

**MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2014 (SECOND) Regular Session**

Bill No. 270 -32 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE PROCESS BY WHICH A PERSON MAY
SEEK REMOVAL OF HIS/HER NAME FROM THE FAMILY
VIOLENCE REGISTRY DATABASE, TO BE CODIFIED
UNDER A NEW ARTICLE 3 IN CHAPTER 1 OF TITLE 19 -
LAW, GUAM ADMINISTRATIVE RULES AND
REGULATIONS.**

2014 FEB -7 PM 4:32


BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the Rules and Regulations, *Governing the Process by Which a Person May Seek Removal of His Name From the Family Violence Registry Database*, were duly promulgated by the Office of the Attorney General pursuant to Article 3 of Chapter 9 [Administrative Adjudication Law], Division 1, Title 5, Guam Code Annotated, and as provided pursuant to §30.200 [Family Violence Registry] of Chapter 30 Title 9, Guam Code Annotated.

I Liheslaturan Guåhan finds that domestic violence is a serious problem on Guam that has negative effects on the entire island community, and that many crimes of family violence are perpetrated by repeat offenders.

In keeping with the government's responsibility to help ensure the safety and wellbeing of the public, *I Liheslaturan Guåhan* passed P.L. 31-103 (Bill No. 195-31) which provides the opportunity to obtain criminal history record information

1 that relates to the repeated conviction for the offense of family, domestic, or dating
2 violence.

3 *I Liheslaturan Guåhan* further finds that having this information
4 readily available in a central database system provides a greater sense of security
5 from repeat offenders of family, domestic and/or dating violence, *provided*,
6 *however*, there must also be an appropriate process by which a prior offender may,
7 after a period of time and who meets the requisite criteria, petition for removal
8 from the registry.

9 It is, therefore, the *intent* of *I Liheslaturan Guåhan* to adopt the Rules and
10 Regulations appended to this Act as Exhibit “A”.

11 **Section 2. Adoption of Rules.** Notwithstanding any other provision of law,
12 rule, regulation and Executive Order, the Rules and Regulations Governing the
13 Process by Which a Person May Seek Removal of His/Her Name From The
14 Family Violence Registry Database, and attached hereto as Exhibit “A”, are hereby
15 adopted by *I Mina’Trentai Dos Na Liheslaturan Guåhan*, and *shall* be codified
16 under a *new* Article 3 in Chapter 1 of Title 19 - Law, Guam Administrative Rules
17 and Regulations.

18 **Section 3. Amendment of Rules.** The Office of the Attorney General,
19 Department of Law *shall*, in keeping with the provisions pursuant to Article 3 of
20 Chapter 9, Title 5, Guam Code Annotated, review and amend, as may be
21 necessary, the Rules and Regulations adopted pursuant to Section 2 of this Act.

22 **Section 4. Severability.** *If* any provision of this Act or its application to
23 any person or circumstance is found to be invalid or contrary to law, such
24 invalidity shall *not* affect other provisions or applications of this Act which can be

1 given effect without the invalid provisions or application, and to this end the
2 provisions of this Act are severable.

3 **Section 5. Effective Date.** This Act shall become immediately effective
4 upon enactment.

1 **Exhibit “A”**

Title 19 - Guam Administrative Rules and Regulations

Law

Chapter 1. Office of the Attorney General Department of Law

Article 3

2 **THE RULES AND REGULATIONS GOVERNING THE PROCESS BY**
3 **WHICH A PERSON MAY SEEK REMOVAL OF HIS/HER NAME FROM**
4 **THE FAMILY VIOLENCE REGISTRY DATABASE**

5
6 **[Authority: §30.200 of Title 9, Guam Code Annotated]**

7 **Office of the Attorney General**
8 **Department of Law**
9 **Government of Guam**
10

1 (c) Jurisdiction means the governing law enforcement agency and court
2 for a given address or residence.

3 (d) Police Clearance is document issued by a police department that lists
4 all arrests of the petitioner (date and charge) and the disposition of each arrest, or
5 the absence of arrests of the petitioner.

6 (e) Conviction is defined as follows:

7 (1) Adult Conviction. The term conviction refers to each separate charge
8 to which the offender either voluntarily pleads guilty and such guilty plea
9 has been accepted by the Court, whether in a single hearing or in separate
10 hearings, or is found guilty by a trier of fact, whether the charges are
11 contained in one (1) indictment, or separate indictments. This term includes
12 convictions based on pleas of nolo contendere and guilty pleas entered
13 pursuant to North Carolina v. Alford, 400 U.S. 25 (1970).

14
15 “Conviction” for the purposes of this Chapter includes if the offender has
16 been subjected to penal consequences based on the conviction, however the
17 conviction may be styled.

18 (2) Juvenile Conviction. A juvenile offender is “convicted” for the purposes
19 of this Chapter if the juvenile offender is prosecuted and found guilty as an
20 adult, including those juveniles convicted through the certification process in
21 Title 19, Guam Code Annotated, § 5106’

22
23 **§ 1303. Petition.** Persons who seek the removal of their names from the Family
24 Violence Database Registry shall submit a petition to the Office of the Attorney
25 General upon a form approved by the Office of the Attorney General, which shall

1 require the disclosure of the following information and attachment of the following
2 documents:

3 a) The petitioner shall state his present address and the address of all
4 residences for the ten-year period preceding the date of the petition.

5 b) The petitioner shall attach court clearances and police clearances from
6 each jurisdiction listed in the statement of present and prior residences. The
7 petitioner is solely responsible for obtaining police and court clearances.

8 c) The petitioner will be responsible for providing additional information
9 upon request if such information is necessary to determine the record of the
10 petitioner during the period defined by § 1303(a).

11 d) The Office of the Attorney General will refuse to accept incomplete
12 petitions. Upon receipt of a complete and correct petition, the Office of the
13 Attorney General will process the petition and notify the petitioner of the decision
14 within one hundred twenty (120) days of the date of submission, unless
15 extraordinary circumstances require a greater time. If the petitioner is found
16 eligible, the Office will immediately remove the record from the Family Violence
17 Database Registry.

18 e) A petitioner whose petition has been denied but wishes to re-apply in
19 the belief that petitioner has become eligible for removal since the denial shall be
20 considered a new petitioner, and shall be required to submit a new petition and the
21 documents required by § 1303(b).

22 f) Submission of the required documents does not automatically deem a
23 person's name will be removed from the Family Violence Registry. Removal will

1 be subject to the requirements set forth in Title 9 G.C.A. §30.200, particularly
2 §§30.200(d).

3 g) New convictions for family violence, domestic violence, dating
4 violence, stalking, criminal sexual conduct, aggravated assault, or homicide
5 occurring during the pendency of the petition shall be cause for the petitioner not
6 to be removed from the Family Violence Registry.

7 h) Any new conviction that places the petitioner's name back onto the
8 registry will require a new petition for the removal of petitioner's name, and
9 removal will be subject to all requirements as prescribed under the Family
10 Violence Registry Act.

11 i) Upon notice from any individual that the individual's name has been
12 placed in error upon the registry, the Office of the Attorney General will promptly
13 review the allegation and remove the name record from the registry if satisfied that
14 an error in placement has occurred.

15 **§ 1304. Effective Date.** These rules and regulations shall become effective
16 immediately upon enactment.

17 **§ 1305. Severability.** If any provisions or petition of any provision of these rules
18 and regulations are held invalid, such invalidity shall not affect the other provisions
19 or petitions of these rules and regulations.”