



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

DEC 31 2004
4:35
ESP

31 DEC 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 375 (COR), "AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; TO REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; TO AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED, CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, GUAM CODE ANNOTATED, CREATING THE VICTIMS IMMUNITY ACT OF 2004," now designated as **Public Law 27-138**.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'tåhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Miuna-Barnes
Senator and Legislative Secretary

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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


This is to certify that Substitute Bill No. 375 (COR), "AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; TO REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; TO AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED, CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, GUAM CODE ANNOTATED, CREATING THE VICTIMS IMMUNITY ACT OF 2004," was on the 20th day of December, 2004, duly and regularly passed.

Attested


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 20 day of December, 2004,
at 5:50 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: December 30, 2004

Public Law No. 27-138

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 375 (COR)

As substituted by the Committee
on Judiciary & Transportation, and amended.

Introduced by:

Carmen Fernandez

L.A. Leon Guerrero

T. R. Muña Barnes

F. B. Aguon, Jr.

J. M.S. Brown

F. R. Cunliffe

Mark Forbes

L. F. Kasperbauer

R. Klitzkie

J. A. Lujan

v. c. pangelinan

J. M. Quinata

Toni Sanford

R. J. Respicio

Ray Tenorio

AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; TO REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; TO AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED, CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, GUAM CODE ANNOTATED, CREATING THE VICTIMS IMMUNITY ACT OF 2004.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that victims of crimes, or in the event the victim is deceased, the family
4 members of the victim, should be afforded basic and fundamental rights, to
5 the greatest extent possible. Further, *I Liheslaturan Guåhan* recognizes that
6 crime victims have a meaningful role in the criminal justice system and grants
7 victims certain basic and fundamental rights, including the right of victims or
8 their representatives to be informed of, to attend, and to make statements at
9 certain court proceedings involving criminal defendants. It is therefore the
10 intent of *I Liheslaturan Guåhan* to ensure that victims are assured a meaningful
11 role in the criminal justice system.

12 **Section 2.** Chapter 160 of Title 8 of the Guam Code Annotated, is
13 hereby *amended* to read as follows:

14 **“Chapter 160**

15 **Crime Victim’s Rights Act of 2004**

16 **§160.10. Short Title.**

17 **§160.20. Legislative Intent.**

18 **§160.30. Definitions.**

19 **§160.40. Eligibility of Victims.**

20 **§160.45. Victim’s Right to Receive Notices.**

21 **§160.50. Basic Bill of Rights for Victims.**

22 **§160.60. Responsibility for Rights and Services.**

23 **§160.70. Intergovernmental Cooperation.**

24 **§160.80. Chapter to Benefit Victim not Offenders.**

- 1 **§160.91. Address and Phone Number of Crime Victim not to be in**
2 **Court File or Documents; Exemption from Disclosure;**
3 **Exception.**
- 4 **§160.92. Right of Victim to Address or Submit Statement to Parole**
5 **Board; Notice of Pending Review and Victim's Rights;**
6 **Representation of Counsel; Notice, Objection to Pardons.**
- 7 **§160.93. Discharge or Discipline of Victim by Employer or**
8 **Employer's Agent as Violation; Penalty.**
- 9 **§160.94. Local Witness and Victim Protection Program Guidelines.**
- 10 **§160.95. Plea Agreement Provisions for Victims.**
- 11 **§160.100. Notice to Victims of Crimes; Explanation of Appeal**
12 **Process; Rights of Victim if Conviction Reversed.**
- 13 **§160.110. Request for Notice by Victim; Exemption of Victim's**
14 **Address and Telephone Number from Disclosure.**
- 15 **§160.120. Notice of Escape.**
- 16 **§160.130. Notice to Victim by Juvenile Agency; Escape by Juvenile.**
- 17 **§160.140. Right of Victim to Address or Submit Statement to Parole**
18 **Board; Notice of Pending Review and Victim's Rights;**
19 **Representation of Counsel; Notice, Objection to Pardons.**
- 20 **§160.150. Notice of Final Disposition of Case.**
- 21 **§160.160. Cause of Action Not Created.**
- 22 **§160.170. Failure to Provide Right, Privilege, or Notice to Victim.**
- 23 **§160.200. Effective Date of Chapter; Applicability.**
- 24 **§160.201. Severability.**
- 25 **§160.10. Short Title.** This Chapter shall be known as the '*Crime*
26 *Victim's Rights Act of 2004*'.

1 **§160.20. Legislative Intent.** In recognition of the civic and
2 moral duty of victims and witnesses of crimes to cooperate fully and
3 voluntarily with law enforcement and prosecutorial agencies, and in
4 further recognition of the continuing importance of such citizen
5 cooperation in Guam law enforcement efforts and in the general
6 effectiveness and well-being of the criminal justice system of Guam, *I*
7 *Liheslatura* declares its intent in this Chapter to ensure that all victims
8 and witnesses of crime are treated with dignity, respect, courtesy and
9 sensitivity, and that the rights extended in this Chapter to victims and
10 witnesses of crime be honored and protected by law enforcement
11 agencies, prosecutors, and judges in a manner no less vigorous than the
12 protections afforded criminal defendants.

13 **§160.30. Definitions.** As used in this Chapter:

14 (a) '*Crime*' means an act or omission committed by an adult or
15 juvenile that would constitute an offense against a person under all
16 existing Guam statutes.

17 (b) '*Homicide Victim*' means a person whose death was caused by
18 another person under the provisions of Chapter 16 of Title 9, Guam
19 Code Annotated.

20 (c) '*Surviving immediate family members*' means surviving
21 grandparents, parents, siblings, spouse, children, any legal guardian of
22 the victim who requests notification.

23 (d) '*Victim*' means a person against whom a crime has been
24 committed by either an adult or a juvenile and who requests notification.

1 (e) *‘Witness’* means a person whose testimony or knowledge is
2 desired in any proceeding or investigation by a grand jury, or in a
3 criminal investigation, action, prosecution or proceeding.

4 (f) *‘Final disposition’* means the ultimate termination of the
5 criminal prosecution of a defendant, including, *but not limited to*,
6 dismissal, acquittal, or imposition of sentence by the court.

7 (g) *‘Juvenile’* means a person within the court’s jurisdiction under
8 Title 19, Guam Code Annotated, Chapter 5, Family Court Act.

9 (h) *‘Juvenile facility’* means the Department of Youth Affairs, as
10 described in 19 GCA, Division 2, Chapter 20, the Youth Affairs Act of
11 1978, to which a juvenile has been committed or in which a juvenile is
12 detained.

13 (i) *‘Person’* means an individual, organization, partnership,
14 corporation, or governmental entity against whom the crime was
15 perpetrated.

16 (j) *‘Prisoner’* means a person who has been convicted and
17 sentenced to imprisonment, or placement in a juvenile facility, for
18 having committed a crime or an act that would be a crime if committed
19 by an adult against a victim.

20 (k) *‘Prosecuting attorney’* means any attorney, by whatever title
21 designated, having by law the right of duty to prosecute any offense on
22 behalf of Guam.

23 **§160.40. Eligibility of Victims.** A victim has the rights
24 afforded by this Chapter and is eligible for the services provided under
25 this Chapter.

1 **§160.45. Victim's Right to Receive Notices.** Victims and
2 surviving immediate family members shall be informed of their right to
3 receive notices and the procedure to receive notices pursuant to this
4 Chapter. Victims and/or surviving immediate family members shall
5 have the right to request to receive notices provided for under this
6 Chapter by filing a request with the Office of the Attorney General, at
7 any time. After a request has been filed, the Office of the Attorney
8 General shall be responsible for informing other departments or
9 agencies of the government to provide further notices as may be
10 provided in this Chapter to the victim and/or surviving immediate
11 family members, as the case may be.

12 **§160.50. Basic Bill of Rights for Victims.** Victims and/or
13 surviving immediate family members shall have the following rights:

14 (a) To be immediately informed by the Office of the
15 Attorney General of the final disposition of the case. *If* the crime
16 charged is a felony, the victim or a surviving immediate family
17 member shall be notified of major developments in the case,
18 whenever appropriate, in order to avoid jeopardizing an
19 investigation. The victim or surviving immediate family member
20 shall be immediately notified whenever the defendant or
21 perpetrator is released from custody. The victim or the surviving
22 immediate family member shall also be consulted and advised
23 about plea-bargaining.

1 (b) To be notified by the prosecuting attorney *if* a court
2 proceeding to which they have been subpoenaed will not proceed
3 as scheduled in a timely manner.

4 (c) To receive protection from threats or harm in
5 accordance with local witness and victim protection program
6 guidelines.

7 (d) To be promptly informed by the victim witness
8 counselor and the probation officer when the defendant has
9 violated a criminal restraining order, a court-imposed stay-away
10 order, terms or condition of release, terms of probation, or terms of
11 a plea agreement.

12 (e) To be informed by the police, victim witness, or other
13 criminal justice personnel of financial assistance and other social
14 services available as a result of being a victim of crime, including
15 information on how to apply for the assistance and services.

16 (f) The court shall provide a waiting area for the victim
17 separate from the defendant, defendant's relatives, and defense
18 witnesses if such an area is available and the use of the area is
19 practical. If a separate waiting area is not available or practical, the
20 court shall provide other safeguards to minimize the victim's
21 contact with defendant, defendant's relatives, and defense
22 witnesses during court proceedings.

