



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

08 FEB 2006

The Honorable Mark Forbes  
Speaker  
Mina' Bente Ocho Na Liheslaturan Guåhan  
155 Hessler Street  
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 233(EC), "AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 GCA, TO AMEND §5253 OF TITLE 5 GCA AND TO ADD A NEW §20106(e) TO TITLE 5 GCA, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS," which I signed into law on February 7, 2006, as **Public Law 28-98**.

Sinseru yan Magåhet,

FELIX P. CAMACHO  
I Maga'låhen Guåhan  
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo  
Senator and Legislative Secretary

<b>Senator Edward J.B. Calvo</b> <b>SECRETARY OF THE LEGISLATURE</b> <b>ACKNOWLEDGEMENT RECEIPT</b>	
Rcv'd by: <u>Nikole</u>	
Print Name & Initial	
Time: <u>4:22</u>	Date: <u>2-15-06</u>

395

Office of the Speaker

MARK FORBES

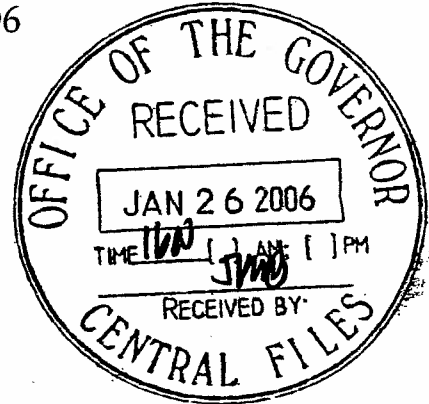
Date: 02/09/06  
Time: 9:30  
Rec'd by: [Signature]  
Print Name: Reed  
28-06-0698



**MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN**  
TWENTY-EIGHTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

January 25, 2006

The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 90(EC), 147(LS), 160(EC), 206(EC) & 246(EC), and Substitute Bill Nos. 135(EC) & 233(EC) which were passed by *I Mina'Bente Ocho Na Liheslaturan Guåhan* on January 25, 2006.

Sincerely,



EDWARD J.B. CALVO

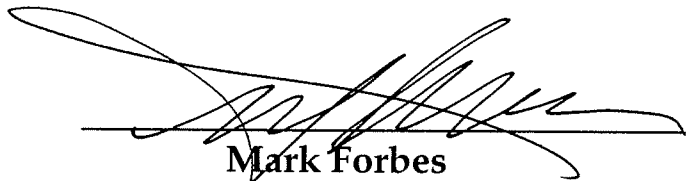
Senator and Secretary of the Legislature

Enclosures (7)

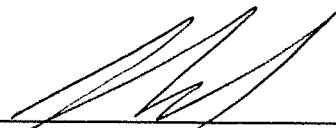
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

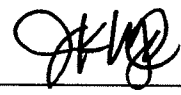
This is to certify that Substitute Bill No. 233 (EC), "AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 GCA, TO AMEND §5253 OF TITLE 5 GCA AND TO ADD A NEW §20106(e) TO TITLE 5 GCA, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS" was on the 25<sup>th</sup> day of January, 2006, duly and regularly passed.

  
Mark Forbes  
Speaker

Attested:

  
Edward J.B. Calvo  
Senator and Secretary of the Legislature

-----  
This Act was received by *I Maga'lahaen Guåhan* this 26<sup>th</sup> day of January,  
2006, at 4:10 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's* Office

APPROVED:  
  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 7 FEB 2006

Public Law No. 28-98

**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session**

**Bill No. 233 (EC)**

As substituted by the Committee on  
Judiciary, Governmental Operations &  
Reorganization.

Introduced by:

Ray Tenorio  
L. F. Kasperbauer  
A. B. Palacios  
F. B. Aguon, Jr.  
J. M.S. Brown  
Edward J.B. Calvo  
B. J.F. Cruz  
Mike Cruz  
Mark Forbes  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
R. Respicio  
A. R. Unpingco  
J. T. Won Pat

**AN ACT TO *AMEND* §4203.3 OF ARTICLE 2, CHAPTER 4 OF  
TITLE 4 GCA, TO *AMEND* §5253 OF TITLE 5 GCA AND TO  
*ADD* A NEW §20106(e) TO TITLE 5 GCA, RELATIVE TO  
PROHIBITING CONVICTED SEX OFFENDERS FROM  
BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR  
BY GOVERNMENT CONTRACTORS.**

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

2       **Section 1.** §4203.3 of Article 2, Chapter 4 of Title 4 GCA is hereby *amended*

3       to read:

1                   **“§4203.3. Prohibition: Sex Offenders Prohibited From**  
2 **Employment in Agencies and Facilities of the Government of Guam.**

3                   (a) No person convicted of a sex offense under the provisions of Chapter  
4 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter  
5 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a  
6 minimum, all of the elements of said offenses, or who is listed on the Sex Offender  
7 Registry shall work in any agency or instrumentality of the government of Guam.

8                   **Section 2.** §5253 of Title 5 Guam Code Annotated is hereby *amended* to  
9 read:

10                   **“§5253. Restriction Against Contractors Employing Convicted Sex**  
11 **Offenders from Working at Government of Guam Venues.**

12                   (a) No person convicted of a sex offense under the provisions of Chapter  
13 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter  
14 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a  
15 minimum, all of the elements of said offenses, or who is listed on the Sex Offender  
16 Registry, and who is employed by a business contracted to perform services for an  
17 agency or instrumentality of the government of Guam, shall work for his employer on  
18 the property of the government of Guam other than a public highway.

19                   (b) All contracts for services to agencies listed herein shall include the  
20 following provisions: (1) warranties that no person providing services on behalf of  
21 the contractor has been convicted of a sex offense under the provisions of Chapter 25  
22 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an  
23 offense in another jurisdiction with, at a minimum, the same elements as such  
24 offenses, or who is listed on the Sex Offender Registry; and (2) that if any person  
25 providing services on behalf of the contractor is convicted of a sex offense under the

1 provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of  
2 Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the  
3 same elements as such offenses, or who is listed on the Sex Offender Registry, that  
4 such person will be immediately removed from working at said agency and that the  
5 administrator of said agency be informed of such within twenty-four (24) hours of  
6 such conviction.

7 (c) Duties of the General Services Agency or Procurement  
8 Administrators. All contracts, bids, or Requests for Proposals shall state all the  
9 conditions in §5253(b).

