

I Mina'trentai Sais Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
111-36 (COR) As amended by the Committee on Health, Land, Justice, and Culture	Amanda L. Shelton Mary Camacho Torres Tina Rose Muña Barnes Telena Cruz Nelson Therese M. Terlaje	AN ACT TO <i>AMEND</i> § 120.60 OF ARTICLE 1, CHAPTER 120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TESTING FOR HIV OF THOSE CHARGED WITH CRIMINAL SEXUAL ABUSE OR CONDUCT AT THE REQUEST OF VICTIMS.	4/9/21 2:15 p.m.	4/15/21	Committee on Health, Land, Justice, and Culture	5/13/21 11:00 a.m.	7/26/21 4:36 p.m. As amended by the Committee Health, Land, Justice and Culture.	Request: 4/16/21 4/26/21	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	9/24/21	AN ACT TO <i>AMEND</i> § 120.60 OF ARTICLE 1, CHAPTER 120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS (HIV) OF THOSE CHARGED WITH CRIMINAL SEXUAL ABUSE OR CONDUCT AT THE REQUEST OF VICTIMS.	10/4/21	10/5/21	10/16/21	36-58	10/15/21	Received: 10/18/21 Mess and Comm. Doc. No. 36GL-21-1202	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

October 15, 2021

Doc Type: 36GL-21-1202
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

10-15-2021

Time: 4:48 p

Received: [Signature]

Re: BILL NO. 111-36 (COR) – “AN ACT TO AMEND § 120.60 OF ARTICLE 1, CHAPTER 120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS (HIV) OF THOSE CHARGED WITH CRIMINAL SEXUAL ABUSE OR CONDUCT AT THE REQUEST OF VICTIMS”

Dear Madame Speaker,

Existing Guam law requires that a person convicted of criminal sexual conduct submit to testing for sexually transmitted diseases, including HIV. While this law affords victims of sex crimes access to information that may affect their health, it requires them to await a conviction to receive it, a process that could take years. Bill No. 111-36, now known as *Public Law No. 36-58*, aims to provide victims of sex crimes more timely access to a critical portion of this information by requiring HIV testing for individuals charged with criminal sexual conduct. To preserve a defendant's due process rights, the bill provides that such testing may be ordered upon the filing of a petition at a victim's request and a court finding of probable cause that the conduct underlying the allegations would pose a risk of transmission of HIV. Results would then be furnished only to the defendant and the victim or the victim's parents, in the event the victim is a minor. This amendment to existing Guam law, which is consistent with the laws in many other jurisdictions around the country, balances the physical and emotional well-being of our victims with the rights and privacy of individuals accused of crime, and ultimately allows victims of sex crimes to seek services and begin the process of healing.

Senseremente,

LOURDES A. LEON GUERRERO

Maga'hāgan Guåhan

Governor of Guam

COMMITTEE ON RULES

RECEIVED:

October 15, 2021

5:55 P.M.

Enclosure: Bill No. 111-36 (COR) *nka P.L. No. 36-58*

cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'lāhen Guåhan*
Compiler of Laws

RICARDO J. BORDALLO GOVERNOR'S COMPLEX

513 W. Marine Corps Drive Hagåtña, Guam 96910

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Doc. No. 36GL-21-1202.*

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 111-36 (COR)**, "AN ACT TO **AMEND** § 120.60 OF **ARTICLE 1, CHAPTER 120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS (HIV) OF THOSE CHARGED WITH CRIMINAL SEXUAL ABUSE OR CONDUCT AT THE REQUEST OF VICTIMS,**" was on the 4th day of October 2021, duly and regularly passed.



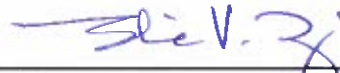
Therese M. Terlaje
Speaker

Attested:



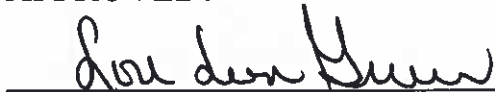
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 5th day of October,
2021, at 5:13 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/15/2021

Public Law No. 36-58

2021-14789
RCVD AT CENTRAL FILES
OCT 5 '21 PM5:13

Elaine Tajalle

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN
2021 (FIRST) Regular Session

Bill No. 111-36 (COR)

As amended by the Committee Health,
Land, Justice and Culture.

