

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
144-37 (L5)	Therese M. Terlaje Sabina Flores Perez Chris Barnett	AN ACT TO AMEND §70.20 OF CHAPTER 70 AND §161.10, §161.30, §161.50(A), §161.55, AND §161.130 OF CHAPTER 161 ALL OF TITLE 8 GUAM CODE ANNOTATED RELATIVE TO ADDRESSING VICTIM CONFIDENTIALITY, REPORTING, AND RESTITUTION UNDER THE CRIMINAL INJURIES COMPENSATION LAW.	6/28/23 3:19 p.m.						

**I MINA TRENTAI SIETTE NA LIHESLATURAN GUÁHAN
2023(FIRST) Regular Session**

Bill No. 144-37(LS)

Introduced by:

Therese M. Terlaje *TMT*
Sabina Flores Perez *SFP*
Chris Barnett *CB*

**AN ACT TO AMEND §70.20 OF CHAPTER 70 AND §161.10,
§161.30, §161.50(a), §161.55, AND §161.130 OF CHAPTER 161
ALL OF TITLE 8 GUAM CODE ANNOTATED RELATIVE TO
ADDRESSING VICTIM CONFIDENTIALITY, REPORTING,
AND RESTITUTION UNDER THE CRIMINAL INJURIES
COMPENSATION LAW.**

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

2 **Section 1. Legislative Findings.** *I Liheslatura* finds that victims of crime
3 who suffer injuries caused by violent crime deserve compensation. The intent of
4 this legislation is to strengthen existing provisions of the “Compensation for
5 Damages from Criminal Activities Act” by clarifying eligibility criteria, supporting
6 reimbursements to the Fund from court ordered restitution, and to maintain the
7 confidentiality of records and information of victims of crime as required by local
8 and federal laws and regulations, and federal program guidelines[“Violence
9 Against Women Act” 42 U.S.C.A. §13925 (b)(2)(A); “Family Violence Prevention
10 and Services Act” 42 U.S.C.A. § 10406 (c)(5)(B); “Victims of Crime Act” 28 CFR
11 Chapter 1 Department of Justice, Subpart B, §94.115].

12 The Commission determined that vehicular homicide should be added to the
13 list of compensable violent crimes. Currently the statute only allows compensation
14 where the crime charged results from drunk driving. There is no rational basis to
15 allow compensation for injuries resulting from drunk driving omission, but not

1 felony vehicular homicide itself. Similarly, hit-n-run with injuries as a third-degree
2 felony should be added based on the severity of the crime, fact this crime is often
3 difficult to solve, leaving victims and families without financial resources to cover
4 their injuries or funeral expenses. The Commission has denied several of these
5 claims based on ineligibility.

6 The Commission, further, seeks to update the restitution statutes to authorize
7 judges to order a defendant to pay such sums of restitution to the Fund as
8 reimbursement for compensation paid to the victim or eligible person prior to entry
9 of a judge of conviction. This Guam Supreme Court held that that in absence of
10 statutory authority judges cannot order a defendant to pay restitution sums as
11 reimbursement to the Fund where the victim or eligible person has been wholly or
12 partially compensated for property damages prior to entry of a judgement of
13 conviction. *People v. Reselap 2022 Guam 2*.

14 **Section 2.** §70.20 of Chapter 70, Title 8, Guam Code Annotated is hereby
15 *amended* to read:

16 **“§ 70.20. Matters Not Subject to Discovery by Defendant.**

17 Notwithstanding §§ 70.10 and 70.15, the prosecuting attorney
18 shall not be required to disclose:

19 (a) legal research or records, correspondence, reports or
20 memoranda to the extent that they contain the opinions, theories or
21 conclusions of the prosecuting attorney or members of his legal staff;
22 ~~and~~

23 (b) an informant's identity where his identity is a prosecution
24 secret and a failure to disclose will not infringe the constitutional
25 rights of the defendant. However, the identity of an informant may not
26 be kept secret where the prosecuting attorney intends to call such
27 person as a witness at the trial; and

1 (c) Confidential records under the Criminal Injuries
2 Compensation Commission.”