10 (d) Any contractor found in violation of §5253(b), after notice from the  
11 contracting authority of such violation, shall, within twenty-four (24) hours, take  
12 corrective action and shall report such action to the contracting authority. Failure to  
13 take corrective action within the stipulated period may result in the temporary  
14 suspension of the contract at the discretion of the contracting authority.”

15 **Section 3.** A new §20106(e) is hereby *added* to Title 5 of the Guam Code  
16 Annotated to read:

17 “(e) The Director of Administration shall establish and maintain a list of  
18 all government employees who are sex offenders, as that term is defined in §4203.3  
19 of Article 2, Chapter 4 of Title 4 Guam Code Annotated, and identify those  
20 employees who are assigned to positions which require public contact. The Director  
21 shall determine the positions in the classified service not requiring public contact for  
22 which those employees are qualified and eligible. The Director shall notify each  
23 employee determined to be eligible for a position or of positions of his or her  
24 eligibility and allow the employee to voluntarily transfer to a position not requiring  
25 public contact.”

# I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2006 (SECOND) Regular Session

Date: 1/25/06

## VOTING SHEET

5 Bill No. 233 (EC)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.		✓			
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.		✓			
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

13   2   0   0   0

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

PL 28-98



# Bob's Office

The Office of Senator Robert Klitzkie

197 Hernan Cortes Ave., Suite A-1  
Hagatna, Guam 96910

(671) 472-9355 • bob@bobsoffice.org • www.bobsoffice.org

January 5, 2006

The Honorable Speaker Mark Forbes  
155 Hesler Place  
Hagatna, Guam 96910

RE: Bill 233 (EC) - Committee Report

Mr. Speaker:

The Committee on Judiciary, Governmental Operations, and Reorganization, to which was referred **BILL 233 (EC), AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW SECTION 20106(e) OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS**, as substituted by the Committee on Judiciary, Governmental Operations, and Reorganization, for your review and signature.

Transmitted herewith for your consideration and action is our committee report on the above subject matter. The Committee votes are as follows:

6 TO PASS  
0 NOT TO PASS  
0 TO REPORT OUT ONLY  
0 ABSTAIN  
0 INACTIVE FILE

A copy of the committee report and other pertinent documents are attached for your immediate reference.

Any questions on the report and the accompanying documents should be directed to my office via email at [bob@bobsoffice.org](mailto:bob@bobsoffice.org) or by phone at 472-9355.

Sincerely,

  
Bob

Senator Robert Klitzkie, Chairman

Committee on Judiciary, Governmental Operations & Reorganization

PL, 28-98





# Bob's Office

*The Office of Senator Robert Klitzkie*

197 Hernan Cortes Ave., Suite A-1  
Hagatna, Guam 96910

(671) 472-9355 • bob@bobsoffice.org • www.bobsoffice.org

---

January 4, 2006

Committee on Judiciary, Governmental Operations,  
& Reorganization  
155 Hesler Place  
Hagatna, Guam 96910

RE: Voting Sheet for Bill 233 (EC)

Dear Members:

Transmitted herewith is the voting sheet and committee report on **BILL 233 (EC), AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW SECTION 20106(e) OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS**, as substituted by the Committee on Judiciary, Governmental Operations, and Reorganization, for your review and signature.

Your attention to this matter is greatly appreciated.

Sincerely,

**Bob**

**Senator Robert Klitzkie, Chairman**  
Committee on Judiciary, Governmental Operations,  
& Reorganization



**Committee on Judiciary, Governmental Operations,  
and Reorganization**

*I Mina' Bente Ocho Na Liheslaturan Guahan*

**Bill 233 (EC)**

AN ACT TO *AMEND* §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO *AMEND* §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW SECTION 20106(e) OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

	Signature	To Pass	Not To Pass	Report Out of Committee	Abstain	Inactive File
Senator Robert Klitzkie, Chairman		✓				
Speaker Mark Forbes, Member		✓				
Senator Jesse Lujan, Member		✓				
Senator Adolpho Palacios, Member		✓				
Senator Larry Kasperbauer, Ph. D., Member		X				
Senator Ray Tenorio, Member		✓				
Senator B.J. Cruz, Member						

*Jed*  
1-19-06

*3rd*  
1-19-06

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

Bill No. 233 (EC)

Substitute by the  
Committee on Judiciary,  
Governmental Operations, &  
Reorganization

Ray Tenorio  
L. F. Kasperbauer  
A. B. Palacios

AN ACT TO *AMEND* §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO *AMEND* §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW SECTION 20106(e) OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Section 4203.3, of Article 2, Chapter 4 of Title 4 is hereby *amended* to  
3 read:

4 “§4203.3. Prohibition: Sex offenders prohibited from employment in the  
5 ~~Guam Public School System or other~~ agencies and facilities of the government of Guam  
6 ~~frequented by children.~~ (a) No person convicted of a sex offense under the provisions of  
7 Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter  
8 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all  
9 of the elements of said offenses, or who is listed on the Sex Offender Registry may shall  
10 work in any agency or instrumentality of the government of Guam. ~~on the campus of any~~  
11 ~~public school, on the campuses of the Guam Community College or the University of Guam,~~  
12 ~~as a bus driver, in any public library, the Department of Youth Affairs, at the Guam~~  
13 ~~Memorial Hospital, at the Medical Services and the Child Protection Services divisions of~~  
14 ~~the Department of Public Health and Social Services, at the Department of Integrated~~  
15 ~~Services for Individuals with Disabilities (DISID), at the Department of Mental Health and~~

1 Substance Abuse, or in areas frequented by children under the jurisdiction of the Department  
2 of Parks and Recreation including, *but not limited to*, the *Hagåtña Pool*.”

3 **Section 2. Section 5253 to Title 5 Guam Code Annotated is hereby amended to**  
4 **read:**

5 “§5253. Restriction against contractors employing convicted sex offenders from  
6 working at certain government of Guam venues.

7 (a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9  
8 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in  
9 Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of  
10 said offenses, may or who is listed on the Sex Offender Registry, and who is employed by a  
11 business contracted to perform services for an agency or instrumentality of the government  
12 of Guam, may shall work for his employer on the property of the government of Guam other  
13 than a public highway, on the campus of any public school, on the campuses of the Guam  
14 Community College or the University of Guam, as a bus driver, in any public library, the  
15 Department of Youth Affairs, at the Guam Memorial Hospital, at the Medical Services and  
16 the Child Protection Services divisions of the Department of Public Health and Social  
17 Services, at the Department of Integrated Services for Individuals with Disabilities (DISID),  
18 at the Department of Mental Health and Substance Abuse, or in areas frequented by children  
19 under the jurisdiction of an agency of the government of Guam including, but not limited to,  
20 the Hagåtña Pool.

