

EDDIE BAZA CALVO  
Governor



RAY BENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

Handwritten notes: "MAY 17 11 AM '13" and a signature.

November 6, 2012

Honorable Judith Won Pat  
Speaker  
*I Mina' Trentai Unu na Liheslaturan Guåhan*  
155 Hesler Place  
Hagåtña, Guam 96932

31-12-1015  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 11/6/12  
Time PM  
Received by [Signature]

Dear Madam Speaker,

Transmitted herewith is Bill No. 52-31 (COR), entitled: “AN ACT TO ADD A *NEW* 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANOTATED, RELATIVE TO WOMEN’S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS ‘*THE WOMEN’S REPRODUCTIVE HEALTH INFORMATION ACT OF 2012*’,” which I signed into law on November 1, 2012 as **Public Law 31-235**.

As a public servant, I have always stood firm in commitment to give a voice to those who in our community who have none. On November 1<sup>st</sup>, I gave a voice to unborn children by empowering their mothers with information to make the right decision by choosing life. *Knowledge is power*, and in this world of easy access to information via the internet, it is incumbent upon those of us charged with the health, welfare and safety of the community to ensure that *accurate* information is made available to women who face the agonizing decision – most often, alone – of whether to carry their unborn child to term.

Public Law 31-235 and, specifically, the *Women’s Reproductive Health Information Act of 2012* (the “Act”) does not contravene a constitutional right, but rather it empowers a woman with knowledge to understand the full consequences of her decision, thereby “reducing the risk that a woman may elect an abortion, only to discover later, with *devastating psychological consequences*, that her decision was not fully informed.” This legitimate public interest was recognized by the United States Supreme Court in the seminal case of *Planned Parenthood v. Casey*, 505 U.S. 833, 882 (1992)(Emphasis added).

Some detractors have commented on my delay in signing this bill into law, impugning the sincerity of my intentions with regard to the measure. Such unmeasured rhetoric is irrelevant, however, when it remains my duty to enact laws that are not only substantively appropriate, but capable of proper implementation and execution, i.e. enforceable. My short pause can be attributed to the new Section 4 of Bill 52, entitled “Effective Date,” which required careful review. This provision appears to require that the Department of Public Health and Social Services follow the rule-making process of the Administrative Adjudication Act for the information pamphlets (“printed materials”) and “checklist certification” before

the Act can take effect. However, this requirement is wholly unnecessary and raises questions about the legislative intent with regard to the addition of this provision which was *not* in the original bill.

It is clear under the provisions of the Administrative Adjudication Act that the “printed materials” and “checklist certification” are not “rules” or “regulations” as defined therein because they merely reduce to a distributable form the information required under the *Women’s Reproductive Health Information Act*. Thus, the requirement that they be subjected to another protracted process that leads, once again, to the review by the Legislature should not serve to provide senators with another proverbial “bite of the apple” to delay the implementation of this law. I cannot even begin to imagine how providing women with information to empower them to make a decision that not only impacts their psychological health, but the life within them, could ever be the wrong thing to do.

Nevertheless, I do not see Section 4 as an impediment to the implementation of The *Women’s Reproductive Health Information Act of 2012* and I have directed DPHSS to expedite its execution.

*Senseramente,*

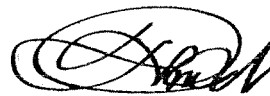
A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Eddie Baza Calvo.

**EDDIE BAZA CALVO**  
Governor of Guam  
I Magalahaen Guahan

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (FIFTH) Special Session

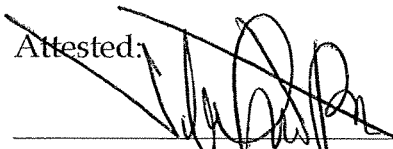
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 52-31 (COR), "AN ACT TO ADD A NEW § 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS "THE WOMEN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2012." was on the 24<sup>th</sup> day of October, 2012, duly and regularly passed.



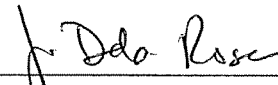
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 25<sup>th</sup> day of Oct., 2012, at 11:45 o'clock A.M.



Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:



EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date: NOV 01 2012

Public Law No. 31-235

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2011 (FIRST) Regular Session

**Bill No. 52-31 (COR)**

As substituted by the Committee on Health & Human Services,  
Economic Development, Senior Citizens, and Election Reform;  
and **further substituted** by the Committee on Rules;  
and referred back to Committee after rising from the Committee of the Whole;  
and **further substituted** by Committee on Health & Human Services,  
Economic Development, Senior Citizens, and Election Reform; and amended on the floor.

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesian Affairs and  
Human & Natural Resources

by request of *I Maga'låhen Guåhan*  
in accordance with the Organic Act  
of Guam

**AN ACT TO ADD A NEW § 3218.1 TO CHAPTER 3,  
ARTICLE 2, TITLE 10 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO WOMEN'S INFORMED  
CONSENT FOR ABORTION; AND TO CITE THE ACT  
AS "THE WOMEN'S REPRODUCTIVE HEALTH  
INFORMATION ACT OF 2012."**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that it is essential to the psychological and physical well-being of a woman  
4 considering an abortion that she receives complete and accurate information  
5 material to her decision of whether to undergo an abortion including information  
6 concerning abortion alternatives. *I Liheslaturan Guåhan* further finds that every  
7 woman submitting to an abortion should do so only after giving her voluntary and  
8 informed consent in writing to the abortion procedure.

9           **Section 2. A New § 3218.1.** A new § 3218.1 is hereby added to Chapter 3,  
10 Article 2, Title 10 of the Guam Code Annotated to read, as follows:

1           “§ 3218.1. The Women's Reproductive Health Information Act of  
2 2012.

3           (a) **Definitions.** For the purposes of this § 3218.1, the following words  
4 and phrases are defined to mean:

5           (1) *Abortion* means the use or prescription of any instrument,  
6 medicine, drug, or other substance or device to terminate the pregnancy of a  
7 woman known to be pregnant with an intention other than to increase the  
8 probability of a live birth, to preserve the life or health of the child after live  
9 birth, to act upon an ectopic pregnancy, or to remove a dead unborn child  
10 who died as the result of natural causes *in utero*, accidental trauma, or a  
11 criminal assault on a pregnant woman or her unborn child, and which causes  
12 the premature termination of the pregnancy;

13           (2) *Act* means the Women's Reproductive Health Information Act  
14 of 2012 codified at Title 10 GCA § 3218.1;

15           (3) *Complication* means that condition which includes but is not  
16 limited to hemorrhage, infection, uterine perforation, cervical laceration,  
17 pelvic inflammatory disease, endometriosis, and retained products. The  
18 Department may further define the term “complication” as necessary and in  
19 a manner not inconsistent with this § 3218.1;

20           (4) *Conception* means the fusion of a human spermatozoon with a  
21 human ovum;

22           (5) *Department* means the Department of Public Health and Social  
23 Services;

24           (6) *Facility* or *medical facility* means any public or private hospital,  
25 clinic, center, medical school, medical training institution, health care  
26 facility, physician’s office, infirmary, dispensary, ambulatory surgical

1 treatment center, or other institution or location wherein medical care is  
2 provided to any person;

3 (7) *First trimester* means the first twelve (12) weeks of gestation;

4 (8) *Gestational age* means the time that has elapsed since the first  
5 day of the woman's last occurring menstruation;

6 (9) *Hospital* means any building, structure, institution or place,  
7 public or private, whether organized for profit or not, devoted primarily to  
8 the maintenance and operation of facilities for the diagnosis, treatment and  
9 provision of medical or surgical care for three (3) or more non-related  
10 individuals, admitted for overnight stay or longer in order to obtain medical,  
11 including obstetric, psychiatric and nursing care of illness, disease, injury or  
12 deformity, whether physical or mental and regularly making available at  
13 least clinical laboratory services and diagnostic x-ray services and treatment  
14 facilities for surgery or obstetrical care or other definitive medical treatment;

15 (10) *Medical emergency* means a condition which, in reasonable  
16 medical judgment, so complicates the medical condition of the pregnant  
17 woman as to necessitate the immediate termination of her pregnancy to avert  
18 her death or for which a delay will create a serious risk of substantial and  
19 irreversible physical impairment of a major bodily function. No condition  
20 shall be deemed a medical emergency if based on a claim or diagnosis that  
21 the woman will engage in conduct which would result in her death or in  
22 substantial and irreversible physical impairment of a major bodily function;

23 (11) *Physician* means any person licensed to practice medicine or  
24 surgery or osteopathic medicine under the Physicians Practice Act (Title 10  
25 GCA § 12201, *et seq.*) or in another jurisdiction of the United States;

26 (12) *Pregnant* or *pregnancy* means that female reproductive  
27 condition of having an unborn child in the mother's uterus;

1 (13) *Qualified person* means an agent of a physician who is a  
2 psychologist, licensed social worker, licensed professional counselor,  
3 registered nurse, or physician;

4 (14) *Records Section* means the Guam Memorial Hospital Medical  
5 Records Section;

6 (15) *Unborn child or fetus* each means an individual organism of the  
7 species *homo sapiens* from conception until live birth;

8 (16) *Viability* means the state of fetal development when, in the  
9 reasonable judgment of a physician based on the particular facts of the case  
10 before him or her and in light of the most advanced medical technology and  
11 information available to him or her, there is a reasonable likelihood of  
12 sustained survival of the unborn child outside the body of his or her mother,  
13 with or without artificial support; and

14 (17) *Woman* means a female human being whether or not she has  
15 reached the age of majority.

16 (b) **Informed Consent Requirement.** No abortion shall be performed or  
17 induced without the voluntary and informed consent of the woman upon whom the  
18 abortion is to be performed or induced. Except in the case of a medical  
19 emergency, consent to an abortion is voluntary and informed if and only if:

20 (1) at least twenty-four (24) hours before the abortion, the  
21 physician who is to perform the abortion or a qualified person has informed  
22 the woman in person of the following:

23 (i) the name of the physician who will perform the abortion;

24 (ii) the following medically accurate information that a  
25 reasonable person would consider material to the decision of whether  
26 or not to undergo the abortion: (a) a description of the proposed  
27 abortion method and (b) the immediate and long-term medical risks

1 associated with the proposed abortion method, including but not  
2 limited to any risks of infection, hemorrhage, cervical or uterine  
3 perforation, and any potential effect upon future capability to conceive  
4 as well as to sustain a pregnancy to full term;

5 (iii) the probable gestational age of the unborn child at the  
6 time the abortion is to be performed;

7 (iv) the probable anatomical and physiological characteristics  
8 of the unborn child at the time the abortion is to be performed;

9 (v) the medical risks associated with carrying the child to  
10 term;

11 (vi) any need for anti-Rh immune globulin therapy if she is  
12 Rh negative, the likely consequences of refusing such therapy, and the  
13 cost of the therapy;

14 (2) at least twenty-four (24) hours before the abortion, the  
15 physician who is to perform the abortion or a qualified person has informed  
16 the woman in person, that:

17 (i) medical assistance benefits may be available for prenatal  
18 care, childbirth, and neonatal care and that more detailed information  
19 on the availability of such assistance is contained in the printed  
20 materials given to her and described in Subsection (c) of this §  
21 3218.1;

22 (ii) public assistance may be available to provide medical  
23 insurance and other support for her child while he or she is a  
24 dependent and that more detailed information on the availability of  
25 such assistance is contained in the printed materials given to her and  
26 described in Subsection (c) of this § 3218.1;



1 (iii) public services exist which will help to facilitate the  
2 adoption of her child and that more detailed information on the  
3 availability of such services is contained in the printed materials given  
4 to her and described in Subsection (c) of this § 3218.1;

5 (iv) the printed materials in Subsection (c) of this Section  
6 3218.1 describe the unborn child;

7 (v) the father of the unborn child is liable to assist in the  
8 support of this child, even in instances where he has offered to pay for  
9 the abortion. In the case of rape or incest, this information may be  
10 omitted; and

11 (vi) she is free to withhold or withdraw her consent to the  
12 abortion at any time without affecting her right to future care or  
13 treatment and without the loss of any locally or federally funded  
14 benefits to which she might otherwise be entitled.

15 (3) At least twenty-four (24) hours before the abortion, the  
16 physician who is to perform the abortion or a qualified person has given the  
17 woman a copy of the printed materials described in Subsection (c) of this §  
18 3218.1. If the woman is unable to read the materials, they shall be read to  
19 her. If the woman asks questions concerning any of the information or  
20 materials, answers shall be provided to her in a language she can understand.

21 (4) The information in Subsections (b)(1), (b)(2) and (b)(3) of this §  
22 3218.1 is provided to the woman individually and in a private room to  
23 protect her privacy and maintain the confidentiality of her decision and to  
24 ensure that the information focuses on her individual circumstances and that  
25 she has an adequate opportunity to ask questions.

26 (5) Prior to the abortion, the woman certifies in writing on a  
27 checklist certification provided by the Department that the information

1 required to be provided under Subsections (b)(1), (b)(2) and (b)(3) of this §  
2 3218.1 has been provided. All physicians who perform abortions shall report  
3 the total number of certifications received monthly to the Records Section.  
4 The Records Section shall make the number of certifications received  
5 available to the public on an annual basis.

6 (6) Except in the case of a medical emergency, the physician who  
7 is to perform the abortion shall receive and sign a copy of the written  
8 checklist certification prescribed in Subsection (b)(5) of this § 3218.1 prior  
9 to performing the abortion. The physician shall retain a copy of the  
10 checklist certification in the woman's medical record.

11 (7) In the event of a medical emergency requiring an immediate  
12 termination of the pregnancy, the physician who performed the abortion  
13 shall clearly certify in writing the nature of the medical emergency and the  
14 circumstances which necessitated the waiving of the informed consent  
15 requirements of this § 3218.1. This certification shall be signed by the  
16 physician who performed the emergency termination of pregnancy, and shall  
17 be permanently filed in both the patient records maintained by the physician  
18 performing the emergency procedure and the records maintained by the  
19 facility where the emergency procedure occurred.

20 (8) A physician shall not require or obtain payment from anyone  
21 for providing the information and certification required by this § 3218.1  
22 until the expiration of the twenty-four (24) hour reflection period required by  
23 this § 3218.1.

24 (c) **Publication of Materials.** The Department shall cause to be  
25 published printed materials in English and any other culturally sensitive languages  
26 which the Department deems appropriate within one hundred eighty (180) days  
27 after this Act becomes law. The printed materials shall be printed in a typeface

1 large enough to be clearly legible and shall be presented in an objective, unbiased  
2 manner designed to convey only accurate scientific information. On an annual  
3 basis, the Department shall review and update, if necessary, the following easily  
4 comprehensible printed materials:

5 (1) Printed materials that inform the woman of any entities  
6 available to assist a woman through pregnancy, upon childbirth and while  
7 her child is dependent, including but not limited to adoption services.

8 The printed materials shall include a list of the entities, a description  
9 of the services they offer, and the telephone numbers of the entities, and  
10 shall inform the woman about available medical assistance benefits for  
11 prenatal care, childbirth, and neonatal care. The Department shall ensure  
12 that the materials described in this § 3218.1 are comprehensive and do not  
13 directly or indirectly promote, exclude, or discourage the use of any entity  
14 described in this § 3218.1.

15 These printed materials shall state that it is unlawful for any  
16 individual to coerce a woman to undergo an abortion. The printed materials  
17 shall also state that any physician who performs an abortion upon a woman  
18 without her informed consent may be liable to her for damages in a civil  
19 action and that the law permits adoptive parents to pay costs of prenatal care,  
20 childbirth, and neonatal care. The printed materials shall include the  
21 following statement:

22 “The Territory of Guam strongly urges you to contact the resources  
23 provided in this booklet before making a final decision about abortion. The  
24 law requires that your physician or his or her agent give you the opportunity  
25 to call agencies and service providers like these before you undergo an  
26 abortion.”

1           (2) Printed materials that include information on the support  
2 obligations of the father of a child who is born alive, including but not  
3 limited to the father's legal duty to support his child, which may include  
4 child support payments and health insurance, and the fact that paternity may  
5 be established by written declaration of paternity or by court action. The  
6 printed material shall also state that more information concerning paternity  
7 establishment and child support services and enforcement may be obtained  
8 by calling the Office of the Attorney General of Guam, Child Support  
9 Enforcement Division.

10           (3) Printed materials that inform the pregnant woman of the  
11 probable anatomical and physiological characteristics of an unborn child at  
12 two (2)-week gestational increments from fertilization to full term, including  
13 color photographs of the developing unborn child at two (2)-week  
14 gestational increments. The descriptions shall include information about  
15 brain and heart functions, the presence of external members and internal  
16 organs during the applicable stages of development, and any relevant  
17 information on the possibility of the child's survival at several and  
18 equidistant increments throughout a full term pregnancy. If a photograph is  
19 not available, a picture must contain the dimensions of the unborn child and  
20 must be anatomically accurate and realistic. The materials shall be  
21 objective, nonjudgmental, and designed to convey only accurate scientific  
22 information about the unborn child at the various gestational ages.

23           (4) Printed materials which contain objective information  
24 describing the various surgical and drug-induced methods of abortion, as  
25 well as the immediate and long-term medical risks commonly associated  
26 with each abortion method including but not limited to the risks of infection,  
27 hemorrhage, cervical or uterine perforation or rupture, any potential effect

1 upon future capability to conceive as well as to sustain a pregnancy to full  
2 term, the possible adverse psychological effects associated with an abortion,  
3 and the medical risks associated with carrying a child to term.

4 (5) A checklist certification to be used by the physician or a  
5 qualified person under Subsection (b)(5) of this § 3218.1, which will list all  
6 the items of information which are to be given to the woman by the  
7 physician or a qualified person under this § 3218.1.

8 (d) **Cost of Materials.** The Department shall make available the  
9 materials enumerated in Subsection (c) of this § 3218.1 for purchase by the  
10 physician or qualified person who is required to provide these materials to women  
11 pursuant to Subsection (b)(3) of this § 3218.1 at such cost as reasonably  
12 determined by the Department. No claim of inability to pay the cost charged by  
13 the Department for these materials will excuse any party from complying with the  
14 requirements set forth in this § 3218.1.

15 (e) **Emergencies.** When a medical emergency compels the performance  
16 of an abortion or termination of pregnancy, the physician shall inform the woman,  
17 before the abortion if possible, of the medical indications supporting the  
18 physician's judgment that an immediate abortion or termination of pregnancy is  
19 necessary to avert her death or that a twenty-four (24) hour delay would cause  
20 substantial and irreversible impairment of a major bodily function.

21 (f) **Criminal Penalties.** Any person who intentionally, knowingly, or  
22 recklessly violates this Act is guilty of a misdemeanor.

23 (g) **Civil and Administrative Claims.** In addition to whatever remedies  
24 are available under the common law or statutory laws of Guam, failure to comply  
25 with the requirements of this Act shall:

26 (1) in the case of an intentional violation of the Act, constitute  
27 *prima facie* evidence of a failure to obtain informed consent. When

1 requested, the court shall allow a woman upon whom an abortion was  
2 performed or attempted to be performed allegedly in violation of this Act to  
3 be identified in any action brought pursuant to this Act using solely her  
4 initials or the pseudonym “Jane Doe.” Further, with or without a request,  
5 the court may close any proceedings in the case from public attendance, and  
6 the court may enter other protective orders in its discretion to preserve the  
7 privacy of the woman upon whom the abortion was performed or attempted  
8 to be performed allegedly in violation of this Act.

9 (2) Provide a basis for professional disciplinary action under 10  
10 GCA § 11110.

11 (3) Provide a basis for recovery for the woman for the wrongful  
12 death of her unborn child under Title 7 GCA § 12109, whether or not the  
13 unborn child was born alive or was viable at the time the abortion was  
14 performed.

15 **Section 3. Severability.** Any provision of this Act held to be invalid *or*  
16 unenforceable by its terms or as applied to any person or circumstance, *shall* be  
17 construed so as to give it the maximum effect permitted by law unless such holding  
18 shall be one of utter invalidity or unenforceability, in which event, such provision  
19 *shall* be deemed severable here from and *shall* not affect the remainder hereof *or*  
20 the application of such provision to other persons *not* similarly situated *or* to other  
21 dissimilar circumstances.

22 **Section 4. Effective Date.** This Act *shall* take effect sixty (60) days after  
23 the “printed materials” described in proposed § 3218.1(c) and the “checklist  
24 certification” described in proposed § 3218.1(c)(5) have been approved by the  
25 Department and, pursuant to its rule making process set forth in Title 5, Chapter 9,  
26 Article 3 of the Guam Code Annotated.

