



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 22 2000

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspal Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ASSIGNMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	10:43 am
Date	23 March 2000

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 174 (COR), "AN ACT TO ADD §3112 TO CHAPTER 3, DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING AN OFFICE OF THE PUBLIC GUARDIAN", which I have signed into law today as **Public Law No. 25-103**.

This legislation provides for a public guardian to be appointed by the Chief Justice. The Office of the Public Guardian is within the judiciary branch of government, and is provided to represent individuals who are elderly or mentally incapacitated, when appointed by the Family Court. This will facilitate the proper representation and care necessary for those who cannot represent themselves to have, at the court's disposal, the facility to refer the case to a guardian when needed. The funding for this new office is within the judiciary budget.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

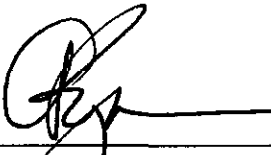
cc: The Honorable A.R. Unpingco
Speaker

00826

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 174 (COR) "AN ACT TO ADD §3112 TO CHAPTER 3, DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING AN OFFICE OF THE PUBLIC GUARDIAN," was on the 9th day of March 2000, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

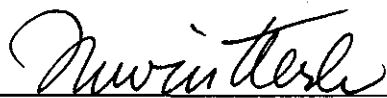
Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

.....

This Act was received by *I Maga'lahaen Guahan* this 10th day of March, 2000,
at 4:45 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 3.22.00

Public Law No. 25-103

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 174 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development.

Introduced by:

V. C. Pangelinan
S. A. Sanchez, II
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
J. C. Salas
A. R. Unpingco

**AN ACT TO ADD §3112 TO CHAPTER 3,
DIVISION 1 OF TITLE 7 OF THE GUAM CODE
ANNOTATED, RELATIVE TO CREATING AN
OFFICE OF THE PUBLIC GUARDIAN.**

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

2 **Section 1. Legislative Statement.** *I Liheslaturan Guåhan* finds that
3 public guardianship for the elderly and individuals who are mentally

1 incompetent is necessary where there is no willing and/or responsible family
2 member or other persons to serve as guardian.

3 It is the intent of *I Liheslaturan Guåhan* to establish an Office of the Public
4 Guardian within the Supreme Court of Guam jurisdiction for the purpose of
5 furnishing guardianship services to the elderly and those individuals who are
6 mentally incompetent at reduced or no cost where appropriate, and to
7 promote general welfare that permits the elderly and individuals to
8 participate as fully as possible in all decisions that affect them.

9 **Section 2.** Section 3112 is hereby *added* to Chapter 3, Division 1 of Title
10 7 of the Guam Code Annotated to read as follows:

11 **“Section 3112. Office of Public Guardian. Office of Public**
12 **Guardian; Establishment; Appointment.** There is hereby
13 established within the government of Guam an Office of Public
14 Guardian (‘Office’). The Public Guardian of the Office is the head of the
15 Office. The Chief Justice shall appoint the Public Guardian, who shall
16 serve at the Chief Justice's pleasure.

17 **(a) Powers and Duties.** (1) The Public Guardian
18 shall serve as guardian, limited guardian, testamentary guardian
19 or temporary guardian of the person and/or estate of an elderly or
20 mentally incapacitated individual when so appointed by the
21 Family Court under Chapter 1 of Appendix C of Title 7 of the
22 Guam Code Annotated. The Public Guardian shall file a petition
23 for the Public Guardian's own appointment. Petitions for public
24 guardianship may also be filed by any person, agency, of facility

1 responsible for the support or care of individuals who:

- 2 (i) are *not* able to understand or adequately
3 participate in decisions concerning their care; *and*
4 (ii) have no relatives or friends willing and
5 able to act as guardian.

6 (2) The Public Guardian shall have the same powers
7 and duties as a private guardian.

8 (3) The Public Guardian shall assist the Court, as the
9 Court may request or direct, in proceedings for the
10 appointment of a guardian of the person and in the
11 supervision of persons, corporations or agencies which have
12 been appointed as guardians of the person.

13 (4) The Public Guardian shall advise and assist
14 persons, corporations, and agencies which are seeking
15 appointment as a guardian for an incapacitated person. The
16 Public Guardian shall also provide advice, information and
17 guidance to the persons, corporations or agencies who have
18 been appointed as guardian of the person to assist them in
19 the discharge of their duties.

20 (5) The Public Guardian may offer guidance and
21 counsel, without court appointment as guardian, to those
22 persons who request such assistance or to those on whose
23 behalf it is requested for the purpose of encouraging
24 maximum self-reliance and independence of such persons,
25 and avoiding the need for appointment of a guardian.

1 *Liheslaturan Guåhan;*

2 (6) one (1) attorney appointed by the Guam Bar
3 Association;

4 (7) one (1) representative from a local nonprofit
5 social service organization providing services to the youth,
6 appointed by the Speaker of *I Liheslaturan Guåhan*; and

7 (8) three (3) members of the community at large
8 appointed by the Speaker of *I Liheslaturan Guåhan*.

9 (c) **When Not Appointed.** The Public Guardian shall *not*
10 be appointed *if* another suitable guardian is available and willing
11 to accept the guardianship appointment, *unless* the Court finds
12 that the best interests of the ward would be better served by the
13 appointment of the Public Guardian.

14 (d) **Court Costs.** In any proceeding for appointment of
15 a Public Guardian, the Court may waive any court cost or filing
16 fee.

17 (e) **Fees of Services; When Not Allowed.** The Public
18 Guardian may receive such reasonable fees for services as a public
19 guardian as the Court allows.

20 (1) No fees shall be allowed which would
21 unreasonably diminish the ward's estates so as to endanger
22 the ward's financial independence, and no fees shall be
23 allowed when the ward's primary source of support derives
24 from public funds.

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910



COPY

March 10, 2000


The Honorable Carl T.C. Gutierrez
I Maga'laken Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill Nos. 249(COR), 328(COR) and 346(LS) and Substitute Bill Nos. 174(COR), 197(COR), 233(COR) and 364(LS) which were passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on March 9, 2000.

Sincerely,

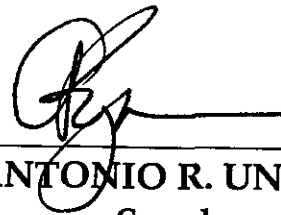

JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (7)

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 174 (COR) "AN ACT TO ADD §3112 TO CHAPTER 3, DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING AN OFFICE OF THE PUBLIC GUARDIAN," was on the 9th day of March 2000, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 10th day of March, 2000,
at 4:45 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 174 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development.

