


*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 |
|---------------------|----------------|---|----------------------|---------------|---------------|---------------------|-----------------------------|--------------|-------|
| <b>382-35 (COR)</b> | Louise B. Muña | AN ACT TO ADD A NEW § 19406 TO ARTICLE 4, CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO CREATING THE PANDEMIC BILL OF RIGHTS. | 7/22/20<br>8:54 a.m. |               |               |                     |                             |              |       |

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

Bill No. **382-35 (COR)**

Introduced by:

Louise B. Muña 

**AN ACT TO ADD A NEW § 19406 TO ARTICLE 4,  
CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED  
RELATIVE TO CREATING THE *PANDEMIC BILL OF  
RIGHTS*.**

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

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3 **Section 1. Short Title:** This Act is known as the “Pandemic Bill of Rights.”

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5 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds the  
6 state of public health emergency declared as a result of the Coronavirus Pandemic  
7 has shed light on numerous suspensions, restrictions and limitations of  
8 constitutional and civil rights on Guam and throughout the United States. US  
9 Attorney General Bill Barr in publicly released an official memorandum he sent to  
10 United States attorneys and to his assistant attorney general for civil rights, stated  
11 that the “Constitution isn’t suspended in times of crisis” for COVID 19. In the  
12 same memorandum, Barr added “the First Amendment and federal statutory law  
13 prohibit discrimination against religious institutions and religious believers” and  
14 “the Constitution also forbids, in certain circumstances, discrimination against  
15 disfavored speech and undue interference with the national economy.”

16 *I Liheslaturan* further finds the spirit of any protective orders during a state of  
17 public health emergency must be cognizant and considerate of the enumerated

1 Constitutional rights of a free people in a republic where *the people are the*  
2 *masters and government is their servant*. Protecting the population during a  
3 pandemic should not first be limitations on civil rights, including freedom to  
4 practice religion, the 2<sup>nd</sup> amendment, unreasonable searches and seizures and due  
5 process. Churches and businesses can effectively and safely operate during a  
6 pandemic if government assists and guide these organizations, rather than restrict,  
7 limit or suspend the rights of the people.

8 *I Liheslaturan* further finds that the Organic Rights of citizens of Guam include:

9 48 U.S.C. § 1421b (a) states “No law shall be enacted in Guam respecting an  
10 establishment of religion or prohibiting the free exercise thereof...”

11 48 U.S.C. § 1421b (e) and (f) state that “No person shall be deprived of life,  
12 liberty, or property without due process of law.” And “Private property shall not  
13 be taken for public use without just compensation.”

14 48 U.S.C. § 1421b (u) Statutorily incorporates the “first to ninth amendments” to  
15 the Constitution of the United States which includes the 2<sup>nd</sup> amendment.

16 48 U.S.C. § 1423b gives *I Liheslatura* the sole authority to create law. Courts,  
17 throughout the United States, have held that criminal acts (felonies and  
18 misdemeanors) can be created exclusively by enactment of law and not  
19 administratively or through an executive order. Additionally, in a unanimous  
20 decision of the United States Supreme Court in the case of *Timbs v. Indiana*, 586  
21 U.S. \_\_\_\_ (2019), incorporated the Excessive Fines clause of the Eighth  
22 Amendment in 2019.

23 It is the intent of *I Liheslatura* to protect the basic rights of its residents during  
24 declarations of public health emergencies.

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**Section 3.** A new § 19406 is *added* to Article 4, Chapter 19, Title 10, Guam Code Annotated to read:

**“§ 19406 Pandemic Bill of Rights.**

No executive order, agency directive or administrative rule or regulation, issued or promulgated pursuant to a declaration of a *state of public health emergency* or in anticipation or contemplation of a declaration of a *state of public health emergency*; shall:

- (a) prohibit the free exercise of religion,
- (b) diminish or suspend a person’s 2<sup>nd</sup> Amendment Constitutional rights as specified in Chapter 60 of Title 10 Guam Code Annotated,
- (c) deprive any person of life, liberty, or property without due process of law,
- (d) permit the confiscation or seizure of any lawfully owned property without just compensation,
- (e) create or have the effect to create criminal acts or redefine or expand the scope of existing criminal acts that are defined by Public Law, and
- (f) impose excessive fines.”

**Section 4.** § 19604(a) of Article 6, Chapter 19, Title 10, Guam Code Annotated is amended to read:

“(a) Authorization. During the public health emergency, the public health authority may isolate, consistent with the definition of ‘isolation’ in § 19103(h), or quarantine, consistent with the definition of ‘quarantine’ in § 19103(o), an

1 individual or groups of individuals. This includes individuals or groups who have  
2 not been vaccinated, treated, tested, or examined pursuant to §§ 19602 and 19603.  
3 The public health authority may also establish and maintain places of isolation and  
4 quarantine, and set rules and make orders. Failure to obey these rules, orders or  
5 provisions shall constitute a ~~misdemeanor~~ a civil violation.”

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7 **Section 5.** § 19604(c) of Article 6, Chapter 19, Title 10, Guam Code Annotated is  
8 amended to read:

9 “(c) Cooperation. Persons subject to isolation or quarantine shall obey the public  
10 health authority’s rules and orders; and shall not go beyond the isolation or  
11 quarantine premises. Failure to obey these provisions shall constitute a  
12 ~~misdemeanor~~ a civil violation.”

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14 **Section 5.** § 19604(d)(2) of Article 6, Chapter 19, Title 10, Guam Code Annotated  
15 is amended to read:

16 (2) Unauthorized Entry. No person, other than a person authorized by the public  
17 health authority, shall enter isolation or quarantine premises. Failure to obey this  
18 provision shall constitute a ~~misdemeanor~~ a civil violation.”.