3 **Section 3.** §161.10 of Chapter 161, Title 8, Guam Code Annotated is hereby
4 *amended* to read:

5 **“§ 161.10 Definitions.**

6 (a) ‘Child’ means an unmarried person who is under
7 eighteen(18) years of age and includes a stepchild or an adopted
8 child;

9 (b) ‘Commission’ means the Criminal Injuries Compensation
10 established by this Chapter;

11 (c) ‘Confidential records’ means the name, contact
12 information, medical records, statements of personal injuries or
13 damages suffered as a result of a violent crime, or any information the
14 disclosure of which would constitute an unwarranted invasion of
15 personal privacy or a violation of local or federal laws;

16 (d) ‘Dependents’ means ~~relatives of a deceased or injured~~
17 ~~victim persons~~ who were wholly or partially dependent upon the
18 victim’s income at the time of the victim’s death or injury and
19 includes the child of the victim born after the victim’s injury or death;

20 (e) ‘Injury’ means actual bodily harm and, in respect of a
21 victim, includes pregnancy, and mental or nervous shock;

22 (f) ‘Person’ means a natural person;

23 (g) ‘Private citizen’ means any natural person other than a
24 peace officer who is actively engaged in the performance of his or her
25 duties;

1 (g) ~~‘Relative’ means a victim’s spouse, parent, grandparent,~~
2 ~~stepfather, stepmother, child, grandchild, brother, sister, half-~~
3 ~~brother, half-sister or spouse’s parents; and~~

4 (h) ‘Spouse’ means a person(male or female) who is legally
5 married to another person(male or female), and provided no
6 dissolution proceedings are pending; and

7 (i) ‘Victim’ means a person who is injured or killed by any
8 act or omission of any other person coming within the description of
9 any of the crimes specified in Section 161.55 of this Chapter.

10 **Section 4.** §161.30 of Chapter 161, Title 8, Guam Code Annotated is hereby
11 *amended* to read:

12 **“§161.30 Hearings and Evidence.**

13 (a) Where any application is made to the Commission, the
14 applicant and the Commission’s legal advisor shall be entitled to
15 appear and be heard. Any other person may appear and be heard who
16 satisfied the Commission that he or she has a substantial interest in the
17 proceedings. In any case in which the person entitled to make an
18 application is a child, the application may be made on his or her
19 behalf by his or her parent or legal guardian. In any case in which the
20 person entitled to make an application is mentally defective, the
21 application may be made on his or her behalf by his or her guardian or
22 such other individual authorized to administer the estate.

23 (b) All hearings shall be open to the public, except the
24 Commission is authorized to conduct closed meetings to adjudicate
25 victim compensation. Where under this Chapter a person is entitled to
26 appear and be heard by the Commission, that person may appear in
27 person or by his or her attorney. ~~All hearings shall be open to the~~

1 ~~public unless, in a particular case, the Commission determines that the~~
2 ~~hearing, or a portion thereto, should be held in private, having regard~~
3 ~~to the fact that the offender has not been convicted or to the interest of~~
4 ~~the victim of an alleged sexual offense.~~

5 (c) Every person appearing under this Chapter shall have the
6 right to produce evidence and to cross-examine witnesses. The
7 Commission may receive as evidence any statement, document,
8 information or matter that may, in the opinion of the Commission,
9 contribute to its functions under this Chapter, whether or not such
10 statement, document, information or matter would be admissible in a
11 court of law.

12 (d) If any person has been convicted of any offense with respect
13 to an act or omission on which a claim under this Chapter is based,
14 proof of that conviction, unless an appeal against the conviction or a
15 petition for a hearing in respect of the charge is pending or a new trial
16 or rehearing has been ordered, shall be taken as conclusive evidence
17 that the offense has been committed.

18 (e) Confidential records of crime victim or eligible applicant are
19 not subject to disclosure, inspection, publication, broadcasting,
20 production, or reporting to any government or law enforcement entity
21 without the prior written consent of the victim or eligible applicant.”

22 **Section 5.** §161.50(a) of Chapter 161, Title 8, Guam Code Annotated is
23 hereby *amended* to read:

24 **“ §161.50. Eligibility for Compensation.**

25 (a) In the event any person is injured or killed by any
26 act or omission of any other person coming within the criminal
27 jurisdiction of Guam after September 30, 1980, which act, or

1 omission is within the description of the crimes enumerated in
2 Section 161.55, the Commission may, in its discretion, upon an
3 application, order the payment of compensation in accordance
4 with this Chapter:

5 (1) to or for the benefit of the victim;

6 (2) to any person responsible for the
7 maintenance of the victim, where that person has suffered
8 pecuniary loss or incurred expenses as a result of the
9 victim's injury or death;

10 (3) in the case of the death of the victim, to or
11 for the benefit of any one (1) or more of the dependents
12 of the deceased victim; or

13 (4) to a spouse, to a parent of an adult deceased
14 victim, or to an adult son or daughter of a deceased
15 victim, where in the case of death of the victim the
16 spouse, the parent or adult son or daughter has incurred
17 expenses on account of hospital, medical, funeral, and
18 burial expenses as a result of the victim's injury and
19 death."