Introduced by:

V. C. Pangelinan
S. A. Sanchez, II
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
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15 Office. The Chief Justice shall appoint the Public Guardian, who shall
16 serve at the Chief Justice's pleasure.

17 **(a) Powers and Duties.** (1) The Public Guardian
18 shall serve as guardian, limited guardian, testamentary guardian
19 or temporary guardian of the person and/or estate of an elderly or
20 mentally incapacitated individual when so appointed by the
21 Family Court under Chapter 1 of Appendix C of Title 7 of the
22 Guam Code Annotated. The Public Guardian shall file a petition
23 for the Public Guardian's own appointment. Petitions for public
24 guardianship may also be filed by any person, agency, or facility

1 responsible for the support or care of individuals who:

2 (i) are *not* able to understand or adequately
3 participate in decisions concerning their care; *and*

4 (ii) have no relatives or friends willing and
5 able to act as guardian.

6 (2) The Public Guardian shall have the same powers
7 and duties as a private guardian.

8 (3) The Public Guardian shall assist the Court, as the
9 Court may request or direct, in proceedings for the
10 appointment of a guardian of the person and in the
11 supervision of persons, corporations or agencies which have
12 been appointed as guardians of the person.

13 (4) The Public Guardian shall advise and assist
14 persons, corporations, and agencies which are seeking
15 appointment as a guardian for an incapacitated person. The
16 Public Guardian shall also provide advice, information and
17 guidance to the persons, corporations or agencies who have
18 been appointed as guardian of the person to assist them in
19 the discharge of their duties.

20 (5) The Public Guardian may offer guidance and
21 counsel, without court appointment as guardian, to those
22 persons who request such assistance or to those on whose
23 behalf it is requested for the purpose of encouraging
24 maximum self-reliance and independence of such persons,
25 and avoiding the need for appointment of a guardian.

1 (6) The Public Guardian shall develop programs of
2 public education on guardianship and alternatives to
3 guardianship and encourage the development of private
4 guardians able and willing to serve as guardian for the
5 person.

6 **(b) Public Guardianship Review Board.** Persons,
7 corporations and/or agencies appointed guardians shall be
8 consistently monitored through a Public Guardianship Review
9 Board. Every six (6) months, the Board shall review the care and
10 protection of those persons who are under guardianship by the
11 Office of the Public Guardian. The review Board may review
12 cases before the six (6) month period upon the request of the
13 majority of the members of the Board. This review Board shall
14 consist of eleven (11) members:

15 (1) one (1) social worker appointed by the Director
16 of the Department of Public Health & Social Services;

17 (2) two (2) physicians (one (1) a psychiatrist),
18 appointed by the Administrator of the Guam Memorial
19 Hospital;

20 (3) one (1) nurse appointed by the Director of the
21 Department of Public Health and Social Services;

22 (4) one (1) representative of the Counsel of Aging;

23 (5) one (1) representative from a local nonprofit
24 social service organization providing service to those with
25 developmental disabilities, appointed by the Speaker of I

1 *Liheslaturan Guåhan;*

2 (6) one (1) attorney appointed by the Guam Bar
3 Association;

4 (7) one (1) representative from a local nonprofit
5 social service organization providing services to the youth,
6 appointed by the Speaker of *I Liheslaturan Guåhan*; and

7 (8) three (3) members of the community at large
8 appointed by the Speaker of *I Liheslaturan Guåhan*.

9 (c) **When Not Appointed.** The Public Guardian shall *not*
10 be appointed *if* another suitable guardian is available and willing
11 to accept the guardianship appointment, *unless* the Court finds
12 that the best interests of the ward would be better served by the
13 appointment of the Public Guardian.

14 (d) **Court Costs.** In any proceeding for appointment of
15 a Public Guardian, the Court may waive any court cost or filing
16 fee.

17 (e) **Fees of Services; When Not Allowed.** The Public
18 Guardian may receive such reasonable fees for services as a public
19 guardian as the Court allows.

20 (1) No fees shall be allowed which would
21 unreasonably diminish the ward's estates so as to endanger
22 the ward's financial independence, and no fees shall be
23 allowed when the ward's primary source of support derives
24 from public funds.

1 (2) Any fees received under this Section by the
2 Public Guardian shall be deposited into the general fund.

3 (3) No fees shall accrue to the individual benefit of
4 the Public Guardian.

5 **(f) Rules.** The Public Guardian shall develop rules
6 and regulations in compliance with the Administrative
7 Adjudication Law.

8 **(g) Annual Report.** The Public Guardian shall prepare
9 and submit an annual report to the Chief Justice, and render such
10 other reports as the Chief Justice may from time to time require.

11 **(h) Funding.** Funding for the Office of the Public
12 Guardian shall be included in the budget of the Judiciary.

13 **(i) Contracts.** The Public Guardian may make and enter
14 into contracts, and generally do all such things as in the Public
15 Guardian's judgment may be necessary, proper and expedient in
16 accomplishing the Public Guardian's duties."

CLERK OF THE LEGISLATURE
TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN

(Included in File w/ All Bills Transmitted)

BILL NO. 174(COA)

FINAL PROOF-READING OF BLUEBACK COPY

Initialed by:

and Date:

- EXHIBITS ATTACHED None
- CONFIRM NUMBER OF PAGES 6
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any None

Confirmed By: [Signature]

Dated: _____

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to Susan)

- FILED by: Danny, Robert or others

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 174 (COR) "AN ACT TO ADD §3112 TO CHAPTER 3, DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING AN OFFICE OF THE PUBLIC GUARDIAN," was on the 9th day of March 2000, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by *I Maga'lahen Guahan* this _____ day of _____, 2000,
at _____ o'clock _____ M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 3-10-00
Time: 1:30 PM.
Rec'd by: [Signature]
Print Name: Carli



I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

2000 (SECOND) Regular Session

Date: 3/9/00 61

VOTING SHEET

SBill No. 174(COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				
BERMUDES, Eulogio C.	✓				
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



FILE

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

COPY

October 27, 1999

(DATE)

Memorandum

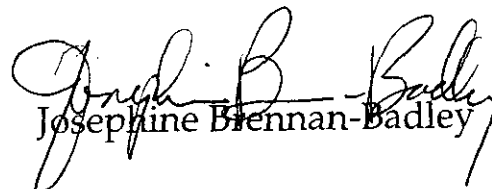
To: Senator Vicente C. Pangelinan

From: Clerk of the Legislature

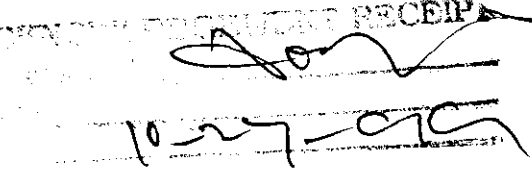
Subject: Report on Bill No. 174 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 174 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

RECEIVED

10-27-99



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

October 26, 1999

The Honorable Antonio R. Unpingco, Speaker
Mina' Bente Singko na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

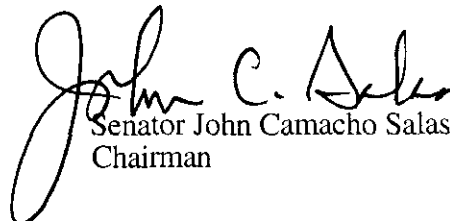
The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 174, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS**, as substituted.

