



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

AUG 27 2002

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

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1:01 pm
Date	8/27/02

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 283 (COR) "AN ACT TO ADD § 9509 TO TITLE 7, AND § 51101(a)(4) TO TITLE 12, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY" which was vetoed and overridden. This legislation is now designated as **Public Law No. 26-124**.

Very truly yours,

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

Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

0903

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 283 (COR), "AN ACT TO ADD § 9509 TO TITLE 7, AND § 51101(a)(4) TO TITLE 12, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 23rd day of August, 2002, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of twelve (12) members.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 26th day of August,
2002, at 3:00 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

Public Law No. 26-124

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 283 (COR)

As substituted by the Committee on
Power, Public Safety and the Judiciary
and amended on the Floor.

Introduced by:

J. F. Ada
L. F. Kasperbauer
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
E. B. Calvo
F. P. Camacho
M. C. Charfauros
Mark Forbes
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L.G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ADD § 9509 TO TITLE 7, AND §
51101(a)(4) TO TITLE 12, ALL OF THE GUAM CODE
ANNOTATED, RELATIVE TO AUTHORIZING
THE CONSTRUCTION OF A FORENSIC SCIENCE
LABORATORY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds the lack of modern technological and scientific expertise, equipment and
4 facilities for the examination and evaluation of forensic evidence imposes
5 excessive costs and delays on Guam’s criminal justice system. *I Liheslaturan*
6 *Guåhan* further finds that construction of a state-of-the-art forensic science
7 laboratory will benefit *all* parties in the criminal justice system, including
8 victims, the accused, the courts and the police by offering such services as
9 DNA testing, and the ability to detect and analyze chemical and biological
10 threats from terrorists.

11 Such a facility would also be a center for training forensic technicians for
12 Guam and the Pacific region. *I Liheslaturan Guåhan* also finds the current fiscal
13 condition of the government of Guam prohibits appropriating the funds
14 necessary to construct a suitable forensic science laboratory. Therefore, *I*
15 *Liheslaturan Guåhan* suggests through this legislation that the Judicial Council
16 undertake to obtain, borrow, reprogram, refund or refinance available funds
17 from the Federal government, or other sources, to be repaid from the Judicial
18 Building Fund.

19 **Section 2.** Section 9509 of Chapter 9.5, Appendix A, Division 1 is
20 hereby *added* to Title 7 of the Guam Code Annotated to read as follows:

21 **“Section 9509. Forensic Science Laboratory.**

22 (a) The Judicial Council is hereby authorized to provide
23 for the design, construction and collateral equipment of a forensic
24 science laboratory by entering into a financing arrangement with

1 jeopardizing reserves for existing obligations, be required to
2 maintain reserves sufficient to assure that loan installments, *if any*,
3 are paid on time; for emergency maintenance; for extensions to
4 facilities; and for replacement of short-lived assets with a useful
5 life significantly less than the repayment period of any loan or the
6 term, or any other financial arrangement.

7 (c) The physical structure(s) of the forensic science
8 laboratory shall be constructed on property of the Guam
9 Community College and shall house the Forensic Division of the
10 Guam Police Department.

11 (d) Any monies reimbursed for expenses incurred for the
12 design and construction of the forensic science laboratory shall
13 revert to the Judicial Building Fund.

14 (e) *I Liheslaturan Guåhan* encourages the Judicial Council
15 to explore and identify any and all potential financing sources or
16 grants, including, but *not* limited to, any Federal government
17 instrumentalities or private financial lending sources, for
18 construction of the forensic science laboratory.

19 (f) *Subject* to the appropriate security measures, the Guam
20 Community College shall collaborate with the University of Guam
21 ('University') in allowing the University to utilize the forensic
22 science laboratory building for classes and training by the
23 University."

24 **Section 3. Authorization to Refund the Judicial Building Loan.**

1 Section 51101(a)(4) of Chapter 51 of Title 12 of the Guam Code Annotated, as
2 added by Public Law Number 26-58, is hereby *added* to read as follows:

3 “(4) The Judicial Building Loan (Government of Guam
4 Promissory Note to Farmers Home Administration - Superior Court
5 Note).”

6 **Section 4. Severability.** *If* any provision of this Law or its
7 application to any person or circumstance is found to be invalid or contrary to
8 law, such invalidity shall *not* affect other provisions or applications of this
9 Law which can be given effect without the invalid provisions or application,
10 and to this end the provisions of this Law are severable.