23 (g) To have any stolen property or other personal
24 property expeditiously returned by law enforcement agencies
25 when such property is no longer needed for evidence, and the

1 court or the Attorney General has approved its release. *If feasible,*
2 all such property, except weapons; currency; contraband; property
3 subject to evidentiary analysis; and property, the ownership of
4 which is disputed, shall be returned to the person within ten (10)
5 days of being taken, and the court or Attorney General has
6 approved its release.

7 (h) To be informed as provided in this Chapter of escapes
8 and changes planned in the custodial status of the offender that
9 allow or result in the release of the offender into the community,
10 including furlough, work release, placement on supervised release,
11 release on parole, and final discharge at the end of a prison term;
12 and to be informed by the Office of the Attorney General of
13 changes in the custodial status of the offender as a result of release
14 on bail bond, or release on appeal bond.

15 (i) To be informed by the Parole Board through the
16 Department of Correction's Parole Services Division when the
17 offender is seeking early release and/or parole, and to be afforded
18 a right to submit letters, and to appear and testify at a release
19 hearing subject to the provisions of §160.92 herein.

20 (j) To be promptly informed by the Department of
21 Correction's Parole Services Division when the offender has
22 violated that person's parole subject to the provisions of §160.92
23 herein.

24 (k) In cases charged and pled to as a felony, to be
25 informed by the prosecutor, by telephone, facsimile or mail, of all

1 trials, changes of pleas, sentencing and other major developments
2 at least three (3) working days in advance.

3 (l) To testify as to the actions of the defendant and their
4 effect upon the victim and the victim's family, to be represented
5 by retained counsel, and to call witnesses at sentencing, reduction
6 of sentence or parole hearing, subject to relevance; and at the
7 discretion of the court, to testify at any change of plea or hearing
8 to consider acceptance of a plea agreement.

9 (m) To be notified by *I Maga'lahren Guãhan* upon
10 submission of request relative to the pardon of the defendant or
11 the perpetrator, subject to the provisions of §160.92 herein.

12 (n) Upon written request, witnesses of crime shall be
13 provided the same protections afforded in this Section.

14 (o) The right to be treated with fairness and respect for
15 their dignity and privacy throughout the criminal justice process.

16 (p) The Office of the Attorney General shall provide post-
17 conviction information to victim's, to include information
18 concerning availability social services, counseling programs, and
19 financial assistance programs.

20 (q) The Office of the Attorney General is to provide a
21 special hotline for victims to assist them in obtaining notification
22 and information before and after conviction.

23 **§160.60. Responsibility for Rights and Services.** (a) The courts
24 shall fashion all decisions and orders to enhance the recognition of the
25 rights and the provision of the services set out in this Chapter, to the

1 extent that they will not conflict with the constitutional rights of the
2 defendant.

3 (b) Neither the failure of any government employee to
4 carry out the requirements of this Section, nor compliance with it,
5 shall subject any territorial officer or employee to liability in any
6 civil action. However, such failure may provide a basis for such
7 disciplinary action as may be deemed by appropriate authority.

8 **§160.70. Intergovernmental Cooperation.** The office of the
9 prosecutor, the police, local social service agencies, the courts, and all
10 other agencies involved in the criminal justice system shall all cooperate
11 with each other to ensure that victims and witnesses of crime receive the
12 rights and services to which they are entitled under this Chapter.

13 **§160.80. Chapter to Benefit Victim not Offenders.** The rights
14 set out in this Chapter are strictly for the benefit of victims and
15 witnesses and not defendants or perpetrators. A defendant shall have no
16 standing to raise any objections to the applicability of the provisions of
17 this Chapter other than to request a continuance at hearing or trial;
18 provided, however, that the violation of any provision of this Chapter or
19 the failure of the court or a prosecutor to comply with such provisions
20 shall not be grounds for appeal or for reconsideration by the court.

21 **§160.91. Address and Phone Number of Crime Victim not to be**
22 **in Court File or Documents; Exemption from Disclosure; Exception.**
23 The work address and address of the crime victim shall *not* be in the
24 court file or ordinary court documents unless contained in a transcript
25 of the trial or it is used to identify the place of the crime. The work

1 telephone number and telephone number of the victim shall *not* be in
2 the court file or ordinary court documents except as contained in a
3 transcript of the trial or witness lists.

4 **§160.92. Right of Victim to Address or Submit Statement to**
5 **Parole Board; Notice of Pending Review and Victim's Rights;**
6 **Representation of Counsel; Notice, Objection to Pardons.**

7 (1) A victim shall have the right to address or submit a
8 written statement for consideration by a parole board member or a
9 member of any other panel having authority over the prisoner's
10 release on parole.

11 (2) *Not less than* thirty (30) days before a review of the
12 prisoner's release, a victim who has requested notice under
13 §160.110(1)(f) shall be given written notice by the Department of
14 Corrections, informing the victim of the pending review and of
15 victims' rights under this Section. The victim, at his or her own
16 expense, may be represented by counsel at the review.

17 (3) A victim shall receive notice of the decision of the parole
18 board, *if* applicable, notice of the date of the prisoner's release on
19 parole. Notice shall be mailed within a reasonable time after the
20 board reaches its decision, and *but not later than* fourteen (14) days
21 after the board or panel has reached its decision.

22 (4) A victim shall receive notice of any request made for a
23 pardon and may file an objection to said pardon with the parole
24 board.

1 **§160.93. Discharge or Discipline of Victim by Employer or**
2 **Employer's Agent as Violation; Penalty.** An employer or the
3 employer's agent, who threatens to discharge or discipline, or who
4 discharges, disciplines, or causes to be discharged from employment or
5 to be disciplined a victim because that victim is subpoenaed or
6 requested by the prosecuting attorney to attend court for the purpose of
7 giving testimony, is guilty of a violation punishable by a fine of *not more*
8 *than* Seven Hundred Fifty Dollars (\$750.00), and may be punished for
9 contempt of court, *if* applicable.

10 **§160.94. Local Witness and Victim Protection Program**
11 **Guidelines.** The Supreme Court of Guam shall promulgate witness and
12 victim protection program guidelines within ninety (90) days of the
13 passage of this Act into law.

14 **§160.95. Plea Agreement Provisions for Victims.**

15 (a) Victims or their surviving immediate family members
16 have the right to be notified of any potential plea agreement and
17 to express their views on any proposed plea agreements *prior* to a
18 plea agreement being reached between the prosecutor and the
19 defendant. The prosecutor shall consider the views of the victim
20 or the surviving immediate family members in deciding whether
21 to negotiate or conclude a plea agreement with a defendant.

22 (b) Victims or their surviving immediate family members
23 have the right to be notified when a plea agreement is to be
24 presented to the court, and to express their views on the plea
25 agreement to the court *prior* to the court accepting or rejecting the

1 plea agreement. The court shall consider the views of the victim
2 or the surviving immediate family members in deciding whether
3 to accept or reject the negotiated plea agreement.

4 (c) Before a plea agreement is allowed in any aggravated
5 murder case where a defendant has, or is alleged to have, with a
6 premeditated intent caused the death of another person, caused
7 the death of such person or of a third person, and there was more
8 than one victim, and the murders were part of a common scheme
9 or plan, or the result of a single act of the defendant, a prosecutor
10 shall:

- 11 (1) explain to victims or their surviving immediate family
12 members of the case, the rights of victims;
- 13 (2) explain to victims or their surviving immediate family
14 members of the case, how the plea agreement process
15 works and the circumstances that might lead to a plea
16 agreement;
- 17 (3) explain to victims or their surviving immediate family
18 members of the case, how victim advocates can help
19 victims prepare and submit impact statements that are
20 useful to both the prosecutor and the court throughout
21 the plea agreement process;
- 22 (4) ensure victims or their surviving immediate family
23 members are notified of any potential plea agreement
24 and have the opportunity to express their views on any

1 proposed plea agreements *prior* to any plea agreement
2 being reached with the defendant; and

- 3 (5) ensure victims or their surviving immediate family
4 members are notified when a plea agreement is to be
5 presented to the court and have the opportunity to
6 express their views on the plea agreement to the court
7 *prior* to the court accepting the plea agreement.

8 **§160.100. Notice to Victims of Crimes; Explanation of Appeal**
9 **Process; Rights of Victim if Conviction Reversed.**

10 (1) Upon the request of a victim or surviving immediate family
11 members, the prosecuting attorney shall notify the victim of the
12 following:

13 (a) That the defendant filed an appeal of his or her
14 conviction or sentence or that the prosecuting attorney filed an
15 appeal.

16 (b) Whether the defendant has been ordered released on
17 bail or other recognizance pending the disposition of the appeal.
18 *If* the prosecuting attorney is notified that the defendant has been
19 ordered released on bail or other recognizance pending
20 disposition of the appeal, the prosecuting attorney shall use any
21 means reasonably calculated to give the victim notice of that order
22 within twenty-four (24) hours after the prosecuting attorney is
23 notified of the order.

24 (c) The time and place of any appellate court proceedings
25 and any changes in the time or place of those proceedings.