Introduced by:

Amanda L. Shelton
Mary Camacho Torres
Tina Rose Muña Barnes
Telena Cruz Nelson
Therese M. Terlaje
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Telo T. Taitague
Jose “Pedo” Terlaje

AN ACT TO *AMEND* § 120.60 OF ARTICLE 1, CHAPTER 120, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS (HIV) OF THOSE CHARGED WITH CRIMINAL SEXUAL ABUSE OR CONDUCT AT THE REQUEST OF VICTIMS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guáhan* finds
3 that a victim of a criminal offense that involves the transmission of body fluids, or
4 involves certain sexual offenses in which the victim is a minor, disabled adult, or

1 **“§ 120.60. Medical Examinations of Those Convicted of Criminal**
2 **Sexual Abuse and Services to Victims of Criminal Sexual Conduct.**

3 (a) Any person convicted of criminal sexual conduct shall submit to
4 the necessary medical examinations for determining whether such convicted
5 person is infected with the human immunodeficiency virus (HIV) or with any
6 other sexually transmitted disease such as, but not limited to, the examination
7 of such convicted person’s blood, urine, genital discharge, or lesions. The
8 Department of Public Health and Social Services shall administer and analyze
9 such necessary medical examinations in accordance with standard medical
10 procedures and HIPAA confidentiality and privacy laws and regulations.

11 The court shall furnish the results of such examinations to the victim,
12 or parent of a minor victim, or guardian of the victim of such conduct, and to
13 the convicted person, and comply with HIPAA confidentiality and privacy
14 laws and regulations as required within the criminal justice system.

15 (b) Upon the victim’s request, the prosecutor shall petition for an
16 order requiring the person charged with an offense of criminal sexual conduct
17 under Chapter 25 of Title 9, Guam Code Annotated, to submit to a medical
18 examination for human immunodeficiency virus (HIV). Upon a finding that
19 there is probable cause that the alleged sexual contact or sexual penetration
20 involved in the offense would pose a risk of transmission of HIV, the court
21 shall order the defendant to submit to the necessary medical examinations for
22 determining whether such person is infected with the HIV. An examination
23 for HIV of a defendant’s blood, urine, genital discharge, or lesions shall be
24 administered no later than forty-eight (48) hours after the date on which the
25 formal indictment is presented and the defendant is in custody or has been
26 served with the indictment. The Department of Public Health and Social
27 Services shall administer and analyze medical examinations, including

1 follow-up testing, in accordance with standard medical procedures, and
2 HIPAA confidentiality and privacy laws and regulations.

3 Upon reasonable request, the court may authorize testing at a private
4 clinic. Any and all costs of such testing at a private clinic shall be borne by
5 the defendant. The test results from the private clinic must be provided to the
6 court as well as to the defendant.

7 The court shall furnish the results of such examinations to the victim,
8 or parent of the minor victim, or guardian of the victim, and to the defendant,
9 and comply with HIPAA confidentiality and privacy laws and regulations as
10 required within the criminal justice system.

11 (c) The Department of Public Health and Social Services with the
12 assistance of the Sexual Abuse and Rape Crisis Center shall provide services
13 to victims of criminal sexual conduct. Such services to the victim shall be free
14 of charge, and shall include, but are not limited to:

15 (1) pre and post-HIV testing, counseling on HIV prevention
16 and other sexually transmitted diseases (STD), and ensuring that the
17 victim understands the implications of HIV and STD testing, their
18 benefits and results of the test(s); HIV or any other sexually transmitted
19 disease testing in accordance with standard medical procedures and
20 applicable law; and

21 (2) providing referrals for appropriate health care and support
22 services.

23 Such treatment shall not be construed to interfere with or diminish any
24 medical support already provided by any health insurer, agency or office; nor
25 shall provision of the services or treatment required by this Section relieve
26 any health insurer of its duty to provide coverage.”