*w/o engrasement*

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIFTH) Special Session

*SIXTH*

Date: 10/24/12  
Wednesday

## VOTING SHEET

SBill No. 52-31(COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Thomas C.		✓			
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera		✓			
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.		✓			
YAMASHITA, Aline A.		✓			

TOTAL

11    4    0    0    0

CERTIFIED TRUE AND CORRECT:

  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

RECEIVED  
MAR 28  
AM 10:58

March 17, 2011

**Honorable Judith T. Won Pat**  
**Speaker**

**I Mina'Trentai Una na Liheslaturan Guåhan**  
155 Hesler Place  
Hagatña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

**RE: Committee Report - Bill No. 52-31 (COR), as Substituted.**

**Dear Speaker Won Pat:**

Transmitted herewith for your consideration is the Committee Report on **SUBSTITUTE Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010"**; By request of *I Maga'lahaen Guahan* in accordance with the Organic Act of Guam; and introduced by the Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; and referred to the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform;. Bill No. 52-31 (COR) was publicly heard on February 11, 2011.

Committee votes are as follows:

- 6   TO PASS
- NOT TO PASS
- ABSTAIN
- 2   TO REPORT OUT ONLY
- TO PLACE IN INACTIVE FILE

Respectfully,

  
**SENATOR DENNIS G. RODRIGUEZ, JR.**

Attachment





*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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## **COMMITTEE REPORT**

ON

### **BILL NO. 52-31 (COR), as Substituted**

Introduced by: Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga'lahaen Guåhan* in accordance with the Organic Act of Guam.

**“AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN’S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS “THE WOMAN’S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010.”**



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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**March 17, 2011**

**MEMORANDUM**

**To: ALL MEMBERS**

Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

**From: SENATOR DENNIS G. RODRIGUEZ, JR.**   
Committee Chairperson

**Subject: Committee Report on Bill No. 52-31 (COR), as Substituted.**

Transmitted herewith for your consideration is the **Committee Report** on **SUBSTITUTE Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010"**; Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga 'lahen Guåhan* in accordance with the Organic Act Of Guam.

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative / Digest
- Copy of Bill No. 52-31 (COR), as Substituted
- Copy of Bill No.52-31 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Copy of COR Referral of Bill No. 52-31 (COR)
- Notices of Public Hearing (1<sup>st</sup> and 2<sup>nd</sup>)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*

Attachment



*Ufisinan Todu Guam*  
**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guahan*  
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

**COMMITTEE VOTING SHEET**

**BILL NO. 52-31 (COR), as Substituted**

“AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN’S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS “THE WOMAN’S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010”; Introduced by Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga’lahen Guahan* in accordance with the Organic Act of Guam.

	SIGNATURE	TO PASS	NOT TO PASS	REPORT OUT ONLY	ABSTAIN	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, JR. Chairman		✓ 3/14/11				
ADOLPHO B. PALACIOS, SR. Vice Chairman		✓ 3/17				
JUDITH T. WON PAT Speaker						
BENJAMIN J.F. CRUZ Vice Speaker						
TINA ROSE MUÑA BARNES Legislative Secretary						
THOMAS C. ADA						
JUDITH P. GUTHERTZ						
VICENTE C. PANGELINAN						
RORY J. RESPICIO						
V. ANTHONY ADA		✓ 3/17/11				
FRANK F. BLAS, JR.		3/17/11				
CHRISTOPHER M. DUENAS		3/17/11				
SAM MABINI				5/17/11		
MANA SILVA TAJERON		3/14/11				
ALINE A. YAMASHITA				3/16/11		



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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**COMMITTEE REPORT DIGEST**

**Bill No. 52-31 (COR), as Substituted**

**I. OVERVIEW:** The Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform conducted a public hearing on February 11, 2011. The Hearing convened at 08:30 A.M. in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of **SUBSTITUTE Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010"**; Introduced by the Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga'lahaen Guåhan* in accordance with the Organic Act Of Guam.

**Public Notice Requirements**

Notices were disseminated via hand-delivery/fax and/or e-mail to all senators and all main media broadcasting outlets on February 04, 2011 (5-Day Notice), and again on February 08, 2011 (48-Hour Notice). Notices were published in the Village Voice on February 03, 2011 (5 Day Notice), in the Guam PDN.com on February 06, 2011 (5 Day Notice), and in the Village Voice on February 09, 2011.

**Senators Present**

Senator Dennis G. Rodriguez, Jr.	Chairperson
Senator Adolpho B. Palacios, Sr.	Vice-Chairperson
Senator Rory J. Respicio	Committee Member
Senator Christopher M. Duenas	Committee Member
Senator Mana Silva Taijeron	Committee Member

The public hearing on Bill No. 52-31 (COR) was Called-to-Order at 4:00 P.M.

## II. SUMMARY OF TESTIMONY & DISCUSSION.

**CHAIRMAN DENNIS G. RODRIGUEZ, JR., CHAIRMAN DENNIS G. RODRIGUEZ, JR.,** convened the Public Hearing on Bill No. 52-31 (COR). Chairman invited Telo Taitague, the Governor's representative, to present the Governor's statement on Bill No. 52-31 (COR), Senator Rodriguez explained the intent of the bill.

**Ms. Telo Taitague, Governor's representative:** Submitted written testimony (attached) by Governor Eddie Baza Calvo, **IN SUPPORT** of Bill No. 52-31 (COR). Read written testimony from Governor Calvo.

I would like to also put my testimony in for supporting both bills. As you know in the past legislature I was an advocated for the bills that were authored back then and I continue to be an advocate for the unborn. Thank you.

**Chairman:** Just for the record as well, on Feb 7<sup>th</sup>. The committee sent a letter to the Attorney General for him to give his legal opinion on both measures, bill 51 and 52. We have a copy of that here if anyone would like to have a copy. We will proceed with this after the hearing and when we put the committee report together we are going to wait for the legal opinion of the Attorney General.

**Chairman:** Called the first panel to testify.

**Dr. Margie DeBenedictis:** Submitted written testimony (attached), and provided oral testimony **IN SUPPORT** of Bill No. 52-31 (COR). Read written testimony.

**Senator Rory J. Respicio:** Thank you, Mr. Chair and Dr. DeBenidictus. First of all, I want to say that this bill was introduced at the request of the governor and as Chairman of the Committee on Rules, Foreign and Micronesia Affairs so you are going to know me as someone who is about procedure. While I don't want to talk too much about Bill 54 it kind of gives us the opportunity so that we don't go down the same road when he submitted two bills to the legislature and immediately without hesitation I introduced it on his behalf, it is an Organic Act power that he has and respect that. I could have asked the Chairman on health to introduce that bill, but I felt that it was my responsibility. You're going to see that kind of display here in the legislature, particularly in those areas that I am involved in. This is certainly a very passionate issue and the struggle that I have, personally, is the constitution. I am glad you recognize that Bill 51 has some constitutional challenges that offering an alternative form or an amendment that will provide anesthesia for the unborn or for the fetus and you would be okay with that?

**Dr. Marjorie DeBenedictis, MD:** If such an amendment were required, yes I would be okay with an amendment requiring fetal anesthesia.

**Senator Respicio:** Why wasn't this bill run through the Attorney General's office even before it was submitted to the legislature?

**Dr. DeBenedictis:** Senator, I am just a doctor. I do not know about legislature procedure. I am here to testify on behalf of this bill and I don't know why you're asking me questions about legislative things. I really don't know.

**Senator Respicio:** My fear, Mr. Chairman is that if we submit this to the Attorney General for his review, we are going to be criticized for doing some kind of delay tactic.

**Dr DeBenedictis:** So you're worried about criticism instead of fetal pain?

**Senator Respicio:** I am not worried, if I were worried about criticism I would not be here today and I want you to know that. I also want you to be very fair and just when we debate this issue in the public or in the media. Fetal pain, is obviously, who is going to be in favor of killing a baby? Who is going to be in favor of an abortion, on the very surface of it? So there are certain constitutional requirements that we have to act in conjunction with. Because I will tell you, I will never forget a law passed by former Senator Bell Arriola that was an anti-abortion statute. It was passed - a law that prohibited abortion on Guam. It cost the tax payers one million dollars to have that issue litigated.

**Dr DeBenedictis:** That's a real shame. I don't know what to say with regards to that. I am here to give testimony on fetal pain and I really hope the bill passes.

**Senator Respicio:** I think that is a real shame, your inability to also be sensitive to the complexity of how the legislature has to address these issues.

**Dr DeBenedictis:** I understand what you are saying and I would like to defer to my lawyer if that is okay. He is here to give testimony.

**Senator Respicio:** That is just how it is going to be, Mr. Chairman.

**Rose Taitano:** Bill 52 and 51, I am in favor. Request by governor Calvo, dos esta na bill, has been requested, request by the governor of Guam. First heart beat, you are pregnant. There is no such thing as half pregnant. It is still life. You are still pregnant. You still respect it. It was given to you as a gift. Even if you are giving birth to a child. It is your responsibility from the Lord, and guess what, you are just borrowing that individual. You are just borrowing your kids from the Lord, so he can take it away any time. So if you have a gift, with that kind of a blessing, a huge one, so treasure it. Life is precious. I disapprove of that nine babies to be buried by the church, oh my, I wonder how they died. There is only 2 reason why I have here on my testimony. If it is a turb baby and it is going to kill the mother, the doctor says you are going to die lady. You cannot grow the baby in the tube, it has got to be in the uterus right? Or your life. About 20 years ago, a baby didn't have a chance, but I have a chance. I was 10 weeks pregnant when the doctor found out my baby was a tube baby. I was going to have twins. I always wanted twins. My bother has got a brother twin. I always wanted twins, but one was in the uterus and the other was in the tube. So when I had the operation, I lost both of it. I don't question it, the Lord. I am not supposed to question the Lord, why, why, why? And a lot of times, when the Lord is going to take a life, it is still an angel. So the murdering of babies is something so inhuman to kill another human being. It doesn't need any experience. It is there.

It is black and white, write and wrong. Murder or not to murder. Please change that 15 weeks. I found out that I could not carry the baby at 10 weeks and when I looked at the bill it says 40 weeks? That is sickening. Give the baby a chance. If it is a medical reason to abort it, give it a chance, lessen the 40 weeks. 2 months is fine. If you want to argue with me, another month, 15. We are speaking for life. And like I said, after the first heart beat you are pregnant. Your vocabulary is not right to change the bill from baby to fetus, I do not appreciate that from Tina Barnes. When I read the paper on 2/11, these big words, help me, anatomical, and phisicologiact and characteristic. They are talking about the fetus. Oh I didn't I know it has got character, it has personality already? Just write. If you want to copy the United States in legalizing at no cost, it don't matter how old you are I think. I don't know about the birth control or your parents. I think they have rights, children. I don't approve of abortion without parents knowing if they are under age and now in some states you cannot put up your child for adoption if the father is not aware. There are two parents, a boy and a girl. Man and a woman. It cannot be woman woman, man and then it comes out a baby. No way, Jose. Abortion is done when the baby dies before the birth, that is another one. The mother will, I think the most that it can carry at the most a week, three days. It's rotting, it's dead. Your baby and when the baby dies in the uterus before birth, if you don't know it is dead, it is not moving that can hurt. So as a mother, 4 months pregnant, 3 months pregnant, you will feel the baby is present. If it is kicking it is still alive. Some babies, you can feel it at 3 months, 4 months, I can feel if it is a boy or a girl just by having a boy or a girl and then the next one, I just say I know what is. It is the way the baby kicks. I sense it. So we are given common sense and 2 reasons to kill baby, so matai neni esta. And the matai, you guys are not going to answer for that, or die naturally. If you are given a deformed baby and the doctor says it is handicapped, hello? If my life is not on the line I will have that baby and like I said if I am sick, that is the cross, that is the blessing. If you treat it right you will make it to heaven and that is all our goal. We are just passing through this earth in a blink of an eye. It is in the bible, vapor in the time of Moses and people of that nature when they 130, *mapotigi esti* 80 years old. Miracle from the Lord. He gives and he takes. So we are given a chance, we are given a chance. And that is the 2 reason. Some people want to abort it, even when they want to. There is an illness, some parents don't know. There is a reason he gave me, so there is a reason that I am given a chance to have that baby. It is a miracle of life and I thank the Governor Calvo for both bills. It is life and life is precious. If it is precious for you, then children is precious to you. Another person's life is precious, if it is precious for you then children are precious to you, then another person's life is precious to you so if you, let's say that you have the opportunity to destroy somebody, you know self defense and that is completely different from a helpless child. It is completely, different. It is in there, it is yours and no body is supposed to do that. But only the two reasons that I gave earlier. Only when it is a tube baby, nobody can carry that, one percent as far as the other reasoning, if the baby died already. The mother is going to *matai* too? So when the babies were buried earlier this year or last year with the church, I didn't see know representative from the senators, from the governor, from the nothing and it saddened me . so with your patience and energy for life, give the baby a chance. We don't want to be known as the community like the part of the states who do promote it, not your baby or it is not dead, it is up to the individual, excuse me? If it is going to kill the baby, there is no decision for you to make, just for getting raped, it is not right just to get rid because you don't want it or you are raped and don't want it. That is not enough reason, there is a reason for the season. It happens and it is not going to happen just once. Different people, and it is only

right as our life precious? Thank you senators for listening. Thank you for your patience, I love you guys.

**Senator Respicio:** Mr. Chairman, maybe we can get someone who supports bill 51 to come up and defend this bill. It is not right that this is the governor's bill and you are not aware of why he did not ask the Attorney General whether or not it is legal. I also want to know if the bill was presented to the Guam Medical Society, where criminalizing some acts that would otherwise be constitutionally permissible. If someone would step forward.

**Mr. Shane Intahar, Attorney at Law:** Senator, I could offer some insight on Bill 51. I'm here to provide testimony in favor of the bill. It is important for a woman considering an abortion to receive information and women should only go through an abortion after she has given her voluntary consent in writing. Some women undergo abortions without being informed of the true nature of the life inside of them and the options they have. Only after do they realize the true psychological trauma after the abortion when not fully informed. Bill 52 allows abortion providers 24 hours before the abortion with medically accurate information that is reasonable material that pertains to the abortion. Opponents and proponents of this bill will assert that the fact that a woman shows up at an abortion clinic is evidence enough that she considered her options and thus doesn't require the intervention of a territory. I offer these 2 principle points. The first, the US Supreme Court has recognized this phenomena that women undergo abortions in an uninformed state and later suffer psychological. This established the constitutionality of informed consent. Second, a crisis pregnancy center on guam that does not do abortions or advertise it has many mothers who come and seek abortions, but a vast majority of those women no very little about the physiological development of the human being inside of them and are shocked at the information. They are shocked of the images of the ultrasound and after they say they won't undergo the abortion. This provides some evidence that this phenomena does exist and women are not sure what to do under pressure and don't appreciate the consequences until it is too late. Our view is to provide all the information before, why risk the possibility of being devastated after. The women of Guam would benefit from Bill 52.

Bill 52 is similar to Bill 54, so I can anticipate some of the objections. One was a question of constitutionality and it is a sensitive subject. Informed consent legislation has been constitutionally permissible for 20 years. There is no question that this law is okay. In spite of the Attorney General's opinion some senators still use the term "undue burden." One has to be careful Bill 52 does not constitute an undue burden. Senator Barnes was concerned about the term "unborn child" and as a result it created a deficiency in the bill. That same term is used in Bill 52, she said it doesn't appear in the dictionary and it doesn't because it is a 2 word phrase which are not found in the dictionary. I would suggest the real reason why she opposed that term is because it humanizes the unborn life. In an effort to dehumanize it, pro-choicers want to extract it.

**Chairman:** I know that someone drafted this bill for the governor and someone asked him to do it. I know that Dr. DeBenidictus has approached too and that is why I wanted Senator Taitague who is representing the governor to stay, and I understand that she had to leave. But right now, Shane and Dr. Debenidictus.



**Mr. Intahar :** I think that I can provide some insight. It is my understanding, well first off I can tell you this, that bill was not drafted by some Guam pro-life advocacy group. I know that it was drafted by the governor's office by the governor's legal counsel. That is why Margie and I are here in support of the bill and even though we don't know, sort of the back history on it. But senator, your concern with respect to the constitutionality of the bill, essentially, our view is that we are going to leave it to the Attorney General and the position they take. Again, we were not part of the drafting process so it would be inappropriate for us to try and comment on what they were thinking. So perhaps you can inquire with the governor or the governor's chief legal counsel. We may give an inadequate response and that is all we know.

**Senator Respicio:** With Bill 52, it is kind of a mirror bill of 54 in the previous legislature and when the former chairman on health brought this copy of the bill to the Attorney General, the Attorney General did come back and said while not constitutionally fatal, there was a part in section 8 that still needed to be tweaked a little. It would make the Attorney General more comfortable in terms of making this bill constitutionally challenged at that juncture in that process. Is that the position of this group if this bill is forwarded to the Attorney General that this group would respect that as part of our normal legislative process and not be taken by surprise to give an opinion before the legislature. We do it all the time. So we get debate on the emotion and not the legality and that is what I am asking Dr. DeBenidictus, let's debate on the legality of these bills and not on the emotion, because if it is based on the emotion then I am with you 100%.

**Dr. Debenidictus:** I am not here to talk about emotion.

**Senator Respicio:** Then what are you here for?

**Dr. Debenidictus:** I was here to give the medical support for the evidence of fetal pain.

**Senator Respicio:** But weren't you the one who publicly asked why the legislature was asking the Attorney General for his legal opinion.

**Dr. Debenidictus:** That is a topic for a whole other hour.

**Senator Respicio:** Well I am asking you to be accountable for your actions. That's my point.

**Dr. Debenidictus:** You bet I am accountable, Senator. I want to know why you and Senator Aguon were so busy delaying the bill 2 years ago.

**Chairman Rodriguez:** You know this is a new term and I want to start out the new term, this is a new bill and I have requested the Attorney General to give his legal opinion on both bills and it was received by his office on February 8<sup>th</sup> and we are going to wait on that just as I mentioned earlier. We are going to receive testimony. I was hoping that the governor or his representative would stay here to answer any questions, but in understanding her and her reason why she had to leave so that is fine. I am going to receive testimony on bill 51 and after we finish we will receive testimony on Bill 52.

**Senator Respicio:** I want to request that you also ask the Guam Medical Society for its position on this bill. Thank you.

**Senator Adolpho B. Palacios, Sr.:** Thank you, Mr. Chairman. The way I see this is I like to find out and I ask of course either one of you of this committee of course, how many organizations both profit and non-profit that are established that provide services to expectant mothers who are experiencing difficulties with the pregnancy due to economic hardships, single mothers who live with parents who are actually sheltered by the parents. And how many of these are at the same time provide after birth care as a help to the expectant mother, who in some way, for lack of a better term is forced to retain the pregnancy up to giving birth. Because my own estimate of this and correct me if I am mistaken, but my understanding of this, is that pro-life to the mother is essentially saying to the mother to keep the baby and then no service to help this mother within the pregnancy, in the normal ways so the pregnancy will not be a problem and a difficulty to the expectant mother, who probably at some point is overwhelmed by being so poor and all that burden and what kind of program exists right now that actually helps these mother? Provide a listing to this committee.

**Mr. Intahar:** Sure. I probably would respond in this way. What you are describing is a situation where abortion is just universally prescribed. The argument of your concern, that only arises when abortion is universally prescribed, when just flat out outlawed. So your question is not particularly germane to these two bills. So I am a little confused about why you would raise that.

**Senator Palacios:** You essentially force a mother by law.

**Mr. Intahar:** But we are not. Not these bills.

**Senator Palacios:** At any rate, I would say that the end result of a more restrictive abortion law.

**Dr. DeBenedictis:** So are you saying that if a woman can't decide by 20 weeks and she doesn't know if she wants to be pregnant or not and oh I can't make up my mind and now I have to carry the baby.

**Senator Palacios:** The way I see this is whether this bill is passed or not, will it be a good thing that the pro-life group develop programs to help expectant mothers who are facing difficulties and who in some way feel restricted. That's what I want to know.

**Mr. Intahar:** Okay. Fair enough.

**Chairman Rodriguez:** If I could, Senator Respicio, if you want to chime in.

**Senator Respicio:** Thank you Mr. Chairman. I think this question is very much germane and the Senator's referencing page 10 of Bill 52. It requires that a following statement be provided that quote, "there are public agencies and private services willing and able to help you carry your child to term and to assist you and your child after your child is born whether you choose to keep your child or to place her/him for adoption." And that's why Senator Palacios's question is germane.

**Mr. Intahar:** No, that doesn't work.

**Senator Respicio:** He's asking what organizations are out there and to provide this service that is required in this bill.