Overridden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 8/23/02
Friday

VOTING SHEET

Vetoed
S Bill No. 283

26-124

Resolution No. _____

Question: Should the Legislature override Vetoed Substitute Bill 283, notwithstanding the objection of the Governor?

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				<i>EA</i>
AGUON, Frank B., Jr.					✓
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.					✓
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.					✓
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				<i>EA</i>
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

17 0 0 0 3

CERTIFIED TRUE AND CORRECT:

(note: Senators Aguon, Camacho & Moylan arrived after announcement of votes on VB 283)

3 Passes = No vote

Clerk of the Legislature

EA = Excused Absence



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 11 2002

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

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>2:40</u>
Date	<u>6/11/02</u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 283 (COR) "AN ACT TO ADD § 9509 TO TITLE 7, AND § 51101(a)(4) TO TITLE 12, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY," which I have **vetoed**.

This legislation received a number of objections at the public hearing. The construction of a forensic science laboratory is a worthy goal, however, the manner in which this is to be achieved through this legislation is questionable.

The legislation seeks to finance the construction of the forensic science laboratory through use of Judicial Building Fund money directly. In other words, funding coming in to the courts is to be handled through the Judicial Council. This places the courts in an awkward position concerning the laboratory. The courts are a third branch of government where justice is rendered through decisions. They are not institutions for financing of laboratories, even if the laboratory work product is to be used as evidence in trials and court proceedings. To fund a forensic science laboratory as an activity of the government, appropriations should be made from the General Fund or some other independent source. It is not appropriate for the courts themselves to be directly involved in "financing evidence" upon which they will then in turn be asked to make rulings on the possible freedom of individuals.

A second reason for vetoing this legislation is the fact that the location of the new forensic science laboratory is set in law without the agreement or consultation of law enforcement bodies. The gathering of evidence and preservation and presentation of it is a concern of law enforcement agencies such as the Guam Police Department and the Department of Law. There are a number of other law enforcement bodies, also. A recommendation for the proper situation of a forensic science laboratory, to be utilized by all of the law enforcement bodies, should be solicited from these bodies.

0819

Legislative Secretary

SB283;veto

June, 2002

Page 2

One of the most respected and well-used laboratories is run by the Federal Bureau of Investigation (FBI), a law enforcement body. The motivation for correct analysis is obvious when a laboratory is placed within law enforcement. While an educational institution may also be an appropriate place to base a laboratory, it should not be dictated in law. For example, there may be more resources at the University of Guam to support such a laboratory. A high level of science may be required in the analysis of much of what can be collected in furtherance of law enforcement cases.

Finally, this legislation undermines work already done for the future planning of a forensic science laboratory, and since all who appeared at the public hearing on this legislation testified against it, except for one, the legislation appears to be special interest legislation.

Very truly yours,



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

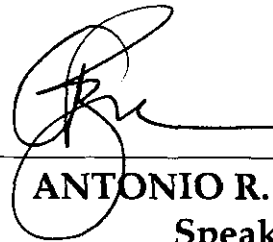
Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 283 (COR), "AN ACT TO ADD § 9509 TO TITLE 7, AND § 51101(a)(4) TO TITLE 12, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY," was on the 21st day of May, 2002, duly and regularly passed.



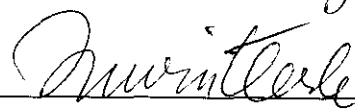
ANTONIO R. UNPINGCO
Speaker

Attested:



Lawrence F. Kasperbauer
Vice-Speaker/Acting Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 30th day of May, 2002,
at 4:40 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 5/21/02

VOTING SHEET

Bill No. 283 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.					✓
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.					✓
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.					✓
WON PAT, Judith T.					✓

TOTAL

11 _____ _____ _____ 4

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Chairman:
**Committee on Power,
Public Safety and
the Judiciary**

Suite 5A • Sinajana Shopping Mall II
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431
Fax 1.671 472-3433

16 May 2002

The Honorable Antonio R. Unpingco
Speaker
I Mina' Bente Sais Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

VETUED

Dear Mr. Speaker:

