


*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
365-35 (LS)	James C. Moylan	AN ACT TO ADD A NEW CHAPTER 72 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STATUTE RELATED TO BIAS MOTIVATED CRIMES, INCLUSIVE OF PENALTIES, CIVIL ACTIONS, AND DATA COLLECTION.	6/8/20 11:53 a.m.						

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

**Bill No. 365-35 (LS)**

Introduced by:

James C. Moylan 

Text

**AN ACT TO ADD A NEW CHAPTER 72 TO TITLE 9,  
GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING A STATUTE RELATED TO BIAS-  
MOTIVATED CRIMES, INCLUSIVE OF PENALTIES,  
CIVIL ACTIONS, AND DATA COLLECTION.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that according to the Department of Justice, Guam joins 7 other states and  
4 territories as jurisdictions that either don't have statutes in place to address Hate or  
5 Bias-Motivated Crimes, nor do they have any mandates to collect data on such  
6 activities. As the world slowly recovers from the global COVID-19 pandemic, an  
7 old and long standing issue has resurfaced and has taken the priority within the  
8 eyes of humanity, which is the realities that crimes with prejudiced motives  
9 continue to remain in rampant existence.

10 While peaceful protests take place locally, nationally, and internationally, to  
11 echo the need for a change in the mindset, a semblance of a sturdy statement would  
12 be made by establishing a local statute that recognizes such crimes, and assures  
13 that those guilty of actions are additionally penalized if the motive of the crime  
14 was due to hate. This Act recognizes the crimes that are pursued due to the  
15 prejudices of the victims perceived race, religion, color, ethnicity, physical,

1 emotional or developmental disability, sexual orientation, gender, gender identity,  
2 political affiliation, national origin, job or occupation, or ancestry, shall be  
3 punishable with extensions towards the fines and sentences that are prescribed by  
4 law for the underlying crime.

5 This Act recognizes the potential of Bias-Motivated Crimes related to  
6 homicide, assault, reckless endangering, terrorizing, kidnapping, sexual offenses  
7 (inclusive of crimes against children), family violence, arson, criminal mischief,  
8 burglary, robbery, official misconduct, extortion, riot, disorderly conduct, and  
9 other miscellaneous crimes, and the impact it may have towards victims and/or  
10 their properties if damaged or destroyed due to the hate crime. If one is convicted  
11 of such crimes, the fines and sentences may be increased if the motive involved  
12 prejudice. The measure also establishes language to allow victims to pursue civil  
13 action in addressing the opportunity to secure an injunction, damages, or other  
14 relief against their perpetrator.

15 This Act further mandates that the Guam Police Department not only  
16 maintain a central repository of information and analytics associated with Bias-  
17 Motivated Crimes that take place, but also provide the necessary training to law  
18 enforcement officers in identifying, responding, and reporting such actions as they  
19 occur. This is information that may assist with future statutes, assist federal  
20 counterparts, or essentially help families and/or victims in the future.

21 **Section 2.** A new Chapter 72 is hereby *added* to Title 9, Guam Code  
22 Annotated to read as follows:

23 **“CHAPTER 72**

24 **BIAS-MOTIVATED CRIMES**

25 § 72101. Bias-Motivated Crimes, Defined.

26 § 72101. Bias-Motivated Crimes, Penalties.

27 § 72101. Bias-Motivated Crimes, Civil Action.

1 § 72101. Bias-Motivated Crimes, Reporting and Training.

2 **§ 72101. Bias-Motivated Crimes, Defined.**

3 A person commits a Bias-Motivated Crime if, by reason of the actual or  
4 perceived race, religion, color, ethnicity, physical, emotional or developmental  
5 disability, sexual orientation, gender, gender identity, political affiliation, national  
6 origin, job or occupation, or ancestry of another individual or group of individuals;  
7 he violates Chapters 16, 19, 22, 25, 25A, 30, 34, 37, 40, 49, 52, 61, and 70 of  
8 9GCA, or commits attempt, solicitation or conspiracy to commit a crime under  
9 said Chapters, *supra*.

10 **§ 72102. Bias-Motivated Crimes, Penalties.**

11 (a) Notwithstanding any other provisions of the law, if a person is  
12 convicted of any crime(s) pursuant to Chapters 16, 19, 22, 25, 25A 30, 34,  
13 37, 40, 49, 52, 61, and 70 of 9GCA, or commits attempt, solicitation or  
14 conspiracy to commit a crime under said Chapters, *supra*, where it is  
15 determined that a Bias-Motivated Crime as defined in § 72101 of this  
16 Chapter was also committed, where they intentionally select the person(s)  
17 against whom the crime is committed or selects the property that is damaged  
18 or otherwise affected by the crime pursuant to this subsection in whole or in  
19 part because of the actor’s belief or perception regarding the race, religion,  
20 color, ethnicity, physical, emotional or developmental disability, sexual  
21 orientation, gender, gender identity, political affiliation, national origin, job  
22 or occupation, or ancestry of that person or the owner or occupant of that  
23 property, whether or not the actor’s belief or perception was correct, if the  
24 conviction:

25 (1) is a petty misdemeanor, the revised maximum fine  
26 prescribed by law for the crime *shall be* Ten Thousand Dollars  
27 (\$10,000) and the revised maximum period of imprisonment

1           prescribed by law for the crime *shall be* one (1) year. This sentence  
2           *may* run consecutively to the sentence for the underlying offense.

