


**I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN**  
**2013 (First) Regular Session**

Bill No. 41-32 LS )

Introduced by:

FRANK B. AGUON, JR. 

B. J. F. CRUZ 

J. T. WON PAT, Ed.D. 

V. ANTHONY ADA 

**AN ACT TO AMEND CHAPTER 30, TITLE 9 GUAM CODE  
ANNOTATED RELATIVE TO STRENGTHENING THE  
PENALTIES FOR CRIMES OF FAMILY VIOLENCE.**

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

**Section 1. § 30.20 of Chapter 30, Title 9 Guam Code Annotated is hereby amended to read as follows:**

**“(a) Any person who intentionally, knowingly, or recklessly commits an act of family violence, as defined in § 30.10 of this Chapter, is guilty of a misdemeanor, or of a third degree felony, and shall be sentenced as follows:**

**(i) For the first offense, the court shall impose a sentence of no less than forty-eight (48) hours; and**

**(ii) For the second offense, the court shall impose a sentence of no less than thirty (30) days; and**

**(iii) For the third offense, the offense shall be classified as a third degree felony and the court shall impose a sentence of no less than one (1) year. The person, upon conviction, shall be termed a “repeat offender” and may be subject to extended terms as defined in 9 GCA § 80.38.**

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1 (b) Upon a written, noticed motion prior to commencement of trial, the  
2 defendant may move that a felony charge filed pursuant to this § 30.20, **other than**  
3 **a felony charge filed pursuant to § 30.20(a)(iii)** , be reduced to a misdemeanor.  
4 Whether any charge **other than a felony charge filed pursuant to § 30.20(a)(iii)**  
5 shall proceed as a misdemeanor or a felony rests within the discretion of the court.

6 (c) In determining whether ~~any~~ **a** felony charge filed pursuant to this §  
7 30.20, **other than a felony charge filed pursuant to § 30.20(a)(iii)**, should be  
8 reduced to a misdemeanor, the court shall consider the following factors, among  
9 others:

- 10 (1) The extent or seriousness of the victim's injuries;
- 11 (2) The defendant's history of violence against the same victim  
12 whether charged or uncharged;
- 13 (3) The use of a gun or other weapon by the defendant;
- 14 (4) The defendant's prior criminal history;
- 15 (5) The victim's attitude and conduct regarding the incident;
- 16 (6) The involvement of alcohol or other substance, and the defendant's  
17 history of substance abuse as reflected in the defendant's criminal history  
18 and other sources; and
- 19 (7) The defendant's history of and amenability to counseling.

20 (d) If the court, after hearing, finds substantial evidence that a victim  
21 suffered serious bodily injury as defined in subsection (c) of § 16.10 of this title, no  
22 felony charged filed under this § 30.20 shall be reduced to a misdemeanor unless  
23 the court finds that due to unusual circumstances a reduction of the charge is  
24 manifestly in the interest of justice.

25 (e) The fact that an alleged criminal act involved family violence as defined  
26 in § 30.10 of this Chapter shall not preclude the prosecuting attorney from

1 charging and prosecuting the defendant for any other violations of law, subject to  
2 the provisions set forth in § 1.22 of this title;

3 (f) In any case in which a person is convicted of violating this § 30.20 and  
4 probation is granted, the court shall require participation in an education and  
5 treatment program as a condition of probation unless, considering all the facts and  
6 the circumstances, the court finds participation in an education and treatment  
7 program inappropriate for the defendant.

8 (g) If probation is granted, or the imposition of a sentence is suspended, for  
9 any person convicted under subsection (a) of this § 30.20 who previously has been  
10 convicted under such subsection (a) for an offense that occurred within seven (7)  
11 years of the offense of the second conviction, it shall be a condition of such  
12 probation or suspended sentence that he or she be punished by imprisonment for  
13 not less than ~~ten (10)~~ **thirty (30)** days, and that he or she participate in, for no less  
14 than one (1) year, and successfully complete an education and treatment program,  
15 as designated by the court. ~~However, the court, upon a showing of good cause,~~  
16 ~~may find that the minimum imprisonment, or the participation in an education and~~  
17 ~~treatment program, or both the minimum imprisonment and participation in an~~  
18 ~~education and treatment program, as required by this subsection, shall not be~~  
19 ~~imposed and may grant probation or the suspension of the imposition of a~~  
20 ~~sentence.~~