The Committee votes are as follows:

To Do Pass	<u>7</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Other (Off-Island)	<u>0</u>

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,


Senator John Camacho Salas
Chairman



SENATOR JOHN CAMACHO SALAS CHAIRMAN

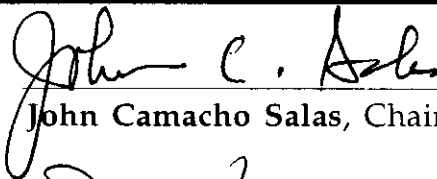
COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND
HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

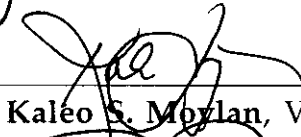
BILL NUMBER 174

TITLE AN ACT TO ADD A NEW 3112 TO CHAPTER 2 OF TITLE 7, GCA, RELATIVE TO
CREATING AN OFFICE OF THE PUBLIC GUARDIAN

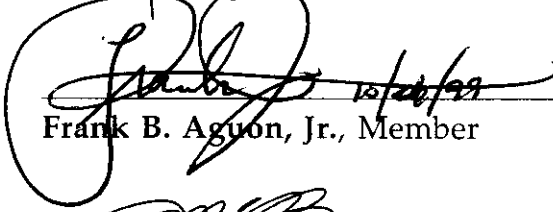
	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
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John Camacho Salas, Chairman

✓


Kaleo S. Moylan, Vice-Chairman

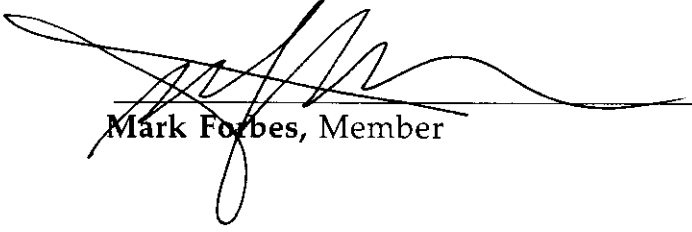
✓


Frank B. Aguon, Jr., Member

✓

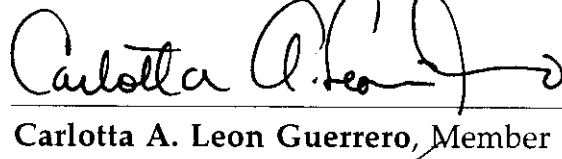

Joanne M.S. Brown, Member

✓

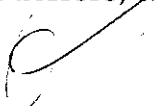

Mark Forbes, Member

✓

Alberto C. Lamorena V, Member


Carlotta A. Leon Guerrero, Member

✓



✓

Antonio R. Unpingco, Ex-Officio

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Summary of Testimony on Bill 174
Publicly Heard Saturday, June 12, 1999

Bill 174: An act to add new §3112 to Chapter 2 of Title 7, Guam Code Annotated, relative to creating an Office of the Public Guardian. Senator Vicente C. Pangelinan, Senator Simon A. Sanchez.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Kaleo S. Moylan, Co-Chairman
- Senator Joanne M.S. Brown, Member
- Senator Vicente C. Pangelinan
- Senator Simon A. Sanchez, II

II. MAIN SPONSORS

Senator Vicente C. Pangelinan
Senator Simon A. Sanchez

III. TESTIMONY

Ms. Bernie Grajek, Program Coordinator for the Guam Developmental Disabilities Council, provided both oral and written testimony in support of Bill 174. She noted that in 1998 the Council had voted on and agreed to pursue legislation for the creation of an Office of the Public Guardian. She further testified recommended amendments to the bill that would create a review board to monitor the Office of the Public Guardian.

Mr. Dennis Rodriguez, Director of the Department of Public Health and Social Services, provided testimony in support of Bill 174. Read from written testimony.

Attorney Daniel Sommerfleck, as a private citizen, testified in support of the premise of Bill 174. He did express concern that the Public Guardian is part of the Supreme Court and how an appeal could be made to the Supreme Court. He noted that perhaps an elected position or someone from the Public Auditor's Office would be in a better position regarding conflicts of interest. He expressed his desire to see that a bill is developed that provides for a guardian free from all interference. A guardian whose role is looking out for the best interest of an individual. The Public Guardian must also be able to look at guardianships and ensure that these guardianships are appropriate and not being done for underhanded purposes. He further noted the need for funding so that every guardianship is reviewed by the courts and the guardian is free from interference.

Senator Pangelinan said the bill is trying to immediately alleviate what Rodriguez had mentioned.

Senator Brown noted that there will always be issues of conflict. Especially where property, assets are involved. Concerned that there may not be anyone out there that is willing to go through the fundraising, campaigning, etc., to become an elected Public Guardian.

Senator Brown further asked how many cases would we be dealing with that would be able to receive assistance from a public guardian. **Director Rodriguez** noted about 20-30 cases and that number is expected to increase.

In discussion regarding the treatment of mentally incompetent criminals, **Police Chief James Marques** noted that the Guam Police Department does not have the facility to treat these individuals. Further, GPD officers have found elderly individuals determined to be incompetent. The Guam Memorial Hospital will not take them in. GPD can hold them, but this is not the appropriate facility and these individuals become wards of the government.

IV. COMMITTEE FINDINGS & RECOMMENDATION

The Committee understands the vital importance of an Office of the Public Guardian to protect and provide care for those unable to take care of themselves and for those that do not have anyone willing to care for them. Bill 174 creates this vital office, and the committee has incorporated the creation of a Guardianship Review Board to ensure the integrity of the office. Therefore the Committee recommends **TO DO PASS** Bill 174 as substituted.