21 (b) All contracts for services to agencies listed herein shall include the following  
22 provisions: (1) warranties that no person, providing services on behalf of the contractor has  
23 been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an  
24 offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another  
25 jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the  
26 Sex Offender Registry; (2) that if any person providing services on behalf of the contractor is  
27 convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense  
28 as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with,  
29 at a minimum, the same elements as such offenses, or who is listed on the Sex Offender  
30 Registry, that such person will be immediately removed from working at said agency and

1 that the administrator of said agency be informed of such within twenty-four (24) hours of  
2 such conviction.

3 (c) Duties of the General Services Agency or Procurement Administrators. All  
4 contracts, bids, or Requests for Proposals shall state all the conditions in §5253(b).

5 (d) Any contractor found in violation of §5253(b), after notice from the contracting  
6 authority of such violation, shall within twenty-four (24) hours take corrective action and  
7 shall report such action to the contracting authority. Failure to take corrective action within  
8 the stipulated period may result in the temporary suspension of the contract at the discretion  
9 of the contracting authority.”

10 **Section 3. A new § 20106(e) of Title 5 of the Guam Code Annotated is hereby added to**  
11 **read:**

12 “(e) The Director of Administration shall establish and maintain a list of all government  
13 employees who are sex offenders as that term is defined in § 4203.3, of Article 2, Chapter 4  
14 of Title 4 Guam Code Annotated and identify those employees who are assigned to positions  
15 which require public contact. The Director shall determine the positions in the classified  
16 service not requiring public contact for which those employees are qualified and eligible. The  
17 director shall notify each employee determined to be eligible for a position or of positions of  
18 his or her eligibility and allow the employee to voluntarily transfer to a position not requiring  
19 public contact.”

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

Bill No. 233 (EC)

Introduced by:

Ray Tenorio  
L. F. Kasperbauer  
A. B. Palacios

AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Section 4203.3, of Article 2, Chapter 4 of Title 4 is hereby  
3 *amended* to read:

4 “§4203.3. Prohibition: Sex offenders prohibited from  
5 employment in ~~the Guam Public School System or other~~ agencies and  
6 facilities of the government of Guam ~~frequented by children~~. (a) No  
7 person convicted of a sex offense under the provisions of Chapter 25 of  
8 Title 9 Guam Code Annotated, or an offense as defined in Article 2 of  
9 Chapter 28, Title 9 GCA in Guam, or an offense in another state or  
10 subdivision of the United States, the federal government or a foreign

1 country with similar or identical elements of a sexual nature, or listed  
2 on the Sex Offender Registry ~~may~~ shall work in any agency or  
3 instrumentality of the government of Guam. ~~on the campus of any~~  
4 ~~public school, on the campuses of the Guam Community College or the~~  
5 ~~University of Guam, as a bus driver, in any public library, the~~  
6 ~~Department of Youth Affairs, at the Guam Memorial Hospital, at the~~  
7 ~~Medical Services and the Child Protection Services divisions of the~~  
8 ~~Department of Public Health and Social Services, at the Department of~~  
9 ~~Integrated Services for Individuals with Disabilities (DISID), at the~~  
10 ~~Department of Mental Health and Substance Abuse, or in areas~~  
11 ~~frequented by children under the jurisdiction of the Department of~~  
12 ~~Parks and Recreation including, but not limited to, the Hagåtña Pool."~~

13 (b) A sex offender currently employed by the government of  
14 Guam in the Guam Public School System following the enactment of  
15 this Act shall immediately be transferred out of the Guam Public School  
16 System to a position in another agency having no contact with the  
17 general public. All other sex offenders similarly employed in the  
18 government of Guam shall be reassigned to positions where there is no  
19 contact with the general public.

20 **Section 2. Section 5253 to Title 5 Guam Code Annotated is hereby**  
21 ***amended to read:***

22 **"§5253. Restriction against contractors employing convicted sex**

1 offenders from working at ~~certain~~ government of Guam venues. (a)  
2 No person convicted of a sex offense under the provisions of Chapter 25  
3 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of  
4 Chapter 28, Title 9 GCA in Guam, or an offense in another state or  
5 subdivision of the United States or a foreign country with similar or  
6 identical elements of a sexual nature, or listed on the Sex Offender  
7 Registry, who is employed by a business contracted to perform services  
8 for an agency or instrumentality of the government of Guam, ~~may~~ shall  
9 work in any agency or instrumentality of the government of Guam. ~~on~~  
10 ~~the campus of any public school, on the campuses of the Guam~~  
11 ~~Community College or the University of Guam, as a bus driver, in any~~  
12 ~~public library, the Department of Youth Affairs, at the Guam Memorial~~  
13 ~~Hospital, at the Medical Services and the Child Protection Services~~  
14 ~~divisions of the Department of Public Health and Social Services, at the~~  
15 ~~Department of Integrated Services for Individuals with Disabilities~~  
16 ~~(DISID), at the Department of Mental Health and Substance Abuse, or in~~  
17 ~~areas frequented by children under the jurisdiction of an agency of the~~  
18 ~~government of Guam including, but not limited to, the Hagåtña Pool.~~

19 (b) All contracts for services to agencies listed herein shall include  
20 the following provisions: (1) warranties that no person, providing  
21 services on behalf of the contractor has been convicted of a sex offense  
22 under the provisions of Chapter 25 of Title 9 GCA or an offense as



1 defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another  
2 state or subdivision of the United States or a foreign country with  
3 similar or identical elements of a sexual nature, or listed on the Sex  
4 Offender Registry; (2) that if any person providing services on behalf of  
5 the contractor is convicted of a sex offense under the provisions of  
6 Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of  
7 Chapter 28, Title 9 GCA or an offense in another state or subdivision of  
8 the United States or a foreign country with similar or identical elements  
9 of a sexual nature, or legally listed on the Sex Offender Registry, that  
10 such person will be immediately removed from working at said agency  
11 and that the administrator of said agency be informed of such within  
12 twenty-four (24) hours of such conviction.

13 (c) Duties of the General Services Agency or Procurement  
14 Administrators. All contracts, bids, or Requests for Proposals shall state  
15 all the conditions in §5253(b).

16 (d) Any contractor found in violation of §5253(b), after notice  
17 from the contracting authority of such violation, shall within twenty-  
18 four (24) hours take corrective action and shall report such action to the  
19 contracting authority. Failure to take corrective action within the  
20 stipulated period may result in the temporary suspension of the contract  
21 at the discretion of the contracting authority."

