

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
102-33 (COR)	B.J.F. Cruz	AN ACT TO AMEND 22 GCA §§ 5201 AND 5202, AND TO AMEND 5 GCA § 4101(a); RELATIVE TO DISCRIMINATION IN THE WORKPLACE AND TO CITING THIS ACT AS THE GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015.	05/22/15 3:15 p.m.	05/23/15	Committee on Rules, Federal, Foreign and Micronesia Affairs, Human and Natural Resources, Election Reform and Capitol District			



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature

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May 23, 2015

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson, Committee on Rules

Subject: **Referral of Bill No. 102-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 102-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.


Si Yu'os Ma'åse!

Attachment

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 102-33 (COR)

Introduced by:

B.J.F. Cruz 

AN ACT TO AMEND 22 GCA §§ 5201 AND 5202, AND TO AMEND 5 GCA § 4101(a); RELATIVE TO DISCRIMINATION IN THE WORKPLACE AND TO CITING THIS ACT AS THE GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015.

2015 MAY 22 PM 3:15

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

2 **Section 1. Title.** This Act may be known and referred to as the
3 *Guam Employment Nondiscrimination Act (GENDA) of 2015.*

4 **Section 2. Nondiscrimination in Employment.** 22 GCA § 5201 is
5 *amended* to read:

6 “§ 5201. Discriminatory Practices Made Unlawful; Offenses
7 Defined. It shall be an unlawful employment practice or unlawful
8 discrimination:

9 (a) For any employer to refuse to hire or employ or to bar
10 or discharge from employment, or otherwise to discriminate
11 against any individual in compensation or in the terms,
12 conditions, or privileges of employment because of race, sex
13 including gender identity or expression, age, religion, color,

1 honorably discharged veteran and military status, sexual
2 orientation, or ancestry.

3 (b) For any employment agency to fail or refuse to refer
4 or employ, or to classify or otherwise to discriminate against
5 any individual because of race, sex including gender identity or
6 expression, age, religion, color, honorably discharged veteran
7 and military status, sexual orientation, or ancestry.

8 (c) For any employer or employment agency to print,
9 circulate or cause to be printed or circulated any statement,
10 advertisement or publication or to use any form of application
11 for employment or to make any inquiry in connection with
12 prospective employment, which expresses, directly or
13 indirectly, any limitation, specification or discrimination as to
14 race, sex including gender identity or expression, age, religion,
15 color, honorably discharged veteran and military status, sexual
16 orientation, or ancestry, unless based on a bona fide
17 occupational qualification;

18 (d) For any labor organization to exclude or expel from
19 its membership any person or to discriminate in any way
20 against any of its members, employer or employees because of
21 race, sex including gender identity or expression, age, religion,
22 color, honorably discharged veteran and military status, sexual
23 orientation, or ancestry;

24 (e) For any employer, labor organization or employment
25 agency to discharge, expel, or otherwise discriminate against
26 any person because he has opposed any practice forbidden by
27 this Chapter, or because he has filed a complaint, testified or

1 assisted in any proceeding respecting the employment practices
2 and discrimination prohibited under this Chapter.

3 (f) For any person whether an employer, employee or
4 not, to aid, abet, incite, compel or coerce the doing of any of the
5 practices forbidden by this Chapter, or to attempt to do so.

6 (g) for any employer, labor organization or employment
7 agency to require any person to become or remain a member of
8 any labor union or labor organization as a condition of
9 employment or continuation of employment, or to require a
10 person to abstain or refrain from membership in any labor
11 union or labor organization as a condition of employment or
12 continuation of employment, or to require any person to pay
13 dues, fees or other charges of any kind to any labor union or
14 labor organization as a condition of employment.”

15 **Section 3. Statutory Definitions.** 22 GCA § 5202 is *amended* to read:
16 “§ 5202. Definitions. As used in this Chapter:

17 (a) *Disability* means any condition or characteristic that renders
18 a person a disabled person as defined in Subsection (b) of this Section.

19 (b) *Disabled person* means any person who:

20 (1) has a physical or mental impairment which
21 substantially limits one or more major life activities;

22 (2) has a history of, or has been classified as having an
23 impairment which substantially limits one or more major life
24 activities;

25 (3) has a physical or mental impairment that does not
26 substantially limit major life activities but that is treated by
27 others as constituting such a limitation; or

1 (4) has a physical or mental impairment that substantially
2 limits major life activities only as a result of the attitudes of
3 others as having such an impairment.

4 (c) *Discriminate* or *discrimination* means to segregate or
5 unreasonably differentiate in treatment, whether intended or
6 unintended, or to act in a manner fair in form but discriminatory in
7 operation based upon disability or use of adaptive devices.

8 (d) *Major life activities* means functions such as, but not limited
9 to, caring for one's self, performing manual tasks, walking, seeing,
10 hearing, speaking, breathing, learning and working.