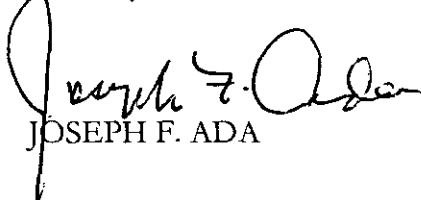
The Committee on Power, Public Safety and Judiciary, to which was referred **Bill No. 283 (COR)**, "AN ACT TO ADD SECTION 9509 TO CHAPTER 9.5, DIVISION 1, TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY," does hereby report back with the recommendation **TO DO PASS AS SUBSTITUED BY THE AUTHOR.**

The Committee votes are as follows:

- 6 To Pass
- _____ Not To Pass
- _____ To The Inactive File
- _____ Abstained
- 2 Off-Island
- 2 Not Available

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

Sincerely,


JOSEPH F. ADA

VOTING SHEET

BILL 283 (COR)

Committee on Power, Public Safety and the Judiciary

COMMITTEE MEMBER	RECOMMEND: TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE	Signature
Senator Joseph F. Ada, Chairman	✓					<i>Joseph F. Ada</i>
Senator Kaleo S. Moylan, Vice Chairman	✓					<i>Kaleo S. Moylan</i>
Speaker Antonio R. Unpingco						
Vice Speaker Larry F. Kasperbauer	X					<i>Larry F. Kasperbauer</i>
Senator Tom C. Ada	✓					<i>Tom C. Ada</i>
Senator Eddie B. Calvo						
Senator Felix P. Camacho						
Senator Mark C. Charfauros	✓					<i>Mark C. Charfauros</i>
Senator Mark Forbes	✓					<i>Mark Forbes</i>
Senator Angel L.G. Santos						

COMMITTEE REPORT

ON

BILL NO. 283 (COR)

COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

“AN ACT TO ADD SECTION 9509 TO CHAPTER 9.5, DIVISION 1, TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY.”

COMMITTEE MEMBERS

Chairman: Joseph F. Ada
Vice Chairman: Kaleo S. Moylan
Ex-Officio Member: Antonio R. Unpingco

Lawrence F. Kasperbauer, Member
Thomas C. Ada, Member
Eddie B. Calvo, Member
Felix P. Camacho, Member
Mark C. Charfauros, Member
Mark Forbes, Member
Angel L.G. Santos, Member

COMMITTEE REPORT
COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

BILL NO. 283 (COR)

"AN ACT TO ADD SECTION 9509 TO CHAPTER 9.5, DIVISION 1, TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY."

I. PUBLIC HEARING

The Committee on Power, Public Safety and Judiciary held a public hearing on May 15, 2002 AT 10:00 a.m. to hear testimony on Bill No. 283 (LS) "AN ACT TO ADD SECTION 9509 TO CHAPTER 9.5, DIVISION 1, TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE CONSTRUCTION OF A FORENSIC SCIENCE LABORATORY."

Senator Joseph F. Ada, Chairman of the Committee on Power, Public Safety and Judiciary, called the hearing to order. Committee member Senator Mark Forbes was also present.

Oral testimony was offered by:

Hon. Judge Elizabeth Barrett-Anderson, Superior Court of Guam.

H. delos Santos, President of Guam Community College.

Adolph P. Sgambelluri, Executive Director of the Basic Law Enforcement Academy and the Professional Technological Institute at Guam Community College.

Daniel J. Tydingco, Executive Officer, Supreme Court of Guam.

The Guam Police Department declined the opportunity to present testimony, and later submitted written testimony.

II. TESTIMONY

Hon. Judge Elizabeth Barrett-Anderson testified in support of Bill 283, citing the need for the services provided by such a facility, and conveyed the support of members of the Superior Court bench.

Adolph Sgambelluri also testified in support of Bill 283. He stated the lab would help relieve the backlog of cases before the courts, increase the effectiveness of criminal prosecutions, and provide new educational opportunities for the people of Guam.

A TESTIMONY ENDORSING BILL #283 (COR)

CONSTRUCTION FOR FORENSIC SCIENCE

LABORATORY AT GCC

BY: ADOLF PETER SGAMBELLURI

The purpose for this testimony is to endorse with enthusiasm Bill#283(COR) relative to authorizing the construction of a Forensic Science Laboratory, which would be organic to the Guam Community College, and positioned at the Mangilao campus.