**Mr. Intahar:** No, his assertion was that pro-lifers and the pro life position is to outlaw abortion. And in doing so right, we force women who otherwise wouldn't keep their children to keep them. And so his question is therefore since we're sort of forcing this sort of unneeded volume of children on the community what sort of resources are we providing for them. So that was his question. And so Bill 52 which is an informed consent bill it in no way restricts or limits a woman's access to abortion. All that it requires is that she sits and listens for perhaps an hour. So the question doesn't really follow. Senator, your question is more of a broad, you know...

**Senator Palacios:** That's Bill 52, which Bill 52 I have no problem, the informed consent. I'd like to see pro-life develop and pursue and establish more programs. That's all I'm saying. Because additionally, there are not enough programs.

**Mr. Intahar:** Sure and I would say this. Certainly, being pro-life is now (or not?) somehow mutually exclusive with being charitable at heart and trying to help children. I am the president of a large charity here in Guam. I do things. I contributed a lot of money to children both here and abroad. So I'm a little perplexed at the presumption that because one is pro life they also disregard those living in the outside world. That and I also want to defer to Mary Lou Martinez because she in fact. . .

**Senator Respicio:** Attorney, are you also perplexed to say that when one is pro-choice they are baby killers? It cuts both ways.

**Mr. Intahar:** Hang on. I would say this, let's sort of peel back a little bit...

**Senator Respicio:** Answer the question.

**Mr. Intahar:** Sure, if you would give me a moment, I will. Pro choice is a position that abortion on demand ought to be illegal. So that is to say you doubt the position that a woman ought to have a right to kill her unborn human child. Now, however you want to craft that, if you want to call it murder, you want to use sort of brutal terms, then you are adding some sort of value judgments. But just on the face of it, just using the biological term, you are killing it.

**Senator Respicio:** And that's my prayer that we don't add these value judgments and just discuss the issue.

**Mr. Intahar:** Sure, fair enough.

**Senator Respicio:** Can we agree? Because Dr. Benedictus called me a pro-baby-killer and I was very insulted by that. I'm not even pro-choice. I have a six-year old son and you have publicly

made those comments during the last election, Dr. Benedictus. So I'm asking can we just remove these labels and just discuss the issue and just move forward from here.

**Chairman:** Excuse me Shane, if I could, I'm going to ask...

**Senator Respicio:** Oh come on Mr. Rohr why don't you take a seat too?

**Mr. Tim Rohr:** Alright I will. We have to listen to your personal vendetta...

**Senator Respicio:** What's my personal vendetta?

**Mr. Rohr:** At a public hearing? On a bill that has nothing to do with you?

**Chairman:** I'm going ask the members of the public, Mr. Rohr, please we want decorum here. I'll give [Tim Rohr] the opportunity to speak on this. I'm going ask everyone here, this is a very emotional issue, I'm going ask everyone to please keep their decorum, and members of the panels and members of the public. So I'm going stick to the agenda, which is Bill 51. If there's anyone else here that wishes to speak on Bill 51, I'm going accept testimony. After we're done with that we're going move on to Bill 52.

**Rose Taitano:** I just wanted to state that I have children. I got ten great grandchildren and before I kick the bucket I've tried to be a great great grandmother over in Alabama. That is beautiful. I do foster children. When my kids were growing up, I bring them in. There is not one Chamorro, Haole, Filipina, Chuukeese. . .cause mine, the Chamorro don't need help cause they want sisters and brothers and they're killing. I used to be a teacher. I used to teach Simon Sanchez. Talk about loving kids. Please don't try to identify pro and life, against, for, divorce and all this. To me legally, I need to be a lawyer I guess to answer things that help them after they give birth, after they have the baby, who's gonna help them? Let's deal with them first before they are born, before the abortion. Let's deal with that baby please? You have to answer to the Lord. And when you don't give us that baby right, you're doomed. So don't put obstacles in front of the believers of life. Don't you dare. We'll punch the table. Life is precious, maybe yours but I don't know. But I don't need a lawyer to speak up, just common sense. Thank you. Don't be a murderers.

**Chairman:** Thank you. I just want to ask the public again to please keep your decorum. We want to get this going smoothly. Mr. Rohr, you want to testify on Bill 51?

**Mr. Rohr:** The only reason why I'm sitting here is because Senator Respicio said "Oh come one you know, why don't you testify." My concern is that what he's talking about has nothing to do with what we're doing right now. That he is taking out his vendetta because Margie called him out in the last election or whatever. If he's got an issue with Margie it doesn't belong in the public hearing room. That's the only reason why I'm sitting here. He's going to do the testimony and I am going to defend my friend.

**Chairman:** Okay, so thank you.

**Mr. Rohr:** If you are going to use this forum to impugn other people. It doesn't belong in the public hearing room.

**Chairman:** That's right.

**Marylou Diaz Martinez:** I would like to address Senator Palacios' question of what is available for expectant mothers. There are options, it is not a formal organization, but there are many couples waiting in line to adopt. We also have families who have provided help for the woman who come to the crisis pregnancy centers who's alternative was abortion because they could not afford a baby. So that has not been a problem that I have seen over 3 years. There are couples waiting, even from off island. There is a back log of parents wanting to adopt and we proceed with first come, first serve. The young mothers are more than glad to hear that there are those options. We don't have a formal organization, but when families and others have taken this to heart.

**Senator Palacios:** That is essentially what I am looking at, that they have an ability to connect and secure help or get help for expectant mothers who are having trouble with this. I have concerned myself with these expectant mothers. The pre-natal checks, if this person is working they need to get off. This organization could talk to that employer and if they could be a little more lenient and probably give them administrative leave or sick leave. That is good that you have this after-birth program, that is good. But what about during the pregnancy, because I would say some of the reasons for wanting an abortion is the difficulty and it is natural to think that way. It is sad that economics effect, but indirectly it would enhance the desire to keep that too.

**Ms. Marylou Diaz Martinez:** Nine times out of ten, when they realize what s growing inside of them, these are not uneducated woman. They are not educated about the procedure and the circumstances. When they realize what is growing that allows them to change their hearts.

**Senator Palacios:** I believe when we get to Bill 52, and that is why I support Bill 52 because it complements this bill 51 and more informed consent with the counseling.

**Senator Duenas:** I want to commend you for your initiative to all of the possible legal ramifications by the letter that you issued to the Attorney General. I am like you, I don't have the issues of prior legislation introduction as I approach this new legislature with these two bills in my review, just for the public that is here in my review and subject to the Attorney General's review, I just want you to know that you have my support, I think it is good legislation, I think it is responsible legislation. I think it is the best we can give short of doing more. I appreciate it and thank you for the opportunity.

**Ms. Pat Perry:** Thank you for having me. In response to the question that sometimes a woman is forced to keep their child. I was questioned and said that the Catholic Church would be open for any child. We have a list of parents who want to adopt and they are always waiting, I talked to this woman once and begged her to keep her child and told her all the possibilities. She kept the baby I placed the baby with a couple. Also, other children who were not wanted by their

parents. There is always a place open for these children and a demand from loving parents. The Church also opens its doors to any unwanted child.

**Senator Silva-Taijeron:** I can say safely that I am the only mother up here. I have been criticized for my pro-life stance, quite a bit, surprisingly by a lot of women who feel that I should be pro-choice because I represent the people as a whole, but my faith makes me believe that I have to support life and I support this bill and I thank you for your testimony today.

**Viola Salas:** The nature of the statement, that it would be the humane thing to give the baby anesthesia before the horrific killing. All I can say is thank you all for your mother. Do you feel that we don't have any problems? That is still killing babies. We are human beings and it begins with conception. Life is precious. Thank you for your parents. Life begins at conception.

**CHAIRMAN:** There being no further testimony, or questions or comments by Committee Members, Bill No. 52-31 (COR) has now been duly heard. The Committee will continue to receive written testimony as we review Bill No. 52-30 (COR), and await the issuance of an Attorney General opinion.

**Bill No. 52-31 (COR) has been DULY HEARD. The Public Hearing is ADJOURNED.**

**WRITTEN TESTIMONY RECEIVED IN SUPPORT (ATTACHED):**

1. **Honorable Eddie Baza Calvo, *I Maga'lahren Guahan.***
2. **Dr. Marjorie DeBenedictis.**
3. **Mr. Shane Intihar.**
4. **Ms. Denise Reyes.**

**WRITTEN TESTIMONY RECEIVED OPPOSED (ATTACHED):**

1. **Ms. Anita Arriola, Attorney at Law:** Submitted written testimony **OPPOSED** to Bill No. 52-31 (COR), wherein she stated that Bill 52-31 (COR) is identical to Bill No. 54-30 (COR), as introduced in the 30<sup>th</sup> Guam Legislature. Also attached for reference, is Attorney Arriola's testimony on Bill No. 54-30 (COR).

**ATTORNEY GENERAL LEGAL OPINION (ATTACHED):** Committee Chairman, Dennis G. Rodriguez, Jr., in a letter dated February 07,2011, to the Attorney General of Guam, requested a legal opinion "*Relative to the Constitutionality of Bill No. 52-31 (COR)*" (attached).

Deputy Attorney General, J. Patrick Mason, in his response dated and received March 11, 2011, stated that **Bill No. 52-31 (COR) is essentially the same as Bill No. 54-30 (COR)**, as introduced in the 30<sup>th</sup> Guam Legislature. **Therefore, the same "Interpretation of the**

**Constitutionality of Bill No. 54-30 (COR) – AG File No. LEG 10-0956”, as provided relative to Bill No. 54-30 (COR), has now been provided as the Attorney General’s response relative to Bill No. 52-31 (COR).**

**REFERENCE DOCUMENTS (ATTACHED):**

- 1. Bill No. 54-30 (COR), as Introduced.**
- 2. Bill No. 54-30 (COR), as Substituted by the Committee on Health & Human Services.**

**III. FINDINGS & RECOMMENDATIONS**

The Committee on Health and Human Services, Economic Development, Senior Citizens, and Election Reform finds that with the submission of the Attorney General’s Interpretation on Bill No. 52-31 (COR), it now makes possible the continued consideration of Bill No. 52-31 (COR) by *I Liheslaturan Guahan*.

At the request of *I Maga’lahen Guahan’s* legal counsel, Bill No. 52-31 (COR) was further amended. The requested changes are provided in the **attached** sectional digest of the substitute bill, which shows the requested additions and deletions.

Due consideration was given to the Attorney General’s interpretation of a possible constitutional “vagueness” which may give cause for legal challenges. In Section 2 of the Bill, proposed Part 8 of Subsection (b) of Section 3218.1, was amended to read, as follows:

8. A physician shall not require or obtain payment for providing the information and certification required by this Section of law.
8. [~~A physician shall not require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the twenty-four (24) hour reflection period required in Subsection (b) (1), (2) and (4).~~] (Deleted)

The bill was amended, as well, to address the issue of funding the mandates provided for in the bill, by adding the requirement that the Governor of Guam shall include, annually, a funding request in the Executive Budget Fiscal Year Request for the purpose of fully funding and fulfilling the purposes of Bill No. 52-31 (COR).

The Committee on, Health & Human Services, Economic Development, Senior Citizens, and Election Reform, hereby **reports out Bill No. 52-31 (COR), as Substituted**, with the recommendation to **REPORT OUT ONLY**.

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2011 (FIRST) Regular Session

**Bill No. 52-31 (COR), as Substituted**  
**by the Committee on Health & Human Services,**  
**Economic Development, Senior Citizens, and**  
**Election Reform**

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesian Affairs and  
Human & Natural Resources

By request of *I Maga'lahen*  
*Guåhan* in accordance with the  
Organic Act of Guam

**AN ACT TO ADD A *NEW* SECTION 3218.1 TO CHAPTER  
3, ARTICLE 2, TITLE 10 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO WOMEN'S INFORMED  
CONSENT FOR ABORTION; AND TO CITE THE ACT AS  
"THE *WOMEN'S REPRODUCTIVE HEALTH*  
*INFORMATION ACT OF 2011.*"**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that it is essential to the psychological and physical well-being of a woman considering an abortion that she receives complete and accurate information material to her decision of whether to undergo an abortion including information concerning abortion alternatives. *I Liheslaturan Guåhan* further finds that every woman submitting to an abortion should do so only after giving her voluntary and informed consent in writing to the abortion procedure.

**Section 2. A New Section 3218.1.** A new Section 3218.1 is hereby added to Chapter 3, Article 2, Title 10 of the Guam Code Annotated to read as follows:



1    **§ 3218.1.    The Women's Reproductive Health Information Act of 2011.**

2           **(a)    Definitions.** For the purposes of this Section 3218.1, the following  
3 words and phrases are defined to mean:

4           1.    *Abortion* means the use or prescription of any instrument,  
5 medicine, drug, or other substance or device to terminate the pregnancy of a  
6 woman known to be pregnant with an intention other than to increase the  
7 probability of a live birth, to preserve the life or health of the child after live birth,  
8 to act upon an ectopic pregnancy, or to remove a dead unborn child who died as  
9 the result of natural causes *in utero*, accidental trauma, or a criminal assault on a  
10 pregnant woman or her unborn child, and which causes the premature termination  
11 of the pregnancy;

12          2.    *Act* means the Women's Reproductive Health Information Act  
13 of 2011 codified at 10 GCA § 3218.1;

14          3.    *Complication* means that condition which includes but is not  
15 limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic  
16 inflammatory disease, endometriosis, and retained products. The Department may  
17 further define the term “complication” as necessary and in a manner not  
18 inconsistent with this Section 3218.1;

19          4.    *Conception* means the fusion of a human spermatozoon with a  
20 human ovum;

21          5.    *Department* means the Department of Public Health and Social  
22 Services;

23          6.    *Facility or medical facility* means any public or private hospital,  
24 clinic, center, medical school, medical training institution, health care facility,  
25 physician’s office, infirmary, dispensary, ambulatory surgical treatment center, or  
26 other institution or location wherein medical care is provided to any person;

27          7.    *First trimester* means the first twelve (12) weeks of gestation;

1           8.     *Gestational age* means the time that has elapsed since the first  
2 day of the woman's last occurring menstruation;

3           9.     *Hospital* means any building, structure, institution or place,  
4 public or private, whether organized for profit or not, devoted primarily to the  
5 maintenance and operation of facilities for the diagnosis, treatment and provision  
6 of medical or surgical care for three (3) or more non-related individuals, admitted  
7 for overnight stay or longer in order to obtain medical, including obstetric,  
8 psychiatric and nursing care of illness, disease, injury or deformity, whether  
9 physical or mental and regularly making available at least clinical laboratory  
10 services and diagnostic x-ray services and treatment facilities for surgery or  
11 obstetrical care or other definitive medical treatment;

12           10.    *Medical emergency* means a condition which, in reasonable  
13 medical judgment, so complicates the medical condition of the pregnant woman as  
14 to necessitate the immediate termination of her pregnancy to avert her death or for  
15 which a delay will create a serious risk of substantial and irreversible physical  
16 impairment of a major bodily function. No condition shall be deemed a medical  
17 emergency if based on a claim or diagnosis that the woman will engage in conduct  
18 which would result in her death or in substantial and irreversible physical  
19 impairment of a major bodily function;

20           11.    *Physician* means any person licensed to practice medicine or  
21 surgery or osteopathic medicine under the Physicians Practice Act (10 GCA §  
22 12201, *et seq.*) or in another jurisdiction of the United States;

23           12.    *Pregnant* or *pregnancy* means that female reproductive  
24 condition of having an unborn child in the mother's uterus;

25           13.    *Qualified person* means an agent of a physician who is a  
26 psychologist, licensed social worker, licensed professional counselor, registered  
27 nurse, or physician;

1           14. *Records Section* means the Guam Memorial Hospital Medical  
2 Records Section;

3           15. *Unborn child* or *fetus* each means an individual organism of the  
4 species *homo sapiens* from conception until live birth;

5           16. *Viability* means the state of fetal development when, in the  
6 reasonable judgment of a physician based on the particular facts of the case before  
7 him or her and in light of the most advanced medical technology and information  
8 available to him or her, there is a reasonable likelihood of sustained survival of the  
9 unborn child outside the body of his or her mother, with or without artificial  
10 support; and

11           17. *Woman* means a female human being whether or not she has  
12 reached the age of majority.

13           **(b) Informed consent requirement.** No abortion shall be performed or  
14 induced without the voluntary and informed consent of the woman upon whom the  
15 abortion is to be performed or induced. Except in the case of a medical  
16 emergency, consent to an abortion is voluntary and informed if and only if:

17           1. At least twenty-four (24) hours before the abortion, the  
18 physician who is to perform the abortion or a qualified person has informed the  
19 woman in person of the following:

20           (i) The name of the physician who will perform the  
21 abortion;

22           (ii) Medically accurate information that a reasonable person  
23 would consider material to the decision of whether or not to undergo the abortion,  
24 including (a) a description of the proposed abortion method; (b) the immediate and  
25 long-term medical risks associated with the proposed abortion method, including  
26 but not limited to any risks of infection, hemorrhage, cervical or uterine

1 perforation, and any potential effect upon future capability to conceive as well as  
2 to sustain a pregnancy to full term; and (c) alternatives to abortion;

3 (iii) The probable gestational age of the unborn child at the  
4 time the abortion is to be performed;

5 (iv) The probable anatomical and physiological  
6 characteristics of the unborn child at the time the abortion is to be performed;

7 (v) The medical risks associated with carrying the child to  
8 term;

9 (vi) Any need for anti-Rh immune globulin therapy if she is  
10 Rh negative, the likely consequences of refusing such therapy, and the cost of the  
11 therapy;

12 2. At least twenty-four (24) hours before the abortion, the  
13 physician who is to perform the abortion or a qualified person has informed the  
14 woman in person, that:

15 (i) Medical assistance benefits may be available for prenatal  
16 care, childbirth, and neonatal care and that more detailed information on the  
17 availability of such assistance is contained in the printed materials given to her and  
18 described in Subsection (c) of this Section 3218.1;

19 (ii) The printed materials in Subsection (c) of this Section  
20 3218.1 describe the unborn child and list agencies that offer alternatives to  
21 abortion;

22 (iii) The father of the unborn child is liable to assist in the  
23 support of this child, even in instances where he has offered to pay for the abortion.  
24 In the case of rape or incest, this information may be omitted; and

25 (iv) She is free to withhold or withdraw her consent to the  
26 abortion at any time without affecting her right to future care or treatment and

1 without the loss of any locally or federally funded benefits to which she might  
2 otherwise be entitled.

3           3. At least twenty-four (24) hours before the abortion, the  
4 physician who is to perform the abortion or a qualified person has given the  
5 woman a copy of the printed materials described in Subsection (c) of this Section  
6 3218.1. If the woman is unable to read the materials, they shall be read to her. If  
7 the woman asks questions concerning any of the information or materials, answers  
8 shall be provided to her in a language she can understand.

9           4. The information in Subsections (b)(1), (b)(2) and (b)(3) of this  
10 Section 3218.1 is provided to the woman individually and in a private room to  
11 protect her privacy and maintain the confidentiality of her decision and to ensure  
12 that the information focuses on her individual circumstances and that she has an  
13 adequate opportunity to ask questions.

14           5. Prior to the abortion, the woman certifies in writing on a  
15 checklist form provided or approved by the Department that the information  
16 required to be provided under Subsections (b)(1), (b)(2) and (b)(3) of this Section  
17 3218.1 has been provided. All physicians who perform abortions shall report the  
18 total number of certifications received monthly to the Records Section. The  
19 Records Section shall make the number of certifications received available to the  
20 public on an annual basis.

21           6. Except in the case of a medical emergency, the physician who  
22 is to perform the abortion shall receive and sign a copy of the written certification  
23 prescribed in Subsection (b)(5) of this Section 3218.1 prior to performing the  
24 abortion. The physician shall retain a copy of the checklist certification form in the  
25 woman's medical record.

26           7. In the event of a medical emergency requiring an immediate  
27 termination of the pregnancy, the physician who performed the abortion shall

1 clearly certify in writing the nature of the medical emergency and the  
2 circumstances which necessitated the waiving of the informed consent  
3 requirements of this Section 3218.1. This certification shall be signed by the  
4 physician who performed the emergency termination of pregnancy, and shall be  
5 permanently filed in both the patient records maintained by the physician  
6 performing the emergency procedure and the records maintained by the facility  
7 where the emergency procedure occurred.

8           8. A physician shall not require or obtain payment from anyone  
9 for providing the information and certification required by this Section.