20 **Section 6.** §161.55 of Chapter 161, Title 8, Guam Code Annotated is hereby
21 *amended* to read:

22 **“ §161.55. Violent Crimes.**

23 (a) The crimes to which this Chapter applies are the following:

24 (1) Aggravated Murder (9 GCA § 16.30);

25 (2) Murder (9 GCA § 16.40);

26 (3) Manslaughter (9 GCA § 16.50);

27 (4) Aggravated Assault (9 GCA § 19.20);

- 1 (5) Assault (9 GCA § 19.30);
- 2 (6) Kidnapping (9 GCA § 22.20);
- 3 (7) Felonious Restraints (9 GCA § 22.30);
- 4 (8) Child Stealing (9 GCA § 22.40);
- 5 (9) Custodial Interference (9 GCA § 22.50);
- 6 (10) Criminal Sexual Conduct in the First Degree (9 GCA §
- 7 25.15);
- 8 (11) Criminal Sexual Conduct in the Second Degree (9 GCA
- 9 § 25.20);
- 10 (12) Criminal Sexual Conduct in the Third Degree (9 GCA §
- 11 25.25);
- 12 (13) Criminal Sexual Conduct in the Fourth Degree (9 GCA
- 13 § 25.30);
- 14 (14) Assault with Intent to Commit Criminal Sexual
- 15 Conduct (9 GCA § 25.35);
- 16 (15) Driving While Impaired (9 GCA § 92102);
- 17 (16) Driving While Impaired With Child On Board: Felony
- 18 Punishment (9 GCA § 92109), provided a child under the age
- 19 of sixteen (16) was injured as a result of an accident in which
- 20 the vehicle operated by the person charged with the above
- 21 violation was involved;
- 22 (17) Vehicular Negligence: Bodily Injuries (9 GCA §
- 23 92108);
- 24 (18) Vehicular Homicide While Driving Impaired: Felony
- 25 Punishment (9 GCA § 92111);
- 26 (19) Drinking While Driving a Motor Vehicle:
- 27 Misdemeanor: Punishment (9 GCA § 92112);

1 (20) Stalking (9 GCA § 19.70);

2 (21) Family Violence (Third Degree Felony and
3 Misdemeanor) and Violation of a Court Order (Misdemeanor)
4 (9 GCA Chapter 30);

5 (22) Solicitation of Children and Child Pornography (9 GCA
6 Chapter 25A);

7 (23) Robbery (9 GCA Chapter 40);

8 (24) Aggravated Arson and Arson (9 GCA §§ 34.20 and
9 34.30);

10 (25) Home Invasion (9 GCA §§ 37.210 and 37.220); ~~and~~

11 (26) Carjacking (9 GCA §§ 37.310, 37.320, and 37.330).

12 (27) Hit and Run with injuries Failure to Stop Felony(16
13 GCA §3501(f); and

14 (28) Vehicular Homicide, (9 GCA §92110).

15 (b) For the purpose of this Chapter, the operation of a motor
16 vehicle, boat, or aircraft that results in an injury or death shall not
17 constitute a crime, unless the injuries were intentionally inflicted
18 through the use of such vehicle, boat, or aircraft or unless the conduct
19 constitutes a violation of 9 GCA § 92101, et seq. (The Safe Streets
20 Act).

21 (c) Any fine imposed pursuant to 9 GCA § 80.50 ~~or~~ or for
22 conviction of any crimes specified in Subsections (a)(1) through (14)
23 and (20) through ~~(26)~~(28) of this Section shall be paid into the
24 Criminal Injuries Compensation Fund established by § 161.90 95 of
25 this Chapter. Any portion of restitution imposed pursuant to 9 GCA
26 §§ 80.50, 26.06 or 34.70 shall be paid into the Criminal Injuries
27 Compensation Fund as reimbursement to the Fund where the

1 Commission has awarded compensation for damages to a victim or
2 eligible pursuant to 9 GCA §161.50 prior to a judgement of conviction
3 against the defendant.”

4 **Section 7.** §161.55 of Chapter 161, Title 8, Guam Code Annotated is hereby
5 *amended* to read:

6 **“ §161.130. Semi- Annual Report.**

7 The Attorney General shall ~~transmit semi-annually to I Maga’lahen~~
8 ~~Guåhan and to I Liheslaturan Guåhan a report of the Commission’s activities~~
9 ~~under this Chapter, including the name of each applicant, a brief description~~
10 ~~of the facts in each case, and the amount, if any, of compensation awarded.~~
11 ~~Such reports shall be due no later than January 30 and June 30 of each year.~~
12 ~~The Attorney General shall transmit the report, together with a tabulation of~~
13 ~~the total amount of compensation awarded.~~ on behalf of the Commission
14 include in the Office of the Attorney General’s annual fiscal year budgetary
15 submission to I Liheslaturan Guahån, a report on vacant appointments to the
16 Commission, the number of applications received for the preceding calendar
17 year, the category of crimes identified, the number of awards issued and
18 number denied in the preceding calendar year, current balances in the CICC
19 Fund, and any specific request for appropriations to the Office of the
20 Attorney General for administrative support of this Chapter.”