1 (d) The result of the appeal, and *if* the conviction is ordered
2 reversed, the sentence is vacated, the case is remanded for a new
3 trial, or the prosecuting attorney's appeal is denied, and *if* the
4 prosecuting attorney has filed the appropriate notice with the
5 appellate court. The prosecuting attorney shall use any means
6 reasonably calculated to give the victim notice of that order within
7 twenty-four (24) hours after the prosecuting attorney is notified of
8 the order.

9 (2) *If* the prosecuting attorney is not successful in notifying the
10 victim or surviving immediate family members of an event described in
11 Subsection (1) within the period set forth in that Subsection, the
12 prosecuting attorney shall notify the victim of that event as soon as
13 possible by any means reasonably calculated to give the victim prompt
14 actual notice.

15 (3) Upon the request of the victim, the prosecuting attorney shall
16 provide the victim with a brief explanation in plain English of the
17 appeal process, including the possible dispositions.

18 (4) *If* the case is returned to the trial court for further proceedings
19 or a new trial, the victim has the same rights as previously requested
20 during the proceedings that led to the appeal.

21 **§160.110. Request for Notice by Victim; Exemption of Victim's**
22 **Address and Telephone Number from Disclosure.**

23 (1) Upon the victim's written request, the Guam Police
24 Department or the Department of Corrections shall mail to the victim

1 the following, as applicable, about the prisoner who has been sentenced
2 to imprisonment:

3 (a) Notice of the prisoner's transfer or pending transfer to a
4 minimum security facility and the facility's address.

5 (b) Notice of the prisoner's release or pending release in a
6 community residential program or under furlough; any other
7 transfer to community status; any transfer from one (1)
8 community residential program or electronic monitoring program
9 to another; or any transfer from a community residential program
10 or electronic monitoring program to a Guam correctional facility.

11 (c) Notice of the escape of the person accused, convicted, or
12 imprisoned for committing a crime against the victim, as provided
13 in §160.120 herein.

14 (d) Notice of the victim's right to address or submit a
15 written statement for consideration by a parole board member or a
16 member of any other panel having authority over the prisoner's
17 release on parole, as provided in §160.140 herein.

18 (e) Notice of the decision of the parole board, or any other
19 panel having authority over the prisoner's release on parole, after
20 a parole review, as provided in §160.140(3).

21 (f) Notice of the release of a prisoner ninety (90) days
22 before the date of the prisoner's discharge from prison, unless the
23 notice has been otherwise provided under this Article.

24 (g) Notice of a request regarding a reprieve, commutation,
25 or pardon of the prisoner's sentence by *I Maga'lahren Guåhan*.

1 (h) Notice that a reprieve, commutation, or pardon has been
2 granted.

3 (i) Notice that a prisoner has had his or her name legally
4 changed while on parole.

5 (j) Notice that a prisoner has been convicted of a new crime.

6 (k) Notice that a prisoner has been returned from parole
7 status to a correctional facility due to an alleged violation of the
8 conditions of his or her parole.

9 (2) A victim's address and telephone number maintained by the
10 Guam Police Department or the Department of Corrections upon a
11 request for notice under Subsection (1) is exempt from disclosure under
12 the Sunshine Reform Act of 1999, Title 5, Guam Code Annotated,
13 Chapter 10.

14 **§160.120. Notice of Escape.**

15 (1) As provided in Subsection (2) or (3), a victim who requests
16 notice of the escape and the prosecuting attorney who is prosecuting or
17 has prosecuted the crime for which the person is detained or under
18 sentence shall be given immediate notice of the escape of the person
19 accused, convicted, or imprisoned for committing a crime against the
20 victim. The notice shall be given by any means reasonably calculated to
21 give prompt actual notice.

22 (2) *If the escape occurs before the sentence is executed or before*
23 *the defendant is delivered to the Department of Corrections, the chief*
24 *law enforcement officer of the agency in charge of the person's*
25 *detention shall give notice of the escape to the prosecuting attorney,*

1 who shall then give notice of the escape to a victim who requested
2 notice.

3 (3) *If the defendant is confined pursuant to a sentence, the notice*
4 *shall be given by the chief administrator of the place in which the*
5 *prisoner is confined.*

6 **§160.130. Notice to Victim by Juvenile Agency; Escape by**
7 **Juvenile.**

8 (1) Upon a victim's written request, the juvenile agency, as
9 applicable, shall make a good faith effort to notify the victim before
10 either of the following occurs:

11 (a) A juvenile is dismissed from court jurisdiction or
12 discharged from commitment to the juvenile agency.

13 (b) A juvenile is transferred from a secure juvenile facility
14 to a nonsecure juvenile facility.

15 (2) *If the juvenile agency is not successful in notifying the victim*
16 *before an event described in Subsection (1) occurs, it shall notify the*
17 *victim as soon as possible after that event occurs by any means*
18 *reasonably calculated to give prompt actual notice.*

19 (3) Upon the victim's written request, the juvenile agency, as
20 applicable, shall give to the victim notice of a juvenile's escape. A victim
21 who requests notice of an escape shall be given immediate notice of the
22 escape by any means reasonably calculated to give prompt actual notice.
23 *If the escape occurs before the juvenile is delivered to the juvenile*
24 *agency, the agency in charge of the juvenile's detention shall give notice*

1 of the escape to the juvenile agency, which shall then give notice of the
2 escape to the victim who requested notice.

3 **§160.140. Right of Victim to Address or Submit Statement to**
4 **Parole Board; Notice of Pending Review and Victim's Rights;**
5 **Representation of Counsel; Notice, Objection to Pardons.**

6 (1) A victim shall have the right to address or submit a written
7 statement for consideration by a parole board member or a member of
8 any other panel having authority over the prisoner's release on parole.

9 (2) *Not less than* thirty (30) days before a review of the prisoner's
10 release, a victim who has requested notice under §160.110(1)(f) shall be
11 given written notice by the Department of Corrections informing the
12 victim of the pending review and of victims' rights under this Section.
13 The victim, at his or her own expense, may be represented by counsel at
14 the review.

15 (3) A victim shall receive notice of the decision of the parole
16 board, and *if* applicable, notice of the date of the prisoner's release on
17 parole. Notice shall be mailed within a reasonable time after the board
18 reaches its decision, *but not later than* fourteen (14) days after the board
19 or panel has reached its decision.

20 (4) A victim shall receive notice of any request made for a pardon
21 and may file an objection to said pardon with the parole board.

22 **§160.150. Notice of Final Disposition of Case.** Upon the
23 request of a victim, the prosecuting attorney shall, within thirty (30)
24 days of the final disposition of the case, notify the victim, in writing, of
25 the final disposition of the case.

1 **§160.160. Cause of Action Not Created.** Nothing in this Article
2 shall be construed as creating a cause of action for monetary damages
3 against the government of Guam or any of its agencies, entities, or
4 instrumentalities, or employees.

5 **§160.170. Failure to Provide Right, Privilege, or Notice to**
6 **Victim.** The failure to provide a right, privilege, or notice to a victim
7 under this Article shall *not* be grounds for the defendant to seek to have
8 the conviction or sentence set aside.

9 **§160.200. Effective Date of Chapter; Applicability.** This
10 Chapter shall take effect upon enactment.

11 **§160.201. Severability.** *If any of the provisions of this Chapter,*
12 *or the application thereof to any person or circumstance, are held*
13 *invalid, such invalidity shall not affect any other provision or*
14 *application of this Chapter which can be given effect without the invalid*
15 *provision or application, and to this end the provisions of this Chapter*
16 *are severable."*

17 **Section 3. Chapter 87 of Title 9, Guam Code Annotated, is hereby**
18 *repealed.*

19 **Section 4. Amend and Move Chapter 86, Title 9, Guam Code**
20 **Annotated to Title 8, Guam Code Annotated, as follows:**

21 "Chapter 161

22 **Compensation for Damages From Criminal Activities**

23 **§161.10. Definitions.**

24 **§161.15. Creation of the Criminal Injuries Compensation**
25 **Commission.**

- 1 §161.20. **Tenure and Compensation of Members.**
- 2 §161.25. **Powers and Procedures of Commission.**
- 3 §161.30. **Hearings and Evidence.**
- 4 §161.35. **Medical Examination.**
- 5 §161.40. **Attorney Fees.**
- 6 §161.45. **Reconsideration by Commission; Judicial Review.**
- 7 §161.50. **Eligibility for Compensation.**
- 8 §161.55. **Violent Crimes.**
- 9 §161.60. **Award of Compensation.**
- 10 §161.70. **Recovery From Offender.**
- 11 §161.71. **Fines Imposed on Offenders.**
- 12 §161.75. **Eligibility for Compensation.**
- 13 §161.80. **Award of Compensation.**
- 14 §161.85. **Terms of Order.**
- 15 §161.90. **Limitations Upon Award of Compensation.**
- 16 §161.95. **Criminal Injuries Compensation Fund; When Payment**
17 **Authorized.**
- 18 §161.100. **Recovery from Collateral Source.**
- 19 §161.101. **Sale of Recollections, Thoughts, and Feelings of Convicted**
20 **Person.**
- 21 §161.105. **Legal Advisor.**
- 22 §161.110. **Exemption from Execution.**
- 23 §161.115. **Survival and Abatement.**
- 24 §161.120. **Rule-making Powers.**
- 25 §161.125. **Commission Staff.**

1 **§161.130. Annual Report.**

2 **§161.10. Definitions.** As used in this Chapter:

- 3 (a) *'Child'* means an unmarried person who is under eighteen
4 (18) years of age and includes a stepchild or an adopted
5 child;
- 6 (b) *'Commission'* means the Criminal Injuries Compensation
7 Commission established by this Chapter;
- 8 (c) *'Dependents'* means relatives of a deceased or injured victim
9 who were wholly or partially dependent upon the victim's
10 income at the time of the victim's death or injury and
11 includes the child of the victim born after the victim's injury
12 or death;
- 13 (d) *'Injury'* means actual bodily harm and, in respect of a victim,
14 includes pregnancy, and mental or nervous shock;
- 15 (e) *'Person'* means a natural person;
- 16 (f) *'Private citizen'* means any natural person other than a peace
17 officer who is actively engaged in the performance of his or
18 her duties;
- 19 (g) *'Relative'* means a victim's spouse, parent, grandparent,
20 stepfather, stepmother, child, grandchild, brother, sister,
21 half-brother, half-sister or spouse's parents; and
- 22 (h) *'Victim'* means a person who is injured or killed by any act
23 or omission of any other person coming within the
24 description of any of the crimes specified in Section 86.55 of
25 this Chapter.

