

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 219-30(LS)

Introduced by:

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Ray Tenorio

B. J. F. Cruz

Judith T. Wok Pat, Ed.D. &

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

Telo Taitague
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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Chapter 72 is added to 9GCA as follows:

3 Chapter 72

4 Bias-motivated Crimes

5 §72101. Bias-Motivated Crimes, defined

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

11
12 §72102. Institutional Vandalism

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

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

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

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

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

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

8 (b) Institutional vandalism is punishable as follows:

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

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

15 Institutional vandalism is a third degree felony if the person does any act
16 described in Subsection (a) which causes damage to, or loss of, the property
17 of another in an amount in excess of one thousand five hundred dollars
18 (\$1,500).

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

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

3 **§72103. Penalty enhancement; crimes committed against certain people or**
4 **property**

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

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

10
11 (b) Intentionally selects the person against whom the crime under
12 paragraph (a) is committed or selects the property that is damaged or
13 otherwise affected by the crime under paragraph (a) in whole or in part
14 because of the actor's belief or perception regarding the race, religion,
15 color, ethnicity, disability, sexual orientation, gender, gender identity,
16 political affiliation, national origin or ancestry of that person or the owner
17 or occupant of that property, whether or not the actor's belief or
18 perception was correct.

19 (2) (a) If the crime committed under sub. (1) is ordinarily a petty
20 misdemeanor, the revised maximum fine is Ten Thousand Dollars
21 (\$10,000) and the revised maximum period of imprisonment is one (1)
22 year.

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

5
6 (c) If the crime committed under subsection (1) is a felony, the maximum
7 fine prescribed by law for the crime may be increased by not more than
8 Five Thousand (\$5,000) and the maximum period of imprisonment
9 prescribed by law for the crime may be increased by not more than five
10 (5) years.

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

14
15 (4) This section does not apply to any crime if proof of race, religion, color,
16 disability, sexual orientation, national origin or ancestry or proof of any person's
17 perception of belief regarding another's race, religion, color, ethnicity, disability,
18 sexual orientation, gender, gender identity, political affiliation, national origin or
19 ancestry is required for a conviction for that crime.

20
21 **§72104. Civil Action for Institutional Vandalism and Bias-Motivated Crimes**

22 (a) Irrespective of any criminal prosecution or result thereof, any person incurring
23 injury to his person or damage or loss to his property as a result of conduct in

1 violation of §§72101 & 71102 of this Chapter shall have a civil action to secure an
2 injunction, damages or other appropriate relief in law or in equity against any and
3 all persons who have violated §§72101 & 71102 of this Chapter.

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

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

8 (1) Both special and general damages, including damages for emotional
9 distress;

10 (2) Punitive damages; and/or

11 (3) Reasonable attorney fees and costs.

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

15 **§72105. Bias Crime Reporting and Training**

16 The Guam Police Department shall establish and maintain a central repository for
17 the collection and analysis of information regarding Bias-Motivated Crimes as
18 defined in §71102 of this Chapter. Upon establishing such a repository, the Guam
19 Police Department shall develop a procedure to monitor, record, classify and
20 analyze information relating to crimes apparently directed against individuals or
21 groups, or their property, by reason of their actual or perceived race, religion, color,
22 ethnicity, disability, sexual orientation, gender, gender identity, political affiliation,
23 national origin or ancestry. The Guam Police Department shall submit its rules and

1 regulations to *I Liheslaturan Guåhan* for approval consistent with the provisions of
2 5GCA Chapter 9.

3 All law enforcement agencies shall report monthly to the Guam Police Department
4 concerning such offenses in such form and in such manner as prescribed by rules
5 and regulations adopted by Guam Police Department. The Guam Police Department
6 must summarize and analyze the information received and file an annual report
7 with *I Maga Lahen Guåhan* and the appropriate committee of *I Liheslaturan*
8 *Guåhan*.

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

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