



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

22 MAY 2008

2008 MAY 23 AM 10:30

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Bente Nuebi Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 161 (LS), "AN ACT TO AMEND SUBSECTION (c) OF §45.10 OF CHAPTER 45 OF TITLE 8 GUAM CODE ANNOTATED, RELATIVE TO THE DUTY TO DELIVER AN ARRESTEE TO A JUDGE, " which I have signed into law on May 9, 2008, as Public Law 29-75.

Guam law currently requires an officer making an arrest without a warrant to take the arrestee before a judge within twenty-four (24) hours. Bill No. 161 extends the time to deliver an arrestee to a judge to forty-eight (48) hours. The amendment would enhance the ability of the Office of the Attorney General and the Guam Police Department to serve the public.

However, the final clause of Bill 161 could open the door for indefinite detention. The last part of the bill states that "except that when the forty-eight (48) hour period expires, it is the burden of the government to demonstrate that a bona fide emergency or an extraordinary circumstance existed." This exception swallows the rule, and seems to mean that as long as the Attorney General has an excuse, it can disregard the proposed forty-eight (48) hour rule for as long as it wants.

Any time a law affects the liberty of an individual it should have its limits clearly defined and narrowly tailored. However, the statute does not provide guidance of what it means by "a bona fide emergency or an extraordinary circumstance." Unfortunately, it does not specify when and who will make the determination whether the Attorney General demonstrated "a bona fide emergency or an extraordinary circumstance" really exists. Therefore, subsequent legislation may need to further define "a bona fide emergency or an extraordinary circumstance" and provide a time and place for the Attorney General to demonstrate that this requirement is met.

Sinseru yan Magåhet,
[Signature]

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

29-08-0342

Office of the Speaker
Judith T. Won Pat, Ed.D
Date 5/22/08
Time 11:40
Received by [Signature]

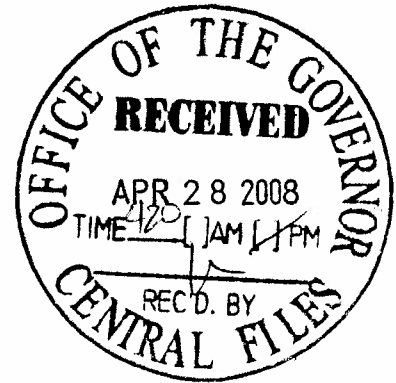
Attachment
1579



FILE COPY

MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 28, 2008



The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 99(LS), 161(LS), 243(LS), 247(LS), 264(EC); and Substitute Bill Nos. 95(LS), 205(EC), 223(LS) & 226(LS) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on April 25, 2008.

Sincerely,

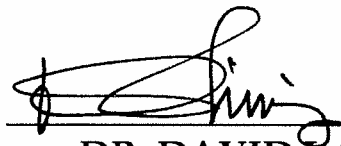
TINA ROSE MUNA BARNES
Senator and Secretary of the Legislature

Enclosures (9)

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

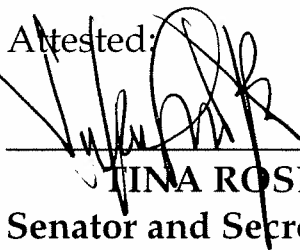
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 161 (LS), "AN ACT TO AMEND SUBSECTION (c) OF §45.10 OF CHAPTER 45 OF TITLE 8 GUAM CODE ANNOTATED, RELATIVE TO THE DUTY TO DELIVER AN ARRESTEE TO A JUDGE," was on the 25th day of April, 2008, duly and regularly passed.



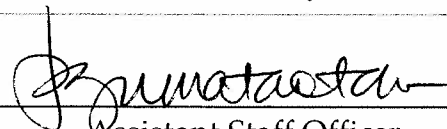
DR. DAVID L.G. SHIMIZU
Acting Speaker

Attested:



TINA ROSE MUÑA BARNES
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 28 day of April, 2008, at
4:20 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 9 MAY 2008

Public Law No. 29-75

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Bill No. 161 (LS)

As amended on the Floor.

Introduced by:

Frank T. Ishizaki
Frank F. Blas, Jr.
James V. Espaldon
Edward J.B. Calvo
B. J.F. Cruz
Mark Forbes
Judith Paulette Guthertz, DPA
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Dr. David L.G. Shimizu
Ray Tenorio
J. T. Won Pat, Ed.D.

**AN ACT TO *AMEND* SUBSECTION (c) OF §45.10 OF
CHAPTER 45 OF TITLE 8, GUAM CODE ANNOTATED,
RELATIVE TO THE DUTY TO DELIVER AN ARRESTEE TO
A JUDGE.**

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

2 **Section 1.** Subsection (c) of §45.10 Title 8, Guam Code Annotated, is
3 hereby *amended* to read as follows:

4 “(c) The person arrested *shall* in all cases be taken before the judge
5 within forty-eight (48) hours after the arrest, *except* that when the forty-eight (48)
6 hour period expires, it is the burden of the government to demonstrate that a bona
7 fide emergency *or* an extraordinary circumstance existed.”

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
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