1 **§161.15. Creation of the Criminal Injuries Compensation**
2 **Commission.** There is, within the government of Guam, a Criminal
3 Injuries Compensation Commission ('Commission') which shall be
4 composed of five (5) members appointed by *I Maga'lahaen Guåhan* with
5 the advice and consent of *I Liheslantura*. One (1) member of the
6 Commission shall be an attorney who has been admitted to practice in
7 Guam for at least five (5) years. The Commission is within the
8 Department of Law for administrative purposes. Annually, the
9 members shall elect a chairperson of the Commission.

10 **§161.20. Tenure and Compensation of Members.** The term of
11 office of each member of the Commission shall be four (4) years or until
12 his successor is appointed, except that the terms of office of the members
13 first taking office shall expire as designated by *I Maga'lahaen Guåhan* at
14 the time of appointment as follows: one (1) at the end of one (1) year,
15 one (1) at the end of two (2) years, one (1) at the end of three (3) years,
16 and two (2) at the end of four (4) years. Any member appointed to fill
17 the vacancy occurring *prior* to the expiration of the term for which his or
18 her predecessor was appointed, shall be appointed for the remainder of
19 the term. A vacancy in the Commission shall *not* affect its powers. *If*
20 any member of the Commission is unable to act because of absence,
21 illness or other sufficient cause, *I Maga'lahaen Guåhan* may make a
22 temporary appointment, and such appointee shall have all the powers
23 and duties of a regular member of the Commission for the period of
24 their appointment.

1 **§161.25. Powers and Procedures of Commission.** Upon an
2 application made to the Commission under this Chapter, the
3 Commission shall fix a time and place for a hearing on such application
4 and shall cause notice thereof to be given to the applicant. The
5 Commission may hold such hearings, sit and act at such times and
6 places, and take such testimony as the Commission may deem advisable.
7 Any three (3) members shall constitute a quorum. The concurring vote
8 of three (3) members shall be necessary to take any action. Any member
9 of the Commission may administer oaths or affirmations to witnesses
10 appearing before the Commission. The Commission shall have such
11 powers of subpoena and compulsion of attendance of witnesses and
12 production of documents and of examination of witnesses as are
13 conferred upon the Superior Court. Subpoena shall be issued under the
14 signature of the Chairman. The Superior Court may, upon the
15 application of the Commission, enforce the attendance and testimony of
16 any witness and the production of any documents so subpoenaed.
17 Subpoena and witness fees and mileage shall be the same as in criminal
18 cases in the Superior Court, and shall be payable from funds
19 appropriated for expenses of administration.

20 **§161.30. Hearings and Evidence.** (a) Where any application is
21 made to the Commission, the applicant and the Commission's legal
22 advisor shall be entitled to appear and be heard. Any other person may
23 appear and be heard who satisfied the Commission that he or she has a
24 substantial interest in the proceedings. In any case in which the person
25 entitled to make an application is a child, the application may be made

1 on his or her behalf by his or her parent or legal guardian. In any case in
2 which the person entitled to make an application is mentally defective,
3 the application may be made on his or her behalf by his or her guardian
4 or such other individual authorized to administer the estate.

5 (b) Where under this Chapter a person is entitled to appear and
6 be heard by the Commission, that person may appear in person or by
7 his or her attorney. All hearings shall be open to the public unless, in a
8 particular case, the Commission determines that the hearing, or a
9 portion thereto, should be held in private, having regard to the fact that
10 the offender has not been convicted or to the interest of the victim of an
11 alleged sexual offense.

12 (c) Every person appearing under this Chapter shall have the
13 right to produce evidence and to cross-examine witnesses. The
14 Commission may receive as evidence any statement, document,
15 information or matter that may, in the opinion of the Commission,
16 contribute to its functions under this Chapter, whether or not such
17 statement, document, information or matter would be admissible in a
18 court of law.

19 (d) *If* any person has been convicted of any offense with respect
20 to an act or omission on which a claim under this Chapter is based,
21 proof of that conviction, unless an appeal against the conviction or a
22 petition for a hearing in respect of the charge is pending or a new trial or
23 rehearing has been ordered, shall be taken as conclusive evidence that
24 the offense has been committed.

1 **§161.35. Medical Examination.** The Commission may appoint
2 an impartial licensed physician to examine any person making
3 application under this Chapter, and the fees for the examination shall be
4 paid from funds appropriated for expenses of administration.

5 **§161.40. Attorney Fees.** (a) The Commission may, as part of
6 any order entered under this Chapter, determine and allow reasonable
7 attorney fees, which *if* the award of compensation is more than One
8 Thousand Dollars (\$1,000.00) shall *not* exceed fifteen percent (15%) of
9 the award, to be paid out of but *not* in addition to the award, to the
10 attorneys representing the applicant; provided, that the amount of the
11 attorney fees shall *not*, in any event, exceed the award of compensation
12 remaining after deducting that portion thereof for expenses actually
13 incurred by the claimant.

14 (b) Any attorney who charges, demands, receives or collects for
15 services rendered in connection with any proceedings under this
16 Chapter any amount in excess of that allowed under this Section, *if* any
17 compensation is paid, shall be fined *not more than* Two Thousand
18 Dollars (\$2,000.00).

19 **§161.45. Reconsideration by Commission; Judicial Review.**
20 (a) The Commission may, on its own motion or on the application of any
21 person aggrieved by an order or decision of the Commission, reconsider
22 the order or decision and revoke, confirm and verify the order or
23 decision, based upon the findings of the Commission.

24 (b) Any person aggrieved by an order or decision of the
25 Commission on the sole ground that the order or decision was in excess

1 of the Commission's authority or jurisdiction, shall have a right of
2 appeal to the Superior Court; provided, that the appeal is filed with the
3 Commission within thirty (30) days after service of an original or a
4 certified copy of such order or decision. *Except* as otherwise provided in
5 this Section, orders and decisions of the Commission shall be conclusive
6 and *not* subject to judicial review.

7 **§161.50. Eligibility for Compensation.** (a) In the event any
8 person is injured or killed by any act or omission of any other person
9 coming within the criminal jurisdiction of Guam after September 30,
10 1980, which act or omission is within the description of the crimes
11 enumerated in Section 86.55, the Commission may, in its discretion,
12 upon an application, order the payment of compensation in accordance
13 with this Chapter:

14 (1) to or for the benefit of the victim;

15 (2) to any person responsible for the maintenance of the victim,
16 where that person has suffered pecuniary loss or incurred
17 expenses as a result of the victim's injury or death;

18 (3) in the case of the death of the victim, to or for the benefit of
19 any one (1) or more of the dependents of the deceased victim; or

20 (4) to a parent of an adult deceased victim, or to an adult son or
21 daughter of a deceased victim, where the parent or adult son or
22 daughter has incurred expenses on account of hospital, medical,
23 funeral and burial expenses as a result of the victim's injury and
24 death.

1 (b) For the purposes of this Chapter, a person shall be deemed to
2 have intentionally committed an act or omission, notwithstanding that
3 by reason of age, insanity, drunkenness or otherwise, he or she was
4 legally incapable of forming a criminal intent.

5 (c) In determining whether to make an order under this Section,
6 the Commission may consider any circumstances it determines to be
7 relevant, and the Commission shall consider the behavior of the victim,
8 and whether, because of provocation or otherwise, the victim bears any
9 share of responsibility for the crime that caused his or her injury or
10 death, and the Commission shall reduce the amount of compensation in
11 accordance with its assessment of the degree of such responsibility
12 attributable to the victim.

13 (d) An order may be made under this Section whether or not any
14 person is prosecuted for or convicted of a crime arising out of an act or
15 omission described in Subsection (a) of this Section; provided, that an
16 arrest has been made or such act or omission has been reported to the
17 police without undue delay. *No* order may be made under this Section
18 unless the Commission finds that:

- 19 (1) the act or omission did occur; and
20 (2) the injury or death of the victim resulted from the act or
21 omission.