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Bill No. 174 (COR)

(As substituted by the Committee on Judiciary, Public Safety,
Consumer Protection & Human Resources Management)

Introduced by:

V. C. Pangelinan

S. A. Sanchez, II

F. B. Aguan, Jr. 

**AN ACT TO ADD A NEW §3112 TO CHAPTER 2
OF TITLE 7, GUAM CODE ANNOTATED,
RELATIVE TO CREATING AN OFFICE OF THE
PUBLIC GUARDIAN.**

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

2 **Section 1. Legislative Statement.** *I Liheslaturan Guahan* finds that
3 public guardianship for the elderly and individuals who are mentally
4 incompetent is necessary where there is no willing and/or responsible family
5 member or other persons to serve as guardian.

6 It is the intent of *I Liheslaturan Guahan* to establish an Office of the
7 Public Guardian within the Supreme Court jurisdiction for the purpose of
8 furnishing guardianship services to the elderly and those individuals who are
9 mentally incompetent at reduced or no cost where appropriate, and to
10 promote general welfare that permits the elderly and individuals to
11 participate as fully as possible in all decisions that affect them.

12 **Section 2.** A new §3112 is hereby added to Chapter 3, Title 7, Guam
13 Code Annotated, to read:

14 “§3112. **Office of Public Guardian. Office of Public Guardian;**
15 **establishment; appointment.** There is hereby established within the

1 government of Guam an Office of Public Guardian hereinafter referred to as
2 "the Office." The Public Guardian of the Office is the head of the Office. The
3 Chief justice shall appoint the Public Guardian, who shall serve at the Chief
4 Justice's pleasure.

5 (a) **Powers and Duties.** (1) The Public Guardian shall serve as
6 guardian, limited guardian, testamentary guardian, or temporary guardian
7 of the person and/or estate of an elderly or mentally incapacitated individual
8 when so appointed by the family court under Appendix C, Chapter 1, 7 GCA.
9 The Public Guardian shall file a petition for the Public Guardian's own
10 appointment. Petitions for public guardianship may also be filed by any
11 person, agency, or facility responsible for the support or care of individuals
12 who:

13 (i) Are not able to understand or adequately participate in
14 decisions concerning their care; and

15 (ii) Have no relatives or friends willing and able to act as
16 guardian.

17 (2) The Public Guardian shall have the same powers and duties
18 as a private guardian.

19 (3) The Public Guardian shall assist the court, as the court may
20 request or direct, in proceedings for the appointment of a guardian of the
21 person and in the supervision of persons, corporations, or agencies which
22 have been appointed as guardians of the person.

23 (4) The Public Guardian shall advise and assist persons,
24 corporations, and agencies which are seeking appointment as a guardian for
25 an incapacitated person. The Public Guardian shall also provide advice,
26 information, and guidance to the persons, corporations, or agencies who

1 have been appointed as guardian of the person to assist them in the discharge
2 of their duties.

3 (5) The Public Guardian may offer guidance and counsel,
4 without court appointment as guardian, to those persons who request such
5 assistance or to those. on whose behalf it is requested for the purpose of
6 encouraging maximum self-reliance and independence of such persons and
7 avoiding the need for appointment of a guardian.

8 (6) The Public Guardian shall develop programs of public
9 education on guardianship and alternatives to guardianship and encourage
10 the development of private guardians able and willing to serve as guardian
11 for the person.

12 (b) **Public Guardianship Review Board.** Persons, corporations
13 and/or agencies appointed guardians shall be consistently monitored through
14 a Public Guardianship Review Board. Every six months, the board shall
15 review the care and protection of those persons who are under guardianship
16 by the Office of the Public Guardian. The review board may review cases
17 before the six month period upon the request of the majority of the members
18 of the board. This review board shall consist of eleven (11) members:

19 (1) One (1) Social Worker appointed by the Director of the
20 Department of Public Health & Social Services.

21 (2) Two (2) physicians (one a psychiatrist), appointed by the
22 Administrator of the Guam Memorial Hospital.

23 (3) One (1) Nurse appointed by the Director of the Department
24 of Public Health and Social Services.

25 (4) One (1) representative of the Counsel of Aging.

26 (5) One (1) representative from a local nonprofit social service

1 organization providing service to those with developmental disabilities,
2 appointed by the Speaker of *I Liheslaturan Guahan*.

3 (6) One (1) Attorney appointed by the Guam Bar Association.

4 (7) One (1) representative from a local nonprofit social service
5 organization providing services to the youth, appointed by the Speaker of *I*
6 *Liheslaturan Guahan*.

7 (8) Three (3) members of the community at large appointed by
8 the Speaker of *I Liheslaturan Guahan*.

9 (c) **When not appointed.** The Public Guardian shall not be appointed
10 if another suitable guardian is available and willing to accept the
11 guardianship appointment, unless the court finds that the best interests of the
12 ward would be better served by the appointment of the Public Guardian.

13 (d) **Court costs.** In any proceeding for appointment of a Public
14 Guardian, the court may waive any court costs or filing fees.

15 (e) **Fees of services; when not allowed.** The Public Guardian may
16 receive such reasonable fees for services as public guardian as the court
17 allows.

18 (1) No fees shall be allowed which would unreasonably
19 diminish the ward's estates so as to endanger the ward's financial
20 independence, and no fees shall be allowed when the ward's primary source
21 of support derives from public funds.

22 (2) Any fees received under this section by the Public Guardian
23 shall be deposited in the general fund.

24 (3) No fees shall accrue to the individual benefit of the Public
25 Guardian.

26 (f) **Rules.** The Public Guardian shall develop rules and

1 regulations in compliance with the Adjudication Act.

2 (g) **Annual Report.** The Public Guardian shall prepare and submit an
3 annual report to the Chief Justice and render such other reports as the Chief
4 Justice may from time to time require.

5 (h) **Funding.** Funding for the Office of the Public Guardian shall be
6 included in the budget of the judiciary.

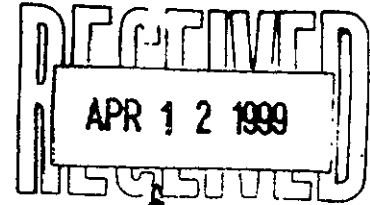
7 (i) **Contracts.** The Public Guardian may make and enter into
8 contracts, and generally do all such things as in its judgment may be
9 necessary, proper, and expedient in accomplishing its duties."



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayuråt*

APR 12 1999



MEMORANDUM

TO: Chairman
Committee on Judiciary, Public Safety, Consumer Protection
and Human Resources Development

FROM: Chairman *[Signature]*
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 174

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 17N-041
Introduced by:

v. c. pangelinan
S. A. Sanchez, II 

AN ACT TO ADD A NEW §3112 TO CHAPTER 2 OF
TITLE 7, GUAM CODE ANNOTATED, RELATIVE
TO CREATING AN OFFICE OF THE PUBLIC
GUARDIAN.

