flows from a federal program goal from some years back. It's constitutionality should be researched before it receives serious consideration. It may be possible to institute such a program if it is appropriately limited and the legislation is carefully worded.]

**Bill No. 300** This provision should be enacted post haste.

**Bill No. 313** This Bill looks good on its face. Its intent is to comply with federal grant requirements and we support this objective.

Submitted for your information.

  
CHARLES D. STAKE

September 19, 1995

Memorandum (Intraoffice)

To: Attorney General

Via: Deputy, Litigation Division

From: Assistant Attorney General

Subject: Amendment to Accessible Parking Law

As you had requested, I am writing this memo to give you some background information on Bill No. 363.

As you know, I was largely responsible for piecing together the proposed legislation that ended up as Public Law No. 23-11, the Accessible Parking Law. While drafting it, I had numerous discussions with Ben Servino, who was then the director of the Governor's Commission on Persons with Disabilities. There were a few areas where we did not see eye to eye. For one thing, Ben wanted to include a provision in the law that would allow the deputization of certain individuals to issue traffic citations to vehicles illegally parked in accessible parking spaces. (As you recall, the word "handicapped" is verboten.) Our office decided not to include such a provision, largely because of the potentially complex liability issues that might arise. As I recall, the Guam Police Department was also against inclusion of such a provision, on similar grounds.

After our office was finished with the final draft of the legislation, we sent it to Ben. After that, several changes were made to the legislation, including the addition of 16 GCA §3401.1(h). Therefore, this provision was included without the blessing of this office.

Recently, Guam Community College has been conducting training pursuant to §3401.1(h) and certifying individuals to issue traffic citations. As you know, I conducted an overview of the Accessible Parking Law at one of the trainings on August 30. It was at that time that I realized that §3401.1 authorized certification of private employees only, those who work for private security businesses and those who work for certain, designated nonprofit organizations. Therefore, under the Accessible Parking Law, government security guards are not eligible for certification (unless they can be categorized as "law enforcement personnel," as the term is used in 16 GCA §3401.1(f)).

Memo to Attorney General  
September 19, 1995  
Page 2

When I followed up on this later, I learned that GCC has already certified some government of Guam security guards under the law. Since this was probably done improperly, I drafted the attached memo to the president of GCC. I advised Adolf Sgambelluri of this, and he suggested that the law should be amended to include government security guards.

Things obviously happened very quickly, because now we have Bill No. 363, which amends §3401.1(h) to include government security personnel within the categories of people who can be certified to issue these citations.

The bottom line is this: As long as §3401.1(h) is going to continue to be the law, for purposes of the Accessible Parking Law, it makes sense to include government security personnel. However, perhaps our office should continue to oppose §3401.1 in general, because of the potential liability problems. As you recall, members of the hotel association refused to attend the last certification training because it wants an opinion from this office regarding the extent of its liability in the event its security guards issue tickets under the new law. So, already, liability has become an issue in the private sector.

Bill No. 300  
Amendatory Bill YES  NO

Date Received 7/14/95  
Date Reviewed 7/24/95

Department/Agency Affected: Department of Public Health & Social Services  
Department/Agency Head: Dennis Rodriguez  
Total FY Appropriation to Date: \$57,911,695

Bill Title (preamble) : AN ACT TO AMEND PUBLIC LAW 22-116 TO INCLUDE JUVENILES CONVICTED OF SEXUAL ASSULT UPON ANOTHER PERSON TO UNDERGO MANDATORY TESTING FOR HIV OR OTHER SEXUAL DISEASES.

Change in Law: Amendment of P.L. 22-116

Bill's Impact on Present Program Funding:  
 Increase     Decrease     Reallocation     No Change

Bill is for:  Operations     Capital Improvement     Other ( )

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)

PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
<u>Public Health &amp; Welfare</u>			<u>1/</u>

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>1/</u>					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ \_\_\_\_\_  
AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Christine D. Flores DATE 7/25/95 DIRECTOR Joseph E. Rivera DATE JUL 27 1995  
*Christine D. Flores* *Joseph E. Rivera*  
Acting Director

FOOTNOTES: see attached.



The proposed legislation will have a financial impact on the General Fund however the impact cannot be quantified at such time in terms of local dollars. Per Public Law 22-116, any person convicted of criminal sexual conduct shall submit to the necessary medical examination for determining whether such convicted person is infected with the HIV virus or with any other sexually transmitted disease. The proposed legislation is to include juveniles in the medical examination process. In the event this particular amendment is not made, the receipt of federal dollars may be affected.