## **OVERVIEW:**

The Committee on Judiciary, Governmental Operations, and Reorganization held public hearings on Bill 233 (EC) on December 7, 2005 in the Guam Legislature public hearing rooms in Hagatna, Guam. Notice of public hearing was printed in the Pacific Daily News (See Appendix B) and disseminated throughout all local media.

### **Senators present:**

Senator Robert Klitzkie, Chairman  
Speaker Mark Forbes, Member  
Senator Adolpho Palacios, Member  
Senator Larry Kasperbauer, Member  
Senator Judi Won Pat

## **SUMMARY OF TESTIMONY:**

**Dr. Judi Gutherz**, professor at the University of Guam, provided the committee with letters written by her students concerning Bill 233 (EC). The letters are available for your perusal at Bob's Office and [www.bobsoffice.org](http://www.bobsoffice.org).

**Kenneth P. Chargualaf**, acting superintendent of Guam Public School System, submitted written testimony in favor of Bill 233 (EC), though he suggested the following amendments:

- prohibit the employment of anyone whose conviction was of an offense which includes all the elements of a crime described in Title 9 GCA, Chapter 25, or Title 2, Article 2
- change Section 2 of the bill, as outlined in the testimony, to remedy the confusion of "in any agency or instrumentality of the Government of Guam." Chargualaf states that the intent is not clear.

## **FINDINGS & RECOMMENDATIONS:**

Recent events suggest the increased need to address laws dealing with the employment of sex offenders in our government.

Bill 233 is a measure providing protection in the government work place from persons convicted of sex offenses and amends local law to limit the employment of sex offenders in Government of Guam agencies and facilities.

The committee finds that prospective prohibition against employing sex offenders in governmental workplace is salutary.

The matter of involuntary transfers of government employees convicted of sex offenses before the passage of this bill gives rise to a constitutional issue, i.e. the prohibition against *ex post facto* laws. While a provision that mandates voluntary transfers may be constitutionally infirm, a system encouraging voluntary transfers is salutary.

Therefore, the committee finds that Section 2, subsection (b) of Bill 233 should be deleted and proffers a new Section 3 to be added to the bill as follows:

**Section 3. Section 20106(e) of Title 5 Guam Code Annotated is hereby added to read:**

“(e) The Director of Administration shall establish and maintain a list of all government employees who are sex offenders as that term is defined in Section 4203.3, of Article 2, Chapter 4 of Title 4 Guam Code Annotated and identify those employees who are assigned to positions which require public contact. The Director shall determine the positions in the classified service not requiring public contact for which those employees are qualified and eligible. The director shall notify each employee determined to be eligible for a position or of positions of his or her eligibility and allow the employee to voluntarily transfer to a position not requiring public contact.”

Accordingly, the Committee on Judiciary, Governmental Operations, and Reorganization does hereby submit it's findings and recommendations to *I Mina' Bente Ocho Na Liheslaturan Guahan* **TO PASS BILL 233 (EC) AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW SECTION 20106(e) OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS, as substituted.**

**Declaration Under Penalty of Perjury of Audreya Punzalan**

- 1.) I am employed as a Legislative Aide at the Office of Senator Robert Klitzkie.
- 2.) I was assigned the duty of disseminating a "Notice of Public Hearing" (Appendix A) to each newspaper of general circulation and all broadcasting stations which air a regular local news program within Guam.
- 3.) In such notice I included all information (Appendix A) required by the Open Government Law, Title 5 GCA Sections 8108 thru 8106.
- 4.) I e-mailed notice to all local media (Appendix B: Media E-mail Listing) on 11/30/2005 (*5 working days prior to hearing*) in accordance with 5 GCA §8108.
- 5.) I e-mailed a "Notice of Public Hearing" to all local media (Appendix B: Media E-mail Listing) on 12/02/2005 & 12/05/2005 (*48 hours prior to hearing*) in accordance with 5 GCA §8108.
- 6.) I e-mailed notice to members of the Committee on Judiciary, Governmental Operations, and Reorganization on 11/30/2005 & 12/30/2005.
- 7.) I e-mailed notice to Speaker Forbes on 11/30/2005 & 12/30/2005 for posting on the Legislature's calendar, which can be accessed at the official website of the Guam Legislature ([www.guamlegislature.com](http://www.guamlegislature.com)), in accordance with 5 GCA § 10306.
- 8.) I e-mailed a "Notice of Public Hearing" to all senators on 12/02/2005 & 12/05/2005 (cc: Clerk of the Legislature, Legislative Counsel, and Sgt-at-Arms).
- 9.) I caused notice on [www.bobsoffice.org](http://www.bobsoffice.org), website for the Committee on Judiciary, Governmental Operations, and Reorganization, on 11/30/2005 in accordance with 5 GCA § 10306.
- 10.) Copies of all e-mail notices are on file at the Office of Senator Robert Klitzkie. All bounce back emails were handled accordingly.

**Declaration Under Penalty of Perjury**

**6 GCA Section 306**

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on December 13, 2005 on Guam by



**Audreya "Audi" Punzalan**

**APPENDIX A: NOTICE OF PUBLIC HEARING**



*I Mina' Bente Ocho Na Liheslaturan Guahan*  
**Committee on Judiciary, Governmental Operations, & Reorganization**

**NOTICE OF PUBLIC HEARING**

**A public hearing will be held on Wednesday, December 7, 2005 in the Guam Legislature's public hearing room located at 155 Hesler Place in Hagatna. The public is invited to present oral and/or written testimony. The following bills will be heard:**

**9:00am**

- **Bill 202 (LS)** - AN ACT TO ADD A NEW SECTION 6223 TO CHAPTER 6, ARTICLE 2 OF TITLE 4 RELATIVE TO AUTHORIZING DIFFERENTIAL PAY TO GUAM FIRE DEPARTMENT PERSONNEL ASSIGNED TO THE ADVANCED LIFE SUPPORT UNIT, THE AMBULANCE UNIT, THE SEARCH AND RESCUE UNIT, AND THE FIRE SUPPRESSION UNIT; AND TO THE GUAM INTERNATIONAL AIRPORT AUTHORITY FIRE PERSONNEL ASSIGNED TO THE FIRE AND RESCUE UNIT.
- **Bill 226 (EC)** - **AN ACT AMEND ITEM (a) OF §8121 OF 4G.C.A. RELATIVE TO THE EMPLOYMENT OF RETIREES FOR SCHOOL PRINCIPAL AND ASSISTANT PRINCIPAL POSITIONS.**
- **Bill 230 (EC)** - AN ACT TO ADD A NEW SECTION 8220 OF ARTICLE 2, CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO FORFEITURE OF RETIREMENT BENEFITS OF ELECTED OFFICIALS, APPOINTED OFFICIALS AND EMPLOYEES OF THE GOVERNMENT OF GUAM.
- **Bill 233 (EC)** - AN ACT TO *AMEND* §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO *AMEND* §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