Ladies and Gentlemen, please permit me to elucidate. Guam by any standards does not have the quality of laboratory services to provide to its criminal justice community. It is axiomatic that we are basically way behind in this much needed capability and scientific resource. As a result, there are in place a horrendous log

jam of cases on hold for prosecution due to lack of expertise, and lacking field certified and trained technicians.

The availability of this service (laboratories) will play a vital role in the Criminal Justice process... scientific testimony is often the deciding factor in the judicial resolution of civil and criminal liability cases. The results of scientific analysis of evidence - - blood, semen, shreds of clothing, hair, fibers, glass, paint, soil, bullets or bullet casings, impressions, and other physical indications - - left at the scene of a crime can seem more compelling to a jury than the testimony of eye witnesses.

And to support the demands, the lab services would be grouped into specialties, which include the analysis of different types of evidence in the area of biochemistry, firearms/tool marks,

micro analysis, chemistry, questioned documents, latent fingerprint identification, crime scene assistance, clandestine laboratory assistance, and training for certifications, which would contribute to recognizing staff personnel at securing and collecting evidence in a crime scene.

Accordingly, it is essential that Guam should have in place the capability to demonstrate a program through which a Forensic Science Laboratory is available that exhibits management, operation, procedures and instruments, physical plant and security, and personnel safety procedure which meet national standards.

This future facility at GCC would provide direct quality forensic services for criminal justice agencies; a curriculum for chemistry, biology, criminalistic technicians and certifications to

generate revenue by providing indirect support to the clientele within the locale and the Pacific Basin Region.

In summary, there is a need - essential to create at GCC the forensic science laboratory services system which should be authorized to: (1) provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime; (2) provide training assistance for local law enforcement personnel and as requested by other jurisdictions and; (3) to provide all necessary DNA and toxicology examinations requested by medical examiners, criminal investigators and prosecuting attorneys.

Lastly, the forensic science laboratory services at GCC shall assign priority to a request for services with due regards to whether

the case involves a criminal liability against the persons. I believe that this bill intends to provide the necessary funding to build a permanent facility, which would be a showcase indicative of this island community/territory and its professionals to take the lead for its criminal justice requirement.

A. P. SGAMBELLURI

TESTIMONY
by
DANIEL J. TYDINGCO
EXECUTIVE OFFICER
SUPREME COURT OF GUAM
on
BILL NO. 283 and NO. 292
JUDICIARY COMMITTEE
GUAM LEGISLATURE
WEDNESDAY, MAY 15, 2002

Hafa Adai and Good Morning Mr. Chairman and Committee Members.

Let me note at the outset that the Supreme Court was not provided timely notice of today's hearing on Bill No. 283 and Bill No. 292. Having received notification via fax at 1:00 p.m. yesterday, May 14, 2002, we respectfully request that in order to adequately address issues which affect the Supreme Court and the Judicial Branch as a whole, as a matter of courtesy, that we be provided with adequate, reasonable notice of any bills which may affect the Judiciary.

The merits of Bill No. 283 are good. There is no question that Guam needs adequate forensic laboratory facilities. However, there are questions raised on the propriety of involving the Judiciary with what appears to be a traditional executive branch function.

- FIRST, SERIOUS CONFLICTS OF INTEREST MAY ARISE IF THE JUDICIARY PAYS FOR THE OPERATION OF SUCH A LAB WHICH ANALYZES EVIDENCE FOR USE AT CRIMINAL TRIALS. SPECIFICALLY, CRIMINAL TRIAL COURTS OFTEN ENCOUNTER ADMISSIBILITY OF EVIDENCE CHALLENGES FROM CRIMINAL DEFENDANTS. A COURT'S IMPARTIALITY MAY BE QUESTIONED IF, IN ADDITION TO DECIDING THE ADMISSIBILITY OF CERTAIN EVIDENCE, IT IS ALSO RESPONSIBLE FOR FUNDING THE ANALYSIS OF THE VERY EVIDENCE WHICH IS INTRODUCED AT TRIAL.**

