


I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 280-32(19)

Introduced by:

V. Anthony Ada 

**AN ACT TO ADD A NEW CHAPTER 72 TO 9GCA
RELATIVE TO BIAS-MOTIVATED CRIMES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that all
3 people have a stake in an effective response to and mitigation of violent bigotry.
4 Hate crimes demand a priority response because of their special emotional and
5 psychological impact on the victim and the victim's community. The damage done
6 by hate crimes cannot be measured solely in terms of physical injury or dollars and
7 cents. Hate crimes may effectively intimidate other members of the victim's
8 community, leaving them feeling isolated, vulnerable and unprotected by the law.
9 By making members of minority communities fearful, angry and suspicious of
10 other groups -- and of the power structure that is supposed to protect them -- these
11 incidents can damage the fabric of our society and fragment communities.

12
13 It is the intent of *I Liheslatura* to create within Guam's Penal Code, laws that will
14 deter such abhorrent behavior and punish the offenders.

15
16 **Section 2.** A new Chapter 72 is added to 9GCA as follows:

17 **Chapter 72**

18 **Bias-motivated Crimes**

19 **§72101. Bias-Motivated Crimes, defined**

2014 FEB 20 PM 3:49


1 A person commits a Bias-Motivated Crime if, by reason of the actual or perceived
2 race, religion, color, ethnicity, physical, emotional or developmental disability,
3 sexual orientation, gender, gender identity, political affiliation, national origin, job
4 or occupation; or ancestry of another individual or group of individuals, he violates
5 Chapters 16, 19, 22, 25, 34, 52, 61 of 9GCA or commits attempt, solicitation or
6 conspiracy to commit a crime under said Chapters, *supra*.

7
8 **§72102. Institutional Vandalism**

9 (a) A person commits the crime of institutional vandalism by knowingly
10 vandalizing, defacing or otherwise damaging:

11 (1) Any church, mosque, synagogue or other building, structure or place used
12 for religious worship or other religious purpose;

13 (2) Any cemetery, mortuary or other facility used for the purpose of burial or
14 memorializing the dead;

15 (3) Any school, educational facility or community center;

16 (4) The grounds adjacent to, and owned or rented by, any institution, facility,
17 building, structure or place described in subsections (1), (2) or (3) above; or

18 (5) Any personal property contained in any institution, facility, building,
19 structure, or place described in subsections (1), (2) or (3) above.

20 (b) Institutional vandalism is punishable as follows:

1 Institutional vandalism is a petty misdemeanor if the person does any act
2 described in subsection (a) which causes damage to, or loss of, the property
3 of another.

4 Institutional vandalism is a misdemeanor if the person does any act described
5 in Subsection (a) which causes damage to, or loss of, the property of another
6 in an amount in excess of five hundred dollars (\$500).

7 Institutional vandalism is a third degree felony if the person does any act
8 described in Subsection (a) which causes damage to, or loss of, the property
9 of another in an amount in excess of one thousand five hundred dollars
10 (\$1,500).

11 Institutional vandalism is a second degree felony if the person does any act
12 described in Subsection (a) which causes damage to, or loss of, the property
13 of another in an amount in excess of five thousand dollars (\$5,000).

14 (c) In determining the amount of damage to, or loss of, property, damage includes
15 the cost of repair or replacement of the property that was damaged or lost.

16 **§72103. Penalty enhancement; crimes committed against certain people or**
17 **property**

18 (1). If a person does all of the following, the penalties for the underlying crime are
19 increased as provided in subsection (2):

20 (a) Commits a crime under Chapters 16, 19, 22, 25, 34, 52, 61 of 9GCA
21 or commits attempt, solicitation or conspiracy to commit a crime under
22 said Chapters, *supra*.

1 (b) Intentionally selects the person against whom the crime under
2 paragraph (a) is committed or selects the property that is damaged or
3 otherwise affected by the crime under paragraph (a) in whole or in part
4 because of the actor's belief or perception regarding the race, religion,
5 color, ethnicity, physical, emotional or developmental disability, sexual
6 orientation, gender, gender identity, political affiliation, national origin,
7 job or occupation; or ancestry of that person or the owner or occupant of
8 that property, whether or not the actor's belief or perception was correct.