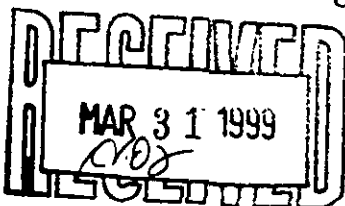
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20 contracts, and generally do all such things as in its judgment may be
21 necessary, proper, and expedient in accomplishing its duties."

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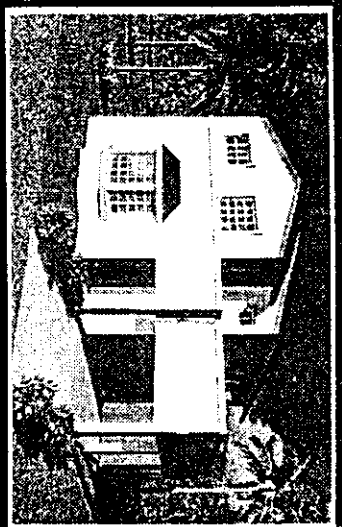


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INVITATION TO BID

BID NO. GPA-103-99
DUE DATE: 07/09/99
TIME: 2:00 P.M.
DESCRIPTION: Fuel Valve Automation at Cabras / Pit Power Plants and Fuel

Automation at Various Power Plants



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 649-1926/649-1886-Louis or Gina



MINA BEITE SINGKO
 MALHEBATSURAN GUAMAN

Notice of Public Hearing
 Senator John Camacho Salas
 Chairman of the Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development
 Confirmation of Eustaquio A. Puntujan, Member, Guam Parole Board for a 4 year term ending April 18, 2003.
 Bill 150 An act to amend §§7116, 7118 and 7125, and to add new §§7118.1 and 7118.2, all to Title 22, GCA, relative to empowering Department of Labor to detain illegal alien contract workers, and to provide penalties and fines for employment of illegal aliens
 Bill 174 An act to add new §3112 to Chapter 2 of Title 7, Guam Code Annotated, relative to creating an Office of the Public Guardian.
 Bill 210 An act to appropriate \$500,000 from money returned by the Supreme Court of Guam to the Guam Police Department to interdict smuggling.
 Bill 225 An act to comply with the Hiring Freeze and Automatic repeal of appropriations and full-time equivalents upon vacancy provisions contained in §211(b) of Public Law 25-03 by requesting legislative authorization for the restoration of the Supreme Court of Guam Staff Attorney position and one Research Attorney position, and the associated funding for each of those positions, including approval for two additional Research Attorneys.

Saturday, June 12, 1999, starting at 9:00 am
 Legislature Public Hearing Room

address: 777 Sinaiana Commercial Building, Route 4, Sinaiana, Guam 96926
 telephone: 472-3431, fax: 472-3433
 website: KUENTOS: http://www.guam.net/sensas
 American Disabilities Association Coordinator:
 e-mail: isals@sensas.guam.net
 TALA:V-A: http://www2.je.net/sensas/sensas
 John Memo tel: 472-3431

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472-1PDD

Pacific Daily News, Thursday, June 10, 1999

classifieds

472-1PDN

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- 4 Cement Masons:..... \$10.83 P/H
 Smooths and finishes surfaces of poured concrete floors, walls, sidewalks, or curbs to specified textures using hand tools and power tools including floats, trowels, and screeds. Spreads concrete to specified depth and workable consistency using float to bring water to surface and produce soft topping. Finishes concrete surfaces using power trowel or wets and rubs concrete with abrasive stone to impart finish. Lays blocks and mixes cement using shovel or mixing machines.

Interested applicants please apply at Guam Employment Service with the One Stop Career Center, 125 Tun Jesus Crisostomo St. Suite 101 Tamuning, Guam 96911 (Sunny Plaza) Ref. No. 990601



PUBLIC HEARING REMINDER NOTICE

COMMITTEE:
 Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development

AGENDA:
 Confirmation of Eustaquio A. Panzalan, Member, Guam Parole Board for a 4 year term ending April 18, 2003.

Bill 158 An act to amend §§7116, 7118 and 7125, and to add new §§7118.1 and 7118.2, all to Title 22, G.C.A. relative to empowering Department of Labor to detain illegal alien contract workers, and to provide penalties and fines for employment of illegal aliens

Bill 174 An act to add new §3112 to Chapter 2 of Title 7, Guam Code Annotated, relative to creating an Office of the Public Guardian.

Bill 210 An act to appropriate \$500,000 from money returned by the Supreme Court of Guam to the Guam Police Department to intercept smuggling.

Bill 225 An act to comply with the Hiring Freeze and Automatic repeal of appropriations and full-time equivalencies upon vacancy provisions contained in §21(b) of Public Law 25-83 by requesting legislative authorization for the restoration of the Supreme Court of Guam Staff Attorney position and approval for two additional Research Attorneys.

DATE, TIME & LOCATION:
 Sat., June 12, 1999, 9:00 am, Legislature's Public Hearing Room

See our ad in the Monday, June 7, 1999 issue of the PDN

For additional information, contact the Office of Senator John Camacho Salas.
 Ph: 472-3431 Fax: 472-3433 e-mail: jsalas@sensalas.guam.net
 http://www.guam.net/sensalas http://www2.leg.gov/senators/sensalas
 American Disabilities Coordinator: John Meno, tel. 472-3431

Juvenile Specials Proceedings
 J.S.P. NO. JP134-99

SUMMONS
 TO: BELLINGER ALEXANDER
 MOSES PLAZA SANCHEZ
 You are hereby summoned to appear before the Honorable Katherine A. Maraman, Judge, Superior Court of Guam, on the 25th day of June, 1999, at 10:00 a.m., for an answering hearing. A copy of a Person in Need of Services (PINS) petition is attached hereto regarding the above-named minor. The Judge, will, at the time of this hearing, inform you as to the status of the above-named minor and will appoint an attorney for you if you need.

YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS CONCERNING THE CHILD OR CHILDREN WHO ARE THE SUBJECT OF THE ATTACHED PETITION MAY BE TERMINATED BY AWARD OF PERMANENT CUSTODY IF YOU FAIL TO APPEAR ON THE DATE SET FORTH IN THIS SUMMONS.
 Dated this 27th day of April, 1999.