**11:00am**

- **Bill 212 (EC)** - **AN ACT TO CREATE A NEW CHAPTER 91, 5 GCA FOR THE PURPOSE OF ESTABLISHING THE DEPARTMENT OF FINANCE AND ADMINISTRATION, TO REORGANIZE AND TO CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES**

For more information, please visit [www.bobsoffice.org/judiciary](http://www.bobsoffice.org/judiciary)

\*Written testimony can be submitted via e-mail to [judiciary@bobsoffice.org](mailto:judiciary@bobsoffice.org)

For ADA assistance, please contact the Office of Senator Robert Klitzkie at (671) 472-9355 ext. 3, or send request via email to [judiciary@bobsoffice.org](mailto:judiciary@bobsoffice.org).

**APPENDIX B: MEDIA E-MAIL LISTING**

<p align="center"><b>Notice to all media : Outlet Managers, Publishers, Producers</b></p>	<p align="center"><b>Notice to all media : News Directors, Editors, Reporters</b></p>
<p><b><u>PRINT</u></b>  <b>Marianas Variety</b> – Amier Younis, Ops Mgr,  amier@mvguam.com  <b>Directions</b> – Jerry Roberts, Publisher,  jroberts@directionsguam.com  <b>Guam Business</b> – Steve Nygard, Publisher,  snygard@glimpses.guam.net  <b>Pacific Daily News</b> – Government Meetings Section  life@guampdn.com  <b>Marianas Business Journal</b> – Steve Nygard, Publisher,  snygard@glimpses.guam.net  <b>Guahan Magazine</b> – Carlene Cooper-Nurse, Publisher,  carlene@guahanmagazine.com  <b>Mabuhay News</b> – Ritchie Lim, Publisher, paciwire@ite.net  <b>Mariana’s Variety</b> – Ad Section , ads@mvguam.com</p> <p><b><u>TV</u></b>  <b>KUAM Ch. 8</b> – generalmanager@KUAM.com  <b>KUAM Ch. 11</b> – generalmanager@KUAM.com  <b>ABC 14</b> – David Larson, Gen Mgr, david@go14.tv  <b>KGTF</b> – kgtf12@ite.net</p> <p><b><u>RADIO</u></b>  <b>K57</b> – Ray Gibson, General Mgr, rgibson@k57.com  <b>Power98</b> – Roque Aguon, General Mgr,  raguon@power98.com  <b>105 Rock</b> – Albert Juan, General Mgr,  ajuan@105therock.com  <b>I-94 FM</b> – Fredalynn Mortera Hecita,  fredalynn@kuam.com  <b>610 AM</b> – Ryan San Nicolas, ryan@kuam.com  <b>K-StereO</b> – Ed Poppe, General Mgr, ksto@ite.net  <b>KISH (102.9 FM)</b> – Ed Poppe, General Mgr, ksto@ite.net  <b>Hit Radio 100</b> – Vince Limuaco, Sales Mgr.,  marketing@hitradio100.com  <b>KPRG (89.3 FM)</b> – General Manager, kprg@guam.net  <b>Harvest Family Radio</b> – khmg@harvestministries.net  <b>KTKB</b> – ktkb@ktkb.com  <b>KOLG 90.0 FM</b> – Contact, chuck@kolg.org  <b>KTWG 800 AM</b> – Ops Mgr , Kleilani63@hotmail.com</p>	<p><b><u>PRINT</u></b>  <b>Pacific Daily News</b> –Rindraty Limtiaco, Exec. Editor,  rlimtiaco@guampdn.com  <b>Marianas Variety</b> – Mar-Vic Cagurangan,  marvic@mvguam.com  <b>Directions</b> – Gennette Quan, Editor,  editor@directionsguam.com  <b>Guam Business</b> – Maureen Maratita, Editor,  mmaratita@glimpses.guam.net  <b>Marianas Business Journal</b> – Maureen Maratita, Editor,  mmaratita@glimpses.guam.net  <b>Guahan Magazine</b> – Jayne Flores, Editor,  jayne@guahanmagazine.com  <b>Mabuhay News</b> – Ritchie Lim, Editor  mabuhaynews@yahoo.com  <b>Mariana’s Variety</b> – Ad Section, ads@mvguam.com</p> <p><b><u>TV</u></b>  <b>KUAM Ch.8</b> – Sabrina Matanane, News Dir,  Sabrina@KUAM.com  <b>KUAM Ch. 11</b> – Sabrina Matanane, News Dir,  Sabrina@KUAM.com</p> <p><b><u>RADIO</u></b>  <b>I-94 FM</b> – Fredalynn Mortera Hecita, News (Radio)  fredalynn@kuam.com  <b>610 AM</b> – Ryan San Nicolas, ryan@kuam.com  <b>K57, Power98, 105 Rock</b> – Patty Arroyo, News Director,  parroyo@k57.com  <b>K-StereO</b> – Jean Hudson, News Director, kstone@ite.net  <b>KISH (102.9 FM)</b> – Jean Hudson, News Director,  kstone@ite.net</p>

**APPENDIX C: COMMITTEE MEMBER E-MAILS**

Senator Robert Klitzkie, Chairman  
Speaker Mark Forbes, Ex-Officio  
Senator Jesse A. Lujan, Member  
Senator Larry Kasperbauer, Ph.D., Member  
Senator Ray Tenorio, Member  
Senator Benjamin J.F. Cruz, Member  
Senator Adolpho B. Palacios, Sr., Member

[bob@bobsoffice.org](mailto:bob@bobsoffice.org)  
[speakerforbes@yahoo.com](mailto:speakerforbes@yahoo.com)  
[jal@netpci.net](mailto:jal@netpci.net)  
[lk4kids@ite.net](mailto:lk4kids@ite.net)  
[ray@raytenorio.com](mailto:ray@raytenorio.com)  
[cjbjcruz@ite.net](mailto:cjbjcruz@ite.net)  
[patrickcepeda@hotmail.com](mailto:patrickcepeda@hotmail.com)



*I Mina' Bente Ocho Na Liheslaturan Guahan*  
**Committee on Judiciary, Governmental Operations,  
& Reorganization**

## **AGENDA**

**Wednesday, December 7, 2005**

**9:00am**

- **Bill 202 (LS)** - AN ACT TO ADD A NEW SECTION 6223 TO CHAPTER 6, ARTICLE 2 OF TITLE 4 RELATIVE TO AUTHORIZING DIFFERENTIAL PAY TO GUAM FIRE DEPARTMENT PERSONNEL ASSIGNED TO THE ADVANCED LIFE SUPPORT UNIT, THE AMBULANCE UNIT, THE SEARCH AND RESCUE UNIT, AND THE FIRE SUPPRESSION UNIT; AND TO THE GUAM INTERNATIONAL AIRPORT AUTHORITY FIRE PERSONNEL ASSIGNED TO THE FIRE AND RESCUE UNIT.