10           **(c) Publication of Materials.** The Department shall cause to be  
11 published printed materials in English, Chamorro and any other culturally sensitive  
12 languages which the Department deems appropriate within 180 days after this Act  
13 becomes law. The printed materials shall be printed in a typeface large enough to  
14 be clearly legible and shall be presented in an objective, unbiased manner designed  
15 to convey only accurate scientific information. On an annual basis, the  
16 Department shall review and update, if necessary, the following easily  
17 comprehensible printed materials:

18           1. Printed materials that inform the woman of public and private  
19 agencies and service providers available to assist a woman through pregnancy,  
20 upon childbirth and while her child is dependent, including but not limited to  
21 adoption services.

22           The printed materials shall include a comprehensive list of the agencies and  
23 service providers, a description of the services they offer, and the telephone  
24 numbers and addresses of the agencies and service providers, and shall inform the  
25 woman about available medical assistance benefits for prenatal care, childbirth,  
26 and neonatal care. The Department shall ensure that the materials described in this  
27 Section 3218.1 are comprehensive and do not directly or indirectly promote,

1 exclude, or discourage the use of any agency or service provider described in this  
2 Section 3218.1.

3 These printed materials shall state that it is unlawful for any individual to  
4 coerce a woman to undergo an abortion and that if a minor is denied financial  
5 support by the minor's parents, guardian, or custodian due to the minor's refusal to  
6 have an abortion performed, the minor shall be deemed emancipated for the limited  
7 purpose of eligibility for public assistance benefits, except that such benefits may  
8 not be used to obtain an abortion. The printed materials shall also state that any  
9 physician who performs an abortion upon a woman without her informed consent  
10 may be liable to her for damages in a civil action and that the law permits adoptive  
11 parents to pay costs of prenatal care, childbirth, and neonatal care. The printed  
12 materials shall include the following statement:

13 "There are public and private agencies and service providers willing and  
14 able to help you to carry your child to term, and to assist you and your child after  
15 your child is born, whether you choose to keep your child or to place her or him for  
16 adoption. You are strongly urged to contact one or more of these agencies and  
17 service providers before making a final decision about abortion. The law requires  
18 that your physician or his or her agent give you the opportunity to call agencies and  
19 service providers like these before you undergo an abortion."

20 2. Printed materials that include information on the support  
21 obligations of the father of a child who is born alive, including but not limited to  
22 the father's legal duty to support his child, which may include child support  
23 payments and health insurance, and the fact that paternity may be established by  
24 the father's signature on a birth certificate or statement of paternity, or by court  
25 action. The printed material shall also state that more information concerning  
26 paternity establishment and child support services and enforcement may be  
27 obtained by calling the Office of the Attorney General of Guam, Child Support

1 Enforcement Division or the Department of Public Health and Social Services,  
2 Division of Public Welfare.

3           3. Printed materials that inform the pregnant woman of the  
4 probable anatomical and physiological characteristics of an unborn child at two  
5 (2)-week gestational increments from fertilization to full term, including color  
6 photographs of the developing unborn child at two (2)-week gestational  
7 increments. The descriptions shall include information about brain and heart  
8 functions, the presence of external members and internal organs during the  
9 applicable stages of development, and any relevant information on the possibility  
10 of the child's survival at several and equidistant increments throughout a full term  
11 pregnancy. If a photograph is not available, a picture must contain the dimensions  
12 of the unborn child and must be anatomically accurate and realistic. The materials  
13 shall be objective, nonjudgmental, and designed to convey only accurate scientific  
14 information about the unborn child at the various gestational ages.

15           4. Printed materials which contain objective information  
16 describing the various surgical and drug-induced methods of abortion, as well as  
17 the immediate and long-term medical risks commonly associated with each  
18 abortion method including but not limited to the risks of infection, hemorrhage,  
19 cervical or uterine perforation or rupture, any potential effect upon future  
20 capability to conceive as well as to sustain a pregnancy to full term, the possible  
21 adverse psychological effects associated with an abortion, and the medical risks  
22 associated with carrying a child to term.

23           5. A checklist certification form to be used by the physician or a  
24 qualified person under Subsection (b)(5) of this Section 3218.1, which will list all  
25 the items of information which are to be given to the woman by the physician or a  
26 qualified person under this Section 3218.1.



1           **(d) Cost of Materials.** The Department shall provide the materials  
2 enumerated in Subsection (c) of this Section 3218.1 to the physician or qualified  
3 person who is required to provide these materials to women pursuant to Subsection  
4 (b)(3) of this Section 3218.1 upon the request of such physician or qualified person  
5 and at such cost as reasonably determined by the Department. No claim of  
6 inability to pay the cost charged by the Department for these materials will excuse  
7 any party from complying with the requirements set forth in this Section 3218.1.

8           **(e) Emergencies.** When a medical emergency compels the performance  
9 of an abortion or termination of pregnancy, the physician shall inform the woman,  
10 before the abortion if possible, of the medical indications supporting the  
11 physician's judgment that an immediate abortion or termination of pregnancy is  
12 necessary to avert her death or that a twenty-four (24) hour delay would cause  
13 substantial and irreversible impairment of a major bodily function.

14           **(f) Criminal Penalties.** Any person who intentionally, knowingly, or  
15 recklessly violates this Act is guilty of a misdemeanor.

16           **(g) Civil and Administrative Claims.** In addition to whatever remedies  
17 are available under the common law or statutory laws of Guam, failure to comply  
18 with the requirements of this Act shall:

19           1. Provide a basis for a civil malpractice action, and provide  
20 standing to any woman upon whom an abortion was performed or attempted  
21 allegedly in violation of this Act to bring such an action. Any intentional violation  
22 of this Act shall be admissible in a civil suit as *prima facie* evidence of a failure to  
23 obtain informed consent. When requested, the court shall allow a woman upon  
24 whom an abortion was performed or attempted to be performed allegedly in  
25 violation of this Act to be identified in any action brought pursuant to this Act  
26 using solely her initials or the pseudonym "Jane Doe." Further, with or without a  
27 request, the court may close any proceedings in the case from public attendance,

1 and the court may enter other protective orders in its discretion to preserve the  
2 privacy of the woman upon whom the abortion was performed or attempted to be  
3 performed allegedly in violation of this Act.

4           2.     Provide a basis for professional disciplinary action under 10  
5 GCA § 11110.


6           3.     Provide a basis for recovery for the woman for the wrongful  
7 death of her unborn child under 7 GCA § 12109, whether or not the unborn child  
8 was born alive or was viable at the time the abortion was performed.

9           **Section 3. Funding.** *I Maga'Lahan Guahan shall identify the funds*  
10 *necessary* within the Executive Branch Budget, as required and necessary to fully  
11 implement the purposes and intent set forth in this Act.

12           **Section 4. Severability.** Any provision of this Act held to be invalid *or*  
13 unenforceable by its terms or as applied to any person or circumstance, *shall* be  
14 construed so as to give it the maximum effect permitted by law unless such holding  
15 shall be one of utter invalidity or unenforceability, in which event, such provision  
16 *shall* be deemed severable herefrom and *shall* not affect the remainder hereof *or*  
17 the application of such provision to other persons *not* similarly situated *or* to other  
18 dissimilar circumstances.

19           **Section 5. Effective Date.** This Act *shall* take effect 180 days after  
20 enactment.

I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2011 (FIRST) Regular Session

2011 JAN 25 PM 3:12  


Bill No. 52<sup>3</sup> (COR)

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesian Affairs and  
Human & Natural Resources

By request of *I Maga'lahaen*  
*Guåhan* in accordance with the  
Organic Act of Guam

**AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3,  
ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO WOMEN'S INFORMED CONSENT FOR  
ABORTION; AND TO CITE THE ACT AS "THE WOMAN'S  
REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
that it is essential to the psychological and physical well-being of a woman  
considering an abortion that she receives complete and accurate information  
material to her decision of whether to undergo an abortion or abortion alternatives.  
*I Liheslaturan Guåhan* further finds that every woman submitting to an abortion  
should do so only after giving her voluntary and informed consent in writing to the  
abortion procedure.

**Section 2.** A new Section 3218.1 is hereby *added* to Chapter 3, Article 2,  
Title 10 of the Guam Code Annotated to read as follows:

**§3218.1. The Woman's Reproductive Health Information Act of**

1 2011.

2 (a) **Definitions.** For purposes of this Act, the following words and  
3 phrases are defined to mean:

4 (1) *Abortion* means the use or prescription of any instrument,  
5 medicine, drug, or other substance or device to terminate the pregnancy of a  
6 woman known to be pregnant with an intention other than to increase the  
7 probability of a live birth, to preserve the life or health of the child after live  
8 birth, to act upon an ectopic pregnancy, or to remove a dead unborn child  
9 who died as the result of natural causes *in utero*, accidental trauma, or a  
10 criminal assault on a pregnant woman or her unborn child, and which causes  
11 the premature termination of the pregnancy;

12 (2) *Complication* means that condition which includes but is not  
13 limited to hemorrhage, infection, uterine perforation, cervical laceration,  
14 pelvic inflammatory disease, endometriosis, and retained products. The  
15 Department may further define the term “complication” as necessary and in  
16 a manner not inconsistent with this Act;

17 (3) *Conception* means the fusion of a human spermatozoon with a  
18 human ovum;

19 (4) *Department* means the Department of Public Health and Social  
20 Services and, when applicable, may more specifically mean the Records

1 Section of the Department of Public Health and Social Services;

2 (5) *Facility or medical facility* means any public or private hospital,  
3 clinic, center, medical school, medical training institution, health care  
4 facility, physician's office, infirmary, dispensary, ambulatory surgical  
5 treatment center, or other institution or location wherein medical care is  
6 provided to any person;

7 (6) *First trimester* means the first twelve (12) weeks of gestation;

8 (7) *Gestational age* means the time that has elapsed since the first  
9 day of the woman's last occurring menstruation;

10 (8) *Hospital* means any building, structure, institution or place,  
11 public or private, whether organized for profit or not, devoted primarily to  
12 the maintenance and operation of facilities for the diagnosis, treatment and  
13 provision of medical or surgical care for three (3) or more non-related  
14 individuals, admitted for overnight stay or longer in order to obtain medical,  
15 including obstetric, psychiatric and nursing care of illness, disease, injury or  
16 deformity, whether physical or mental and regularly making available at  
17 least clinical laboratory services and diagnostic x-ray services and treatment  
18 facilities for surgery or obstetrical care or other definitive medical treatment;

19 (9) *Medical emergency* means a condition which, in reasonable  
20 medical judgment, so complicates the medical condition of the pregnant

1 woman as to necessitate the immediate termination of her pregnancy to avert  
2 her death or for which a delay will create a serious risk of substantial and  
3 irreversible physical impairment of a major bodily function. No condition  
4 shall be deemed a medical emergency if based on a claim or diagnosis that  
5 the woman will engage in conduct which would result in her death or in  
6 substantial and irreversible physical impairment of a major bodily function;

7 (10) *Physician* means any person licensed to practice medicine or  
8 surgery or osteopathic medicine under the Physicians Practice Act (10 GCA  
9 §12201 *et seq.*) or in another jurisdiction of the United States;

10 (11) *Pregnant* or *pregnancy* means that female reproductive  
11 condition of having an unborn child in the mother's uterus;

12 (12) *Qualified person* means an agent of a physician who is a  
13 psychologist, licensed social worker, licensed professional counselor,  
14 registered nurse, or physician;

15 (13) *Unborn child* or *fetus* each mean an individual organism of  
16 the species *homo sapiens* from conception until live birth;

17 (14) *Viability* means the state of fetal development when, in the  
18 reasonable judgment of a physician based on the particular facts of the case  
19 before him or her and in light of the most advanced medical technology and  
20 information available to him or her, there is a reasonable likelihood of

1           sustained survival of the unborn child outside the body of his or her mother,  
2           with or without artificial support; and

3                       (15) *Woman* means a female human being whether or not she has  
4           reached the age of majority.

5           **(b) Informed consent requirement.** No abortion shall be performed or  
6           induced without the voluntary and informed consent of the woman upon whom the  
7           abortion is to be performed or induced. Except in the case of a medical  
8           emergency, consent to an abortion is voluntary and informed if and only if:

9                       1. At least twenty-four (24) hours before the abortion, the physician  
10          who is to perform the abortion or the referring physician has informed the woman  
11          in person of the following:

12                       (i) The name of the physician who will perform the abortion;

13                       (ii) Medically accurate information that a reasonable person  
14          would consider material to the decision of whether or not to undergo the abortion,  
15          including (a) a description of the proposed abortion method; (b) the immediate and  
16          long-term medical risks associated with the proposed abortion method, including  
17          but not limited to any risks of infection, hemorrhage, cervical or uterine  
18          perforation, and any potential effect upon future capability to conceive as well as  
19          to sustain a pregnancy to full term; and (c) alternatives to abortion;

20                       (iii) The probable gestational age of the unborn child at the

1 time the abortion is to be performed;

2 (iv) The probable anatomical and physiological characteristics  
3 of the unborn child at the time the abortion is to be performed;

4 (v) The medical risks associated with carrying the child to  
5 term;

6 (vi) Any need for anti-Rh immune globulin therapy if she is Rh  
7 negative, the likely consequences of refusing such therapy, and the cost of the  
8 therapy;

9 2. At least twenty-four (24) hours before the abortion, the physician  
10 who is to perform the abortion, the referring physician, or a qualified person has  
11 informed the woman in person, that:

12 (i) Medical assistance benefits may be available for prenatal  
13 care, childbirth, and neonatal care and that more detailed information on the  
14 availability of such assistance is contained in the printed materials and  
15 informational video given to her and described in Subsection (c);

16 (ii) The printed materials and informational video in Subsection  
17 (c) describe the unborn child and list agencies that offer alternatives to abortion;

18 (iii) The father of the unborn child is liable to assist in the  
19 support of this child, even in instances where he has offered to pay for the abortion.

20 In the case of rape or incest, this information may be omitted; and



1                   (iv) She is free to withhold or withdraw her consent to the  
2 abortion at any time without affecting her right to future care or treatment and  
3 without the loss of any locally or federally funded benefits to which she might  
4 otherwise be entitled.

5                   3. The information in Subsections B(1) and B(2) is provided to the  
6 woman individually and in a private room to protect her privacy and maintain the  
7 confidentiality of her decision to ensure that the information focuses on her  
8 individual circumstances and that she has an adequate opportunity to ask questions.

9                   4. At least twenty-four (24) hours before the abortion, the woman is  
10 given a copy of the printed materials and a viewing of, or a copy of, the  
11 informational video described in Subsection (c). If the woman is unable to read the  
12 materials, they shall be read to her. If the woman asks questions concerning any of  
13 the information or materials, answer shall be provided to her in a language she can  
14 understand.

15                  5. Prior to the abortion, the woman certifies in writing on a checklist  
16 form provided or approved by the Department that the information required to be  
17 provided under Subsections (b)(1), (b)(2), and (b)(4) has been provided. All  
18 physicians who perform abortions shall report the total number of certifications  
19 received monthly to the Department. The department shall make the number of  
20 certifications received available to the public on an annual basis.

1           6. Except in the case of a medical emergency, the physician who is to  
2 perform the abortion shall receive and sign a copy of the written certification  
3 prescribed in Subsection (5) of this Section prior to performing the abortion. The  
4 physician shall retain a copy of the checklist certification from in the woman's  
5 medical record.

6           7. In the event of a medical emergency requiring an immediate  
7 termination of the pregnancy, the physician who performed the abortion shall  
8 clearly certify in writing the nature of the medical emergency and the  
9 circumstances which necessitated the waiving of the informed consent  
10 requirements of this Section. This certification shall be signed by the physician  
11 who performed the emergency termination of pregnancy, and shall be permanently  
12 filed in both the patient records maintained by the physician performing the  
13 emergency procedure and the records maintained by the facility where the  
14 emergency procedure occurred.

15           8. A physician shall not require of anyone or obtain payment from  
16 anyone for providing the information and certification required by this Section  
17 until the expiration of the twenty-four (24) hour reflection period required by  
18 Subsections (b)(1), (b)(2) and (b)(4).

19           **(c) Publication of Materials.** The Department of Public Health and Social  
20 Services shall cause to be published printed materials and an informational video

1 in culturally sensitive languages within 180 days after this Act becomes law (and  
2 not 180 days after the effective date described in Section 4). On an annual basis,  
3 the Department shall review and update, if necessary, the following easily  
4 comprehensible printed materials and informational video:

5 1. Materials that inform the woman of public and private agencies  
6 and services available to assist a woman through pregnancy, upon childbirth and  
7 while her child is dependent, including but not limited to adoption services.

8 2. The materials shall include a comprehensive list of the agencies, a  
9 description of the services they offer, and the telephone numbers and addresses of  
10 the agencies, and shall inform the woman about available medical assistance  
11 benefits for prenatal care, childbirth, and neonatal care. The Department shall  
12 ensure that the materials described in this Section are comprehensive and do not  
13 directly or indirectly promote, exclude, or discourage the use of any agency or  
14 service described in this Section. The materials shall also contain a twenty-four-  
15 hour-a-day telephone number which may be called to obtain information about the  
16 agencies in the locality of the caller and of the services they offer.

17 The materials shall state that it is unlawful for any individual to coerce  
18 a woman to undergo an abortion and that if a minor is denied financial support by  
19 the minor's parents, guardian, or custodian due to the minor's refusal to have an  
20 abortion performed, the minor shall be deemed emancipated for the limited

1 purpose of eligibility of public assistance benefits, except that such benefits may  
2 not be used to obtain an abortion. The materials shall also state that any physician  
3 who performs an abortion upon a woman without her informed consent may be  
4 liable to her for damages in a civil action at law and that the law permits adoptive  
5 parents to pay costs of prenatal care, childbirth, and neonatal care. The materials  
6 shall include the following statement:

7           “There are public agencies and private services willing and able to  
8 help you to carry your child to term, and to assist you and your child after your  
9 child is born, whether you choose to keep your child or to place her or him for  
10 adoption. You are strongly urged to contact one or more of these agencies and  
11 services before making a final decision about abortion. The law required that your  
12 physician or his or her agent give you the opportunity to call agencies and services  
13 like these before you undergo an abortion.”

14           3. Materials that include information on the support obligations of the  
15 father of a child who is born alive, including but not limited to the father’s legal  
16 duty to support his child, which may include child support payments and health  
17 insurance, and the fact that paternity may be established by the father’s signature  
18 on a birth certificate or statement of paternity, or by court action. The printed  
19 material shall also state that more information concerning paternity establishment  
20 and child support services and enforcement may be obtained by calling the Guam

1 Attorney General's Office Child Support Division or the Department of Public  
2 Health and Social Services Public Assistance Branch.

3 4. Materials that inform the pregnant woman of the probable  
4 anatomical and physiological characteristics of an unborn child at two (2)-week  
5 gestational increments from fertilization to full term, including color photographs  
6 of the developing unborn child at two (2)-week gestational increments. The  
7 descriptions shall include information about brain and heart functions, the presence  
8 of external members and internal organs during the applicable stages of  
9 development, and any relevant information on the possibility of the child's survival  
10 at several and equidistant increments throughout a full term pregnancy. If a  
11 photograph is not available, a picture must contain the dimensions of the unborn  
12 child and must be realistic. The materials shall be objective, nonjudgmental, and  
13 designed to convey only accurate scientific information about the unborn child at  
14 the various gestational ages.

15 5. Materials which contain objective information describing the  
16 various surgical and drug-induced methods of abortion, as well as the immediate  
17 and long-term medical risks commonly associated with each abortion method  
18 including but not limited to the risks of infection, hemorrhage, cervical or uterine  
19 perforation or rupture, any potential effect upon future capability to conceive as  
20 well as to sustain a pregnancy to full term, the possible adverse psychological

1 effects associated with an abortion, and the medical risks associated with carrying  
2 a child to term.

3           6. A checklist certification form to be used by the physician or a  
4 qualified person under Subsection (b)(5) of this Act, which will list all the items of  
5 information which are to be given to the woman by a physician or agent of the  
6 physician under this Act.

7           7. The materials shall be printed in a typeface large enough to be  
8 clearly legible.

9           8. The Department shall produce a standardized video that may be  
10 used islandwide, presenting the information described in Subsection (c)(1), (c)(2),  
11 (c)(3), and (c)(4), in accordance with the requirements of those Subsections. In  
12 preparing the video, the Department may summarize and make reference to the  
13 printed comprehensive list of geographically indexed names and services described  
14 in Subsection (c)(1). The video shall in addition to the information described in  
15 Subsections (c)(1), (c)(2), (c)(3), and (c)(4), show an ultrasound of the heartbeat of  
16 an unborn child at four (4) to five (5) weeks gestational age gestational age to six  
17 (6) to eight (8)-weeks gestational age, and each month thereafter, until visibility.  
18 That information shall be presented in an objective, unbiased manner designed to  
19 convey only accurate scientific information.