CLERK, SUPERIOR COURT OF GUAM
 By: /s/ Carl Perez
 Deputy Clerk

Guam, Estate No. 1533
 said lot is marked ar designated on Map Dic N. 89-179, dated Janu 30, 1990 and recorded Department of Land Management, Governme Guam on February 6, 2 under Document No. 429421.

The amount due the Mortgagee is for the sum \$169,563.69, accrued interest as of March 26, 1999 of \$6,357.48, interest at rate of 10.5% from March 26, 1999 to the date of full payment, attorney fees, ar costs of this sale.

The undersigned are the attorneys for the Mortgagee and hereby give notice that they are attempting to collect a debt and any information that is obtained will be used for that purpose.
 Dated this 1st day of June, 1999.

McCULLY & BEGGS, P.C.,
 Attorneys for Citibank, N.A.
 By /s/ MARK S. BEGGS



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN

JOHN CAMACHO SALAS, CHAIRMAN

PUBLIC HEARING AGENDA
LEGISLATURE'S PUBLIC HEARING ROOM

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Bill 210 An act to appropriate \$500,000 from money returned by the Supreme Court of Guam to the Guam Police Department to interdict smuggling. *Senator Mark Forbes.*

Bill 234 An act to comply with Public Paw 25-03 by requesting legislative authorization for the restoration of one (1) Legal Secretary I position and one (1) Legal Secretary III position, both for the Public Defender Service Corporation, and the associated funding for each of those positions; and to authorize the Public Defender Service Corporation to carry over the unexpended balance of each fiscal year budget to the following fiscal year, beginning with the unexpended budget of FY1999.



Mina Bente Singko na
Liheslaturan Guahan

SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

TESTIMONY SIGN IN SHEET

Saturday, June 12, 1999

Bill Number 174

Title AN ACT TO ADD A NEW 3112 TO CHAPTER 2 OF TITLE 7, GCA, RELATIVE TO CREATING AN
OFFICE OF THE PUBLIC GUARDIAN

NAME	ORGANIZATION	TESTIMONY	
Berni Grajek	Gu DD Council	<input checked="" type="checkbox"/> FOR	<input checked="" type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input checked="" type="checkbox"/> ORAL
	104 E Street		
Dennis G. Rodriguez	DPHSS (Director)	<input checked="" type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input checked="" type="checkbox"/> ORAL
735-7102	POB 2816 Hagatna 96910		
Daniel Somerfleck	Self	<input checked="" type="checkbox"/> FOR	<input checked="" type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input checked="" type="checkbox"/> ORAL
477-9811	PO Box 2341 Agaña		
CHIEF JAMES MARQUES	CPD	<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input type="checkbox"/> ORAL
		<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input type="checkbox"/> ORAL
		<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
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		<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
CONTACT	MAILING ADDRESS	<input type="checkbox"/> AGAINST	<input type="checkbox"/> ORAL



Guam

Developmental Disabilities Council

Konsehelon Guåhan para i Taotao ni' Maninutet desde ki Manhoben

104 E STREET, TIYAN GUAM 96913 • TEL: (671) 475-9127 • FAX: (671) 475-9128

July 12, 1999

Senator John C. Salas, Chairperson
Committee on Judiciary, Public Safety, Consumer Protection
& Human Resource Development
25th Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Dear Senator Salas:

Hafa Adai! My name is Berni Grajek, Program Coordinator for the Guam Developmental Disabilities Council (GDDC). Thank you for providing me with the opportunity to testify on Bill No. 174, relative to the creation of an Office of the Public Guardianship (OPG.) I am here testifying on behalf of Mr. Joseph Cameron, Chairperson of GDDC.

GDDC is funded by the Developmental Disabilities Assistance and Bill of Rights Act of 1994, (reauthorized in 1996, Federal Public Law 104 - 183.) GDDC advocates for systems change, public policy and best practices that promote the full inclusion and integration of people with developmental disabilities.

GDDC, on May 30, 1997, provided the community an opportunity to provide input into the development of Guam's State Plan on Developmental Disabilities. At that time, participants voted unanimously on the inclusion of establishing legislation to create the OPG, in cooperation with the Legislature. In 1998, GDDC, provided the then, Committee on Health, with Hawaii's legislation related to their Office of the Public Guardian.

GDDC supports the intent of Bill No. 174. In consultation with the Executive Director of the Hawaii Developmental Disabilities Council, we submit the following recommendations:

- ⇒ We suggest the inclusion of a specialist in developmental disabilities as part of the OPG.
- ⇒ All individuals employed with the OPG be trained in disability issues, so that they may represent our population appropriately.
- ⇒ Section 2. §3112(a), line eight, “The Public Guardian *shall* file a petition of the Public Guardian’s own appointment.” Because it reads “*may*,” OPG “*may*” decide not to file a petition if there are other agencies involved . . . which means private agencies and other state agencies have to get attorneys to file petitions, costly for some agencies and “forget it” for others who may not even be familiar with the process. Regulatory enforcement providing teeth by way of legislation **must** be prioritized to read “*shall*.”
- ⇒ Another related gap has to do with the fact that some families may be willing to be guardians but are not able to afford to hire an attorney. Bill No. 174 offers the OPG to “advise and assist” and “offer guidance and counsel,” but will they represent families in court? Inclusion of family support need language insertion.
- ⇒ Page 2, line 19, “Persons, corporations and/or agencies appointed guardians **must** be consistently monitored.” We recommend a Public Guardianship Review Board (as established by the Maryland Legislature in 1977) be established, to consist of eleven (11) members:
 - 1 Social Worker - Department of Public Health & Social Services;
 - 2 Physicians, including a psychiatrist;
 - 1 Representative of the Counsel on Aging;
 - 1 Representative from a local nonprofit social service organization providing service to those with developmental disabilities;
 - 1 Attorney;
 - 1 Representative from a local nonprofit social service organization providing services to the youth;
 - 1 Public Health Nurse;
 - 3 Members of the community at large. (Special notice to having permanent classified professionals be on the review board provides

membership continuity.)

Function of the review board: Every six months the board will review the care and protection of those persons who are under guardianship by the OPG. The review board may review cases before the six-month period upon the request of the majority of members of the board. Members shall serve staggered terms.


⇒ Page 3, line 7, should read, “The Public Guardian shall offer guidance and counsel . . .” This should not be a matter of choice; guidance and counseling is a must in promoting self-determination and independence of persons with developmental disabilities and avoiding the need for the appointment of a guardian. Encouraging alternatives to guardianship must be included in the guidance, counseling and public education programs.

