

I MINA'TRENTA NA LIHESLATURÁN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 30-177(COR)

Introduced by:

Adolpho B. Palacios, Sr.



2009 JUL 14 PM 3: 38 mc

AN ACT TO ADD A NEW SECTION 30119 AND 30120, CHAPTER 30, TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO COLLECT A FEE FOR ITS ATTORNEY GENERAL CLEARANCES, AND TO ESTABLISH A SEPARATE FUND FOR THE DEPOSIT OF THOSE FEES ENTITLED THE "VICTIM OR WITNESS TRAVEL-HOUSING FUND" FOR USE BY THE OFFICE OF THE ATTORNEY GENERAL.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 many residents of Guam must obtain a police clearance and court clearance from the Guam
4 Police Department and the Judiciary of Guam, respectively, as part of seeking employment
5 with both public and private employers. However, it is also a common, frequent
6 occurrence that a police clearance may show an arrest under a certain police report number
7 from many years ago with no disposition and there is also nothing in the court clearance
8 indicating whether a disposition occurred for that police report number.

9 *I Liheslaturan Guåhan* also finds that for those seeking to join the military or apply
10 for a law enforcement or security type job with local, state or federal agencies, a police
11 clearance will show an arrest within the past year but no disposition because the police or
12 local law enforcement have not referred the matter to the Office of the Attorney General

1 (AG) for their review and disposition. Others like those applying for Alcoholic Beverage
2 Control (ABC) liquor licenses with the Department of Revenue and Taxation cannot
3 simply provide a police clearance that contains an arrest with no disposition letter or a court
4 clearance that does not clear the police report related to the arrest, because it will be
5 insufficient.

6 *I Liheslaturan Guåhan* further finds that such circumstances are common and
7 frequent occurrences, and for these people obtaining a disposition letter or “AG clearance
8 letter” is their only recourse because a request by them or their prospective employers for
9 such a letter results in the Office of the Attorney General requesting the police reports and/
10 or reviewing those police reports or its own files in order to make a determination that
11 results in dispositions like charges are pending, charges filed, or prosecution declined.

12 The prosecution division of the Office of the Attorney General has handled and
13 processed on an annual basis as much as five hundred (500) AG clearance requests, but
14 unlike the Guam Police Department, or the Judiciary of Guam has not ever charged a fee in
15 order to recover the cost of expending its personnel resources to provide this service to the
16 public.

17 It has however come to the attention of *I Liheslaturan Guåhan* in these trying
18 financial times that authorizing the Office of the Attorney General to charge a fee for such
19 AG Clearances will serve two purposes. First, it will assist the Office of the Attorney
20 General in recovering some of its cost. Secondly, mandating the collection and deposit of
21 such fees into a separate fund entitled the “Victim/Witness Travel-Housing Fund” for use
22 by the Prosecution Division of the Office of the Attorney General will provide much

1 needed help to fund the travel and housing costs of victims or witnesses who reside off-
2 island, but must return to Guam to give testimony against criminal offenders.

3 Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize the Office of the
4 Attorney General to charge a fee for Attorney General clearances and to establish a
5 “Victim or Witness Travel-Housing Fund” by adding a new section 30119 and 30120,
6 Chapter 30, Title 5 Guam Code Annotated.

7 **Section 2. A new §30119, Chapter 30, Title 5 Guam Code Annotated, is**
8 **hereby added to read:**

9 “§30119. Fees. (a) Every request for a letter from the Office of the Attorney
10 General to provide a statement about the disposition of a person’s criminal arrest or
11 criminal case also known as an “AG Clearance”, shall pay to the Treasurer of Guam a non-
12 refundable fee equal to the same fee charged by the Guam Police Department or the
13 Judiciary of Guam for their police clearance or court clearance, whichever is higher. All
14 such fees shall be deposited into the “Victim/Witness Travel-Housing Fund” and used
15 accordingly.”

16 **Section 3. A new §30120, Chapter 30, Title 5 Guam Code Annotated, is**
17 **hereby added to read:**

18 “§30120. Fund. There is established a fund to be known as the “Victim/Witness
19 Travel-Housing Fund” which shall be maintained separated and apart from the other funds
20 of the government of Guam, and not subject to any transfer authority of the Governor of
21 Guam. This Fund shall be used by the Office of the Attorney General for the purpose of
22 assisting with the costs of travel and or housing of victims or witnesses who must return to
23 Guam to testify in criminal trials against criminal offenders.”