22 (e) Upon application from either the Attorney General or the
23 Chief of Police, the Commission may suspend proceedings under this
24 Chapter for such period as it deems desirable on the ground that a
25 prosecution for a crime arising out of the act or omission has been

1 commenced or is imminent, or that release of the investigation report
2 would be detrimental to the public interest.

3 (f) *If a resident of Guam is a victim of a crime as defined in*
4 *Section 86.55 of this Chapter, but the crime occurred outside the*
5 *boundaries of Guam, the resident has the same rights under the*
6 *provisions of this Chapter as if the crime had occurred within Guam*
7 *upon a showing that the state, territory, country or political subdivision*
8 *of a country in which the crime occurred does not have a crime victim's*
9 *compensation law which covers the injury or death suffered by the*
10 *resident.*

11 **§161.55. Violent Crimes.** (a) The crimes to which this Chapter
12 applies are the following:

- 13 (1) Aggravated Murder (Criminal and Correctional Code,
14 §16.30);
- 15 (2) Murder (Criminal and Correctional Code, §16.40);
- 16 (3) Manslaughter (Criminal and Correctional Code, §16.50);
- 17 (4) Aggravated Assault (Criminal and Correctional Code,
18 §19.20);
- 19 (5) Assault (Criminal and Correctional Code, §19.30);
- 20 (6) Kidnapping (Criminal and Correctional Code, §22.20);
- 21 (7) Felonious Restraints (Criminal and Correctional Code,
22 §22.20);
- 23 (8) Child Stealing (Criminal and Correctional Code, §22.40);
- 24 (9) Custodial Interference (Criminal and Correctional Code,
25 §22.50);

- 1 (10) Criminal Sexual Conduct in the First Degree (Criminal and
2 Correctional Code, §25.15);
- 3 (11) Criminal Sexual Conduct in the Second Degree (Criminal
4 and Correctional Code, §25.20);
- 5 (12) Criminal Sexual Conduct in the Third Degree (Criminal and
6 Correctional Code, §25.25);
- 7 (13) Criminal Sexual Conduct in the Fourth Degree (Criminal
8 and Correctional Code, §25.30);
- 9 (14) Assault with Intent to Commit Criminal Sexual Conduct
10 (Criminal and Correctional Code, §25.35);
- 11 (15) Driving under the Influence of Alcohol and Controlled
12 Substances (Title 16, Guam Code Annotated, §18102);
- 13 (16) Conviction Involving a Child (Title 16, Guam Code
14 Annotated, §18109), provided a child under the age of
15 sixteen (16) was injured as a result of an accident in which
16 the vehicle operated by the person charged with the above
17 violation was involved;
- 18 (17) Vehicular Negligence with Injury to a Person Other than the
19 Driver (Title 16, Guam Code Annotated, §18110);
- 20 (18) Vehicular Homicide (Title 16, Guam Code Annotated,
21 §18111);
- 22 (19) Drinking While Driving a Motor Vehicle upon any Highway
23 (Title 16, Guam Code Annotated, §18119), provided a person
24 other than the driver was injured as a result of such drinking
25 and driving;

1 (20) Stalking (Criminal and Correctional Code, §19.70); and

2 (21) Family Violence (Third Degree Felony and Misdemeanor)
3 and Violation of a Court Order (Misdemeanor) (Criminal
4 and Correctional Code, Chapter 30).

5 (b) For the purpose of this Chapter, the operation of a motor
6 vehicle, boat or aircraft that results in an injury or death shall *not*
7 constitute a crime, unless the injuries were intentionally inflicted
8 through the use of such vehicle, boat or aircraft or unless the conduct
9 constitutes a violation of Title 16, Guam Code Annotated, §18101, *et seq.*
10 (The Safe Streets Act).

11 (c) Any fine imposed pursuant to Section 80.50 of this Title for
12 conviction of any crimes specified in Subsections (a) (1) through (14) and
13 (20) and (21) of this Section shall be paid into the Criminal Injuries
14 Compensation Fund established by Section 86.90 of this Chapter.

15 **§161.60. Award of Compensation.** The Commission may order,
16 only from available balances in the Criminal Injuries Compensation
17 Fund, the payment of compensation under this Chapter for:

18 (1) expenses actually and reasonably incurred as a result of the
19 injury or death of the victim;

20 (2) loss to the victim of earning power as a result of total or
21 partial incapacity;

22 (3) pecuniary loss to the dependents of the deceased victim;

23 (4) pain and suffering to the victim; and

1 (5) any other pecuniary loss directly resulting from the injury or
2 death of the victim which the Commission determines to be
3 reasonable and proper.

4 **§161.70. Recovery from Offender.** Whenever any person is
5 convicted of an offense that includes any crime enumerated in Section
6 86.55 of this Chapter and an order for the payment of compensation is or
7 has been made under this Chapter for injury or death resulting from the
8 act or omission constituting such offense, the Commission may institute
9 a derivative action in the Superior Court against the person or against
10 any person liable at law on his or her behalf, in the name of the victim or
11 such of his or her dependents as have been awarded compensation
12 under this Chapter, for such damages as may be recoverable at common
13 law by the victim or such dependents without reference to the payment
14 of compensation. The court shall have jurisdiction to hear, determine
15 and render judgment in any such action. The time of the occurrence of
16 the act or omission until conviction of the offense and, thereafter, as long
17 as the offender is in confinement for conviction of the offense, shall *not*
18 constitute any part of the time limited for the commencement of the
19 action by the Commission under the applicable statute of limitations.
20 Any recovery in the action shall belong to the government of Guam;
21 provided, that the Commission shall amend its order of compensation to
22 provide for the payment of any portion of the recovery in excess of the
23 amount of compensation prescribed in the order to any of the persons
24 entitled to receive compensation under Section 86.50 of this Chapter in

1 such proportions and upon such terms as the Commission shall deem
2 appropriate.

3 **§161.71. Fines Imposed on Offenders.** Whenever a fine is
4 imposed upon an offender and such fine is to be deposited into the
5 Criminal Injuries Compensation Fund, and such fine is not to be
6 deposited into the fund within one hundred eighty (180) days of the
7 imposition of sentence, the Commission may institute a civil action in
8 Superior Court against the offender to recover the amount of such fine,
9 provided, however, the offender is *not* in the process of seeking judicial
10 review of such conviction. The statutes of limitation for commencing
11 such civil action shall be tolled while the offender is absent from Guam
12 or incarcerated in any facility whatsoever. Any recovery from the
13 offender, excluding costs and attorney fees, shall be deposited into the
14 Criminal Injuries Compensation Fund.

15 **§161.75. Eligibility for Compensation.** In the event a private
16 citizen incurs injury or property damage in preventing the commission
17 of a crime within Guam, in apprehending a person who has committed
18 a crime within Guam, or in materially assisting a peace officer who is
19 engaged in the prevention or attempted prevention of such a crime or
20 the apprehension or attempted apprehension of such a person, the
21 Commission may, in its discretion, upon an application, order the
22 payment of compensation in accordance with this Chapter:

- 23 (1) to or for the benefit of the private citizen; or

1 (2) to any person responsible for the maintenance of the private
2 citizen, where that person has suffered pecuniary loss or incurred
3 expenses as a result of the private citizen's injury.

4 **§161.80. Award of Compensation.** The Commission may order
5 the payment of compensation under this Chapter for:

6 (1) expenses actually and reasonably incurred as a result of the
7 injury of the private citizen;

8 (2) pain and suffering to the private citizen;

9 (3) loss to the private citizen of earning power as a result of total
10 or partial incapacity; and

11 (4) pecuniary loss to the private citizen directly resulting from
12 damage to his or her property.

13 **§161.85. Terms of Order.** Except as otherwise provided in this
14 Chapter, any order for the payment of compensation under this Chapter
15 may be made on such terms as the Commission deems appropriate.
16 Without limiting the generality of the preceding sentence, the order may
17 provide for apportionment of the compensation, for the holding of the
18 compensation or any part thereof in trust, for the payment of the
19 compensation in a lump sum or periodic installments, and for the
20 payment of compensation for hospital, medical, funeral and burial
21 expenses directly to the person who has provided such services. All
22 such orders shall contain words clearly informing the claimant that all
23 awards and orders for payments under this Chapter are subject to the
24 making of an appropriation by *I Liheslatura* to pay the claim, except as
25 otherwise provided in Section 86.95 of this Chapter.

1 **§161.90. Limitations Upon Award of Compensation.** (a) *No*
2 order for the payment of compensation shall be made under this
3 Chapter unless the application has been made within eighteen (18)
4 months after the date of injury, death or property damage.

5 (b) Compensation for medical expenses may be awarded *up to* the
6 amount of Twenty Thousand Dollars (\$20,000.00) and compensation for
7 all other purposes allowed under this Chapter shall *not* exceed Ten
8 Thousand Dollars (\$10,000.00).

9 **§161.95. Criminal Injuries Compensation Fund; When**
10 **Payment Authorized.** (a) There is hereby established a Criminal
11 Injuries Compensation Fund (the *Fund*) separate and apart from other
12 funds of the government of Guam, from which the Commission may
13 make payments as provided in Subsection (b) of this Section. The
14 Attorney General shall be the certifying officer of the Fund, and all
15 payments therefrom shall be paid by the Attorney General upon order
16 of the Commission.