## Notice of Public Hearing

23rd Guam Legislature

Senator

**Mark C. Charfauros**

Chairman, Committee on Judiciary, Criminal Justice and  
Environmental Affairs

**Bill No. 263:** AN ACT TO ADD A NEW §80.30.1, A NEW §80.31.1 AND A NEW §67.62.1 TO 9 GCA RELATIVE TO MANDATORY SENTENCING FOR THE POSSESSION OF CRYSTAL METHAMPHETAMINE, AND THE CREATION OF A SPECIAL FUND TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT, FOR THE PURPOSES OF COMBATING THE INCREASING ABUSE OF CRYSTAL METHAMPHETAMINE, OTHERWISE KNOWN AS "ICE", IN THE TERRITORY OF GUAM AND TO PROTECT THE YOUTH OF GUAM FROM THE DANGERS OF THIS ILLEGAL SUBSTANCE;

**Bill No. 295:** AN ACT TO CREATE A NEW CHAPTER 88 TO 9 GCA RELATIVE TO ESTABLISHING A PROGRAM FOR SUBSTANCE ABUSE TESTING, ASSESSMENT AND TREATMENT FOR PERSONS CONVICTED AND INVOLVED IN THE GUAM JUSTICE SYSTEM, AS A MEANS OF REDUCING RECIDIVISM, ADDRESSING OFFENDERS AS A HIGH RISK GROUP, AND REDUCING SUBSTANCE ABUSE AND ITS DELETERIOUS EFFECTS IN THE TERRITORY OF GUAM;

**Bill No. 300:** AN ACT TO AMEND PUBLIC LAW 22-116 TO INCLUDE JUVENILES CONVICTED OF SEXUAL ASSAULT UPON ANOTHER PERSON TO UNDERGO MANDATORY TESTING FOR HIV OR OTHER SEXUAL DISEASES;

**Bill No. 307 as substituted:** AN ACT TO ADD A NEW SECTION 70.26 TO CHAPTER 70 OF TITLE 9 GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE USE OF MOTORIZED VESSELS IN AREAS WHERE NO RECREATIONAL WATER USE MASTER PLAN EXISTS;

**Bill No. 313:** AN ACT TO AMEND CHAPTER 86 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CRIMINAL INJURIES COMPENSATION COMMISSION;

**Bill No. 316:** AN ACT TO REQUIRE THE GUAM JUDICIAL COUNCIL TO ADOPT STANDARD JUDICIAL FORMS FOR PURPOSES OF FILING CIVIL AND CRIMINAL LITIGATIONS, SPECIAL PROCEEDINGS, PETITIONS, MOTIONS, NOTICES, ORDERS AND REQUESTS THAT MAY BE FILED IN COURT;

**Bill No. 334:** AN ACT TO REPEAL AND REENACT §8106 OF TITLE 7 GCA RELATIVE TO AUTHORIZING MARSHALS OF THE SUPERIOR COURT OF GUAM TO ISSUE TRAFFIC CITATIONS;

**Bill No. 356:** AN ACT TO AMEND SUBSECTION (f) OF §5.55 OF TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE DEFINITION OF "PEACE OFFICER" FOR THE CUSTOMS AND QUARANTINE AGENCY;

**Bill No. 363:** AN ACT TO AMEND §3401.0(h) OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING GOVERNMENT SECURITY PERSONNEL TO ENFORCE STATUTES CONCERNING ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES;

**Bill No. 364:** AN ACT TO ADD A NEW SUBSECTION (H) TO SECTION 3339 AND AMEND SECTION 3315 ALL TO TITLE 16 GUAM CODE ANNOTATED RELATIVE TO TRAFFIC SIGNALS.

**Date:** Wednesday, September 20, 1995

**Time:** 9:30 a.m.

**Place:** Public Hearing Room,  
Guam Legislature Temporary Bldg., Agana, Guam

**The Public is invited to participate**

AUG 03 1995

Twenty Third Guam Legislature  
1995 (First) Regular Session

Bill No. 300 (LG)

Introduced by:

T. S. Nelson



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AN ACT TO AMEND PUBLIC LAW 22-116 TO INCLUDE  
JUVENILES CONVICTED OF SEXUAL ASSAULT UPON  
ANOTHER PERSON TO UNDERGO MANDATORY TESTING  
FOR HIV OR OTHER SEXUAL DISEASES

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

3  
4           Section 1. Legislative intent. During the 22nd Guam Legislature hearings  
5 on Bill No. 552, which became Public Law 22-116, juveniles found guilty of  
6 sexual misconduct were inadvertently left out. As a result of this omission, Guam  
7 stands to lose One Hundred Thirty Two Thousand Two Hundred Dollars  
8 (\$132,200) of a federal grant. If this error is corrected prior to September 30,  
9 1995, the withheld funds will be restored to Guam's use.

10           Section 2.       Section 120.60 of Title 8, Guam Code Annotated

1 amendment. Section 120.60 of Title 8 of the Guam Code Annotated is  
2 amended to read as follows:

3 "§120.60. Medical examinations of those convicted of criminal  
4 sexual abuse. Any person, including juveniles, convicted of criminal sexual  
5 conduct shall submit to the necessary medical examinations for determining  
6 whether such convicted person or juvenile is infected with the HIV virus or  
7 with any other sexually transmitted disease, such as, but not limited to, the  
8 examination of such convicted person's or juvenile's blood, urine, genital  
9 discharge or lesions. The Department of Public Health and Social Services  
10 shall administer and analyze such necessary medical examinations in  
11 accordance with standard medical procedures, and the results of such  
12 examinations shall be furnished to the victim of such conduct and to the  
13 convicted person. Any treatment for the victim made necessary as a result  
14 of such crime as determined by such examinations shall be furnished by the  
15 Guam Memorial Hospital, by the Sexual Abuse and Rape Crisis Center, or  
16 by the Department of Public Health and Social Services, which treatment  
17 shall not be construed to interfere with or diminish any medical support  
18 already provided by any health insurer, agency, or office."