20           9. The materials required under this Section and the video described

1 in Subsection (c)(8) shall be available at no cost from the Department upon request  
2 and in appropriate number to any person, facility or hospital.

3 **(d) Emergencies.** When a medical emergency compels the performance of  
4 an abortion or termination of pregnancy, the physician shall inform the woman,  
5 before the abortion if possible, of the medical indications supporting the  
6 physician's judgment that an immediate abortion or termination of pregnancy is  
7 necessary to avert her death or that a twenty-four (24) hour delay would cause  
8 substantial and irreversible impairment of a major bodily function.

9 **(e) Criminal Penalties.** Any person who intentionally, knowingly, or  
10 recklessly violates this Act is guilty of a misdemeanor.

11 **(f)** In addition to whatever remedies are available under the common or  
12 statutory laws of Guam, failure to comply with the requirements of this Act shall:

13 1. Provide a basis for a civil malpractice action, and provide standing  
14 to any woman upon whom an abortion was performed or attempted allegedly in  
15 violation of this Act to bring such an action. Any intentional violation of this Act  
16 shall be admissible in a civil suit as *prima facie* evidence of a failure to obtain  
17 informed consent. When requested, the court shall allow a woman upon whom an  
18 abortion was performed or attempted to be performed allegedly in violation of this  
19 Act to be identified in any action brought pursuant to this Act using solely her  
20 initials or the pseudonym "Jane Doe". Further, with or without a request, the court

1 may close any proceedings in the case from public attendance, and the court may  
2 enter other protective orders in its discretion to preserve the privacy of the woman  
3 upon whom the abortion was performed or attempted to be performed allegedly in  
4 violation of this Act.

5           2. Provide a basis for professional disciplinary action under Section  
6 11110 of Chapter 11 of Title 10 Guam Code Annotated.

7           3. Provide a basis for recovery for the woman for the wrongful death  
8 of her unborn child under Section 12109 of Chapter 12 of Title 7 Guam Code  
9 Annotated, whether or not the unborn child was born alive or was viable at the  
10 time the abortion was performed.

11           **Section 3. Severability.** If any provision of this Act is held to be invalid *or*  
12 unenforceable by its terms, *or* as applied to any person or circumstance, *shall* be  
13 construed so as to give it the maximum effect permitted by law unless such holding  
14 shall be one of utter invalidity or unenforceability, in which even such provision  
15 *shall* be deemed severable herefrom and *shall* not affect the remainder hereof *or*  
16 the application of such provision to other persons *not* similarly situated *or* to other,  
17 dissimilar circumstances.

18           **Section 4. Effective Date.** This Act shall take effect 180 days after  
19 enactment.



# Changes Requested by Governor's Legal Counsel.

## I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN 2011 (FIRST) Regular Session

Bill No.      ( )

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesian Affairs and  
Human & Natural Resources  
By request of *I Maga'laha*  
*Guåhan* in accordance with the  
Organic Act of Guam.

AN ACT TO ADD A *NEW* SECTION 3218.1 TO CHAPTER 3,  
ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO WOMEN'S INFORMED CONSENT FOR  
ABORTION; AND TO CITE THE ACT AS "*THE WOMEN'S*  
*REPRODUCTIVE HEALTH INFORMATION ACT OF 2011.*"

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that it is essential to the psychological and physical well-being of a woman  
4 considering an abortion that she receives complete and accurate information  
5 material to her decision of whether to undergo an abortion ~~or including information~~  
6 concerning abortion alternatives. *I Liheslaturan Guåhan* further finds that every  
7 woman submitting to an abortion should do so only after giving her voluntary and  
8 informed consent in writing to the abortion procedure.

9 **Section 2. A New Section 3218.1.** A new Section 3218.1 is hereby  
10 added to Chapter 3, Article 2, Title 10 of the Guam Code Annotated to read as  
11 follows:

12 **§ 3218.1. The Women's Reproductive Health Information Act of 2011.**

13 **(a) Definitions.** For the purposes of this ~~Aet~~Section 3218.1, the  
14 following words and phrases are defined to mean:

15 (1) *Abortion* means the use or prescription of any instrument,  
16 medicine, drug, or other substance or device to terminate the pregnancy of a  
17 woman known to be pregnant with an intention other than to increase the  
18 probability of a live birth, to preserve the life or health of the child after live birth,  
19 to act upon an ectopic pregnancy, or to remove a dead unborn child who died as  
20 the result of natural causes *in utero*, accidental trauma, or a criminal assault on a

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1 pregnant woman or her unborn child, and which causes the premature termination  
2 of the pregnancy;

3 2. Act means the Women's Reproductive Health Information Act  
4 of 2011 codified at 10 GCA § 3218.1;

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5 (23.) Complication means that condition which includes but is not  
6 limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic  
7 inflammatory disease, endometriosis, and retained products. The Department may  
8 further define the term "complication" as necessary and in a manner not  
9 inconsistent with this Section 3218.1 Act;

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10 (34.) Conception means the fusion of a human spermatozoon with a  
11 human ovum;

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12 (45.) Department means the Department of Public Health and Social  
13 Services ~~and, when applicable, may more specifically mean the Records Section of~~  
14 ~~the Department of Public Health and Social Services;~~

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15 (56.) Facility or medical facility means any public or private hospital,  
16 clinic, center, medical school, medical training institution, health care facility,  
17 physician's office, infirmary, dispensary, ambulatory surgical treatment center, or  
18 other institution or location wherein medical care is provided to any person;

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19 (67.) First trimester means the first twelve (12) weeks of gestation;

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1           (78.) *Gestational age* means the time that has elapsed since the first  
2 day of the woman's last occurring menstruation;

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3           (89.) *Hospital* means any building, structure, institution or place,  
4 public or private, whether organized for profit or not, devoted primarily to the  
5 maintenance and operation of facilities for the diagnosis, treatment and provision  
6 of medical or surgical care for three (3) or more non-related individuals, admitted  
7 for overnight stay or longer in order to obtain medical, including obstetric,  
8 psychiatric and nursing care of illness, disease, injury or deformity, whether  
9 physical or mental and regularly making available at least clinical laboratory  
10 services and diagnostic x-ray services and treatment facilities for surgery or  
11 obstetrical care or other definitive medical treatment;

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12           (910.) *Medical emergency* means a condition which, in reasonable  
13 medical judgment, so complicates the medical condition of the pregnant woman as  
14 to necessitate the immediate termination of her pregnancy to avert her death or for  
15 which a delay will create a serious risk of substantial and irreversible physical  
16 impairment of a major bodily function. No condition shall be deemed a medical  
17 emergency if based on a claim or diagnosis that the woman will engage in conduct  
18 which would result in her death or in substantial and irreversible physical  
19 impairment of a major bodily function;

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1           ~~(101.)~~ *Physician* means any person licensed to practice medicine or  
2 surgery or osteopathic medicine under the Physicians Practice Act (10 GCA §  
3 12201, *et seq.*) or in another jurisdiction of the United States;

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4           ~~(12.)~~ *Pregnant* or *pregnancy* means that female reproductive  
5 condition of having an unborn child in the mother's uterus;

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6           ~~(123.)~~ *Qualified person* means an agent of a physician who is a  
7 psychologist, licensed social worker, licensed professional counselor, registered  
8 nurse, or physician;

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9           ~~(134.)~~ *Records Section* means the Guam Memorial Hospital Medical  
10 Records Section;

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11           15. *Unborn child* or *fetus* each means an individual organism of the  
12 species *homo sapiens* from conception until live birth;

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13           ~~(1416.)~~ *Viability* means the state of fetal development when, in  
14 the reasonable judgment of a physician based on the particular facts of the case  
15 before him or her and in light of the most advanced medical technology and  
16 information available to him or her, there is a reasonable likelihood of sustained  
17 survival of the unborn child outside the body of his or her mother, with or without  
18 artificial support; and

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19           ~~(1517.)~~ *Woman* means a female human being whether or not  
20 she has reached the age of majority.

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1 (b)\_\_\_-**Informed consent requirement.** No abortion shall be performed or  
2 induced without the voluntary and informed consent of the woman upon whom the  
3 abortion is to be performed or induced. Except in the case of a medical  
4 emergency, consent to an abortion is voluntary and informed if and only if:

5 1. \_\_\_-At least twenty-four (24) hours before the abortion, the  
6 physician who is to perform the abortion or a qualified person ~~the referring~~  
7 ~~physician~~ has informed the woman in person of the following:

8 (i)\_\_\_-The name of the physician who will perform the  
9 abortion;

10 (ii)\_\_\_-Medically accurate information that a reasonable person  
11 would consider material to the decision of whether or not to undergo the abortion,  
12 including (a) a description of the proposed abortion method; (b) the immediate and  
13 long-term medical risks associated with the proposed abortion method, including  
14 but not limited to any risks of infection, hemorrhage, cervical or uterine  
15 perforation, and any potential effect upon future capability to conceive as well as  
16 to sustain a pregnancy to full term; and (c) alternatives to abortion;

17 (iii)\_\_\_-The probable gestational age of the unborn child at the  
18 time the abortion is to be performed;

19 (iv)\_\_\_-The probable anatomical and physiological  
20 characteristics of the unborn child at the time the abortion is to be performed;

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1 (v)\_\_\_-The medical risks associated with carrying the child to  
2 term;

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3 (vi)\_\_\_-Any need for anti-Rh immune globulin therapy if she is  
4 Rh negative, the likely consequences of refusing such therapy, and the cost of the  
5 therapy;

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6 \_\_\_\_\_2.\_\_\_\_-At least twenty-four (24) hours before the abortion, the  
7 physician who is to perform the abortion, ~~the referring physician,~~ or a qualified  
8 person has informed the woman in person, that:

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9 (i)\_\_\_-Medical assistance benefits may be available for  
10 prenatal care, childbirth, and neonatal care and that more detailed information on  
11 the availability of such assistance is contained in the printed materials ~~and~~  
12 ~~informational video~~ given to her and described in Subsection (c) of this Section  
13 3218.1;

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14 (ii)\_\_\_-The printed materials ~~and informational video~~ in  
15 Subsection (c) of this Section 3218.1 describe the unborn child and list agencies  
16 that offer alternatives to abortion;

17 (iii)\_\_\_-The father of the unborn child is liable to assist in the  
18 support of this child, even in instances where he has offered to pay for the abortion.

19 In the case of rape or incest, this information may be omitted; and

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1 (iv)\_\_\_-She is free to withhold or withdraw her consent to the  
2 abortion at any time without affecting her right to future care or treatment and  
3 without the loss of any locally or federally funded benefits to which she might  
4 otherwise be entitled.

5 ~~3. The information in Subsections B(1) and B(2) is~~  
6 ~~provided to the woman individually and in a private room to protect her privacy~~  
7 ~~and maintain the confidentiality of her decision to ensure that the information~~  
8 ~~focuses on her individual circumstances and that she has an adequate opportunity~~  
9 ~~to ask questions.~~

10 ~~4. At least twenty-four (24) hours before the abortion, the~~  
11 ~~physician who is to perform the abortion or a qualified person has given the~~  
12 ~~woman is given a copy of the printed materials and a viewing of, or a copy of, the~~  
13 ~~informational video described in Subsection (c) of this Section 3218.1. If the~~  
14 ~~woman is unable to read the materials, they shall be read to her. If the woman asks~~  
15 ~~questions concerning any of the information or materials, answers shall be~~  
16 ~~provided to her in a language she can understand.~~

17 4. The information in Subsections (b)(1), (b)(2) and (b)(3) of this  
18 Section 3218.1 is provided to the woman individually and in a private room to  
19 protect her privacy and maintain the confidentiality of her decision and to ensure

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1 that the information focuses on her individual circumstances and that she has an  
2 adequate opportunity to ask questions.

3 5. Prior to the abortion, the woman certifies in writing on a  
4 checklist form provided or approved by the Department that the information  
5 required to be provided under Subsections (b)(1), (b)(2), and (b)(43) of this Section  
6 3218.1 has been provided. All physicians who perform abortions shall report the  
7 total number of certifications received monthly to the Department. The department  
8 Records Section. The Records Section shall make the number of certifications  
9 received available to the public on an annual basis.

10 6. Except in the case of a medical emergency, the physician  
11 who is to perform the abortion shall receive and sign a copy of the written  
12 certification prescribed in Subsection (b)(5) of this Section 3218.1 of this Section  
13 prior to performing the abortion. The physician shall retain a copy of the checklist  
14 certification from form in the woman's medical record.

15 7. In the event of a medical emergency requiring an  
16 immediate termination of the pregnancy, the physician who performed the abortion  
17 shall clearly certify in writing the nature of the medical emergency and the  
18 circumstances which necessitated the waiving of the informed consent  
19 requirements of this Section 3218.1. This certification shall be signed by the  
20 physician who performed the emergency termination of pregnancy, and shall be

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1 permanently filed in both the patient records maintained by the physician  
2 performing the emergency procedure and the records maintained by the facility  
3 where the emergency procedure occurred.

4 |            ~~8.\_\_\_\_~~-A physician shall not require ~~of anyone~~ or obtain  
5 payment from anyone for providing the information and certification required by  
6 this Section 3218.1 until the expiration of the twenty-four (24) hour reflection  
7 period required by ~~Subsections (b)(1), (b)(2) and (b)(4)~~this Section 3218.1.

8            **(c)\_\_\_\_-Publication of Materials.** The Department ~~of Public Health and~~  
9 ~~Social Services~~ shall cause to be published printed materials ~~and an informational~~  
10 ~~video in~~ English, Chamorro and any other culturally sensitive languages which the  
11 Department deems appropriate within 180 days after this Act becomes law~~(and~~  
12 ~~not 180 days after the effective date described in Section 4).~~ The printed materials  
13 shall be printed in a typeface large enough to be clearly legible and shall be  
14 presented in an objective, unbiased manner designed to convey only accurate  
15 scientific information. On an annual basis, the Department shall review and  
16 update, if necessary, the following easily comprehensible printed materials ~~and~~  
17 ~~informational video:~~

18            1.\_\_\_\_-Printed mMaterials that inform the woman of public and  
19 private agencies and ~~services~~service providers available to assist a woman through

1 pregnancy, upon childbirth and while her child is dependent, including but not  
2 limited to adoption services.

3 ~~2.~~ The printed materials shall include a comprehensive list of the  
4 agencies and service providers, a description of the services they offer, and the  
5 telephone numbers and addresses of the agencies and service providers, and shall  
6 inform the woman about available medical assistance benefits for prenatal care,  
7 childbirth, and neonatal care. The Department shall ensure that the materials  
8 described in this Section 3218.1 are comprehensive and do not directly or  
9 indirectly promote, exclude, or discourage the use of any agency or service  
10 provider described in this Section 3218.1. ~~The materials shall also contain a~~  
11 ~~twenty four hour a day telephone number which may be called to obtain~~  
12 ~~information about the agencies in the locality of the caller and of the services they~~  
13 ~~offer.~~

14 ~~These~~ printed materials shall state that it is unlawful for any  
15 individual to coerce a woman to undergo an abortion and that if a minor is denied  
16 financial support by the minor's parents, guardian, or custodian due to the minor's  
17 refusal to have an abortion performed, the minor shall be deemed emancipated for  
18 the limited purpose of eligibility, ~~of for~~ public assistance benefits, except that such  
19 benefits may not be used to obtain an abortion. ~~The~~ printed materials shall also  
20 state that any physician who performs an abortion upon a woman without her

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1 informed consent may be liable to her for damages in a civil action ~~at law~~ and that  
2 the law permits adoptive parents to pay costs of prenatal care, childbirth, and  
3 neonatal care. The ~~printed materials~~ shall include the following statement:

4 "There are public and private agencies and ~~private-service providers~~s willing  
5 and able to help you to carry your child to term, and to assist you and your child  
6 after your child is born, whether you choose to keep your child or to place her or  
7 him for adoption. You are strongly urged to contact one or more of these agencies  
8 and ~~services-service providers~~ before making a final decision about abortion. The  
9 law ~~required~~ requires that your physician or his or her agent give you the  
10 opportunity to call agencies and ~~services-service providers~~ like these before you  
11 undergo an abortion."

12 ~~32. Materials~~ Printed materials that include information on the  
13 support obligations of the father of a child who is born alive, including but not  
14 limited to the father's legal duty to support his child, which may include child  
15 support payments and health insurance, and the fact that paternity may be  
16 established by the father's signature on a birth certificate or statement of paternity,  
17 or by court action. The printed material shall also state that more information  
18 concerning paternity establishment and child support services and enforcement  
19 may be obtained by calling the ~~Guam Office of the Attorney General's Office of~~

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1 Guam, Child Support Enforcement Division or the Department of Public Health  
2 and Social Services Public Assistance Branch, Division of Public Welfare.

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3 43. Printed Materials that inform the pregnant woman of the

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4 probable anatomical and physiological characteristics of an unborn child at two  
5 (2)-week gestational increments from fertilization to full term, including color  
6 photographs of the developing unborn child at two (2)-week gestational  
7 increments. The descriptions shall include information about brain and heart  
8 functions, the presence of external members and internal organs during the  
9 applicable stages of development, and any relevant information on the possibility  
10 of the child's survival at several and equidistant increments throughout a full term  
11 pregnancy. If a photograph is not available, a picture must contain the dimensions  
12 of the unborn child and must be anatomically accurate and realistic. The materials  
13 shall be objective, nonjudgmental, and designed to convey only accurate scientific  
14 information about the unborn child at the various gestational ages.

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15 54. Materials Printed materials which contain objective

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16 information describing the various surgical and drug-induced methods of abortion,  
17 as well as the immediate and long-term medical risks commonly associated with  
18 each abortion method including but not limited to the risks of infection,  
19 hemorrhage, cervical or uterine perforation or rupture, any potential effect upon  
20 future capability to conceive as well as to sustain a pregnancy to full term, the

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1 possible adverse psychological effects associated with an abortion, and the medical  
2 risks associated with carrying a child to term.

3 ~~65. — A checklist certification form to be used by the physician or a~~  
4 ~~qualified person under Subsection (b)(5) of this Section 3218.1 of this Act, which~~  
5 ~~will list all the items of information which are to be given to the woman by a the~~  
6 ~~physician or agent of the physician a qualified person under this Act Section 3218.1.~~

7 ~~7. The materials shall be printed in a typeface large enough to be~~  
8 ~~clearly legible.~~

9 ~~8. The Department shall produce a standardized video that may be~~  
10 ~~used islandwide, presenting the information described in Subsection (e)(1), (e)(2),~~  
11 ~~(e)(3), and (e)(4), in accordance with the requirements of those Subsections. In~~  
12 ~~preparing the video, the Department may summarize and make reference to the~~  
13 ~~printed comprehensive list of geographically indexed names and services described~~  
14 ~~in Subsection (e)(1). The video shall in addition to the information described in~~  
15 ~~Subsections (e)(1), (e)(2), (e)(3), and (e)(4), show an ultrasound of the heartbeat of~~  
16 ~~an unborn child at four (4) to five (5) weeks gestational age gestational age to six~~  
17 ~~(6) to eight (8) weeks gestational age, and each month thereafter, until visibility.~~  
18 ~~That information shall be presented in an objective, unbiased manner designed to~~  
19 ~~convey only accurate scientific information.~~ **(d) Cost of Materials.** The

20 Department shall provide the materials enumerated in Subsection (c) of this

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1 Section 3218.1 to the physician or qualified person who is required to provide  
2 these materials to women pursuant to Subsection (b)(3) of this Section 3218.1 upon  
3 the request of such physician or qualified person and at such cost as reasonably  
4 determined by the Department. No claim of inability to pay the cost charged by  
5 the Department for these materials will excuse any party from complying with the  
6 requirements set forth in this Section 3218.1.

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7 ~~9. The materials required under this Section and the video described~~  
8 ~~in Subsection (e)(8) shall be available at no cost from the Department upon request~~  
9 ~~and in appropriate number to any person, facility or hospital.~~

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10 ~~(d)~~ **(e) Emergencies.** When a medical emergency compels the  
11 performance of an abortion or termination of pregnancy, the physician shall inform  
12 the woman, before the abortion if possible, of the medical indications supporting  
13 the physician's judgment that an immediate abortion or termination of pregnancy is  
14 necessary to avert her death or that a twenty-four (24) hour delay would cause  
15 substantial and irreversible impairment of a major bodily function.

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16 **(ef) Criminal Penalties.** Any person who intentionally, knowingly, or  
17 recklessly violates this Act is guilty of a misdemeanor.