- SECOND, BILL 283 PROVIDES THAT THE FORENSIC LABORATORY WILL BE OPERATED BY THE GUAM COMMUNITY COLLEGE. ASSUMING FOR THE SAKE OF ARGUMENT THAT THERE ARE NO POSSIBLE CONFLICTS WITH EVIDENTIARY ISSUES AS PREVIOUSLY SUGGESTED, IS IT PROPER FOR THE JUDICIAL BRANCH TO FUND AND REMAIN LIABLE ON THE LOAN FOR THE LABORATORY AND HAVE ABSOLUTELY NO CONTROL OVER THE OPERATION OF THE LAB? THIS MAY RAISE QUESTIONS AND ISSUES OVER THE PROPER EXPENDITURE OF PUBLIC FUNDS. WE ASSUME THAT AS THE DEBTORS, IT WOULD BE OBLIGATORY ON OUR PART TO ENSURE THAT THE LAB AND FACILITY IS EFFICIENT AND EFFECTIVE; AGAIN, REQUIRING OUR OVERSIGHT OF THE OPERATIONS.**

- **THIRD, IN THE LAST JUDICIAL COUNCIL MEETING THAT TOOK PLACE A COUPLE OF WEEKS AGO, FOR THE FIRST TIME IN SEVERAL YEARS, PUBLIC DISCUSSION AND INQUIRIES ON THE STATUS OF THE JUDICIAL BUILDING FUND TOOK PLACE. BECAUSE DATA AND INFORMATION PERTAINING TO THE STATUS OF THE FUND HAS NOT YET BEEN FULLY EXAMINED BY SOME MEMBERS OF THE COUNCIL, IT IS REQUESTED THAT INITIATIVES SUCH AS THIS BILL BE HELD IN ABEYANCE UNTIL QUESTIONS HAVE BEEN FULLY AND COMPLETELY ANSWERED.**

On BILL 292, WE MUST NOTE THAT IT IS ATTEMPTING TO DO WHAT IS ALREADY BEING DONE AND ALREADY PROVIDED FOR IN STATUTE. UNCERTAIN IF THIS MEASURE WAS INTRODUCED PRIOR TO THE NINTH CIRCUIT COURT OF APPEALS' DECISION THIS PAST JANUARY, IT MUST BE NOTED THAT SUCH AUTHORITY TO CREATE AND ESTABLISH COURTS OF RECORD AND NOT OF RECORD IS VESTED WITH THE SUPREME COURT OF GUAM. LEGISLATION TO EFFECTUATE THIS IS UNNECESSARY.

WE CERTAINLY HOPE THAT SECTION 2 OF BILL 292 IS NOT ANOTHER ATTEMPT BY THIS LEGISLATURE TO ERODE THE AUTHORITY OF THE SUPREME COURT. SECTION 2101 OF TITLE 7 GUAM CODE ANNOTATED AS ENACTED BY THE FRANK G. LUJAN MEMORIAL COURT REORGANIZATION ACT OF 1992 PROVIDES THAT THE SUPREME COURT MAY CREATE DIVISIONS OF THE SUPERIOR AND SUPREME COURTS AS MAY BE DESIRABLE AND MAY DESIGNATE WHICH DIVISIONS OF THE SUPERIOR COURT ARE COURTS OF RECORD. BILL 292 ATTEMPTS TO DO WHAT THE INVALIDATED PUBLIC LAW 24-139 ATTEMPTED TO DO AND MORE. BILL 292 STRIPS THE SUPREME COURT OF EVEN THE POWER TO CREATE DIVISIONS WITHIN ITSELF.

THANK YOU.



CARL T.C. GUTIERREZ
Governor of Guam

MADELEINE Z. BORDALLO
Lieutenant Governor

Guam Police Department

Government of Guam

Bldg. No. 233, Central Avenue, Tiyan, Guam 96913
Tel: (671) 475-8473 (Switchboard) (671) 475-8509/8512
Fax: (671) 472-4036



EDWARD T. KABINA
Chief of Police

RONALD J. DERVISH
Deputy Chief of Police

May 15, 2002

Senator Joseph F. Ada
Chairman, Committee on Power,
Public Safety and the Judiciary
Twenty-Sixth Guam Legislature
Suite 5A Sinajana Shopping Mall II
777 Route 4
Sinajana, GU 96926

Dear Senator Ada:

Enclosed is the Guam Police Department's written testimony on Bill 283 regarding the construction of a new forensic laboratory. Thank you for the opportunity to comment on this important legislation.