- **Bill 226 (EC)** - AN ACT AMEND ITEM (a) OF §8121 OF 4G.C.A. RELATIVE TO THE EMPLOYMENT OF RETIREES FOR SCHOOL PRINCIPAL AND ASSISTANT PRINCIPAL POSITIONS.

- **Bill 230 (EC)** - AN ACT TO ADD A NEW SECTION 8220 OF ARTICLE 2, CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO FORFEITURE OF RETIREMENT BENEFITS OF ELECTED OFFICIALS, APPOINTED OFFICIALS AND EMPLOYEES OF THE GOVERNMENT OF GUAM.

- **Bill 233 (EC)** - AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

**11:00am**

- **Bill 212 (EC)** - AN ACT TO CREATE A NEW CHAPTER 91, 5 GCA FOR THE PURPOSE OF ESTABLISHING THE DEPARTMENT OF FINANCE AND ADMINISTRATION, TO REORGANIZE AND TO CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES

For more information, please visit [www.bobsoffice.org/judiciary](http://www.bobsoffice.org/judiciary).

\*Written testimony can be submitted via e-mail to [judiciary@bobsoffice.org](mailto:judiciary@bobsoffice.org).

For ADA assistance, please contact the Office of Senator Robert Klitzkie at (671) 472-9355 ext. 3, or send request via email to [judiciary@bobsoffice.org](mailto:judiciary@bobsoffice.org).







*I Mina' Bente Ocho Na Liheslaturan Guahan*  
**Committee on Judiciary, Governmental Operations, & Reorganization**

**MINUTES**

[Prepared by: Audrey Punzalan \*12/13/2005]

**Date:** December 07, 2005

**Location:** Guam Legislature – Public Hearing Room  
155 Hesler Street Hagatna, Guam

**\*9:00am Hearing**

]

**Called to order by Senator Robert Klitzkie, Chairman, at 9:00am**

**Senators present:**

Senator Robert Klitzkie, Chairman  
Senator Adolpho Palacios, Member  
Senator Larry Kasperbauer, Member  
Senator Judi Won Pat

**Bills on public hearing agenda:** Bill 202 (LS); Bill 226 (EC); Bill 230 (EC); Bill 233 (EC); Bill 212 (EC)

**Bill 202 (LS) heard at 9:01am**

**Testimony:**

- **Doug Sherwin**, an employee of the Guam Fire Department, presented oral and written testimony in support of Bill 202 (LS) at 9:02am.
- **Tomas D.P. Fergurgur**, an employee of the Guam Fire Department assigned to the Emergency Medical Services Bureau and tasked with administering advanced life support care, presented oral and written testimony in support of Bill 202 (LS) at 9:09am.
- **Ron McNinch**, professor at the University of Guam and immediate past chair of Guam Citizen Corps, presented oral testimony in favor of Bill 202 (LS) at 9:12am.
- **John Wusstig**, acting fire chief of the Guam Fire Department, presented oral testimony in support of Bill 202 (LS) at 9:14am.
- **Joey San Nicolas**, firefighter with the Guam Fire Department assigned to the Advanced Life Support Unit, provided personal oral and written testimony in support of Bill 202 (LS) at 9:35am. and specifically stated that his testimony was not to reflect the position of the department or the fire chief.

\* Questions and comments were presented to the panel by Senator Robert Klitzkie, Senator Palacios, and Senator Won Pat.

### **Bill 226 (EC) was heard at 9:48am.**

#### **Testimony:**

- **Juan Flores**, superintendent of the Guam Public School System, presented oral and written testimony in support of Bill 226 (EC) at 9:49am.
- **Pat Bennett**, a retired Government of Guam employee, presented written and oral testimony in support of Bill 226 (EC) at 10:26am.
- **Thelma Maquera**, principal of D.L. Perez Elementary School in Yigo, presented oral testimony in favor of Bill 226 (EC) at 10:30am
- **Lourdes S. San Nicolas**, employee of the Guam Public School System, presented oral testimony in favor of Bill 226 (EC) at 10:32am.

\*Questions and comments were presented to the panel by Senator Robert Klitzkie, Senator Adolpho Palacios, Senator Won Pat, and Senator Kasperbauer.

### **Bill 230 (EC) was heard at 10:39am**

#### **Testimony:**

- **Judi Gutherz**, professor of the University of Guam, presented oral testimony in favor of Bill 230 (EC) at 10:40am and provided the committee with letters by her students concerning Bill 230 (EC).

\* Questions and comments were presented to the panel by Senator Robert Klitzkie and Senator Judi Won Pat.

\*\* Senator Judi Won Pat stated that the attendance of representatives from the Government of Guam Retirement Fund was vital to the hearing for Bill 230 (EC). Senator Won Pat also stated that former Speaker Joe T. San Agustin from the retirement office did not have enough notice to have the legal counsel prepare findings to be presented through testimony. San Agustin requested a second public hearing be held on Bill 230 (EC) and Senator Won Pat requested the same on his behalf.

\*\*\* Senator Robert Klitzkie, chairman, concluded the hearing on Bill 230 (EC) announcing the possibility of a second hearing for the bill after the author consults with officials at the Government of Guam Retirement Fund.

### **Bill 233 (EC) was heard at 10:54am**

#### **Testimony:**

- - **Judi Gutherz**, instructor at the University of Guam, presented oral testimony accompanied by 28 written testimonies from students at the University of Guam in support of Bill 233 (EC) at 10:40am, in conjunction with her testimony on Bill 230 (EC).

