

I Mina'trentai Singko 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
338-35 (COR)	James C. Moylan	AN ACT TO ADD § 19403(d), § 19508, AND § 19608 (d) AND TO AMEND § 19404, ALL OF CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING TRANSPARENCY DURING A STATE OF A PUBLIC HEALTH EMERGENCY.	4/8/20 9:57 a.m.						

I MINA 'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 338 -35 (COR)

Introduced by:

James C. Moylan 

**AN ACT TO ADD § 19403(d), § 19508, AND § 19608 (d)
AND TO AMEND § 19404, ALL OF CHAPTER 19, TITLE
10, GUAM CODE ANNOTATED, RELATIVE TO
ENHANCING TRANSPARENCY DURING A STATE OF
A PUBLIC HEALTH EMERGENCY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Chapter 19 of Title 10, Guam Code Annotated provides enormous authority to
4 the Governor of Guam and their public health authority to bypass many Guam
5 statutes, including with procurement, expenditures, and even the accessing and
6 controlling of facilities and property. These *Emergency Health Powers* are granted
7 in the event the Governor of Guam declares a State of Public Health Emergency.
8 While it is recognized that in the time of a crisis that the executive branch be
9 authorized to able to attain resources to expeditiously manage and eradicate the
10 pandemic, it is also vital that additional layers of transparency are established to
11 assure that any actions pursued are adequately reported to the public via the Guam
12 Legislature, and in a timely manner. This would include how local and federal
13 funds are expended, how contracts were procured, and what actions with attaining
14 facilities and property were pursued.

1 **Section 2.** A new § 19403(d) is hereby *added* to Chapter 19 of Title 10,
2 Guam Code Annotated to read as follows:

3 **§ 19403. Effect of Declaration.**

4 The declaration of a state of public health emergency shall activate the
5 disaster response and recovery aspects of the government of Guam. Such
6 declaration authorizes the deployment and use of any forces to which the plans
7 apply and the use or distribution of any supplies, equipment, and materials and
8 facilities assembled, stockpiled or available pursuant to this Chapter.

9 (a) Emergency Powers. During a state of public health emergency, I
10 Maga'låhen Guåhan [The Governor] may:

11 (1) through an executive order suspend, the provisions of any
12 regulatory statute prescribing procedures for conducting local
13 business, or the orders, rules and regulations of any government of
14 Guam agency, to the extent that strict compliance with the same
15 would prevent, hinder or delay necessary action (including emergency
16 purchases) by the public health authority to respond to the public
17 health emergency, or increase the health threat to the population;

18 (2) utilize all available resources of the government of Guam,
19 as reasonably necessary to respond to the public health emergency;

20 (3) transfer the direction, personnel or functions of the
21 government of Guam departments and agencies in order to perform or
22 facilitate response and recovery programs regarding the public health
23 emergency;

24 (4) mobilize all or any part of the organized militia into service;
25 an executive order directing the organized militia to report for active
26 duty shall state the purpose for which it is mobilized and the
27 objectives to be accomplished;

1 (5) provide aid to and seek aid from the Federal Government in
2 accordance with any emergency compact made with the government
3 of Guam; and

4 (6) seek aid from the Federal Government in accordance with
5 Federal programs or requirements.

6 (b) Coordination. The public health authority shall coordinate all
7 matters pertaining to the public health emergency response of Guam. The
8 public health authority shall have primary jurisdiction, responsibility and
9 authority for:

10 (1) planning and executing public health emergency
11 assessment, mitigation, preparedness response and recovery for
12 Guam;

13 (2) coordinating public health emergency response between
14 Federal and local authorities;

15 (3) collaborating with relevant Federal government authorities,
16 elected officials of other states, private organizations or companies;

17 (4) coordinating recovery operations and mitigation initiatives
18 subsequent to public health emergencies; and

19 (5) organizing public information activities regarding public
20 health emergency response operations.

21 (c) Identification. After the declaration of a state of public health
22 emergency, special identification for all public health personnel working
23 during the emergency shall be issued as soon as possible. The identification
24 shall indicate the authority of the bearer to exercise public health functions
25 and emergency powers during the state of public health emergency. Public
26 health personnel shall wear the identification in plain view.

1 “(d) Reporting. Any actions by the Governor or the public health
2 authority, pursuant to this Subsection *shall be* reported to *I Liheslaturan*
3 *Guåhan* within ten (10) days of the action pursued. Such reporting *shall*
4 *continue until the state of the public health emergency has terminated, which*
5 *at that time, a cumulative report of all actions and expenditures pursuant to*
6 *this Subsection, shall be* submitted to *I Liheslaturan Guåhan* within thirty
7 (30) days, A report of any actions pursued between the declaration of the
8 state of public health emergency and the enactment of this Act *shall be*
9 *submitted to I Liheslaturan Guåhan* within seven (7) days of the enactment
10 *of this Act.*”

11 **Section 3.** § 19404 of Chapter 19 of Title 10, Guam Code Annotated is
12 hereby *amended* to read as follows:

13 **§ 19404. Enforcement.**

14 During a state of public health emergency, the public health authority may
15 request assistance in enforcing orders pursuant to this Chapter from the public
16 safety authority. The public safety authority may request assistance from the
17 organized militia in enforcing the orders of the public health authority. Any
18 actions by the Governor or the public health authority pursuant to this Subsection
19 shall be reported to I Liheslaturan Guåhan within ten (10) days of the action
20 pursued. Such reporting shall continue until the state of the public health
21 emergency has terminated, which at that time, a cumulative report of all actions
22 and expenditures pursuant to this Subsection, shall be submitted to *I Liheslaturan*
23 *Guåhan* within thirty (30) days, A report of any actions pursued between the
24 declaration of the state of public health emergency and the enactment of this Act
25 shall be submitted to *I Liheslaturan Guåhan* within seven (7) days of the
26 enactment of this Act.