Sincerely,

Handwritten signature of Edward T. Kabina in black ink.

EDWARD T. KABINA

cc. The GOVERNOR
Ea. Senator
President, UOG

Drug Free Guam Para Todos

**GUAM POLICE DEPARTMENT
TESTIMONY ON BILL 283
RELATIVE TO A NEW
FORENSIC SCIENCE LABORATORY**

The following written testimony is submitted regarding Bill 283 on this date, May 15, 2002:

The Guam Police Department has long desired the construction of a new Forensic Science Laboratory for this department. The need for a new facility has been evident for the past ten years, long before the relocation to its current Tiyan site. We have sought legislative assistance in the past and will continue to support any reasonable effort this legislature, or any future legislature may have in improving our ability to support not only this department, but also all law enforcement in this region.

We further agree with the use of the Judicial Building Fund as a source of financing for the laboratory. The approximately \$6 million figure indicated in the bill is the amount that we have estimated and testified to before the legislature for the construction of a new facility.

However, we strongly disagree with the placement of the laboratory at and under the control of the Guam Community College. Forensic laboratories have been, and continue to be a law enforcement function placed under either the state police or other law enforcement entity. Indeed, the FBI Forensic Division has a long standing relationship with these laboratories and law enforcement organizations, not with community colleges. Placement of the laboratory at and under the Guam Community College will endanger our ability to apply for and receive federal grants, especially upcoming Homeland Defense grants targeted for first responder agencies.

Our initial recommendation was to establish the Guam Police Department Forensic Division laboratory at the University of Guam. The University of Guam offers an excellent environment for collaborative efforts with their College of Agricultural and Life Sciences and College of Business and Public Administration. We have long viewed this as an opportunity to develop a forensic teaching institution so that we could train our future criminalists from our own island population. Although this bill indicates that the Guam Community College could train technicians to staff the laboratory, we must emphatically point out that a forensic laboratory requires four year degreed criminalists not two year technicians. Only the University of Guam has this capability.

The University of Guam has already committed land to build a new forensic laboratory and has pledged their cooperation and assistance in the construction of a new facility at their location.

Once again, we strongly support the concept of a new forensic laboratory financed by the Judicial Building Fund. However, we emphasize that the laboratory must remain under the Guam Police Department and located at the University of Guam.

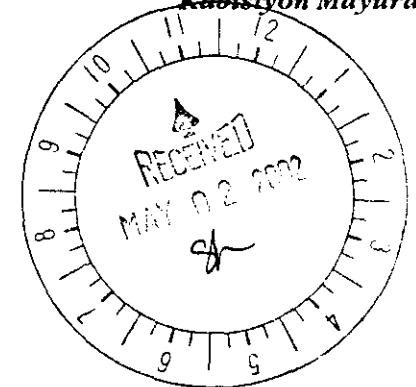


MINA ' ENTE SAIS NA LIHE ' LATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

13 2 MAY 2002



MEMORANDUM

TO: Chairman
Committee on Power, Public Safety and the Judiciary

FROM: Chairman
Committee on Rules, General Governmental Operations, Reorganization
and Reform, and Federal, Foreign and General Affairs

SUBJECT: Principal Referral – Bill No. 283

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and 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

MAR 19 2002

MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session

Bill No. 283 (COR)

Introduced by:

J.F. Ada

L.F. Kasperbauer

**AN ACT TO ADD SECTION 9509 TO CHAPTER 9.5,
DIVISION 1, TITLE 7 OF THE GUAM CODE
ANNOTATED, RELATIVE TO AUHTORIZING THE
CONSTRUCTION OF A FORENSIC SCIENCE
LABORATORY**

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

2

3 Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds the lack
4 of modern technological and scientific expertise, equipment and facilities for the
5 examination and evaluation of forensic evidence imposes excessive costs and delays on
6 our island's criminal justice system. *I Liheslaturan Guahan* further finds that construction
7 of a state-of-the-art Forensic Science Laboratory will benefit all parties in the criminal
8 justice system, including victims, the accused, the courts and the police by offering such
9 services as DNA testing and the ability to detect and analyze chemical and biological
10 threats from terrorists. Such a facility would also be a center for training forensic
11 technicians for Guam and the Pacific region. *I Liheslaturan Guahan* also finds the current
12 fiscal condition of the Government of Guam prohibits appropriating the funds necessary