17 (b) The Commission shall have the authority to seek and accept
18 on behalf of, and in the name of, the Criminal Injuries Compensation
19 Fund from any government or agency thereof, or any person, natural or
20 legal, advisory services, grants-in-aid, gifts, donations or money and
21 other property for the benefit of the Fund; provided, however, that any
22 such grants-in-aid, gifts, donations or other assistance shall *not* involve
23 any obligation on the part of the Criminal Injuries Compensation Fund.

24 (c) Where the Commission has made an award pursuant to this
25 Chapter, the Commission shall make such payments from the Fund to

1 or on behalf of the victim, or to or for the benefit of one (1) or more of
2 the dependents of a deceased victim, or to or for the benefit of other
3 persons who have suffered pecuniary loss or incurred expenses on
4 account of hospital, medical, funeral and burial expenses as a result of
5 the victim's injury or death. Payments made pursuant to this Section
6 shall *not* exceed the total amount of the award.

7 **§161.100. Recovery From Collateral Source.** (a) In determining
8 the amount of compensation to be awarded under this Chapter, the
9 Commission shall deduct amounts or benefits received or to be received
10 from any source, whether from the offender or from any person on
11 behalf of the offender, or from public or private funds, and which
12 amounts or benefits result from or are in any manner, directly or
13 indirectly, attributable to the injury or death which gave rise to the
14 award; provided, that *no* deduction shall be made for death benefits
15 received or to be received under any insurance policy covering the life
16 of a deceased victim.

17 (b) Where compensation is awarded under this Chapter and the
18 person receiving the same also receives any sum required to be, and that
19 has *not* been deducted under Subsection (a) of this Section, he or she
20 shall refund to the government of Guam the lesser of the sum or the
21 amount of the compensation paid to him or her under this Chapter.

22 **§161.101. Sale of Recollections, Thoughts, and Feelings of**
23 **Convicted Person.** (a) A person convicted of a crime shall *not* derive
24 any profit from the sale of his or her recollections, thoughts, and feelings
25 with regard to the offense committed by that person until the victim

1 receives any restitution or compensation ordered for him or her against
2 the defendant and expenses of incarceration are recovered as provided
3 in Subsection (c) and until the escrow account created under Subsection
4 (b) is terminated under Subsection (d).

5 (b) Upon the conviction of a defendant for a crime involving a
6 victim, and after notice to any interested party, the Attorney General
7 may petition the court in which the conviction occurred to order that
8 defendant forfeit all or any part of proceeds received or to be received
9 by the defendant, or the defendant's representatives or assignees, from
10 contracts relating to the depiction of the crime or the defendant's
11 recollections, thoughts, or feelings about the crime, in books, magazines,
12 media entertainment, or live entertainment, as provided in this Section.
13 The proceeds shall be held in escrow for a period of *not more than* five (5)
14 years.

15 (c) During the existence of the escrow account, proceeds in the
16 account shall be distributed in the following priority to satisfy the
17 following:

- 18 (1) An order of restitution entered under Sections 24 and
19 25.
- 20 (2) Any civil judgment in favor of the victim against that
21 defendant.

22 (d) The balance remaining in the escrow account at the end of the
23 escrow period shall be paid to the Criminal Injuries Compensation Fund.

24 **§161.105. Legal Advisor.** The Attorney General shall serve as
25 legal advisor to the Commission.

1 **§161.110. Exemption from Execution.** *No* compensation payable
2 under this Chapter shall, *prior* to actual receipt thereof by the person or
3 beneficiary entitled thereto, or their legal representatives, be assignable
4 or subject to execution, garnishment, attachment or other process
5 whatsoever, including process to satisfy an order or judgment for
6 support or alimony.

7 **§161.115. Survival and Abatement.** The rights of compensation
8 created by this Chapter are personal and shall *not* survive the death of
9 the person or beneficiary entitled thereto; provided, that *if* such death
10 occurs after an application for compensation has been filed with the
11 Commission, the proceeding shall *not* abate, but may be continued by
12 the legal representative of the decedent's estate.

13 **§161.120. Rule-making Powers.** In the performance of its
14 functions, the Commission may adopt, amend and repeal, pursuant to
15 the Administrative Adjudication Law, rules and regulations, *not*
16 inconsistent with this Chapter, prescribing the procedures for
17 conducting its business, the procedures to be followed in the filing of
18 applications and the proceedings under this Chapter and such other
19 matters as the Commission deems appropriate.

20 **§161.125. Commission Staff.** Supervisory, administrative and
21 clerical personnel necessary for the efficient functioning of the
22 Commission may be appointed.

23 **§161.130. Annual Report.** The Attorney General shall transmit
24 annually to *I Maga'lahi* and to *I Liheslatura* a report of the Commission's
25 activities under this Chapter, including the name of each applicant, a

1 brief description of the facts in each case, and the amount, *if any*, of
2 compensation awarded. The Attorney General shall transmit the report,
3 together with a tabulation of the total amount of compensation awarded,
4 and a proposed bill appropriating funds necessary to replenish the Fund
5 for the compensation awarded.”

6 **Section 5. A new Chapter 162 to Title 8, Guam Code Annotated, is**
7 **hereby *added* to read as follows:**

8 **“Chapter 162**

9 **Victims Immunity Act of 2004**

10 **§162.01. Short Title.**

11 **§162.10. Definitions.**

12 **§162.20. Perpetrator Assumes Risks of Loss, Injury or Death.**

13 **§162.30. Guilty Verdict or Plea Constitutes Proof of Assumption of**
14 **Risk.**

15 **§162.40. Perpetrator to Pay Reasonable Expenses of the Victim.**

16 **§162.50. Stay of Relief During Criminal Action Against Plaintiff.**

17 **§162.60. Severability.**

18 **§162.01. Short Title.** This Chapter shall be known as the
19 *‘Victims Immunity Act of 2004’*.

20 **§162.10. Definitions.** Terms used in this Chapter mean:

21 (a) *‘Convicted’* includes a finding of guilt, whether or not the
22 adjudication of guilt is stayed or executed, an unwithdrawn judicial
23 admission of guilt or guilty plea, a no contest plea, a judgment of
24 conviction, an adjudication as a delinquent child, or an admission to a
25 juvenile delinquency petition;

1 (b) '*Course of Criminal Conduct*' includes the acts or omissions of
2 the perpetrator in carrying out the crime of which convicted or of a
3 victim in resisting criminal conduct;

4 (c) '*Crime*' includes an offense named in Title 9, Guam Code
5 Annotated, or an attempt to commit any of these offenses;

6 (d) '*Perpetrator*' is any person who has engaged in criminal
7 conduct and includes a person convicted of a crime;

8 (e) '*Victim*' is a person who was the object of another's criminal
9 conduct and includes a person at the scene of an emergency who gives
10 reasonable assistance to another person who is exposed to or has
11 suffered grave physical harm.

12 **§162.20. Perpetrator Assumes Risks of Loss, Injury or Death.**

13 A perpetrator assumes the risk of loss, injury, or death resulting from or
14 arising out of a course of criminal conduct involving a crime, as defined
15 in this Act, engaged in by the perpetrator or a person who aids or abets
16 the perpetrator, as defined in Title 9, Guam Code Annotated, and the
17 crime victim is immune from and *not* liable for any damages as a result
18 of acts or omissions of the victim unless the victim used unreasonable
19 force. However, the perpetrator's assumption of risk does *not* eliminate
20 the crime victim's duty to protect against conditions upon the premises
21 which the crime victim knows or has reason to know may create an
22 unreasonable risk of harm or which may cause a foreseeable trespass by
23 minors, nor does the assumption of risk apply to perpetrators who are
24 mentally incompetent, nor does the assumption of risk apply to injury
25 or damage resulting from the criminal acts by the victim.

1 **§162.30. Guilty Verdict or Plea Constitutes Proof of**
2 **Assumption of Risk.** Notwithstanding other evidence that the victim
3 may adduce relating to the perpetrator's conviction of the crime
4 involving the parties to a claim for relief, a certified copy of a guilty
5 plea, a court judgment of guilt, a court record of conviction, or an
6 adjudication as a delinquent child is conclusive proof of the
7 perpetrator's assumption of the risk.

8 **§162.40. Perpetrator to Pay Reasonable Expenses of the**
9 **Victim.** *If* the perpetrator does *not* prevail in a claim for relief that is
10 subject to this Act, the court may award reasonable expenses, including
11 attorney's fees and disbursements, to the victim.

12 **§162.50. Stay of Relief During Criminal Action Against**
13 **Plaintiff.** *Except* to the extent needed to preserve evidence, any claim
14 for relief in which the defense set forth in this Chapter is raised shall be
15 stayed by the court on the motion of the defendant during the pendency
16 of any criminal action against the plaintiff based on the alleged crime.

17 **§162.60. Severability.** *If* any of the provisions of this Chapter,
18 or the application thereof to any person or circumstance, are held
19 invalid, such invalidity shall *not* affect any other provision or
20 application of this Chapter which can be given effect without the invalid
21 provision or application, and to this end the provisions of this Chapter
22 are severable."