### **\*11:00am Hearing**

#### **Senators Present:**

Senator Robert Klitzkie, Chairman  
Senator Adolpho Palacios, Member  
Senator Larry Kasperbauer, Member  
Speaker Mark Forbes, Member

## **Bill 212 (EC) was heard at 11:00am**

### **Testimony:**

- **Juan Flores**, superintendent of the Guam Public School System, presented oral and written testimony in opposition of Bill 212 (EC).
- **Joe Manibusan**, acting director of the Department of Administration, on behalf of the Director Lourdes Perez, provided oral and written testimony on Bill 212 (EC) at 11:13am.
- **Marinito Bautista**, general accounting supervisor for the Division of Accounts under the Department of Administration, presented testimony at 11:16am.
- **Kathy K.**, acting controller for the Department of Administration, presented testimony at 11:21am.
- **Johnny Rivera**, member of the Guam Education Policy Board, presented oral testimony on behalf of the Guam Education Policy Board at 11:34am.
- **Veronica Garrido**, program director of the Guam Public School System Head Start Program, presented oral and written testimony in opposition of Bill 212 (EC) at 1:30pm.
- **Lourdes San Nicolas**, school principal of Simon Sanchez High School, presented oral testimony in opposition of Bill 226 (EC) at 1:39pm.
- **Ron McNinch**, professor at the University of Guam and member of the Governor's Reorganization Advisory Committee, presented testimony in favor of Bill 212 (EC) at 1:40pm.
- **Begonia Flores**, principal of George Washington High School, presented oral testimony in opposition of Bill 212 (EC) at 1:48pm.
- **Luis Reyes**, personnel administrator for the Guam Public School System, presented oral testimony at 2:01pm.
- **Vangie Iglesias**, principal of Upi Elementary School, presented oral testimony in opposition of Bill 222 (EC) at 2:03pm.

\* Questions and comments were presented to the panel by Senator Robert Klitzkie, Senator Adolpho Palacios, and Senator Forbes.

\*\* Senator Klitzkie, chairman of the Committee on Judiciary, Governmental Operations and Reorganization, called for an adjourned hearing on Bill 212 (EC) on Tuesday, December 13, 2005 at 11:00am.

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 233 (EC)**

**Bill Title (Preamble): AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.**

Department/Agency Appropriation Information	
Dept./Agency Affected: Government-wide	Dept./Agency Head: N/A
Department's General Fund (GF) appropriation(s) to date:	N/A
Department's Other Fund (specify): _____ appropriation(s) to date:	N/A
Total Department/Agency Appropriation(s) to date:	N/A

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (specify):	Total:
FY 2006 Adopted Revenues	\$435,092,898	\$0	\$435,092,898
FY Appro. to P.L. 28-76	(\$435,092,898)	\$0	(\$435,092,898)
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No  
If no, what is the additional amount required? \$ \_\_\_\_\_
- Does the Bill establish a new program/agency? / / Yes /X/ No  
If yes, will the program duplicate existing programs/agencies? / / N/A / / Yes /X/ No  
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No  
/ / Requested agency comments not received by due date /X/ Other: \_\_\_\_\_

Analyst: Wendy S. ... Date: 12/14/05 Director: Carlos P. Bordaño Date: 12/14/05

Footnotes: 1/The intent of the proposed bill is to amend existing statute to prohibit employment of sex offenders in any agency or instrumentality of the government of Guam. And if such offenders are currently employed in the Guam Public School System, or "similarly employed in the government of Guam" then they shall immediately be transferred to a position in another agency having no contact with the general public. Such offense is defined in accordance with the provisions of Chapter 25, 9 GCA, and Article 2 of Chapter 28, 9 GCA, and which shall apply whether convicted in Guam, United States, the federal government or a foreign country for purposes of this bill. Additionally, the bill includes that if such sex offender is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, then he/she is restricted from working in any agency or instrumentality of the government of Guam. As such, all contracts for services to agencies shall include contract provisions, as stipulated in the bill language to meet the intent of the bill. Enactment of the proposed bill entails a fiscal impact government-wide, connected to any transfer of individual(s) affected by the proposed bill. Fund requirements to implement the intent of the bill may be absorbed under existing budgets or be included in subsequent annual budgets.



# GUAM PUBLIC SCHOOL SYSTEM

P.O. Box DE

Hagåtña, Guam 96932

Telephone: (671) 475-0457/0658 Fax: (671) 472-5003

Email: [juanpflores@doe.edu.gu](mailto:juanpflores@doe.edu.gu)



**JUAN P. FLORES**  
Superintendent

December 14, 2005

Honorable Robert Klitzkie  
Chairman, Committee on Judiciary, Governmental  
Operations & Organization  
Senator, 28<sup>th</sup> Guam Legislature  
Hagatna, Guam 96910

**RE: TESTIMONY ON BILL NO. 233**

Dear Chairman and Committee Members:

*Hafa Adai!* We endorse the intent of Bill No. 233 which proposes to limit employment with the government of Guam of individuals who have been convicted of sex crimes in Guam and other jurisdictions. The Guam Public School System particularly welcomes this action because of the large number of vulnerable children which are in our care. Many of them lack the judgment and experience to distinguish between predators and friends. Because they lack this judgment, it is our responsibility to exercise this judgment for them. At the present moment, we lack the legal tools we need to provide each child with a secure environment. At the present moment, it is not illegal for a convicted felon of any sort to work at our schools.

This situation needs to be remedied and we are thankful that steps are being taken by this Legislature to remove these offenders from our schools. It is not an acceptable compromise to place these individuals in public positions in Guam Public School System which don't involve contact with the public.

The fact is that it is that a position within the Guam Public School System which does not have the potential of contact with children is practically non-existent. I would not want to assume the responsibility for assuring the public that these contacts could never occur because mistakes are always possible. This matter is too important for mistakes.

This said, the language of Bill No. 233 could more effectively accomplish this goal with some changes. In Sections 1-3, the following language appears. "No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in another state or subdivision of the United States or a foreign country with similar or identical elements of a sexual nature, or listed on the Sex Offender Registry, ----".

The language of the Bill is very clear as to what is being outlawed if the offender committed the crime on Guam. In a desire to be comprehensive and deal with individuals who have convicted elsewhere, language is introduced which is unnecessarily vague and may result in delay and litigation before a court decides what it means. This urgent public safety issue does not need further delay or litigation. The use of the phrase "similar or identical elements of a sexual nature" is an unnecessary problem with the legislation. It will be relatively easy for those who will administer the law to decide whether a conviction in a foreign jurisdiction involves the identical elements for a crime under Guam law. The difficulties for honest and conscientious public servants will come when the question is asked as to whether a particular conviction involved elements "similar" to those that are a part of Guam law.