1 to construct a suitable Forensic Science Laboratory. Therefore *I Liheslaturan Guåhan*
2 suggests through this legislation that the Superior Court of Guam undertake to borrow
3 available federal funds to be repaid from the Judicial Buildings Fund.
4

5 **Section 2.** A new §9509 is hereby added to Title 7 of the Guam Code
6 Annotated to read:

7 **“Section 9509. Forensic Science Laboratory**

8 (a) The Judicial Council is hereby authorized to enter into a loan agreement with
9 the United States Department of Agriculture not to exceed \$5.9 million, for a term not to
10 exceed forty years (40) under terms and under conditions deemed in the best interest of
11 the Judicial Council for the design, construction and collateral equipment of a Forensic
12 Science Laboratory. Repayment of said loan shall be made from the Judicial Buildings
13 Fund of the Superior Court of Guam.

14 (b) The Superior Court of Guam through the Judicial Council shall, without
15 jeopardizing reserves and existing obligations, be required to maintain reserves sufficient
16 to assure that loan installments will be paid on time, for emergency maintenance, for
17 extensions to facilities and for replacement of short-lived assets which have a useful life
18 significantly less than the repayment period of the loan. It is expected that ordinarily such
19 reserve will be accumulated at the rate of at least one-tenth of the total each year until the
20 desired level is reached.

21 (c) The Forensic Science Laboratory shall be constructed on property of the Guam
22 Community College and shall be operated by Guam Community College.

23 (d) Any monies reimbursed for expenses incurred for the design and construction
24 of the Forensic Science Laboratory shall revert to the Judicial Buildings Fund.

25 (e) *I Liheslaturan Guåhan* encourages the Judicial Council to explore and identify
26 other potential funding sources for construction of the Forensic Science Laboratory.”

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Section 3. Severability. *If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.*



Chairman:
**Committee on Power,
Public Safety and
the Judiciary**

Suite 5A - Sinajana Shopping Mall II
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431
Fax 1.671 472-3433

AGENDA
May 15, 2002

- Bill 292** **An Act relative to the establishment and operation of therapeutic drug courts.**

- Bill 283** **An Act relative to authorizing the construction of a Forensic Science Laboratory**

- Bill 294** **An Act relative to requiring twenty-four hour notice to the Attorney General before a hearing on bail re-determination.**

- Bill 315** **An Act relative to the application for a firearms identification card.**

Time: 12:30 p.m.
Contact Info: 475-0251/2

**COMMITTEE ON POWER,
PUBLIC SAFETY AND THE
JUDICIARY**

**Public Hearings
5/15/02**

Where:
26th Guam Legislature
Legislature's public hearing room
Hagatna, GU

Description: Public hearing 10 a.m. May 15, Legislature's public hearing room, Hagatna. Bill 283 relative to the construction of a forensic science laboratory; Bill 292 relative to the establishment of therapeutic drug courts; Bill 315 relative to firearms identification cards; and Bill 294 relative to bail re-determination. For special accommodations, call Sen. Joe Ada's office at 472-3431.

Date: 5/15/02 through 5/15/02

Other Date(s): 5/15/02

Time: 10 a.m.
Contact Info: 472-3431

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Guam Time: 10:16 AM
5/16/2002

SOMETHING DIFFERENT.
AN ELECTED INDEPENDENT AG.
 M. BORJA, TREASURER
 P.O. Box 24842 • BARRIGADA, GUAM 96921



PHIL TYDINGCO
 FOR ATTORNEY GENERAL

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Thursday, May 16, 2002

Senators discuss bills for drug court, forensic science facility

By Odessa McCarty
Pacific Daily News

Senators and court officials yesterday discussed four bills, including one that would establish a drug court and another to build a forensic science laboratory.

During a legislative public hearing, several court officials testified in favor of Bill 292, which would establish a therapeutic drug court on Guam for adult and juvenile offenders.

The officials also addressed Bill 283, which would establish a \$5.9 million, state-of-the-art forensic science laboratory by the end of the year.

That facility would save the island costs and delays in examining and evaluating forensic evidence, said Sen. Joseph Ada, chairman of the committee on public safety and the judiciary.



He said the island's current evidence facility is dilapidated, to the point where "termites (are) eating evidence."

The new laboratory would provide a full range

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