Committee on Judiciary & Transportation

I Mina' Bente Siete Na Liheslaturan Guåhan

DEC 15 2004

*Twenty-Seventh
Guam Legislature*

The Honorable Vicente C. Pangelinan
Speaker
I Mina' Bente Siete Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

CHAIRMAN:
Senator F Randall
Cunliffe

Dear Speaker Pangelinan:

Vice Chairman:
Senator John M.
Quinata

The Committee on Judiciary & Transportation, to which **Bill 375 (COR) – AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, CREATING THE VICTIMS IMMUNITY ACT OF 2004** was referred, wishes to report its findings and recommendations **TO DO PASS.**

Members:
Senator Robert
Klitzkie

Senator Lou A.
Leon Guerrero

Senator Jesse
Anderson Lujan

Senator Tina R.
Muña-Barnes

Senator Rory J.
Respicio

Senator Antoinette
(Toni) D. Sanford

The voting record is as follows:

TO PASS	<u>5</u>
NOT TO PASS	<u>0</u>
TO ABSTAIN	<u>0</u>

Office Address:
Ada's
Commercial &
Professional Center

138 E. Marine Dr.
Hagatna, Guam
(USA) 96910

Mailing Address:
155 Hessler St.
Hagåtña, Guam 96910

Tel: 671.477.5310
Fax: 671.477.5300

Email:
frcunliffe@netpci.com

Copies of the Committee Report and other pertinent documents are attached with this correspondence. Thank you for your consideration.

Sincerely,

F RANDALL CUNLIFFE
CHAIRMAN

Attachments

cc: Senator Lou Leon Guerrero, Chairperson
Committee on Rules & Health



*Twenty-Seventh
Guam Legislature*

CHAIRMAN:
**Senator F Randall
Cunliffe**

Vice Chairman:
**Senator John M.
Quinata**

Members:
**Senator Robert
Klitzkie**

**Senator Lou A.
Leon Guerrero**

**Senator Jesse
Anderson Lujan**

**Senator Tina R.
Muña-Barnes**

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Committee on Judiciary & Transportation

I Mina' Bente Siete Na Liheslaturan Guåhan

DEC 15 2004

MEMORANDUM

TO: MEMBERS, COMMITTEE ON JUDICIARY & TRANSPORTATION
FROM: CHAIRMAN
SUBJECT: COMMITTEE REPORT – BILL NO. 375 (COR)

Transmitted for your information and action is the committee report on **BILL NO. 375 (COR) – AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, CREATING THE VICTIMS IMMUNITY ACT OF 2004.**

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Public Hearing Sign-in Sheet
4. Notice of Public Hearing.

Please review the attached Committee Report and take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or the accompanying documents, please do not hesitate to contact me or my Committee Director, Joshua Tenorio.

Sincerely,

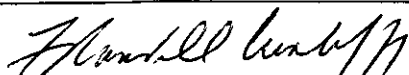

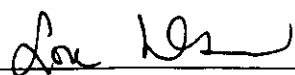

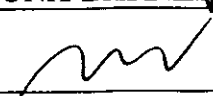
F RANDALL CUNLIFFE

Attachments

COMMITTEE ON JUDICIARY & TRANSPORTATION

Voting Record Sheet

BILL NO. 375 (COR) – AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; REPEAL CHAPTER 87 OF TITLE 9, GUAM CODE ANNOTATED; AMEND AND MOVE CHAPTER 86, TITLE 9, GUAM CODE ANNOTATED TO TITLE 8, GUAM CODE ANNOTATED CHAPTER 161: TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, CREATING THE VICTIMS IMMUNITY ACT OF 2004.

COMMITTEE MEMBERS	TO PASS	NOT TO PASS	TO ABSTAIN
 CUNLIFFE, FRANDALL, Chairman	✓		
 QUINATA, JOHN M., Vice Chairman	✓		
KLITZKIE, ROBERT			
 LEON GUERRERO, LOU A.	✓		
LUJAN, JESSE A.			
 MUÑA-BARNES, TINA R.	✓		
 RESPICIO, RORY J.	✓		
SANFORD, ANTOINETTE D.			

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
COMMITTEE ON JUDICIARY & TRANSPORTATION

F. RANDALL CUNLIFFE, CHAIRMAN

COMMITTEE REPORT

ON

BILL: 375COR)

AN ACT TO AMEND CHAPTER 160, TITLE 8, GUAM CODE ANNOTATED, TO ENACT THE CRIME VICTIM'S RIGHTS ACT OF 2004; TO PROVIDE FOR CERTAIN PROCEDURES; TO ESTABLISH CERTAIN IMMUNITIES AND DUTIES; REPEAL CHAPTER 87 OF TITLE 9 GCA.; AMEND AND MOVE CHAPTER 86, TITLE 9, GCA TO TITLE 8, GCA CHAPTER 161; TO LIMIT CONVICTED CRIMINALS FROM DERIVING PROFIT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR PENALTIES AND REMEDIES; AND TO ENACT A NEW CHAPTER 162 TO TITLE 8, CREATING THE VICTIMS IMMUNITY ACT OF 2004.

December 2, 2004

- The Office of the Attorney General is to provide a special hotline for crime victims;
- Victims have the right to address or submit statements to the parole board and shall receive adequate notice for such proceedings;

Also included in Bill 375 are the following provisions:

- Redress for employee's who are threatened with discharge or discipline for participating in court proceedings;
- Mandate for the Supreme Court to promulgate witness and victim protection guidelines;
- Consultation with victims relative to plea agreements;
- Notification and explanation of appeal process victims for related criminal cases;
- Notification on transfers of prisoner, release of prisoner, escape of prisoner, decision of the parole board, request for pardon or commutation by prisoner, name change by prisoner; conviction of another crime by prisoner; return from parole status by prisoner.
- Exemption of victim's address and telephone numbers from the privacy act;
- Amendments to the enabling act of the Criminal Injuries Compensation Commission;
- A new Chapter 162 – Victims Immunity Act of 2004 which will prevent criminals from suing their victims

III. SUMMARY OF TESTIMONY

Testimony was solicited from the following:

- Mr. Peter Roberto, Director, Dept. of Mental Health & Substance Abuse
- Attorney General Douglas B. Moylan
- Chief Justice F. Phillip Carbullido, Supreme Court of Guam
- Ms. Kathleen Maher, Director, Public Defender Service Corporation
- Ms. Michelle Camacho, Program Director, Victims Advocates Reaching Out
- Ms. Renata Bordallo, President, National Association of Social Workers

Written Testimony was received from the following:

- Ms. Leah G. Fernandez – IN FAVOR
- Ms. Buena Fernandez Lacno – INFAVOR
- Ms. Angelita P. Mendiola – IN FAVOR
- Mr. John Gillis, Director, Office of Justice Programs, U.S. Department of Justice – IN FAVOR
- Mrs. Julia Lujan Warwick – IN FAVOR

Oral Testimony was received from the following:

- Hon. Nonito C. Blas, Mayor of Mangilao – IN FAVOR

COMMITTEE ON JUDICIARY & TRANSPORTATION
SENATOR F RANDALL CUNLIFFE, CHAIRMAN

Public Hearing
8:30 AM November 18, 2004
Public Hearing Room, Guam Legislature

BILL NO. 375 (COR) - "THE CRIME VICTIMS ACT OF 2004".

Name (Please Print)	Agency/Organization	Contact #	Oral Testimony	Written Testimony	In Favor	Not in Favor
1. Leah G. Fernandez				✓	✓	
2. Buena Fernandez Loeno				✓	✓	
3. Angelita P. Manchiok				✓	✓	
4. John Gillis, Director	Office for Victims of Crim - USDOJ			✓		
5. Nito Blas			✓		✓	
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						



Print - Close Window

From: "carmen fernandez" <sencarm@ite.net>
To: "Joshua Tenorio" <joshuatenorio@yahoo.com>
Subject: Fw: public hearing
Date: Wed, 17 Nov 2004 13:01:25 +1000

Testimony for Bill 375 public hearing:

----- Original Message -----

From: Fernandez Family
To: Senator C. Fernandez
Sent: Wednesday, November 17, 2004 12:27 AM
Subject: public hearing

17 November 2004

Dear Senator Carmen Fernandez,

My sister and I will not be able to attend the hearing tomorrow which may just be as well because my mother definitely will be present. It is hard in our part to see our mother with so much

sadness although she always tries to mask her grief on losing an only son. My mother had always been a strong person, even after her stroke which left half of her body paralyzed, she never

stopped helping people to the best of her ability. Mama is well enough to drive but there are days when poor health limits her activities but she succeeds in finding ways to go where she wants to go. I

wish you were able to meet my mother when she was a spitfire. She would go to the end of the earth for those who needed help and those who knew her considered her a pillar of strength because

when everyone else felt helpless, my mother would take the helm and always managed to lead to the right direction. So you see, when my brother Miles was murdered, we not only lost a loved one

who was quiet, respectful, generous, always helpful, honest and hardworking - a role model to his peers, the community also lost one of the most dependable women in our community - my Mama. My

mother has been seeing a psychiatrist since my brother died because it's been hard for her to lead a normal life; her sorrow has taken its toll on her health, physically and emotionally. It is only Mama's

faith in God which keeps her from completely falling apart. She said she's trying to survive because she has to take care of the family but aside from our clan, family friends worry about my parents. My

brother's death devastated my father so much that he could not even look at my brother's dead body, not even to say his last goodbye. Papa is always deep in thought and does not say much but the

other day I heard him asking my mother why his sadness goes deeper as days go by. It is my parents' pain which makes me feel sad and bitter. I asked members of our clan if they would like to attend

the hearing but they don't want to hope for justice because they believe that criminals get more rights and privileges than victims of crime. My mother believes in justice but not the one while we are still

living. She believes that the scale of justice is even in the eternal life. Yes, the judicial system failed my brother. He was murdered by a repeat offender who has been in and out of prison but who

was able to pursue his enjoyment in hurting people even while under probation. The memory of my brother's brutal murder haunts not only us, his family, but also his friends and those who knew him.

