

I MINA TRENTA NA LIHESLATURAN GUAHAN  
2010 (SECOND) Regular Session

Bill No. 398-30(COR)

Introduced by

Ray Tenorio  
A.B. Palacios, Sr.



AN ACT ADDING A NEW CHAPTER 10 TO TITLE 6  
OF THE GUAM CODE ANNOTATED RELATIVE TO  
PROTECTING JOURNALISTS AND THE FREEDOM  
OF THE PRESS, AND TO ADD A NEW CHAPTER 91  
TO TITLE 9 OF THE GUAM CODE ANNOTATED  
RELATIVE TO PROVIDING PENALTIES FOR  
VIOLATING THE FREEDOM OF THE PRESS.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 Through this act, *I Liheslaturan Guahan* performs its duty of  
4 ensuring the inviolability of the freedom of its citizens. The  
5 Legislature is protecting and upholding the freedom of the press  
6 through this Act. The right to a free press is among the most  
7 fundamental rights of democracy. Hundreds of thousands of men  
8 and women have died protecting this foundation of our country.

9 Journalists are every citizen's conduit for truth and  
10 accountability in government. They seek the truth and report it.  
11 Censorship of the journalist's voice is the censorship of the people. It

1 is censorship of the truth and the freedom to seek it. It is intimidation  
2 of the pursuit of truth.

3 No person, association, agency or government may stand  
4 between the People and their right to know the truth, whether by  
5 reading a publication, listening to radio broadcasts of the news,  
6 watching television or streaming versions of news. The individual  
7 pursuit of truth is the choice of the citizen to trust or not trust a  
8 journalist, an editor, or a news organization. The government has no  
9 place in making this choice.

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11 **Section 2. Guam Privacy Protection Act.** There is hereby  
12 created a new Section 10 to Article 6, Guam Code Annotated, to read:

13

### **“Chapter 10**

14

### **Guam Privacy Protection Act**

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#### **§10101. Protection of Journalists and the Freedom of the Press.**

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**(a) Work Product Materials.** Notwithstanding any other law, it

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shall be unlawful for a government agency, officer or employee, in

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connection with the investigation or prosecution of a criminal

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offense, to search for or seize any work product materials possessed

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by a person reasonably believed to have a purpose to disseminate to

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the public a newspaper, book, broadcast, or other similar form of

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public communication; but this provision shall not impair or affect

1 the ability of any government officer or employee, pursuant to  
2 otherwise applicable law, to search for or seize such materials, if—

3 (1) there is probable cause to believe that the person  
4 possessing such materials has committed or is committing the  
5 criminal offense to which the materials relate: Provided, however,  
6 that a government officer or employee may not search for or seize  
7 such materials under the provisions of this paragraph if the  
8 offense to which the materials relate consists of the receipt,  
9 possession, communication, or withholding of such materials or  
10 the information contained therein; or

11 (2) there is reason to believe that the immediate seizure of  
12 such materials is necessary to prevent the death of, or serious  
13 bodily injury to, a human being.

14 (3) No warrant shall issue for the search and seizure of any  
15 work product materials possessed by a person reasonably believed  
16 to have a purpose to disseminate to the public a newspaper, book,  
17 broadcast, or other similar form of public communication unless  
18 supported by an affidavit justifying its necessity under sections  
19 (a)(2) and (a)(3) of this act.

20 **(b) Other Documents.** Notwithstanding any other law, it shall  
21 be unlawful for a government agency, officer or employee, in  
22 connection with the investigation or prosecution of a criminal  
23 offense, to search for or seize documentary materials, other than

1 work product materials, possessed by a person in connection with a  
2 purpose to disseminate to the public a newspaper, book, broadcast,  
3 or other similar form of public communication; but this provision  
4 shall not impair or affect the ability of any government officer or  
5 employee, pursuant to otherwise applicable law, to search for or seize  
6 such materials, if—

7 (1) there is probable cause to believe that the person  
8 possessing such materials has committed or is committing the  
9 criminal offense to which the materials relate: Provided, however,  
10 that a government officer or employee may not search for or seize  
11 such materials under the provisions of this paragraph if the  
12 offense to which the materials relate consists of the receipt,  
13 possession, communication, or withholding of such materials or  
14 the information contained therein;

15 (2) there is reason to believe that the immediate seizure of  
16 such materials is necessary to prevent the death of, or serious  
17 bodily injury to, a human being;

18 (3) there is reason to believe that the giving of notice  
19 pursuant to a subpoena duces tecum would result in the  
20 destruction, alteration, or concealment of such materials; or

21 (4) such materials have not been produced in response to a  
22 court order directing compliance with a subpoena duces tecum,  
23 and—

1 (A) all appellate remedies have been exhausted; or  
2 (B) there is reason to believe that the delay in an  
3 investigation or trial occasioned by further proceedings relating  
4 to the subpoena would threaten the interests of justice.

5 (5) No warrant shall issue for the search and seizure of any  
6 thing or document, other than work product material, possessed  
7 by a person reasonably believed to have a purpose to disseminate  
8 to the public a newspaper, book, broadcast, or other similar form  
9 of public communication unless supported by an affidavit  
10 justifying its necessity under sections (b)(1)-(4) of this act.

11 **(c) Objections to Court Ordered Subpoenas; Affidavits.** In the  
12 event a search warrant is sought pursuant to paragraph (4)(B) of  
13 subsection (b) of this section, the person possessing the materials  
14 shall be afforded adequate opportunity to submit an affidavit setting  
15 forth the basis for any contention that the materials sought are not  
16 subject to seizure.”

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18 **Section 3. Criminal Penalties for Violating the Freedom of the**  
19 **Press.** There is hereby created a new Chapter 91 to Title 9, Guam  
20 Code Annotated, to read:

21 **“§91.01. Crimes Against the Freedom of the Press.**

22 Any person violating any provision of Chapter 10 of Title 6,  
23 Guam Code Annotated, Guam Privacy Protection Act, upon

1 conviction thereof, shall be guilty of a felony of the third degree. It  
2 shall not be a defense to a violation of this section that the person  
3 executing a search was in possession of a warrant.”

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5 **Section 4. Severability.** Any provision of this Act held to be  
6 invalid or unenforceable by its terms, or as applied to any person or  
7 circumstance, shall be construed so as to give it the maximum effect  
8 permitted by law, unless such holding shall be one of utter invalidity  
9 or unenforceability, in which event such provision shall be deemed  
10 severable here from and shall not affect the remainder hereof or the  
11 application of such provision to other persons not similarly situated  
12 or to other, dissimilar circumstances.