⇒ Page 3, line 13: Comment: There must be assurances for adequate funding to develop and implement programs for public education. People with developmental disabilities must understand what their choices are. The Hawaii OPG has dropped this due to a lack of funding, although they admit it is an extremely vital component.

The Guam Developmental Disabilities Council appreciates the proactive commitment of Senator Vicente “Ben” Pangelinan and Senator Simon Sanchez, II, in working together in introducing Bill No. 174, and to this Committee for promptly hearing Bill No. 174.

Thank you for your commitment to the enhancement of systems coordination for persons with developmental disabilities and their families. If you have any questions or need additional information, please do not hesitate to contact our office at 475-9127.

Si Yu’os Ma’āse’


BERNI GRAJEK
Program Coordinator



GOVERNMENT OF GUAM



CARL T.C. GUTIERREZ
Governor

DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES (DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT)

Post Office Box 2816 • Hågatña, Guam 96932
123 Chalan Kareta, Route 10
Mangilao, Guam 96923

DENNIS G. RODRIGUEZ
Director

MADELEINE Z. BORDALLO
Lieutenant Governor

JOER. SAN AGUSTIN
Deputy Director

TESTIMONY ON BILL 174

I would like to thank the Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development for the opportunity to speak in support of Bill 174, "AN ACT TO ADD A NEW SECTION 3112 TO CHAPTER 2 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO CREATING AN **OFFICE OF THE PUBLIC GUARDIAN**."

With our changing times, many things that use to be ingrained within the daily dynamics of our families have become somewhat individualized. At the same token, there are many families who provide care for their family members. The need to legislate the furnishing of guardianship services is another social indicator of our constant changing societal values. Along with the changes, cultural practices diminish resulting in today's public hearing. As an island community we are truly preparing for the aging of Guam and the bill before us today is a testament that Government will need to provide the framework for all of us as we age.

Under the Department is the Division of Senior Citizens wherein the Adult Protective Services Unit is the sole Unit responsible for investigating cases of suspected abuse against seniors, our manamko and adults with disabilities. The former population must be sixty years old and the latter must be 18 to 59 years old with a disability, both provisions within Public Law 19-54, as amended by Public Law 21-33.

Throughout the years that the APS Unit has been conducting investigations, they have continually received cases (consumers/clients) that require such a position to be created to represent the interest of a senior or adult with a disability. The basis for our support is that there are victims who are incapacitated and are unable to express whether protective services are to be initiated or not. In such a situation, the APS Unit would initiate a petition for guardianship in accordance with (10 GCS Section 2957, Public Law 19-54). The process of seeking and identifying a guardian is not an easy one especially when time is of the essence for the case.

Although, the Unit has been able to initiate petitions for Guardianship, this process has not been met without challenges. These challenges include:

- 1.) No one was initially willing to take on that responsibility associated with being a guardian.
- 2.) During the extended search for a guardian, the person for whom guardianship is being sought for died.



- 3.) Upon waiting for the petition for guardianship to be granted, the APS investigation is placed at a standstill due to the clients inability to consent to an investigation that results in further potential abuse of the client over a period of time.
- 4.) There is currently no monitoring or surveillance processes in place to ensure that those who are currently guardians are really acting in the best interest of the client which may result in further abuse of the victim.
- 5.) There are no incentives for those willing to become guardians. (i.e. tax breaks etc.)

With the passing of this bill, the Committee will not only be alleviating some of the problems mentioned earlier, but also, the Committee will provide another link for the enhancement of the quality of services and programs we provide for our seniors.

Si Yu'os Ma'ase on behalf of the Department of Public Health and Social Services, Division of Senior Citizens.

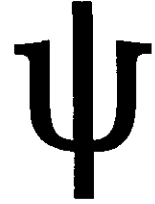


DENNIS G. RODRIGUEZ

Director



GOVERNMENT OF GUAM
AGANA, GUAM 96910
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE
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CARL T.C. GUTIERREZ
Governor of Guam

JOHN W. LEON GUERRERO
Director

MADELEINE Z. BORDALLO
Lieutenant Governor

AURORA F. CABANERO
Deputy Director

Senator John Camacho Salas
Chairman on the Committee on Judiciary,
Public Safety, Consumer Protection and
Human Resource Development
Mina Bente Singko Na Leheslaturan Guahan

Dear Mr. Chairman:

Thank you for the opportunity to present comments to Bill 174 relative to creating an Office of Public Guardian.

We support Bill 174.


The need for public guardian is evident in the number of consumers and patients of our department who need someone to serve as their guardian because of their level of mental competence. There are at least five (5) individuals who are currently receiving our services on a regular basis that can benefit from the services of a public guardian. While most of them do need help handling their finances, we are most concerned for those who need help with their health, hygiene, and safety.

Under our current authority, the department can admit individuals who are a danger to themselves, to others, or are gravely disabled due to their mental illness. However, we have little authority over individuals who need our services, but who are unable to provide adequate care for themselves. Many of them have family or friends that care for them. They make sure they don't do things to harm themselves, keep up with their personal hygiene, and make sure they take medication prescribed by their physician. A public guardian would help fill the gap for those who are without help from family or friends.

The department feels it would provide the public guardian office with more leverage if it was given specific authority to ensure that basic services and care are provided to those under their charge. the department would also like to see some criteria or guideline developed to help case workers and other service providers make appropriate referrals to the Public Guardian Office.

Thank you again for the opportunity to submit comments. We are available to provide additional information or answer any questions you or members of you committee might have.

Sincerely,


JOHN W. LEON GUERRERO



Commonwealth Now!



CATHOLIC SOCIAL SERVICE

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June 11, 1999

Archbishop Anthony S. Apuron
OFM CAP D.D.
President/Chairman
Board of Trustees/Directors

Cerila M. Rapadas
Executive Director/President
Program Advisory Board

Sr. M. Callista Camacho, RSM
Deputy Director

Senator John Camacho Salas
Chairman Committee on Judiciary
Public Safety, Consumer Protection
And Human Resources Development

Dear Senator Salas:

Catholic Social Service has been advocating for a public Guardian law for many years.

Enclosed are written testimonies from staff who work closely with the Manamko and the disabled. We hope that you will find their concerns valuable input into the final bill.