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18 **(g) Civil and Administrative Claims.** In addition to whatever remedies  
19 are available under the common law or statutory laws of Guam, failure to comply  
20 with the requirements of this Act shall:

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1 1.\_\_\_\_-Provide a basis for a civil malpractice action, and provide  
2 standing to any woman upon whom an abortion was performed or attempted  
3 allegedly in violation of this Act to bring such an action. Any intentional violation  
4 of this Act shall be admissible in a civil suit as *prima facie* evidence of a failure to  
5 obtain informed consent. When requested, the court shall allow a woman upon  
6 whom an abortion was performed or attempted to be performed allegedly in  
7 violation of this Act to be identified in any action brought pursuant to this Act  
8 using solely her initials or the pseudonym "Jane Doe". Further, with or without a  
9 request, the court may close any proceedings in the case from public attendance,  
10 and the court may enter other protective orders in its discretion to preserve the  
11 privacy of the woman upon whom the abortion was performed or attempted to be  
12 performed allegedly in violation of this Act.

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13 2.\_\_\_\_-Provide a basis for professional disciplinary action under 10  
14 GCA §Section 11110 of Chapter 11 of Title 10 Guam Code Annotated.

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15 3.\_\_\_\_-Provide a basis for recovery for the woman for the wrongful  
16 death of her unborn child under Section 7 GCA § 12109 of Chapter 12 of Title 7  
17 Guam Code Annotated, whether or not the unborn child was born alive or was  
18 viable at the time the abortion was performed.

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19 Section 3. -Severability. -If anyAny provision of this Act is held to be  
20 invalid or unenforceable by its terms, or as applied to any person or circumstance,



1 shall be construed so as to give it the maximum effect permitted by law unless  
2 such holding shall be one of utter invalidity or unenforceability, in which  
3 ~~event~~, such provision shall be deemed severable herefrom and shall not affect  
4 the remainder hereof or the application of such provision to other persons not  
5 similarly situated or to other dissimilar circumstances.

6 Section 4. **Effective Date.** This Act shall take effect 180 days after  
7 enactment.

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**SENATOR DENNIS G. RODRIGUEZ, Jr., Chairman**  
**COMMITTEE ON HEALTH & HUMAN SERVICES, ECONOMIC DEVELOPMENT,  
 SENIOR CITIZENS AND ELECTION REFORM**

*Mina Trentai Unu Na Liheslaturan Guahan • 31<sup>st</sup> Guam Legislature*

**PUBLIC HEARING DATE / TIME: Friday, February 11, 2011 4:00pm**

**AGENDA ITEM: Bill No. 52-31 (COR)** by I Maga'låhen Guåhan, Eddie B. Calvo

An Act to add a new Section 3218.1 to Chapter 3, Article 2, Title 10 of the Guam Code Annotated, relative to Women's Informed Consent for Abortion; and to cite the Act as "*The Unborn Child Protection Act of 2011.*"

PRINT NAME	SIGNATURE	AGENCY OR ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	OPPOSE	CONTACT NUMBER
Rose Teitano	<i>[Signature]</i>		✓		✓		653-1208
Shane Torres	<i>[Signature]</i>	ESPAÑOLA	✓		✓		646-9355



**SENATOR DENNIS G. RODRIGUEZ, Jr., Chairman**  
 COMMITTEE ON HEALTH & HUMAN SERVICES, ECONOMIC DEVELOPMENT,  
 SENIOR CITIZENS AND ELECTION REFORM  
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PRINT NAME	SIGNATURE	AGENCY OR ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	OPPOSE	CONTACT NUMBER
* Teshe Trentai	<i>[Signature]</i>						

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

February 11, 2011

Honorable Dennis Rodriguez, Jr.  
Member  
*I Mina Trentai-unu na Liheslaturan Guahan*  
155 Hesler Place  
Hagatna, Guam 96932

Good afternoon, Mr. Chairman and members of the Committee:

My name is Eddie Baza Calvo. By the will of the people, I am the Governor of Guam. In this role, it is my humble duty to stand up for the unborn, submit these two pieces of legislation before you, and to testify in its favor.

Nothing in my conscience can convince me that it is right to continue depriving unborn babies of the right to live, especially if they can feel pain during the procedure that aborts them. The Unborn Child Protection Act relies on recent science that shows unborn babies respond to pain stimuli by the twentieth week of gestation. Thanks to our efforts in the Twenty-ninth Guam Legislature, we regulated abortion in Guam during the third trimester, which begins around the twenty-fourth week of pregnancy. We now have scientific evidence before us showing that unborn children feel pain, just as we do, four weeks prior to that. It would be unconscionable for us, as leaders, to sit by and do nothing.

Our laws cannot continue depriving unborn children of the most basic civil right the rest of us enjoy. The unborn are the most defenseless among us. They have no voice but those who advocate for them to live. They cannot fight the laws that discriminate against their humanity. The law protects each and every one of us from murder. It is illegal to take someone's life. Life is life. It is a gift. No one should have the right to take it away.

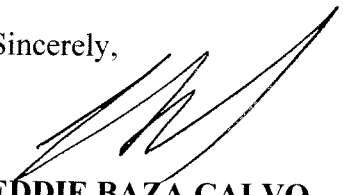
Indeed, abortion is a medical procedure in which a child's life is ripped from her mother and the world. That child will never know love. She'll never experience the trials and tribulations that make us all stronger. She'll never have a chance.

But the law has treated women poorly, as well. While doctors are required to provide medically-accurate information to a patient about to undergo surgery, no such requirement is placed on an abortion doctor to inform his patient of the abortion operation. There are health risks associated with an abortion. There are physiological and psychological consequences placed on the mother after the abortion. None of this is required to be explained to her. Informed consent should be a foregone conclusion. Unfortunately, it is not. This legislature must mandate that women have a right to know about the abortion procedure they seek.

It is sad that our community, which celebrates a culture of life, is reduced to federal laws that eat at the cornerstone of our culture: the family. It can never be complete so long as children, under the eyes of the law, are viewed as choices and not as lives.

I ask each of you to be a voice for the voiceless, and a defender of those who cannot fight for themselves. Pass these measures in to law, and let us right the wrongs. Unborn children should have a right to live.

Sincerely,



**EDDIE BAZA CALVO**

February 7, 2011

Dear Senator Rodriguez,

Thank you for submitting Bills 51-31 and 52-31. I hereby submit my testimony in support of Bill 51-31, speaking as a physician and addressing the medical aspects of fetal pain:

The nervous system, the organ system responsible for perceiving and processing pain, begins its development extremely early in the pregnancy. A variety of studies have shown evidence for pain perception in the fetus at various times in pregnancy, and the range is between 8 weeks and 28 weeks of conception, depending on who is doing the study and what measure the researchers use. Pain perception and processing is a complex neurological process that involves all levels of the nervous system, including the most primitive parts of the brain. The perception and processing of pain change with age both inside and outside the womb—something that can be observed even casually when comparing pain response in infants vs. children vs. adults. What can be said with reasonable certainty is that markers for fetal pain are observable at or before viability, which is itself variable; viability, the ability to survive outside the womb, begins as early as 22 weeks of gestation. Although 20 weeks may seem an arbitrary age to assign the perception of pain, it does represent the middle of a broad range of gestational age for which pain is thought to be perceived by the child in the womb.

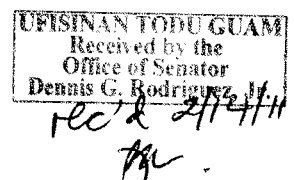
Regarding the issue of fetal pain and its pertinence to abortion – a common argument against addressing this is the thought that ‘the baby is being killed anyway, so why does pain matter?’ It matters in several regards – first, because we are human, we usually have concern about the pain of other humans even if they are dying or are being put to death by capital punishment; this consideration even extends to our pets. Secondly, although many people find abortion detestable even at its earliest stages, when the new human is barely visible, it becomes ever more abhorrent as the baby’s development progresses. Even most abortion proponents find it repulsive to discuss killing a baby in its seventh or eighth month of gestation. Yes, fetal pain does matter and knowledge of fetal pain is germane to abortion discussion – if the baby feels pain as it is being dismembered or delivered alive and left to die, then perhaps abortion after 20 weeks is simply too cruel of a procedure to consider.

I support any bills, including this one, which place limits on the willful death of unborn children via abortion. If this bill is submitted to the attorney general and found to have constitutional issues in that it imposes undue burden on a woman seeking an abortion after 20 weeks, then I would support an amendment as follows: if the bill cannot proscribe abortion after 20 weeks, then it should include a provision for anesthesia for the unborn baby prior to killing it—we do as much for criminals that are put to death, so it is just that a baby should be anesthetized before it is dismembered or has its lungs burned by saline or undergoes any other form of intentional death after 20 weeks.

Sincerely,



Marjolie DeBenedictis, MD



Good Afternoon Senator Rodriguez, Madame Speaker, Senators:

My name is Shane Intihar and I am here today on behalf of the Pro-Life organization, Esperansa, to add my support to the passage of Bill 52: “The Woman’s Reproductive Health Information Act of 2011.”

Bill 52 states that, “it is essential to the psychological and physical well-being of a woman considering an abortion that she receives complete and accurate information material to her decision of whether to undergo an abortion” and that “every woman submitting to an abortion should do so only after giving her voluntary and informed consent in writing to the abortion procedure.”

It is a matter of fact that some women, including women on Guam, undergo abortions without first being fully informed with respect to their options or with respect to the true nature of the unborn life living inside of them.

It is also a matter of fact that some of these same women, *only after* submitting to an abortion, learn of the true nature of the unborn life that they once carried and, as a result, suffer severe distress and psychological trauma.



The purpose of Bill 52, then, is to attempt to diminish the incidences of such psychological trauma, which arise when women who undergo abortion on Guam do so without be fully informed and learn – only too late – of the true nature of their unborn child.

Accordingly, Bill 52 requires abortion providers – at least 24 hours prior to the abortion – to provide women:

“Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including...[including]

b. The probable gestational age of the unborn child at the time the abortion is to be performed;

c. The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

As well as information with respect to the “Medical assistance benefits [which] may be available for prenatal care, childbirth, and neonatal care.”

Now, undoubtedly, supporters of abortion and opponent of this bill will assert that the very fact that a woman seeks an abortion is evidence that she is fully informed and thus does not need the protection of the territory:

I response offer the following:

FIRST, the U.S. Supreme has recognized on numerous occasions that this phenomenon does exist; that women sometimes obtain abortions without being fully informed and thus suffer subsequent psychological harm:

A.

“In an attempt to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed.”

*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 882 (1992)

B.

“It is self-evident that a mother who comes to regret her choice to abort must struggle with grief more anguished and sorrow more profound when she learns, only after the event, what she once did not know: that she allowed a doctor to pierce the skull and vacuum the fast-developing brain of her unborn child, a child assuming the human form.” *Carhart v Gonzales*, 127 S.Ct 1610, 1634 (US 2007)

SECOND,

While anecdotal this nevertheless telling...A dear friend of mine is volunteer at crisis pregnancy center here on Guam. And, as she have conveyed to me, because the center advertises itself merely as a “crisis pregnancy center” and does not indicate that it does not perform abortions, the center often receives women seeking an abortion. ...

\* \* \*

So, to re-cap, I do think that the evidence indicates that there is need for this legislation and the women would benefit from this ~~legislation~~. Bill 52

\* \* \*

Finally, I would like to respond to a few of the principal objections leveled against the informed consent bill, Bill 54. — 30

1. Unconstitutional: Not true. Planned Parenthood v. Casey (US 1992) make absolutely clear that both a 24 hour wait requirement and informed consent requirement do not constitute and “undue burden.” And, of course, the Attorney General in its opinion letter also indicated that Bill 54 passed constitutional muster.

2. The phrase “Unborn child,” was impermissible because it did not appear in Webster’s dictionary. Real reason is an effort to dehumanize the unborn life.

Senator Dennis G. Rodriguez, Jr.  
Chairman, Committee on Health  
176 Serenu Ave.  
Suite 107  
Tamuning, GU 96913

February 10, 2011

Dear Senator,

As Pro-Life advocates my husband and I were strong supporters of the originally submitted Bill 54, The Women's Health Information Act. So passionate were we that we filmed and ad (filming at our own expense while the airing of it was paid by another private citizen advocate) prior to the election last year which urged voters to elect officials that would seriously put forth efforts to PROTECT women from Post-Abortive Trauma.

Although I personally was not aware of the inclusion of the subtitles which appeared under my "talking-head" as I explained the history and content of Bill 54, I admit that I agree with them. These subtitles exposed the failure of the current Chairman, on the Committee on Health to move the Bill through and revealed "stalling tactics" which in itself demonstrated his blatant disregard for the health and welfare of women in Guam.

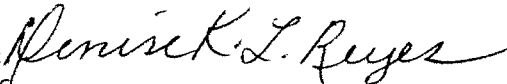
I am requesting and urging you to act on Bill 52 with the passion and conviction that led us and others to vote for you based on your stated "Pro-Life" stance.

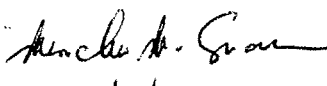
Please do not insult our intelligence as did Frank Aguon in his mishandling of the previous bill and his spineless cave-in at party pressure which turned the bill into a pro-abortion – pro-abortionists' bill. His defense of the fiasco was further insulting and degrading. Please see my attached correspondence to explain the situation.

I am very sincere in my desires to protect women from the psychological and physical affects which arise from making a bad choice especially if she has not been adequately informed or has been coerced or pressured into the choice of aborting.

A woman cannot choose if she doesn't know the options. A decision made under duress and pressure does not respect the woman's dignity. Giving her time to examine and explore options presented to her is the best way to protect her from the harmful psychological and emotional affects of abortion.

As for Bill 51, I will not insult YOUR intelligence in regarding the humane treatment of a fetus about to be aborted. If we have animal cruelty laws protecting animals from suffering, surely if a fetus (which has the potential of existing as a person outside the womb at some future date; about 20 more weeks)- we can have laws to prevent their suffering now that we know this fetus experiences pain.

Thank You,  
Denise Reyes   
P.O. Box 6016  
Merizo, Guam 96916 828-2828, 486-7949  
dklreyes@hotmail.com

Recd. by:   
2/10/11  
SEN. DENNIS RODRIGUEZ, JR.

Senators,

I am tired of venting to friends and family about all of your irresponsible conduct regarding your performances in office. What comes first to mind is the recent attempt to undermine me and the other concerned public in your handling of Bill 54. This applies to ALL of you whether you actively participated in the "butchering" of the bill or were complacent in opposing it.

"All it takes for evil to succeed is for good men to do nothing." (Edmund Burke)

You know the fiasco which you were all a part of from the initial lame excuse of needing advice on the "constitutionality" of the bill, the subsequent 10 month stall, all the way to the decision to stay the hearing scheduled on Friday until the following Monday and the subsequent "last minute call to session" at 7pm! Not to mention the entire revision in the content of the bill!

The days of "pulling the wool over the public's eyes" are over!

This legislature's antics just so happened to reach National Recognition...all be it "Pro-Life News" sources and organizations but they are many; Rachael's Vineyard and Priests for Life are just two of them that know of the irresponsibility with regards to Abortion Regulation here. There are other secular organizations who are also aware and are also spreading the news. (Those of you who claim to be Catholic and care about it should probably look into what has and is happening to "Catholic-in-name" only politicians...Nancy Pelosi is just one of them.)

That may not mean much to you but the people of Guam are not as naive as you seem to think. Stateside trends tend to permeate our culture...especially when the subject requires certain unalienable rights. I know I am not going to be silent anymore about being Pro-Life. Others who normally would not speak out have been encouraged to do so.

Don't believe me? Check with the Governor's Office regarding how many calls and e-mails they received urging the veto of Bill 54. Not to mention calls and e-mails to other influential powers to be. I suggest you keep abreast of the political suicide you are engaging in.

Maybe the lives of unborn babies mean nothing to you nor does the exploitation of women in the name of "Women's Rights" ...but maybe your career does.

I hope you read the attached document and take it as a "popularity indicator." Know that we (the public) are and will continue to monitor your performance. The people of Guam deserve better. This "reaction write-up" just happened to be of Senator Barnes but there are countless other "foot-in-mouth" instances which we the public will not so soon forget...no matter how hard you try to cover up the initial faux pas (Senator Respicio for one).

I am looking forward to the Government leadership of Calvo/Tenorio and hope you senators aspire to more than what you have displayed in your previous term. The time for relaxing now that you have been re-elected is not now. This is the time to prove to us that we were right to put you "back" in office. As with this last election your actions are being documented and will be made known come next election.

Denise Reyes  
Merizo, Guam  
828-2828, 727-7949

## What Child Is This...

...who laid to rest – On Mary's lap is sleeping?

“...and every mother's child is gonna spy, to see if reindeer really know how to fly.”

Bah humbug, I say. All this nonsense about a human being's state of life.

I have one thing to say to Senator Tina Muna-Barnes, (well maybe more than one but I'll limit my comments as best I can.) It seems Senator Tina Muna-Barnes has forgotten one of the 8 parts of speech – **ADJECTIVES!** Adjectives describe nouns, i.e. *big*-dog, *small*-cat, *stupid*-politician... The adjective *unborn* describes the legal term child. You know like when someone mentions their *adult* child who lives in Ohio with his wife and two children in contrast to the *teenage* child still at home with mom and dad. Or a movie that may be inappropriate for *young* children due to *mature* subject matter. Or the plastic bag that your new t.v. came in that states it is NOT A TOY MAY BE HAZZARDOUS TO *SMALL* CHILDREN.

Speaking of adjectives...frustrated, angry, exasperated, appalled all describe this mature fetus' emotions after watching her performance at the “after-hours” hearing of revised bill 54. Do my tax payer dollars go to support those types of shenanigans? Her tirade about not knowing what the term “unborn child” meant and her ignorance of any “religious dictionary” that may have contained the term was insulting to anyone who voted for her, especially since she is the (at the time) would-be senator who told the people of Guam **“You're in my heart!”**

How can that be senator? The human heart is no bigger than an *adult* fist! (not a legal term and you won't find it in any **“anatomical dictionary.”**)

In closing I would like to suggest to the senator rather than **“People Before Politics”** let's put an emphasis on **“Thought before Speech.”**

Every “person” deserves to be treated with dignity and respect, yes Virginia, I mean Senator there is a “vertebrate” in the womb. At times it is “called” an embryo, later a fetus and eventually (9 months or so) a child. No metamorphosis here.

Signed Former Embryo

Denise Reyes

828-2828, 727-7949, dklreyes@hotmail.com

Merizo, Guam

**Re: Unacceptable performance**

From: **Frank Aguon, Jr.** (aguon4guam@gmail.com)

Sent: Tue 12/28/10 8:58 PM

To: Denise Reyes (dklreyes@hotmail.com)

**Denise,**

**I just read your comments and I would like to request that you call my office at 969-1495/6 so we can discuss this issue more thoroughly. The passage of the most recent legislation would have to a much greater extent addressed the serious concerns that you shared in your comments, particularly in saving a life. There will be more restrictive guidelines than what are presently in place. I find it quite unfortunate that you feel that my colleagues and I tried to pass a senseless piece of legislation, and in the same breathe think that we are not advocates for protecting a life. If you feel so strongly about saving a life, then why was the recent measure strongly opposed by some in our community.**

**I encourage yu to continue to advocate and support issues and concerns that you feel very strongly about. But, also allow your leaders in the Guam Legislature to share their perspective before taking such a strong position. Each of my colleagues only have the general concern and safety of our people in mind.**

**Thank you, and have a blessed new year.**

**FRANK B. AGUON, JR.**



Denise,

I just read your comments and I would like to request that you call my office at 969-1495/6 so we can discuss this issue more thoroughly. The passage of the most recent legislation would have to a much greater extent [much greater extent than what? certainly not greater than original Bill 54 which he and his colleagues gutted in order to remove any authentic "informed consent" provisions] addressed the serious concerns that you shared in your comments, particularly in saving a life. There will be more restrictive guidelines than what are presently in place [uh, ok, but not nearly as effective as Bill 54, which he and his colleagues gutted in order to remove any authentic "informed consent" provisions]. I find it quite unfortunate that you feel that my colleagues and I tried to pass a senseless piece of legislation, and in the same breathe think that we are not advocates for protecting a life [I find it quite unfortunate that he and his colleagues gutted Bill 54 of any authentic "informed consent" provisions; I also find his grasp of such expressions as, "in the same breath," which is supposed to signal irony, a little tenuous]. If you feel so strongly about saving a life, then why was the recent measure strongly opposed by some in our community. [Is he really that stupid or does he really think we are that stupid? I honestly can't tell.]