No one can say with certainty what kind of sexual conduct is similar to that outlawed by Chapter 25 of Title 9 GCA or Article 2 of Chapter 28 until a court decides the matter. While the question is decided, time is wasted and children will not receive the protection the Bill is intended to provide.

We understand the concern that there should be no loop holes which will allow individuals convicted in other places to slip through the employment prohibition and do harm. The way to accomplish this goal is to prohibit the employment of anyone whose conviction was of an offense which includes at least all of the elements of a crime described in Title 9 GCA, Chapter 25, or Title 28, Article 2.

The reference to employment "in any agency or instrumentality of the government of Guam." is also confusing. Employees of contractors don't work in any agency or instrumentality of the government because they are not employees. Perhaps the aim is to prevent them from working on government property, but the intent is not clear.

To remedy these two sources of confusion, the language should read in Section 2 for example, "No person convicted of a sex offense under the provisions of Chapter 25, Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or who has been convicted of an offense in any jurisdiction which includes at least all of the elements of any such offense under Guam law as all or part of the proof of guilt, or is required to register as a sex offender with any registry maintained by Guam or any other jurisdiction, who is employed by a business contracted to perform services for the government of Guam, may work for his employer on the property of the government of Guam other than a public highway."

Thank you for the opportunity to express our support for Bill No. 233. We appreciate your efforts to make our school children as safe as they can possibly be.

*Para I Famagu'on,*

**KENNETH P. CHARGUALAF**  
Superintendent, Acting

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

Bill No. 233 (EC)

Introduced by:

Ray Tenorio

L. F. Kasperbauer

A. B. Palacios

AN ACT TO AMEND §4203.3 OF ARTICLE 2, CHAPTER 4 OF TITLE 4 AND TO AMEND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR BY GOVERNMENT CONTRACTORS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Section 4203.3, of Article 2, Chapter 4 of Title 4 is hereby  
3 *amended* to read:

4 "§4203.3. Prohibition: Sex offenders prohibited from  
5 employment in ~~the Guam Public School System or other~~ agencies and  
6 facilities of the government of Guam ~~frequented by children~~. (a) No  
7 person convicted of a sex offense under the provisions of Chapter 25 of  
8 Title 9 Guam Code Annotated, or an offense as defined in Article 2 of  
9 Chapter 28, Title 9 GCA in Guam, or an offense in another state or  
10 subdivision of the United States, the federal government or a foreign

1 country with similar or identical elements of a sexual nature, or listed on  
2 the Sex Offender Registry may shall work in any agency or  
3 instrumentality of the government of Guam. ~~on the campus of any~~  
4 ~~public school, on the campuses of the Guam Community College or the~~  
5 ~~University of Guam, as a bus driver, in any public library, the~~  
6 ~~Department of Youth Affairs, at the Guam Memorial Hospital, at the~~  
7 ~~Medical Services and the Child Protection Services divisions of the~~  
8 ~~Department of Public Health and Social Services, at the Department of~~  
9 ~~Integrated Services for Individuals with Disabilities (DISID), at the~~  
10 ~~Department of Mental Health and Substance Abuse, or in areas~~  
11 ~~frequented by children under the jurisdiction of the Department of~~  
12 ~~Parks and Recreation including, but not limited to, the Hagåtña Pool."~~

13 (b) A sex offender currently employed by the government of  
14 Guam in the Guam Public School System following the enactment of  
15 this Act shall immediately be transferred out of the Guam Public School  
16 System to a position in another agency having no contact with the  
17 general public. All other sex offenders similarly employed in the  
18 government of Guam shall be reassigned to positions where there is no  
19 contact with the general public.

20 **Section 2.** Section 5253 to Title 5 Guam Code Annotated is hereby  
21 *amended to read:*

22 **"§5253. Restriction against contractors employing convicted sex**



1 offenders from working at ~~ertain~~ government of Guam venues. (a)  
2 No person convicted of a sex offense under the provisions of Chapter 25  
3 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of  
4 Chapter 28, Title 9 GCA in Guam, or an offense in another state or  
5 subdivision of the United States or a foreign country with similar or  
6 identical elements of a sexual nature, or listed on the Sex Offender  
7 Registry, who is employed by a business contracted to perform services  
8 for an agency or instrumentality of the government of Guam, ~~may~~ shall  
9 work in any agency or instrumentality of the government of Guam. on  
10 ~~the campus of any public school, on the campuses of the Guam~~  
11 ~~Community College or the University of Guam, as a bus driver, in any~~  
12 ~~public library, the Department of Youth Affairs, at the Guam Memorial~~  
13 ~~Hospital, at the Medical Services and the Child Protection Services~~  
14 ~~divisions of the Department of Public Health and Social Services, at the~~  
15 ~~Department of Integrated Services for Individuals with Disabilities~~  
16 ~~(DISID), at the Department of Mental Health and Substance Abuse, or in~~  
17 ~~areas frequented by children under the jurisdiction of an agency of the~~  
18 ~~government of Guam including, but not limited to, the Hagåtña Pool.~~

19 (b) All contracts for services to agencies listed herein shall include  
20 the following provisions: (1) warranties that no person, providing  
21 services on behalf of the contractor has been convicted of a sex offense  
22 under the provisions of Chapter 25 of Title 9 GCA or an offense as

1 defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another  
2 state or subdivision of the United States or a foreign country with  
3 similar or identical elements of a sexual nature, or listed on the Sex  
4 Offender Registry; (2) that if any person providing services on behalf of  
5 the contractor is convicted of a sex offense under the provisions of  
6 Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of  
7 Chapter 28, Title 9 GCA or an offense in another state or subdivision of  
8 the United States or a foreign country with similar or identical elements  
9 of a sexual nature, or legally listed on the Sex Offender Registry, that  
10 such person will be immediately removed from working at said agency  
11 and that the administrator of said agency be informed of such within  
12 twenty-four (24) hours of such conviction.

13 (c) Duties of the General Services Agency or Procurement  
14 Administrators. All contracts, bids, or Requests for Proposals shall state  
15 all the conditions in §5253(b).

16 (d) Any contractor found in violation of §5253(b), after notice  
17 from the contracting authority of such violation, shall within twenty-  
18 four (24) hours take corrective action and shall report such action to the  
19 contracting authority. Failure to take corrective action within the  
20 stipulated period may result in the temporary suspension of the contract  
21 at the discretion of the contracting authority."