3           (2) is a misdemeanor, the revised maximum fine prescribed by  
4           law for the crime *shall be* Ten Thousand Dollars (\$10,000) and the  
5           revised maximum period of imprisonment prescribed by law for the  
6           crime *shall be* two (2) years. This sentence *may* run consecutively to  
7           the sentence for the underlying offense.

8           (3) is a felony, the maximum fine prescribed by law for the  
9           crime *shall be* increased by no more than Twenty Thousand Dollars  
10          (\$20,000) and the maximum period of imprisonment prescribed by the  
11          law for the crime *shall be* increased by no more than ten (20) years.  
12          This sentence *may* run consecutively to the sentence for the  
13          underlying offense.

14          (b) This section provides for the enhancement of the penalties  
15          applicable for the underlying crime. The court *shall* direct that the trier of  
16          fact finds a special verdict as to all the issues specified in § 72102(a) of this  
17          Chapter.

18          (c) This section *shall not* apply to any crime if proof of race, religion,  
19          color, ethnicity, physical, emotional or developmental disability, sexual  
20          orientation, gender, gender identity, political affiliation, national origin, job  
21          or occupation, or ancestry, or proof of any persons perception of belief  
22          regarding another's race, religion, color, ethnicity, physical, emotional or  
23          developmental disability, sexual orientation, gender, gender identity,  
24          political affiliation, national origin, job or occupation, or ancestry is required  
25          for a conviction for that crime.

26          **§ 72103. Bias-Motivated Crimes, Civil Action.**

1           (a) Irrespective of any criminal prosecution or result thereof, any person  
2 incurring bodily injury or damage or loss to his property as a result of conduct in  
3 violation of § 72102(a) of this Chapter shall have a civil action to secure an  
4 injunction, damages or other appropriate relief in law or in equity against any and  
5 all persons who have violated a Bias-Motivated Crime pursuant this Chapter.

6           (b) In any such action, whether a violation of § 71102(a) of this Chapter has  
7 occurred shall be determined according to the burden of proof used in other civil  
8 actions for similar relief.

9           (c) Upon prevailing in such civil action, the plaintiff may recover:

10                   (1) Both special and general damages, including damages for  
11 emotional distress;

12                   (2) Punitive damages; and/or

13                   (3) Reasonable attorney fees and costs.

14           (d) Notwithstanding any other provision of the law to the contrary, the  
15 parent(s) or legal guardian(s) of any unemancipated minor shall be liable for any  
16 judgment rendered against minor pursuant to this subsection.

17 **§72104. Bias-Motivated Crime, Reporting and Training.**

18           The Guam Police Department shall establish and maintain a central  
19 repository for the collection and analysis of information regarding Bias-Motivated  
20 Crimes as defined in § 72101 of this Chapter. Upon establishing such a repository,  
21 the Guam Police Department shall develop a procedure to monitor, record, classify  
22 and, analyze information relating to crimes apparently directed against individuals  
23 or groups, or their property, by reason of their actual or perceived race, religion,  
24 color, ethnicity, physical, emotional or developmental disability, sexual  
25 orientation, gender, gender identity, political affiliation, national origin, job or  
26 occupation, or ancestry. The Guam Police Department shall submit its rules and

1 regulations to *I Liheslaturan Guåhan* for approval consistent with the provisions  
2 of Chapter 9 of 5GCA.

3 All law enforcement agencies shall report monthly to the Guam Police  
4 Department concerning such offenses in such form and in such manner as  
5 prescribed by the rules and regulations adopted by Guam Police Department. The  
6 Guam Police Department shall summarize and analyze the information received  
7 and file an annual report with *I Maga'Hagan Guåhan* and the appropriate  
8 committee of *I Liheslaturan Guåhan* .

9 Any information, records and statistics collected in accordance with this  
10 subsection shall be available for use by any local law enforcement agency of the  
11 Government of Guam to the extent that such information is reasonably necessary  
12 or useful to such agency in carrying out the duties imposed upon it by law.  
13 Dissemination of such information shall be subject to all confidentiality  
14 requirements otherwise imposed by Public Law.

15 The Guam Police Department shall provide training for police officers in  
16 identifying, responding to, and reporting all Bias-Motivated Crimes.”

17 **Section 3. Severability.** If any provision of this Act or its application to  
18 any person or circumstance is found to be invalid or contrary to law, such  
19 invalidity shall not affect other provisions or applications of this Act that can be  
20 given effect without the invalid provision or application, and to this end the  
21 provisions of this Act are severable.

22 **Section 4. Effective Date.** The act shall become effective immediately  
23 upon enactment.