11 (e) *Physical or mental impairment* means:

12 (1) any physiological disorder or condition, cosmetic
13 disfigurement or anatomical loss affecting one or more of the
14 following body systems: neurological, musculoskeletal, special
15 sense organs, respiratory, including speech organs,
16 cardiovascular, reproductive, digestive genito-urinary, hemic
17 and lymphatic, skin and endocrine; or

18 (2) any mental or physiological disorder, such as mental
19 retardation, organic brain syndrome, emotional or mental illness
20 and specific learning disabilities.

21 (f) *Use of adaptive device* means the utilization of any item to
22 compensate for a physical or mental impairment, including but not
23 limited to, braces or other supports, wheel chairs, talking boards,
24 hearing aids, corrective lenses or seeing eye dogs.

25 (g) *Qualified individual* means an individual who can perform
26 the essential functions of the job in question. As applied to a disabled
27 individual, qualified individual means an individual who, with

1 reasonable accommodation, can perform the essential functions of the
2 job in question. Receipt or alleged receipt of treatment for a disability,
3 whether physical or mental shall not constitute evidence of a person's
4 inability to perform the essential functions of a particular job or
5 position. In addition, uninsurability or increased cost of insurance
6 under a group or employee insurance plan does not render a disabled
7 person unqualified.

8 If a disabled person is qualified to perform a particular
9 occupation by reason of training or experience, the nature of that
10 occupation shall not be the basis for exception to the unfair or
11 discriminatory practices prohibited by this Section.

12 (h) Sexual orientation means having a preference for
13 heterosexuality, homosexuality, or bisexuality, having a history of any
14 one or more of these preferences, or being identified with any one or
15 more of these preferences.

16 (i) Gender identity or expression means a person's actual or
17 perceived gender, as well as a person's gender identity, gender-related
18 self-image, gender-related appearance, or gender-related expression,
19 regardless of whether that gender identity, gender-related self-image,
20 gender-related appearance, or gender-related expression is different
21 from that traditionally associated with the person's sex at birth.

22 (j) Veteran and military status means a person's status on active
23 duty in or status as a veteran of the armed forces of the United States,
24 status as a current member or veteran of any reserve component of the
25 armed forces of the United States, including the United States Army
26 Reserve, United States Marine Corps Reserve, United States Navy
27 Reserve, United States Air Force Reserve, and United States Coast

1 Guard Reserve, or status as a current member or veteran of the Guam
2 National Guard.”

3 **Section 4. Employment in the Service of the Government of**
4 **Guam.** 5 GCA § 4101(a) is *amended* to read:

5 “(a) Employment in the service of the government of Guam
6 shall be based upon merit, and selection and promotion of employees
7 shall be free of personal or political consideration. No person shall be
8 discriminated against in an application for employment or promotion
9 or dismissed from employment on account of honorably discharged
10 veteran and military status, sexual orientation, race, color, age,
11 religion, sex including gender identity or expression, national origin
12 or physical or mental impairment. No person shall be discriminated
13 against in an application for employment or promotion or dismissed
14 from employment because of the country where the college or
15 university from which he received any degree or training is located.
16 All personnel actions, including appointments and promotions, shall
17 be based, insofar as practicable, on competitive practical tests and
18 evaluations. Continuity of employment shall be dependent upon good
19 behavior, satisfactory performance and availability of funds. For the
20 purpose of this Section, the terms *sexual orientation, gender identity*
21 *or expression, veteran and military status* shall be defined in 22 GCA
22 § 5202.”

23 **Section 5. Religious Exemption.**

24 (a) In General. This Act shall not apply to a corporation, association,
25 educational institution or institution of learning, or society that is exempt
26 from the religious discrimination provisions of Title VII of the Civil Rights
27 Act of 1964 (42 U.S.C. 2000e et seq.) pursuant to section 702(a) or

1 703(e)(2) of such Act (42 U.S.C. 2000e–1(a), 2000e–2(e)(2)) (referred to in
2 this section as a “religious employer”).

3 (b) Prohibition On Certain Government Actions. A religious
4 employer's exemption under this section shall not result in any action by the
5 government to penalize or withhold licenses, permits, certifications,
6 accreditation, contracts, grants, guarantees, tax-exempt status, or any
7 benefits or exemptions from that employer, or to prohibit the employer's
8 participation in programs or activities sponsored by that government.
9 Nothing in this subsection shall be construed to invalidate any other law
10 (including a regulation) that otherwise applies to a religious employer
11 exempt under this section.

12 **Section 6. Codification.** The Compiler of Laws is authorized to
13 codify Section 6 of this Act within the appropriate title of the Guam Code
14 Annotated. Section 6 shall only apply to the specific amendments made
15 pursuant to this Act.

16 **Section 7. Severability.** If any provision of this Act or its application
17 to any person or circumstance is found to be invalid or contrary to law, such
18 invalidity shall not affect other provisions or application of this Act which
19 can be given effect without the invalid provisions or application, and to this
20 end the provisions of this Act are severable.

21 **Section 8. Enactment.** This Act shall be effective upon enactment.