1 **Section 4.** A new § 19508 is hereby *added* to Chapter 19 of Title 10, Guam
2 Code Annotated to read as follows:

3 **“§ 19508. Reporting.**

4 Any actions by the Governor or the public health authority pursuant to this
5 Article shall be reported to I Liheslaturan Guåhan within ten (10) days of the
6 action pursued. Such reporting shall continue until the state of the public health
7 emergency has concluded, which at that time, a cumulative report of all actions and
8 expenditures pursuant to this Article, shall be submitted to I Liheslaturan Guåhan
9 within thirty (30) days, A report of any actions pursued between the declaration of
10 the state of public health emergency and the enactment of this Act shall be
11 submitted to I Liheslaturan Guåhan within seven (7) days of the enactment of this
12 Act.”

13 **Section 5.** A new § 19608(d) is hereby *added* to Chapter 19 of Title 10,
14 Guam Code Annotated to read as follows:

15 **§ 19608. Licensing and Appointment of Health Personnel.**

16 The public health authority may exercise, for such period as the state of
17 public health emergency exists, the following emergency powers regarding
18 licensing and appointment of health personnel.

19 (a) Health Care Providers. To require on-Guam health care providers
20 to assist in the performance of vaccination, treatment, examination or testing
21 of any individual as a condition of licensure, authorization or the ability to
22 continue to function as a health care provider on Guam.

23 (b) Health Care Providers from Other Jurisdictions. To appoint and
24 prescribe the duties of such out-of-off-Guam emergency health care
25 providers as may be reasonable and necessary to respond to the public health
26 emergency.

1 (1) The appointment of off-Guam emergency health care
2 providers may be for a limited or unlimited time, but shall not exceed
3 the termination of the declaration of a state of public health
4 emergency. The public health authority may terminate the off-Guam
5 appointments at any time or for any reason; provided, that any such
6 termination will not jeopardize the health, safety and welfare of the
7 People of Guam.

8 (2) The public health authority may waive any or all licensing
9 requirements, permits or fees required by the Government Code of
10 Guam and applicable orders, rules or regulations for health care
11 providers from other jurisdictions to practice on Guam.

12 (3) Any off-Guam emergency health care provider appointed
13 pursuant to this Section shall not be held liable for any civil damages
14 as a result of medical care or treatment related to the response to the
15 public health emergency, unless such damages result from providing,
16 or failing to provide, medical care or treatment under circumstances
17 demonstrating a reckless disregard for the consequences so as to affect
18 the life or health of the patient.

19 (c) Personnel to Perform Duties of Medical Examiner or Coroner. To
20 authorize the medical examiner or coroner to appoint and prescribe the
21 duties of such emergency assistant medical examiners or coroners as may be
22 required for the proper performance of the duties of the office.

23 (1) The appointment of emergency assistant medical examiners
24 or coroners may be for a limited or unlimited time, but shall not
25 exceed the termination of the declaration of a state of public health
26 emergency. The medical examiner or coroner may terminate such
27 emergency appointments at any time or for any reason; provided, that

1 any such termination will not impede the performance of the duties of
2 the office.

3 (2) The medical examiner or coroner may waive licensing
4 requirements, permits, or fees required by Guam code and applicable
5 orders, rules or regulations for the performance of these duties.

6 (3) Any emergency assistant medical examiner or coroner
7 appointed pursuant to this Section and acting without malice and
8 within the scope of the prescribed duties shall be immune from civil
9 liability in the performance of such duties.

10 (d) Reporting. Any actions by the Governor or the public health
11 authority pursuant to this Subsection shall be reported to I Liheslaturan
12 Guåhan within ten (10) days of the action pursued. Such reporting shall
13 continue until the state of the public health emergency has concluded, which
14 at that time, a cumulative report of all actions and expenditures pursuant to
15 this Subsection, shall be submitted to I Liheslaturan Guåhan within thirty
16 (30) days. A report of any actions pursued between the declaration of the
17 state of public health emergency and the enactment of this Act shall be
18 submitted to I Liheslaturan Guåhan within seven (7) days of the enactment
19 of this Act.

20 **Section 6. Severability.** If any provision of this Act or its application to
21 any person or circumstance is found to be invalid or contrary to law, such
22 invalidity *shall not* affect other provisions or applications of this Act that can be
23 given effect without the invalid provision or application, and to this end the
24 provisions of this Act are severable.

25 **Section 7. Effective Date.** The act *shall* become effective immediately
26 upon enactment.