I encourage yu to continue to advocate and support issues and concerns that you feel very strongly about. But, also allow your leaders in the Guam Legislature to share their perspective before taking such a strong position. [Aye, aye, we'll make sure to keep quiet. Or perhaps not. This approach may serve the political careers of Aguon, Respicio, Pangelinan, Barnes and Cruz well, but it sure is tough on the unborn, who are killed on account of our silence] Each of my colleagues only have the general concern and safety of our people in mind.

Thank you, and have a blessed new year.

FRANK B. AGUON, JR.

LAW OFFICES

*Arriola, Cowan & Arriola*

JOAQUIN C. ARRIOLA  
MARK E. COWAN  
ANITA P. ARRIOLA  
JOAQUIN C. ARRIOLA, JR.  

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LEEVIN T. CAMACHO

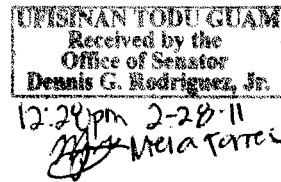
259 MARTYR STREET, SUITE 201  
CALVO - ARRIOLA BUILDING  
HAGÁTÑA, GUAM 96910

MAILING ADDRESS:  
P.O. BOX X  
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TELEPHONE  
(671) 477-9730/3  
TELECOPIER  
(671) 477-9734  
E-MAIL  
acalaw@teleguam.net

February 25, 2011

**VIA HAND DELIVERY**

The Honorable Dennis G. Rodriguez, Jr.  
31<sup>st</sup> Guam Legislature  
Suite 107  
176 Serenu Avenue  
Tamuning, Guam 96931



Re: **Bill 52-31**

Dear Senator Rodriguez:

I am writing to oppose Bill 52-31, “the Woman’s Informed Consent Health Information Act of 2011.”

Bill 52-31 is a biased counseling bill that poses an extremely burdensome requirement on physicians, clinics and women seeking an abortion. After receiving government-mandated counseling by the physician at the clinic, the woman must wait 24 hours before she is able to have the procedure. In short, this type of in-person, physician-only counseling requirement can cause women to make two trips to the clinic, pushing the abortion into a more dangerous and more costly procedure. Currently, less than ten (10) states require two trips. Guam would be in this extreme minority.

A woman’s health and well-being are best supported when she can trust that her doctor will provide medical information that is evenhanded and unbiased. This allows her to protect her health and her ability to make the best decision for her circumstances. Accurate, trusted information about all of her options helps a woman make the best decision for her family and her future. Information should not be provided in a way intended to coerce, shame, or make her change her mind. Unfortunately, Bill 52-31 does exactly that. There is no limit to the number of reading materials a woman is required to read and no limit on the length of the “standardized video” that must be reviewed. A woman is required to read materials concerning the medical and psychological effects associated with an abortion and is “strongly urged” to call public agencies and private services to discuss carrying the child to term. A woman must be told that the father of the unborn child is liable to assist in the support of the child, except in cases of rape or incest, where this information “may” be omitted. Of course, the physician cannot know whether to omit this information until he or she discusses whether the pregnancy is the result of

rape or incest, thereby traumatizing the woman a second time. Requiring women to view color photographs of a developing fetus at two-week gestational increments and “any relevant information on the possibility of the child’s survival at several and equidistant increments throughout a full term pregnancy” serves no purpose other than to try to make a woman change her mind about having an abortion.

Bill 52-31 is overbroad. The bill states, “Any person who intentionally, knowingly, or recklessly violates this Act is guilty of a misdemeanor.” This means that the woman, any physician or agent of a physician, such as a psychologist, licensed social worker, licensed professional counselor, or registered nurse may be liable for failing to “intentionally, knowingly, or recklessly” comply with the statute. Is it truly the intention of the Guam Legislature that if a woman “intentionally” fails to watch the informational video or “recklessly” checks off less than the required informed consent checklist, she should spend six months in jail?

Bill 52-31 is vague. It prohibits anyone from “*requiring* or obtaining payment from anyone for providing the information and certification” until the 24-hour period has elapsed. A similar (though not identical) bill was struck down by a court in Michigan. In *Northland v. Granholm*, No. 01-70549 (E.D. Mich. Feb. 26, 2002), the court enjoined enforcement of a law that prohibited a physician from requiring or obtaining payment for “an abortion related medical service to a patient who has inquired about an abortion or scheduled an abortion” until after the 24 hour waiting period. The court found that “abortion related medical service” was unconstitutionally vague because it failed to give physicians advance notice of what conduct it proscribes. For example, physicians were unclear whether pregnancy-related services – like pregnancy tests, gynecological exams, and ultrasounds – were covered if a woman was deciding whether to carry to term. Clinics testified that they would no longer provide these services to women on their first visit, which the court declared would “threaten to inhibit the exercise of a constitutionally protected right.”

The reporting requirements raise privacy concerns for doctors. The bill requires doctors to report the number of certifications they obtain to the Department of Public Health and Social Services, which has to make certain information available to the public. It is unclear how that information is going to be provided – for example, the bill appears to require revelation of the time, location, and other specifics of abortions that were performed, infringing on the physician-patient privilege and discouraging physicians from providing this medical procedure.

The mandatory delay in Bill 52-31 ostensibly exists so that a woman has time to “think over” the government-mandated information. Other medical procedures, even much more dangerous and complicated surgeries, do not have legally required waiting periods. Mandating delays for abortions implies that women who seek abortions do so without adequate reflection

**February 25, 2011**

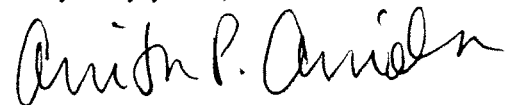
**Re: Bill 52-31**

and are incapable of making reasoned, moral decisions regarding their health and future. In reality, almost all women, by the time they arrive at a clinic, are very clear about their reasons for wanting an abortion. A built-in delay already exists between the moment a woman finds out she is pregnant and the time she enters a clinic, during which period a woman has ample time to think over her decision. In addition, clinics already routinely provide counseling and refer uncertain or ambivalent patients for further counseling. For some, the mandated delay is more than insulting. It is cruel to tell a woman ending a pregnancy because her fetus has a condition incompatible with life or a woman who has become pregnant through rape or incest that she must wait at least 24 hours to reconsider her decision.

Finally, the mandatory delay in Bill 52-31 increases the medical and health risks to women. Many of the women who do manage to overcome the obstacles imposed by mandatory-delay laws are forced to seek later abortions. For example, after a law requiring women to make two trips to the clinic took effect in Mississippi, the proportion of abortions performed after the first trimester increased by 40 percent. Pushing an abortion into the second trimester makes what would have been a routine procedure more complicated and risky. As the American Medical Association in its report on abortion states, "Mandatory waiting periods [and other barriers] have the potential to threaten the safety of induced abortion. [They] increase[ ] the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure."

I strongly urge you to vote against Bill 52-31. Although it claims to be a "Woman's Informed Consent Health Information Act", it is actually a biased counseling bill with a mandatory delay period that has no intention other than to force a woman to change her mind about having an abortion.

Very truly yours,



**ANITA P. ARRIOLA**

LAW OFFICES  
*Arriola, Cowan & Arriola*

259 MARTYR STREET, SUITE 201  
CALVO - ARRIOLA BUILDING  
HAGÁTÑA, GUAM 96910

*Frances,*  
*Bill 54*  
*3/18/09*

JOAQUIN C. ARRIOLA  
MARK E. COWAN  
ANITA P. ARRIOLA  
JOAQUIN C. ARRIOLA, JR.  

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LEEVIN T. CAMACHO

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E-MAIL  
acalaw@teleguam.net

March 17, 2009

**VIA HAND DELIVERY**

The Honorable Frank B. Aguon, Jr.  
Chairperson  
Committee on Economic Development, Health  
and Human Resources & Judiciary  
30<sup>th</sup> Guam Legislature  
155 Hester Place  
Hagatna, Guam 96910

**RECEIVED**  
*Anthony Mandala*  
*3/17/09 4:22pm*

**RE: Bill 54**

Dear Senator Aguon and Members of the Committee on Economic Development, Health and Human Resources & Judiciary:

I represent the Guam Society of Obstetricians and Gynecologists ("GSOBGYN"), an association of obstetricians and gynecologists that was formed in 1990 to oppose restrictions on a woman's legal right to have an abortion. In 1990, GSOBGYN, the Guam Nurses Association, and several individual plaintiffs filed a lawsuit in Guam challenging a law that banned virtually all abortions in Guam. The plaintiffs won that lawsuit and, in addition, won attorneys fees and costs of \$300,000 against the Government of Guam for violation of their civil rights.

This letter is submitted in opposition to Bill 54. Bill 54, entitled "The Woman's Reproductive Health Information Act of 2009", states that its purpose is to ensure that a woman considering an abortion receives "complete and accurate information" material to her decision to have an abortion, and that every woman who has an abortion should do so "only after giving her voluntary and informed consent in writing to the abortion procedure."

This bill is not about supporting women, it is about making legal abortions more difficult to obtain and creating obstacles to a woman's access to reproductive health care. Forcing a woman to wait 24 hours and to make two separate appointments to see her doctor before she is allowed to agree to medical treatment does not promote her well-being. This bill would create barriers for women's access to abortion, particularly for working and poor women.

The following is an analysis of Bill 54, which details the numerous flaws of the bill.

March 17, 2009

Letter to Senator Frank B. Aguon, Jr.  
Re: Bill 54

## GENERAL OVERVIEW

Bill 54 appears to be modeled on Montana's informed consent law. Though Guam's bill was modified slightly, Montana's law was enjoined and never enforced. The 24-hour waiting period and same-doctor counseling requirement, which are both present in Bill 54, were found to violate Montana's state constitutional right to privacy, and the entire law was later permanently enjoined under a mutual consent order. Planned Parenthood of Missoula v. State, No.BDV-95-722 (Mont. Dist. Ct. Dec 29, 1999).

## SECTION-BY-SECTION ANALYSIS

**Section 3218.1(a)(13)** – This provision defines “unborn child” as “the offspring of human beings from conception until birth.”

Comment: There is no such medical term as an “unborn child.” There is an “embryo” or a “fetus” in medical terminology, but not an “unborn child.” Addition of this definition as a legal term may implicate the recognition of fetuses as “children” and result in criminal prosecutions for any involuntary, negligent or intentional deaths of fetuses still within a woman's womb. For example, in a vehicle accident resulting in the death of a fetus, it may be argued that a person committed involuntary manslaughter of the fetus based on this new legal definition of “unborn child.”

**Section 3218.1(b)** – This is the “informed consent” requirement of the bill. It provides that women seeking an abortion must be provided with two separate types of information. The first, under subsection (b)(1), requires that at least 24 hours before an abortion, “medically accurate information” is given to a woman by a physician who is to perform the abortion or by the referring physician. This information includes a description of the abortion method, risks of infection, cervical or uterine perforation, alternatives to abortion, the probable gestational age of the “unborn child”, and the probable anatomical and physiological characteristics of the “unborn child” at the time the abortion is performed. The second type of information required to be given is non-medical information, in the form of (i) printed materials that describe services such as medical assistance benefits for prenatal care, childbirth, and neonatal care; the gestational age of the “unborn child” and color photographs of a “developing unborn child”; and (ii) an “informational” video that describes the abortion procedures, and shows an ultrasound of an “unborn child's” heartbeat at various gestational stages.

Comment: We can all agree on the importance of supporting a woman's health and well-being, and we want to ensure that every woman should have accurate and reliable information so she can protect her health and make the best decision for her circumstances. Impartial and accurate information about the risks of different medical options is essential for a woman to fully participate in health care decisions, and helps her make the best decision for herself and her family. Each patient needs to be able to trust that her doctor is providing her with the best medical information, not a script forced on every patient without regard to her circumstances.

March 17, 2009

Letter to Senator Frank B. Aguon, Jr.  
Re: Bill 54

The bill requires that the woman be told information intended to coerce, shame or make her change her mind at least 24 hours before an abortion. Many women do not have the resources (transportation, supportive friends or family, time, etc.) to make two or more trips to a physician's office. The 24-hour waiting period will largely affect poor and working women.

Requiring physicians to determine and state the probable gestational age and anatomical and physiological characteristics of an "unborn child" constitutes interference in a woman's most personal, private medical decisions and her trusted relationship with her doctor. Physicians, not the legislature, should decide what is said to a woman. Forcing doctors to provide biased information that may often be inaccurate and irrelevant to a particular woman's circumstances does not promote informed consent, it interferes with it.

The bill unnecessarily limits who can provide information to the woman in a way that is unrelated to health concerns. The non-medical information must be provided by a doctor or "qualified person," which is limited to psychologists, licensed social workers, licensed professional counselors, or a registered nurse, each of whom must be "an agent of the physician." This provision seems intended to require clinics to hire additional over-qualified people in an attempt to run up costs and run them out of business.

**Section 3218.1(b)(7)** – This provision states that a physician shall not require or obtain payment for "a service provided to a patient who has inquired about an abortion or scheduled an abortion" until after the 24-hour reflection period.

Comment: The bill prevents anyone from requesting payment for "a service" provided to any patient who has inquired about an abortion or scheduled an abortion. This is overbroad and could apply to any service provided to a patient who has merely inquired about an abortion, regardless of whether they intend to have an abortion. In Northland v. Granholm, No. 01-70549 (E.D. Mich. Feb. 26, 2002), the court enjoined enforcement of a law that prohibited a physician from requiring or obtaining payment for "an abortion related medical service to a patient who has inquired about an abortion or scheduled an abortion" until after the 24-hour waiting period. The court found that "abortion-related medical service" was unconstitutionally vague because it failed to give physicians advance notice of what conduct it proscribes. For example, physicians were unclear whether pregnancy-related services – like pregnancy tests, gynecological exams, and ultrasounds – were covered if a woman was deciding whether to carry to term. Clinics testified that they would no longer provide these services to women on their first visit, which the court declared would "threaten to inhibit the exercise of a constitutionally protected right." Bill 54 applies to "a service," which is clearly broader than Michigan's "abortion related" medical service.

**Section 3218.1(e)** – This provision states, "Any person who intentionally, knowingly, or recklessly violates this Act is guilty of a misdemeanor." (Emphasis added).

March 17, 2009

Letter to Senator Frank B. Aguon, Jr.  
Re: Bill 54

Comment: This provision is overly broad and ambiguous. It may criminalize the actions of the physician performing the abortion and any referring physician. It may criminalize the actions of the woman if she refuses to watch a video or take or read the pamphlets required to be handed to her. Or it may criminalize the actions of the "qualified person" who provides some, but not all of the information required under the statute. A criminal statute that fails to provide adequate notice of the proscribed conduct is unconstitutionally vague and indefinite. Jane L. v. Bangerter, 61 F.3d 1493, 1500 (10<sup>th</sup> Cir. 1995) (finding that Utah statute prohibiting "experimentation" on "live unborn children" was void for vagueness).

### CONCLUSION

We agree that women should have access to all the medically accurate information they need to make an informed decision about getting an abortion. We may not all feel the same way about abortion or make the same decisions about our health and our families. Even if we disagree, we should not impose our own beliefs on a woman and her family. Each circumstance is different, and we should respect and support a woman and her family as they face the life-altering decision of whether or not to have a child.

A woman facing an unintended pregnancy needs the opportunity to make the best decision for her unique situation. We should ensure that she visits a doctor or clinic, and that she receives unbiased and accurate information so she is best able to care for her health and well-being. This bill, however, is not really about giving women unbiased accurate information so they can make informed decisions, it is an attempt to make it more difficult for women to get medical care when they seek an abortion.

The bill is also seriously flawed. At least three different provisions of the bill would likely be held unconstitutional, based on the legal precedents cited above. We urge you to refuse to pass this bill out of committee, and we urge the Guam Legislature to reject Bill 54 in its entirety.

Very truly yours,



ANITA P. ARRIOLA

Attorney for Guam Society of  
Obstetricians and Gynecologists





**COMMITTEE ON ECONOMIC DEVELOPMENT,  
HEALTH AND HUMAN SERVICES, AND JUDICIARY**

*I Mina'Trenta Na Liheslaturan Guåhan* • 30th Guam Legislature

238 Archbishop F.C. Flores St., DNA Bldg., Suite 701A, Hagatña, Guam 96910

Tel: (671) 969-1495/6 • Fax: (671) 969-1497 • Email: aguon4guam@gmail.com

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**COMMITTEE REPORT DIGEST**

**Bill No. 54-30 (COR), as Substituted**

**I. OVERVIEW:** The Committee on Economic Development, Health & Human Services, and Judiciary conducted a public hearing at 09:00 AM on March 17, 2009. The Hearing convened in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of Bill No. 54-30 (COR) — “AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN’S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS “THE WOMAN’S REPRODUCTIVE HEALTH INFORMATION ACT OF 2009”,” sponsored by E.J.B. Calvo, T.R. Muna-Barnes, and F.F. Blas, Jr.

**Bill No. 54-30 (COR) was REPORTED OUT by the Committee on March 30, 2009.**

**Bill No. 54-30 (COR) was subsequently referred back to the Committee on Economic Development, Health & Human Services, and Judiciary by the Committee on Rules, during a duly convened meeting of the Committee.** Senator Frank B. Aguon, Jr., moved that Bill No. 54 be referred back to Committee due to concerns over potential legal constitutional issues which needed to be resolved and required further clarification.

**Public Notice Requirements**

Notices were disseminated via hand-delivery/fax and/or e-mail to all senators and all main media broadcasting outlets in March of 2009, and are contained in the original March 30, 2009 Committee Report on Bill No. 54-30 (COR), which is appended hereto and is incorporated as part of this Committee Report.

**First 5 working Day Notice:** All Senators / All Media: **March 03, 2009**

**Second 48-Hours Prior Notice:** All Senators / All Media **March 13, 2009**

**Publication:** Marianas Variety; (1<sup>st</sup>) **March 10, 2009**, and, (2<sup>nd</sup>) **March 13, 2009**

**Senators Present (March 17, 2009)**

Senator Frank B. Aguon, Jr.	Chairperson
Senator Adolpho B. Palacios, Sr.	Vice-Chairperson
Senator Thomas C. Ada	Committee Member
Senator Frank F. Blas, Jr.	Committee Member
Senator Telo T. Taitague	Committee Member
Senator Vicente C. Pangelinan	Senator
Senator James V. Espaldon	Senator

The March 17, 2009 public hearing was Called-to-Order at 09:00 A.M.

## II. SUMMARY OF TESTIMONY & DISCUSSION.

**History:** The Public Hearing on Bill No. 54-30 (COR) was held on March 17, 2009, in the Guam Legislature's Public Hearing Room. Bill No. 54-30 (COR) was reported out on March 30, 2009.

The Committee on Rules referred Bill No. 54-30 (COR) back to the Committee on Economic Development, Health & Human Services, and Judiciary. The purpose of the referral back to Committee was to have potential Constitutional issues further researched and addressed.

**The Chairman, on September 29, 2010, requested an Attorney General's Opinion on Bill No. 54-30 (COR).** The request is attached to this Committee Report.

**The Attorney General's** "Interpretation of the Constitutionality of Bill No.54-30 (COR), AG File No. LEG 10-0956, was received on October 26, 2010, and is attached to this Committee Report.

## III. FINDINGS & RECOMMENDATIONS

The Committee on Economic Development, Health and Human Services, and Judiciary, finds that with the submission of the Attorney General's Interpretation makes possible the continued consideration of Bill No. 54-30 (COR).

Due consideration was given to the Attorney General's interpretation of a possible constitutional "vagueness" which may give cause for legal challenges. In Section 2 of the Bill, proposed Part 8 of Subsection (b) of Section 3218.1, was amended to read, as follows:

8. A physician shall not require or obtain payment for providing the information and certification required by this Section of law.
8. [~~A physician shall not require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the twenty-four (24) hour reflection period required in Subsection (b) (1), (2) and (4).~~] (Deleted)

Additional minor technical corrections were made relative to references in the Act being cited as the "Woman's Reproductive Health Information Act of 2010 [2009], as well as a requirement that the Governor of Guam include, annually, a funding request in the Executive Budget Fiscal Year Request for the purpose of fully funding and fulfilling the purposes of Bill No. 54-30 (COR).

The Committee on Economic Development, Health & Human Services, and Judiciary, hereby reports out Bill No. 54-30 (COR), with the recommendation to TO PASS.