9 (2) (a) If the crime committed under sub. (1) is ordinarily a petty
10 misdemeanor, the revised maximum fine is Ten Thousand Dollars
11 (\$10,000) and the revised maximum period of imprisonment is one (1)
12 year.

13
14 (b) If the crime committed under sub. (1) is ordinarily a misdemeanor, the
15 penalty increase under this section changes the status of the crime to a
16 felony and the revised maximum fine is Ten Thousand Dollars (\$10,000)
17 and the revised maximum period of imprisonment is two (2) years.

18
19 (c) If the crime committed under subsection (1) is a felony, the maximum
20 fine prescribed by law for the crime may be increased by not more than
21 Five Thousand (\$5,000) and the maximum period of imprisonment
22 prescribed by law for the crime may be increased by not more than five
23 (5) years.

1 (3) This section provides for the enhancement of the penalties applicable for the
2 underlying crime. The court shall direct that the trier of fact find a special verdict as
3 to all of the issues specified in subsection (1).
4

5 (4) This section does not apply to any crime if proof of race, religion, color,
6 physical, emotional or developmental disability, sexual orientation, national origin
7 or ancestry or proof of any person's perception of belief regarding another's race,
8 religion, color, ethnicity, physical, emotional or developmental disability, sexual
9 orientation, gender, gender identity, political affiliation, national origin, job or
10 occupation; or ancestry is required for a conviction for that crime.
11

12 **§72104. Civil Action for Institutional Vandalism and Bias-Motivated Crimes**

13 (a) Irrespective of any criminal prosecution or result thereof, any person incurring
14 bodily injury to his person or damage or loss to his property as a result of conduct
15 in violation of §§72101 & 71102 of this Chapter shall have a civil action to secure
16 an injunction, damages or other appropriate relief in law or in equity against any
17 and all persons who have violated §§72101 & 71102 of this Chapter.

18 (b) In any such action, whether a violation of §§72101 & 71102 of this Chapter has
19 occurred shall be determined according to the burden of proof used in other civil
20 actions for similar relief.

21 (c) Upon prevailing in such civil action, the plaintiff may recover:

- 22 (1) Both special and general damages, including damages for emotional
23 distress;

1 (2) Punitive damages; and/or

2 (3) Reasonable attorney fees and costs.

3 (d) Notwithstanding any other provision of the law to the contrary, the parent(s) or
4 legal guardian(s) of any unemancipated minor shall be liable for any judgment
5 rendered against such minor under this Section.

6 **§72105. Bias Crime Reporting and Training**

7 The Guam Police Department shall establish and maintain a central repository for
8 the collection and analysis of information regarding Bias-Motivated Crimes as
9 defined in §71102 of this Chapter. Upon establishing such a repository, the Guam
10 Police Department shall develop a procedure to monitor, record, classify and
11 analyze information relating to crimes apparently directed against individuals or
12 groups, or their property, by reason of their actual or perceived race, religion, color,
13 ethnicity, physical, emotional or developmental disability, sexual orientation,
14 gender, gender identity, political affiliation, national origin, job or occupation; or
15 ancestry. The Guam Police Department shall submit its rules and regulations to *I*
16 *Liheslaturan Guåhan* for approval consistent with the provisions of 5GCA Chapter
17 9.

18 All law enforcement agencies shall report monthly to the Guam Police Department
19 concerning such offenses in such form and in such manner as prescribed by rules
20 and regulations adopted by Guam Police Department. The Guam Police Department
21 must summarize and analyze the information received and file an annual report
22 with *I Maga Lahen Guåhan* and the appropriate committee of *I Liheslaturan*
23 *Guåhan*.

1 Any information, records and statistics collected in accordance with this subsection
2 shall be available for use by any local law enforcement agency of the Government
3 of Guam to the extent that such information is reasonably necessary or useful to
4 such agency in carrying out the duties imposed upon it by law. Dissemination of
5 such information shall be subject to all confidentiality requirements otherwise
6 imposed by Public Law.

7 The Guam Police Department shall provide training for police officers in
8 identifying, responding to, and reporting all Bias-Motivated Crimes.