Does one have to lose a loved one to a ruthless killer in order for him/her to understand that justice means the world to the victim's family? Not only as part of the healing process, but also as a sense of

security for the community we care about, I would like to see justice done.

On behalf of my clan and those who are grieving for my beloved brother, I am thanking you, Senator Fernandez, for leading this fight for crime victim's rights. Please print and give out this letter to

those concerned. Tomorrow is a day of trial not only for criminals but also for those who have to hear us out. May the good Lord guide our law makers in making their decisions.

Truly yours,

Leah G. Fernandez

November 18, 2004

Senator Carmen Fernandez
27th Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Dear Senator Fernandez,

I regret to inform you that I will not be able to attend the public hearing for victim's rights today because I cannot take time off from work as a teacher. I really would like our legislators to hear about our great loss when our only brother, Miles, was killed and how it has affected our family and those who loved and respected him

First, let me tell you about my brother. Miles was the youngest in the family; my sister and I could not help but give him special attention but he did not grow up spoiled. His sense of responsibility was extra ordinary – his friends, comrades in the U.S. Air Force, and co-workers at TSA said that Miles was always dependable. He worked his way through college - did his school work until three in the morning, cooked breakfast for the family before getting his sleep and he never considered giving up when faced with difficult situations. He was loved because of his caring ways, not only for the family but also for the whole clan and those he knew. Miles was quiet but anyone could sense the respect he had for others, his generosity, his love for our parents, his fondness for his only nephew (my son Alec) and his honesty. His deep faith in God and his love for his country were like an aura, which everyone could sense. At the Air Force Reserve, his nickname was "Smiley" and at TSA, his co-workers called him "Sunshine" because his attitude brightened the workplace. More than a thousand members of the clan, friends, co-workers and those whose lives he touched attended his funeral. Our parish priest who only knew Miles as a consistent member of our church said that he could tell how Miles lived life based on the number of mourners at his funeral and the sorrow they showed. Miles was only 27 years old.

It has been almost one and a half years since Miles died and life is still a struggle to cope with the loss of the most loved member of the family. My sister who is a mild mannered schoolteacher has recurring nightmares about the brutality of Miles' death. My father has become prematurely old since Miles died and my mother who used to be a pillar of strength to the family and to those who needed help is under psychiatric treatment. I belong to a family where God is the central figure and we have never lost faith in God but our human nature is not spared from the sorrow and bitterness which are brought about by Miles' passing. Our sense of security has been violated and I am praying hard that our lawmakers do something to make this island a better place to live in and for justice to prevail.

May God bless you and guide you in your daily undertakings.

Respectfully,



Buena Fernandez Lacno

P.S. Please use this as my testimony in the public hearing. Thank you.

**TESTIMONING IN SUPPORT OF BILL 375
VICTIM'S RIGHTS
PRESENTED TO EDUCATION AND HOUSING COMMITTEE
I MINA BENTE' SIETE NA LIHESLATURAN GUAHAN
NOVEMBER 18, 2004**

THANK YOU FOR THE OPPORTUNITY TO EXPRESS MY STRONG SUPPORT
IN FAVOR OF BILL 375, VICTIM'S RIGHTS.

AS A VICTIM OF THE MURDER OF A REARED NIECE YEARS AGO, I
FEEL THAT BILL 375 WILL HELP PREVENT OTHER FAMILY VICTIMS
FROM EXPERIENCING THE MENTAL AND EMOTIONAL ANGUISH THAT OUR
FAMILY EXPERIENCED DURING THOSE DIFFICULT TIMES. ALTHOUGH,
NOTHING WILL ERASE OUR SORROW AND PAIN, BILL 375
WILL HELP ENSURE THE RIGHTS OF VICTIMS TO BE INFORMED AND TO BE
INVOLVED IN ANY DECISION PERTAINING TO THE CRIME. UNLIKE OUR
PAINFUL EXPERIENCES, BILL 375 WILL ASSURE VICTIMS THE
RIGHTS TO BE INFORMED WITHOUT HAVING TO RELY ON THE LOCAL
MEDIA FIRST. BILL 375 WILL ADDRESS THE MANY OBSTACLES THAT
VICTIMS HAVE TO ENDURE TO REALIZE THAT JUSTICE IS SERVED
TO THE HIGHEST STANDARD FROM BEGINNING TO END.

THE MURDERER OF MY NIECE ESCAPED PRISON YEARS
AGO AND I REMEMBER HEARING IT FROM ANOTHER SOURCE BEFORE
WE RECEIVED NOTICE FROM THE OFFICIALS. THE FEAR OF HIS

ESCAPED HAD US REACHING INTO OUR LIMITED FUNDING TO SEND MY NIECE'S YOUNG CHILDREN AND HER PARENTS OFF-ISLAND! THE LACK OF COMMUNICATION WITH THE AUTHORITIES CAUSED GREAT HARDSHIP AND FEAR ON THE FAMILY.

THE PASSAGE OF BILL 375 WILL HELP PROVIDE AN IMPORTANT PROTECTION AND STRONGER RIGHTS FOR VICTIMS AND THEIR FAMILIES. NECESSARY FUNDING NEEDS TO BE IDENTIFIED AND THAT APPROPRIATE AGENCIES ARE BUDGETED TO FACILITATE AND TO EFFECTIVELY IMPLEMENT THE INTENT OF BILL 375, SHOULD IT BECOME LAW WITH ITS PASSAGE.

AGAIN, THANK YOU FOR THIS OPPORTUNITY.

PRESENTED TO SENATOR CARMEN FERNANDEZ, EDUCATION AND HOUSING COMMITTEE CHAIRMAN AND COMMITTEE MEMBERS.

RESPECTFULLY SUBMITTED,



ANGELITA P. MENDIOLA
632-2560



John W. Gillis

2004 NOV 18 PM 12: 21

U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

Washington, D.C. 20531

November 15, 2004

Dr. Carmen Fernandez
Senator, 27th Guam Legislature
Chair, Education and Housing Committee
155 Hesler Street
Hagatna, Guam 96910

Dear Senator Fernandez:

I am writing to express my support for Guam's Victims' Rights Act of 2004. I applaud and appreciate all of your efforts to enact legislation advancing the rights of crime victims within the Territory of Guam.

As you may know, President Bush recently signed the Justice for All Act of 2004, Public Law 108-405, which codifies the rights of crime victims with respect to the federal criminal justice system. As part of that legislation, Congress authorized the Office for Victims of Crime to provide training and technical assistance to state and tribal jurisdictions that wish to craft state-of-the-art victims' rights laws and design compliance systems to ensure that those rights are enforced.

I look forward to working with you to ensure that victims of crime are not only treated with dignity and respect by the criminal justice system, but that they are allowed to be full participants within that system.

Again, thank you for all of your hard work on behalf of victims of crime.

Sincerely,

John W. Gillis
Director

carmen fernandez

From: "Alan & Julia Warwick" <ajwarwick@npgcable.com>
To: <sencarm@ite.net>
Cc: "The Marianos" <isiana@guam.net>
Sent: Thursday, November 18, 2004 12:05 PM
Subject: Bill 375 Victim's Rights Act of 2004

Senators Carmen Fernandez, T.R. Muna-Barnes, L.A. Leon Guerrero,
I Mina Bente Siete Na Liheslaturan Guahan

Dear Senators,

I am writing as someone who has endured the murder of a loved one in support of Bill No. 375 Victim's Rights Act of 2004, most especially the section regarding the right, as a representative of the primary victim, to be informed of, to attend, and to make statements at certain court proceedings involving criminal defendants.

During the early morning hours of May 25, 1989, I received a phone call that changed my entire life. It was news that my beautiful 16 1/2 year old daughter, Melanie Angel Lujan Cruz, was the innocent victim of a violent crime. On October 29th of this year, my daughter would have been 32 years old. Each year on Melanie's birthday and the anniversary of her death, I experience feelings of emptiness. I long so much to be able to speak to her, hug her and have those moments that mother's and daughter's share. This year these feelings were stronger than ever. Even as I'm writing to you now I feel myself getting choked up and my heart aches. Melanie's brother, Duane, also feels the loss and frequently misses the moments that they too would have shared.

Both the perpetrator and I have been given life sentences. As Melanie's representative, I think it is my right to be included in any proceedings that involve Richard Quichocho. I now live in Arizona and have read Arizona's Victim's Rights statute; I agree with it absolutely and I believe that your proposal will benefit Guam and greatly assist victim's of violent crime in their healing process.

Thank you for your continued support.

Sincerely,

Mrs. Julia Lujan Warwick
421 W. Cedar Ave, Hse #2
Flagstaff, AZ 86001
(928) 707-0229
Email: ajwarwick@npgcable.com