Should you have any questions, please do not hesitate to call us at Phone:

635-1400/1401/1402/1409; Fax: (671) 635-1419

Sincerely,


Mrs. Cerila M. Rapadas
Executive Director



Member
Catholic
Charities
USA

Dedicated To The Dignity Of The Human Person



Member
Catholic
Charities
USA

Thank you for allowing us to comment on the Public Guardianship bill. Catholic Social Service supports the intent of the bill but have the several comments as follows:

1. There are potential risks inherent in a public guardianship situation of which requires an audit component. This can be in a form of semi-annual reviews of each guardianship situation to be performed by independent entities. Regular program audits should be performed at least annually by the Public Auditor's office.
2. A provision should also be added to address the removal of a guardian when necessary.
3. There should be training provided for individuals assigned as public guardians.
4. Funding should be provided for this program, otherwise, it would not be implemented.
5. The effective date should be after adequate time to promulgate rules and regulations for the program.
6. A non-profit organization may be appointed as public guardian who are granted tax-exempt status from the United States Internal Revenue Service.
7. Assigned public guardians should have credit verifications and GPD court clearances.
8. If legally permissible, prospective public guardians should submit to and pass drug testing.
9. Would there be a need for a surety bond? The bond should be payable to the general fund in the penal sum of not less than \$5,000 or more than a specified limit.
10. A guardian who has no physical custody of the individual may be required to endorse any income received by the consumer to the government who is spending tax funds to care for the majority of the individuals care.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

Bill No. 174 (COR)

Date Received - May 5, 1999

Amendatory Bill: YES X NO

Date Reviewed - May 10, 1999

Department/Agency Affected: Supreme Court of Guam

Department/Agency Head: Benjamin J.F. Cruz, Chief Justice

Total FY appropriation to Date: \$1,516,927 (GF)

Bill Title (preamble): AN ACT TO ADD A NEW §3112 TO CHAPTER 2 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO CREATING AN OFFICE OF THE PUBLIC GUARDIAN.

Change In Law: Adds a new §3112 to Chapter 2 of 7GCA.

Bill's Impact on Present Program Funding:

Increase Decrease X Reallocation Other

Bill is for: Operations X Capital Improvement Other

FINANCIAL/PROGRAM IMPACT
ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)

Table with 4 columns: PROGRAM CATEGORY, GENERAL FUND, OTHER, TOTAL. Row: Supreme Court Operations, 1/, -0-

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

Table with 7 columns: FUND, 1st, 2nd, 3rd, 4th, 5th, TOTAL. Rows: GEN. FUND, OTHER(TAF), TOTAL

Funds Adequate To Cover Intent Of Bill? N/A - If No, Add'l Amount Required:
Agency/Person/Date Contacted:

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

Table with 7 columns: FUND, 1st, 2nd, 3rd, 4th, 5th, TOTAL. Rows: GEN. FUND, OTHER, TOTAL

ANALYST: Arthur R. Mariano DATE: 5/14/99 DIRECTOR: Joseph E. Rivera, Acting Date: MAY 14 1999

Footnotes: 1/: Based on preliminary research, the proposed creation of a new Public Guardian position within the Supreme Court of Guam may cost between \$40K to \$50K per annum for salary & benefits. This estimate is not inclusive of any office operational requirements (i.e., support staff, supplies, eqpt., etc.). As proposed, funding will come from the Judiciary's annual operations appropriation. However, the Bureau can not determine the overall fiscal impact of the proposed legislation on Supreme Court operations as it was not privy to it's FY 1999 budget.

MAR 09 1999

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 174 (col.)
Introduced by:

v. c. pangelinan
S. A. Sanchez, II 

**AN ACT TO ADD A NEW §3112 TO CHAPTER 2 OF
TITLE 7, GUAM CODE ANNOTATED, RELATIVE
TO CREATING AN OFFICE OF THE PUBLIC
GUARDIAN.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Statement. *I Liheslaturan Guåhan* finds that public guardianship for the elderly and individuals who are mentally incompetent is necessary where there is no willing and/or responsible family member of other persons to serve as guardian.

It is the intent of *I Liheslaturan Guåhan* to establish an Office of Public Guardian within the Supreme Court jurisdiction for the purpose of furnishing guardianship services to the elderly and those individuals who are mentally incompetent at reduced or no cost where appropriate, and to promote general welfare that permits the elderly and individuals to participate as fully as possible in all decisions that affect them.

Section 2. A new §3112 is hereby added to Chapter 3, Title 7, Guam Code Annotated, to read:

“§3112. Office of Public Guardian. Office of Public Guardian; establishment; appointment. There is hereby established within the government of Guam an Office of Public Guardian hereinafter

1 referred to as "the Office." The Public Guardian of the Office is the
2 head of the Office. The Chief Justice shall appoint the Public Guardian,
3 who shall serve at the Chief Justice's pleasure.

4 **(a) Powers and Duties.** (1) The Public Guardian shall
5 serve as guardian, limited guardian, testamentary guardian, or
6 temporary guardian of the person and/or estate of an elderly or
7 mentally incapacitated individual when so appointed by the
8 family court under Appendix C, Chapter 1, 7 GCA. The Public
9 Guardian may file a petition for the Public Guardian's own
10 appointment. Petitions for public guardianship may also be filed
11 by any person, agency, or facility responsible for the support or
12 care of individuals who:

13 (i) Are not able to understand or adequately
14 participate in decisions concerning their care; and

15 (ii) Have no relatives or friends willing and able to
16 act as guardian.

17 (2) The Public Guardian shall have the same powers and
18 duties as a private guardian.

19 (3) The Public Guardian shall assist the court, as the court
20 may request or direct, in proceedings for the appointment of a
21 guardian of the person and in the supervision of persons,
22 corporations, or agencies which have been appointed as guardians
23 of the person.

1 (4) The Public Guardian shall advise and assist persons,
2 corporations, and agencies which are seeking appointment as a
3 guardian for an incapacitated person. The Public Guardian shall
4 also provide advice, information, and guidance to the persons,
5 corporations, or agencies who have been appointed as guardian of
6 the person to assist them in the discharge of their duties.

7 (5) The Public Guardian may offer guidance and counsel,
8 without court appointment as guardian, to those persons who
9 request such assistance or to those on whose behalf it is requested
10 for the purpose of encouraging maximum self-reliance and
11 independence of such persons and avoiding the need for
12 appointment of a guardian.

13 (6) The Public Guardian shall develop programs of public
14 education on guardianship and alternatives to guardianship and
15 encourage the development of private guardians able and willing
16 to serve as guardian for the person.

17 (b) **When not appointed.** The Public Guardian shall not be
18 appointed if another suitable guardian is available and willing to accept
19 the guardianship appointment, unless the court finds that the best
20 interests of the ward would be better served by the appointment of the
21 *Public Guardian*.

22 (c) **Court costs.** If any proceeding for appointment of a
23 *Public Guardian*, the court may waive any court costs or filing fees.