

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
319-36 (COR) As amended by the Prime Sponsor; and further amended by the Committee on Health, Land, Justice, and Culture.	Therese M. Terlaje Telo T. Taitague	AN ACT TO ADD A NEW CHAPTER 42C TO DIVISION 3 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "ENDING FORCED ARBITRATION OF SEXUAL ASSAULT AND SEXUAL HARASSMENT ACT OF 2021" INTO GUAM LAW.	6/16/22 8:14 a.m.	7/1/22	Committee on Health, Land, Justice, and Culture	7/18/22 1:00 p.m.	10/10/22 12:54 p.m.	Waiver: 6/29/22	6/28/22 As amended by the Prime Sponsor.
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	NOTES			
	10/21/22	AN ACT TO ADD A NEW CHAPTER 42C TO DIVISION 3 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "ENDING FORCED ARBITRATION OF SEXUAL ASSAULT AND SEXUAL HARASSMENT ACT OF 2022" INTO GUAM LAW.	10/28/22	10/28/22	11/9/22				



COPY

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
Thirty-Sixth Guam Legislature

October 28, 2022

The Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ufisinan I Maga'håga
Hagåtña, Guam 96910

Dear *Maga'håga* Leon Guerrero:

Transmitted herewith are **Bill Nos. 248-36 (COR), 262-36 (LS), 297-36 (LS), 311-36 (COR), 319-36 (COR), 335-36 (COR), and 340-36 (LS)** which were passed by *I Mina'trentai Sais Na Liheslaturan Guåhan* on October 28, 2022.

Sincerely,

AMANDA L. SHELTON
Legislative Secretary

Enclosure (7)

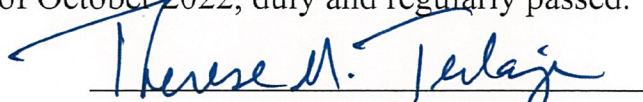
10/28/22 6:19pm
PO3 ccehars




I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

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

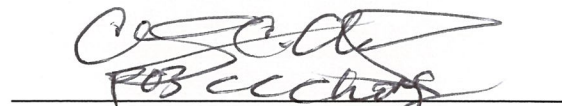
This is to certify that **Bill No. 319-36 (COR)**, "AN ACT TO *ADD* A NEW CHAPTER 42C TO DIVISION 3 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "*ENDING FORCED ARBITRATION OF SEXUAL ASSAULT AND SEXUAL HARASSMENT ACT OF 2022*" INTO GUAM LAW," was on the 28th day of October 2022, duly and regularly passed.


Therese M. Terlaje
Speaker

Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28th day of Oct,
2022, at 6:19 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 319-36 (COR)

As amended by the Prime Sponsor;
and further amended by the Committee on Health,
Land, Justice, and Culture.

Introduced by:

Therese M. Terlaje
Telo T. Taitague
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Tina Rose Muña Barnes
Telen Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Jose “Pedro” Terlaje
Mary Camacho Torres

**AN ACT TO *ADD* A NEW CHAPTER 42C TO DIVISION 3
OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE
TO ENACTING THE “*ENDING FORCED ARBITRATION
OF SEXUAL ASSAULT AND SEXUAL HARASSMENT ACT
OF 2022*” INTO GUAM LAW.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 42C is *added* to Division 3 of Title 7, Guam Code
Annotated, to read:

“CHAPTER 42C

**ENDING FORCED ARBITRATION OF SEXUAL ASSAULT
AND SEXUAL HARASSMENT ACT OF 2022**

§ 42C100. Title.

§ 42C101. Legislative Statement

1 § 42C102. Definitions.

2 § 42C103. No Validity or Enforceability.

3 § 42C104. Determination of Applicability.