21 (h) ~~If probation is granted or the imposition of a sentence is suspended~~  
22 **Probation shall not be granted** for any person convicted under subsection (a) of  
23 this § 30.20 who previously has been convicted of two (2) or more violations of  
24 such subsection (a) for offenses that occurred within seven (7) years of the most  
25 recent conviction. ~~it shall be a condition of such probation or suspended sentence~~  
26 ~~that he or she be punished by~~ **The person shall be sentenced** ~~-imprisonment for~~  
27 not less than ~~thirty (30) days~~ **one (1) year** and that he or she **shall** participate in,

1 for no less than one (1) year, and successfully complete an education and treatment  
2 program, as designated by the court. ~~However, the court, upon a showing of good~~  
3 ~~cause, may find that the minimum imprisonment, or the participation in an~~  
4 ~~education and treatment program, or both the minimum imprisonment and~~  
5 ~~participation in an education and treatment program, as required by this subsection,~~  
6 ~~shall not be imposed and may grant probation or the suspension of the imposition~~  
7 ~~of a sentence.”~~

8 **Section 2. § 30.32 of Chapter 30, Title 9 Guam Code Annotated is**  
9 **hereby amended as follows:**

10 “(b) A lower priority high priority shall not be assigned to calls involving  
11 alleged incidents of abuse or violations of orders relative to family violence ~~that is~~  
12 ~~assigned in responding to like offenses involving strangers.~~ Every law enforcement  
13 agency shall develop and implement a comprehensive inter- and intra-agency or  
14 departmental family violence policy and protocol to include:

15 (1) the number of children in the family and/or household exposed to  
16 family violence; and

17 (2) referral to Child Protective Services for coordination and referral  
18 for assessment for appropriate counseling services.

19 **Section 3. § 30.40 of Chapter 30, Title 9 Guam Code Annotated is**  
20 **hereby amended as follows:**

21 “(a) Any knowing violation of any of the following court orders shall be a  
22 misdemeanor punishable by imprisonment of no less than forty-eight (48) hours  
23 and not more than one (1) year, and by a fine of not more than One Thousand  
24 Dollars (\$1,000), ~~or by imprisonment for not more than one (1) year, or by both~~  
25 ~~such fine and imprisonment:~~

1 (1) An order enjoining a person from threatening to commit or  
2 committing acts of family violence against, or from harassing, annoying, or  
3 molesting, a family or household member, or any person named in the order;

4 (2) An order removing or excluding a person from the family dwelling  
5 or from the dwelling of another, or from any habitable property as defined in  
6 subsection (b) of § 34.11 of this title;

7 (3) An order requiring a person to stay away from the residence,  
8 dwelling, school, day care center, place of employment, or any other  
9 specified place or from a specified person, within five hundred feet (500') of  
10 the specified place or specified person;

11 (4) An order prohibiting a person from possessing a firearm or other  
12 weapon specified by the court; or

13 (5) An order in a criminal case prohibiting the defendant from  
14 harassing, annoying, telephoning, contacting, or otherwise communicating  
15 with a victim or specified witness, either directly or indirectly.

16 (b) In the event of a conviction for a **second** violation ~~of~~ **under** subsection  
17 (a) of this § 30.40, **or of a conviction for a violation under subsection (a)** which  
18 results in bodily injury as defined in subsection (b) of § 16.10 of this title, the  
19 defendant shall be imprisoned for at least ~~forty-eight (48) hours~~ **thirty (30) days**.

20 (c) In the event of a conviction for a **third** violation under subsection **(a)** ~~(b)~~  
21 of this § 30.40, **or of a conviction for a violation under subsection (a) of this §**  
22 **30.40 which results in bodily injury as defined in subsection (b) § 16.10 of this**  
23 **title after a prior conviction of a violation under subsection (a) of this § 30.40,**  
24 occurring within ~~one (1) year~~ **two (2) years** of a ~~the prior~~ conviction ~~of either~~  
25 ~~subsections (a) or (b),~~ committed against the same victim **or the victim's family,**  
26 the defendant shall be imprisoned for no less than ~~thirty (30) days~~ **one (1) year**.

1           (d) When a peace officer has reasonable cause to believe that a person has  
2 violated one (1) of the orders of the court specified in subsection (a) of this § 30.40  
3 and verifies the existence of the order, the peace officer shall presume that  
4 arresting and charging the person is the appropriate response.

5           (e) An admission by the defendant that he or she had knowledge of the court  
6 order shall be admissible in court notwithstanding the corpus delicti rule.”

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