4 **§ 42C100. Title.**

5 This Chapter may be cited as the “Ending Forced Arbitration of Sexual
6 Assault and Sexual Harassment Act of 2022.”

7 **§ 42C101. Legislative Statement.**

8 *I Liheslaturan Guåhan* finds that on March 3, 2022, President Joseph
9 Robinette Biden Jr. enacted U.S. Public Law No. 117-90, the “Ending Forced
10 Arbitration of Sexual Assault and Sexual Harassment Act of 2021,” into law. Public
11 Law No. 117-90 prohibits the enforcement of mandatory, pre-dispute arbitration
12 provisions in cases involving sexual assault or sexual harassment. According to the
13 Purpose and Summary section of the Committee Report on the bill, the “*Ending*
14 *Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021*, would
15 *prohibit the enforcement of mandatory, pre-dispute arbitration* (‘forced
16 *arbitration*’) *provisions in cases involving sexual assault or sexual harassment.*
17 *Over the past several decades, forced arbitration clauses have become virtually*
18 *ubiquitous in everyday contracts. Often buried deep within the fine print of*
19 *employment and consumer contracts, forced arbitration deprives millions of*
20 *Americans of their day in court to enforce state and federal rights. Because*
21 *arbitration lacks the transparency and precedential guidance of the justice system,*
22 *there is no guarantee that the relevant law will be applied to these disputes or that*
23 *fundamental notions of fairness and equity will be upheld in the process.*
24 *Furthermore, due to the secretive nature of this system, these disputes are often*
25 *shielded from public scrutiny.”* The report further states that this legislation “*would*
26 *restore access to justice for millions of victims of sexual assault or harassment who*
27 *are currently locked out of the court system and are forced to settle their disputes*
28 *against companies in a private system of arbitration that often favors the company*

1 over the individual. This critical legislation is supported by a coalition of survivors
2 of sexual harassment or assault and their allies, including the National Center on
3 Domestic and Sexual Violence, the National Coalition Against Domestic Violence,
4 the National Domestic Violence Hotline, the National Network to End Domestic
5 Violence, RAINN, and the Sexual Violence Prevention Association, among others. It
6 is also supported by numerous public interest and advocacy organizations, such as
7 Public Citizen and the American Association of Justice.”

8 *I Liheslaturan Guåhan* further finds that there is no operative language which
9 automatically applies U.S. Public Law 117-90 to Guam. Guam implemented its own
10 arbitration procedures in Title 7 of the Guam Code Annotated and did not adopt the
11 Federal Arbitration Act (FAA) which is found in Title 9 USC Chapter 1, et. seq.
12 While courts have found that the FAA applies to U.S. states, the definition of states
13 in the FAA does not include Guam as it does in other federal statutes such as the
14 Uniform Child Custody Jurisdiction Act. Therefore, enactment of the “Ending
15 Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2022” into
16 Guam law is imperative to ensure access to justice for victims of sexual assault and
17 harassment who are currently forced to settle their disputes in a private system of
18 arbitration.

19 **§ 42C102. Definitions.**

20 For the purposes of this Chapter:

21 (a) The term *predispute arbitration agreement* means any agreement
22 to arbitrate a dispute that had not yet arisen at the time of the making of the
23 agreement.

24 (b) The term *predispute joint-action waiver* means an agreement,
25 whether or not part of a pre-dispute arbitration agreement, that would prohibit,
26 or waive the right of, one of the parties to the agreement to participate in a
27 joint, class, or collective action in a judicial, arbitral, administrative, or other

1 forum, concerning a dispute that has not yet arisen at the time of the making
2 of the agreement.

3 (c) The term *sexual assault dispute* means a dispute involving
4 alleged criminal sexual conduct, as such terms are defined in Chapter 25 of
5 Title 9, Guam Code Annotated, or Section 2246 of Title 18 United States
6 Code, including when the victim lacks capacity to consent.

7 (d) The term *sexual harassment dispute* means a dispute relating to
8 conduct that is alleged to constitute sexual harassment under § 4703 of Article
9 7, Chapter 4, Title 4, Guam Code Annotated, or federal law.

10 **§ 42C103. No Validity or Enforceability.**

11 No Validity or Enforceability. Notwithstanding any other provision of law, at
12 the election of the person alleging conduct constituting a sexual assault dispute or
13 sexual harassment dispute, or the named representative of a class or in a collective
14 action alleging such conduct, no predispute arbitration agreement or predispute joint-
15 action waiver shall be valid or enforceable with respect to a case which is filed under
16 federal or local law and relates to the sexual assault dispute or the sexual harassment
17 dispute.

18 **§ 42C104. Determination of Applicability.**

19 Determination of Applicability. An issue as to whether this Chapter applies
20 with respect to a dispute shall be determined under federal law. The applicability of
21 this Chapter to an agreement to arbitrate and the validity and enforceability of an
22 agreement to which this Chapter applies shall be determined by a court, rather than
23 an arbitrator; irrespective of whether the party resisting arbitration challenges the
24 arbitration agreement specifically or in conjunction with other terms of the contract
25 containing such agreement, and irrespective of whether the agreement purports to
26 delegate such determinations to an arbitrator.”

27 **Section 2. Severability.** If any provision of this Act or its application to any
28 person or circumstance is found to be invalid or contrary to law, such invalidity shall

1 not affect other provisions or applications of this Act that can be given effect without
2 the invalid provision or application, and to this end the provisions of this Act are
3 severable.

4 **Section 3. Effective Date.** This Act shall be effective upon enactment.