**SENATOR FRANK B. AGUON, JR.**  
Chairman, Committee on Economic Development,  
Health & Human Services, and Judiciary  
*I Mina'Trenta Na Liheslaturan Guåhan*  
(Thirtieth Guam Legislature)



September 29, 2010

**Mr. John M. Weisenberger**  
**Attorney General of Guam**  
**Office of the Attorney General**  
287 West O'Brien Drive  
Hagåtña, Guam 96910

**SUBJECT: Request For Attorney General's Opinion Relative To The Constitutionality Of Bill No. 54-30 (COR) – "An Act To Add NEW Section 3218.1 To Chapter 3, Article 2, Title 10 Of The Guam Code Annotated, Relative To The Woman's Informed Consent For Abortion And To Cite The Act As "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2009."**

**Dear General Weisenberger,**

*Buenas yan Hafa Adai!*

As Chairman of the Committee on Economic Development, Health and Human Services, and Judiciary, I am requesting an Attorney General's Opinion as to the constitutionality of the provisions of Bill No. 54 (attached). Numerous concerns have been raised relative to this bill which delves into one of the most contentious and legally convoluted areas of law – reproductive health care.

Some have raised the issue that the bill seeks to circumvent case law and the individuals' rights to choose, as provided pursuant to *Roe v. Wade*. Further, there are issues pertaining to the rights of a patient's unimpeded access to reproductive health care and medical attention directly relevant to their individual circumstances. Considering the legal and social implications, I find it imperative that an opinion as to the constitutionality of this bill be available for lawmakers to review as we continue to consider Bill 54.

I have attached, as well, the testimony of Ms. Anita P. Arriola, Attorney for the Guam Society of Obstetricians and Gynecologists, wherein she cites various rulings and provisions of case law, as she believes such would pertain to the bill. Add to this the numerous persons who have approached this office both in support of and opposition to the bill. They raise valid social and legal concerns well deserving of careful consideration. It is for these reasons that I am seeking an Attorney General's Opinion on this important matter - of great significance to our community.

If you have any questions, comments or concerns, please do not hesitate to call my office.

*Dangkolu' na si Yu'us Ma'ase'.*

Respectfully,

  
SENATOR FRANK B. AGUON, JR.

Attachment

**RECEIVED**  
SEP 29 2010  
1:30 pm  
Office of the Attorney General of Guam  
Civil/Solicitor Division

LAW OFFICES

*Arriola, Cowan & Arriola*

JOAQUIN C. ARRIOLA  
MARK E. COWAN  
ANITA P. ARRIOLA  
JOAQUIN C. ARRIOLA, JR.  

---

LEEVIN T. CAMACHO

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(671) 477-9734  
E-MAIL  
acalaw@teleguam.net

March 17, 2009

**VIA HAND DELIVERY**

The Honorable Frank B. Aguon, Jr.  
Chairperson  
Committee on Economic Development, Health  
and Human Resources & Judiciary  
30<sup>th</sup> Guam Legislature  
155 Hester Place  
Hagatna, Guam 96910

**RE: Bill 54**

Dear Senator Aguon and Members of the Committee on Economic Development, Health and Human Resources & Judiciary:

I represent the Guam Society of Obstetricians and Gynecologists ("GSOBGYN"), an association of obstetricians and gynecologists that was formed in 1990 to oppose restrictions on a woman's legal right to have an abortion. In 1990, GSOBGYN, the Guam Nurses Association, and several individual plaintiffs filed a lawsuit in Guam challenging a law that banned virtually all abortions in Guam. The plaintiffs won that lawsuit and, in addition, won attorneys fees and costs of \$300,000 against the Government of Guam for violation of their civil rights.

This letter is submitted in opposition to Bill 54. Bill 54, entitled "The Woman's Reproductive Health Information Act of 2009", states that its purpose is to ensure that a woman considering an abortion receives "complete and accurate information" material to her decision to have an abortion, and that every woman who has an abortion should do so "only after giving her voluntary and informed consent in writing to the abortion procedure."

This bill is not about supporting women, it is about making legal abortions more difficult to obtain and creating obstacles to a woman's access to reproductive health care. Forcing a woman to wait 24 hours and to make two separate appointments to see her doctor before she is allowed to agree to medical treatment does not promote her well-being. This bill would create barriers for women's access to abortion, particularly for working and poor women.

The following is an analysis of Bill 54, which details the numerous flaws of the bill.

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Letter to Senator Frank B. Aguon, Jr.  
Re: Bill 54

## GENERAL OVERVIEW

Bill 54 appears to be modeled on Montana's informed consent law. Though Guam's bill was modified slightly, Montana's law was enjoined and never enforced. The 24-hour waiting period and same-doctor counseling requirement, which are both present in Bill 54, were found to violate Montana's state constitutional right to privacy, and the entire law was later permanently enjoined under a mutual consent order. Planned Parenthood of Missoula v. State, No.BDV-95-722 (Mont. Dist. Ct. Dec 29, 1999).

## SECTION-BY-SECTION ANALYSIS

**Section 3218.1(a)(13)** – This provision defines “unborn child” as “the offspring of human beings from conception until birth.”

Comment: There is no such medical term as an “unborn child.” There is an “embryo” or a “fetus” in medical terminology, but not an “unborn child.” Addition of this definition as a legal term may implicate the recognition of fetuses as “children” and result in criminal prosecutions for any involuntary, negligent or intentional deaths of fetuses still within a woman's womb. For example, in a vehicle accident resulting in the death of a fetus, it may be argued that a person committed involuntary manslaughter of the fetus based on this new legal definition of “unborn child.”

**Section 3218.1(b)** – This is the “informed consent” requirement of the bill. It provides that women seeking an abortion must be provided with two separate types of information. The first, under subsection (b)(1), requires that at least 24 hours before an abortion, “medically accurate information” is given to a woman by a physician who is to perform the abortion or by the referring physician. This information includes a description of the abortion method, risks of infection, cervical or uterine perforation, alternatives to abortion, the probable gestational age of the “unborn child”, and the probable anatomical and physiological characteristics of the “unborn child” at the time the abortion is performed. The second type of information required to be given is non-medical information, in the form of (i) printed materials that describe services such as medical assistance benefits for prenatal care, childbirth, and neonatal care; the gestational age of the “unborn child” and color photographs of a “developing unborn child”; and (ii) an “informational” video that describes the abortion procedures, and shows an ultrasound of an “unborn child's” heartbeat at various gestational stages.

Comment: We can all agree on the importance of supporting a woman's health and well-being, and we want to ensure that every woman should have accurate and reliable information so she can protect her health and make the best decision for her circumstances. Impartial and accurate information about the risks of different medical options is essential for a woman to fully participate in health care decisions, and helps her make the best decision for herself and her family. Each patient needs to be able to trust that her doctor is providing her with the best medical information, not a script forced on every patient without regard to her circumstances.

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Letter to Senator Frank B. Aguon, Jr.  
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The bill requires that the woman be told information intended to coerce, shame or make her change her mind at least 24 hours before an abortion. Many women do not have the resources (transportation, supportive friends or family, time, etc.) to make two or more trips to a physician's office. The 24-hour waiting period will largely affect poor and working women.

Requiring physicians to determine and state the probable gestational age and anatomical and physiological characteristics of an "unborn child" constitutes interference in a woman's most personal, private medical decisions and her trusted relationship with her doctor. Physicians, not the legislature, should decide what is said to a woman. Forcing doctors to provide biased information that may often be inaccurate and irrelevant to a particular woman's circumstances does not promote informed consent, it interferes with it.

The bill unnecessarily limits who can provide information to the woman in a way that is unrelated to health concerns. The non-medical information must be provided by a doctor or "qualified person," which is limited to psychologists, licensed social workers, licensed professional counselors, or a registered nurse, each of whom must be "an agent of the physician." This provision seems intended to require clinics to hire additional over-qualified people in an attempt to run up costs and run them out of business.

**Section 3218.1(b)(7)** – This provision states that a physician shall not require or obtain payment for "a service provided to a patient who has inquired about an abortion or scheduled an abortion" until after the 24-hour reflection period.

Comment: The bill prevents anyone from requesting payment for "a service" provided to any patient who has inquired about an abortion or scheduled an abortion. This is overbroad and could apply to any service provided to a patient who has merely inquired about an abortion, regardless of whether they intend to have an abortion. In Northland v. Granholm, No. 01-70549 (E.D. Mich. Feb. 26, 2002), the court enjoined enforcement of a law that prohibited a physician from requiring or obtaining payment for "an abortion related medical service to a patient who has inquired about an abortion or scheduled an abortion" until after the 24-hour waiting period. The court found that "abortion-related medical service" was unconstitutionally vague because it failed to give physicians advance notice of what conduct it proscribes. For example, physicians were unclear whether pregnancy-related services – like pregnancy tests, gynecological exams, and ultrasounds – were covered if a woman was deciding whether to carry to term. Clinics testified that they would no longer provide these services to women on their first visit, which the court declared would "threaten to inhibit the exercise of a constitutionally protected right." Bill 54 applies to "a service," which is clearly broader than Michigan's "abortion related" medical service.

**Section 3218.1(e)** – This provision states, "Any person who intentionally, knowingly, or recklessly violates this Act is guilty of a misdemeanor." (Emphasis added).

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Re: Bill 54

Comment: This provision is overly broad and ambiguous. It may criminalize the actions of the physician performing the abortion and any referring physician. It may criminalize the actions of the woman if she refuses to watch a video or take or read the pamphlets required to be handed to her. Or it may criminalize the actions of the "qualified person" who provides some, but not all of the information required under the statute. A criminal statute that fails to provide adequate notice of the proscribed conduct is unconstitutionally vague and indefinite. Jane L. v. Bangerter, 61 F.3d 1493, 1500 (10<sup>th</sup> Cir. 1995) (finding that Utah statute prohibiting "experimentation" on "live unborn children" was void for vagueness).

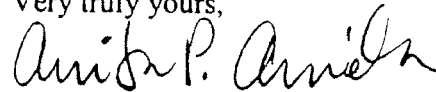
### CONCLUSION

We agree that women should have access to all the medically accurate information they need to make an informed decision about getting an abortion. We may not all feel the same way about abortion or make the same decisions about our health and our families. Even if we disagree, we should not impose our own beliefs on a woman and her family. Each circumstance is different, and we should respect and support a woman and her family as they face the life-altering decision of whether or not to have a child.

A woman facing an unintended pregnancy needs the opportunity to make the best decision for her unique situation. We should ensure that she visits a doctor or clinic, and that she receives unbiased and accurate information so she is best able to care for her health and well-being. This bill, however, is not really about giving women unbiased accurate information so they can make informed decisions, it is an attempt to make it more difficult for women to get medical care when they seek an abortion.

The bill is also seriously flawed. At least three different provisions of the bill would likely be held unconstitutional, based on the legal precedents cited above. We urge you to refuse to pass this bill out of committee, and we urge the Guam Legislature to reject Bill 54 in its entirety.

Very truly yours,



**ANITA P. ARRIOLA**

**Attorney for Guam Society of  
Obstetricians and Gynecologists**



*Ufisinan Todu Guam*

SENATOR DENNIS G. RODRIGUEZ, JR.  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

February 07, 2011

Mr. Leonardo A. Rapadas  
Attorney General of Guam  
Office of the Attorney General  
287 West O'Brien Drive  
Hagåtña, Guam 96910

**SUBJECT:** Request For Attorney General's Opinion Relative To The Constitutionality Of Bill No. 52-31 (COR) – "An Act To Add NEW Section 3218.1 To Chapter 3, Article 2, Title 10 of The Guam Code Annotated, Relative To Woman's Informed Consent For Abortion; And To Cite The Act As "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."

Dear General Rapadas,

*Buenas yan Hafa Adai!*

As Chairman of the Committee on Health and Human Services, Economic Development, Senior Citizens, and Election Reform, I am requesting an Attorney General's Opinion as to the constitutionality of the provisions of Bill No. 52-31 (COR) (attached). This Bill is similar to Bill No. 54-30, introduced in the 30<sup>th</sup> Guam Legislature. Numerous concerns had been raised relative to the prior bill which delved into one of the most contentious and legally convoluted areas of law – reproductive health care. In many regards, this Bill 52-31 (COR) revisits the issue.

Once again, in consideration of the legal and social implications, I find it imperative that another review and opinion as to the constitutionality of this new Bill 52-31 (COR) be available for lawmakers to review as we continue to consider the issues brought forward in this legislation.

It is my belief that now, as before, numerous persons will be strongly in support of or opposition to the bill. They will once again raise valid social and legal concerns well deserving of careful consideration. It is for these reasons that I am seeking an Attorney General's Opinion on this important matter.

If you have any questions, comments or concerns, please do not hesitate to call my office.

*Dangkolu' na si Yu'us Ma'ase'.*

Respectfully,

  
DENNIS G. RODRIGUEZ, Jr.

Attachment: Bill No. 52-31 (COR)

RECEIVED  
8:34am CC  
Office of the Attorney General of Guam  
Civil/Solicitor Division





**OFFICE OF THE ATTORNEY GENERAL**

**Leonardo M. Rapadas**

Attorney General of Guam  
287 West O'Brien Drive  
Hagåtña, Guam 96910

Telephone: (671) 475-3324 • Facsimile: (671) 472-2493  
[www.guamattorneygeneral.com](http://www.guamattorneygeneral.com)

**FACSIMILE TRANSMITTAL**

Date: March 16, 2011

To: Honorable Dennis G. Rodriguez, Jr.  
Senator, I Mina'trenta Unu Na Liheslaturan Guåhan

From: Deputy Attorney General J. Patrick Mason

Facsimile No.: (671) 649-0520

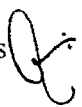
Total Pages: Two (2) – Including cover sheet

Subject: Bill 51-31 (COR)

Reference No.: LEG 11-0198


Remarks: Please see the document from Deputy Attorney General J. Patrick Mason concerning the above referenced matter. The original will be hand delivered to your office.

Should there be any problems with this transmission, please contact me, Maria Blas, at 475-3324, extension 140.

Sent By: Maria Anna U. Blas 

**CONFIDENTIALITY NOTICE:** This facsimile contains information which may also be legally privileged and which is intended for the user of the address(s) named above. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this facsimile, or the taking of any action in reliance on the contents of this telecopied information, may be strictly prohibited. If you received this transmission in error, please notify us immediately or return the entire facsimile to the address shown below via U.S. Postal Service.

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3-15-11   
OFISINAN TUDU GUAM  
Received by the  
Office of Senator  
Dennis G. Rodriguez, Jr.

2011-25

Leonardo M. Rapadas  
Attorney General



Phillip J. Tydingco  
Chief Deputy Attorney General

## OFFICE OF THE ATTORNEY GENERAL

March 11, 2011

Honorable Dennis G. Rodriguez, Jr.  
Senator, I Mina'Trenta Unu Na Liheslaturan Guåhan  
176 Serenu Avenue  
Suite 107  
Tamuning, Guam 96931

Re: BILL 51-31 (COR); REF: LEG 11-0198

Dear Senator Rodriguez:

You have requested comments from the Attorney General as to constitutional parameters that might have a bearing on the informed consent for abortion language in Bill 52-31. We note that Bill 52-31 is essentially the same as Bill 54-30 introduced in the Thirtieth Guam Legislature. As you may be aware, we sent a letter with our comments on Bill 54-30 to Senator Aguon in October 2010. We believe our prior comments are still applicable to the consent issues raised in both Bill 52-31 and Bill 54-30. Therefore, we have attached our October 2010 letter hereto in response to your request for our comments on Bill 52-31.

You have indicated that numerous concerns were raised about Bill 54-30 and that there are legal and social implications regarding Bill 52-31. We are glad to give our comments on Bill 52-31, but, of course, defer to legislative counsel regarding opinions on pending legislation and on drafting decisions. See introduction to 5 GCA, Chapter 30, Article 1, citing A.G. Opinion 78-20.

Sincerely,

J. PATRICK MASON  
Deputy Attorney General  
Civil Division

3-15-11  
OFISINAN TODU GUAM  
Received by the  
Office of Senator  
Dennis G. Rodriguez, Jr.

2011-34

Leonardo M. Rapadas  
*Attorney General*



Phillip J. Tydingco  
*Chief Deputy Attorney General*

## OFFICE OF THE ATTORNEY GENERAL

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March 11, 2011

Honorable Dennis G. Rodriguez, Jr.  
Senator, I Mina Trenta Unu Na Liheslaturan Guåhan  
176 Serenu Avenue  
Suite 107  
Tamuning, Guam 96931

**CONFIRMATION**

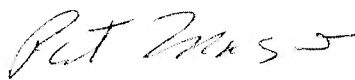
Re: BILL 51-31 (COR); REF: LEG 11-0198

Dear Senator Rodriguez:

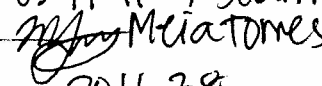
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You have indicated that numerous concerns were raised about Bill 54-30 and that there are legal and social implications regarding Bill 52-31. We are glad to give our comments on Bill 52-31, but, of course, defer to legislative counsel regarding opinions on pending legislation and on drafting decisions. See introduction to 5 GCA, Chapter 30, Article 1, citing A.G. Opinion 78-20.

Sincerely,

  
J. PATRICK MASON  
Deputy Attorney General  
Civil Division

UFISINAN TODU GUAM  
Received by the  
Office of Senator  
Dennis G. Rodriguez, Jr.

03-17-11 9:30am  
  
2011-38

*Ron*  
*Ph. Michael*  
*Legislative*  
*10/26/10*  
**John M. Weisenberger**  
**Attorney General**



**Phillip J. Tydingco**  
**Chief Deputy Attorney General**

## OFFICE OF THE ATTORNEY GENERAL

October 26, 2010

*Enrolled in - Iticito*  
**RECEIVED**  
*10/26/2010 4:55 PM*

**The Honorable Frank B. Aguon, Jr.**  
Senator, I Mina' Trenta na Liheslaturan Guåhan  
Chairman, Committee on Economic Development, Health & Human Services and Judiciary  
238 Archbishop F.C. Flores St.,  
DNA Bldg, Ste 701A  
Hagåtña, Guam 96910

**Subject: Interpretation of the Constitutionality of Bill No. 54-30(COR)**  
**AG File No. LEG 10-0956**

Dear Senator Aguon:

This Office is in receipt of your letter dated September 29, 2010, wherein you requested our guidance as to the Constitutionality of Bill 54-30. After carefully reading the language in Bill 54-30 and the case law regarding the ("Bill 54-30") provisions within the Bill, it is this Office's position that Bill 54-30 would withstand a constitutional challenge; however, the Legislature may want to consider clarifying part of the Bill as discussed below.

Bill 54-30 was introduced on February 2, 2009. Primarily Bill 54 requires that prior to an abortion being performed the following requirements must be met.

1. A woman must give written consent to the procedure.
2. A 24 hour waiting period occur after the required information has been given to the patient.
3. A physician must give patient specific information regarding an abortion. (§3218.1(b)(1)(i-vi))
4. A physician may not charge for the first visit of an abortion procedure.

In addition to the requirements listed above the referring physician or qualified person must inform a woman in person that:

1. Medical assistant benefits may be available.
2. The printed materials and informational video that describe the unborn child and list agencies that offer alternatives to abortion is given to a woman in a private room.
3. The father of the unborn child is liable to assist in support of the child.

4. She is free to withhold or withdraw her consent to the abortion at anytime.

Prior to the abortion the woman must certify in writing that she has been provided the information listed above. Each performing physician must also sign the certification and report the total number of certifications per month.

The Bill also prohibits physicians from obtaining payment from a patient who has inquired about an abortion or scheduled an abortion unless the 24 hour period required above has passed.

Finally, the requirements listed above may be waived in cases of medical emergencies.

Laws that require informed consent and 24 hour waiting periods prior to an abortion have been upheld by the US Supreme Court. In Planned Parenthood of Southeastern Pennsylvania v. Casey 505 U.S. 833, 112 S.Ct 2791, 120 L.Ed.2d 674, 60 USLW 4795 (1992) the US Supreme Court continued to protect the central right recognized by Roe v. Wade while at the same time accommodating the State's profound interest in potential life.

At issue was the constitutionality of Pennsylvania's informed consent law, 18 Pa.C.S.A. §3205 (see attached). The language used in Bill 54-30 has similar language including the use of the term "unborn child". Thus, it is reasonable to conclude that the reasoning and holding in Casey would apply to Bill 54-30, and Bill 54-30 would survive a constitutional challenge. It should be noted that the US Supreme Court found that Pennsylvania's portion of the law requiring spousal notification was unconstitutional. Since Bill 54-30 does not contain a spousal notification provision, this is not an issue.

Although not necessarily constitutionally fatal, a question of vagueness does arise in Section 3218.1(b)(8) which states:

A physician shall not require or obtain payment for a **service provided** to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the twenty-four (24) hour reflection period required Subsection (b)(1),(2) and (4). (Emphasis added)

If the Legislature's intent is that the woman or patient is not charged by the Physician for providing the pre-abortion information required by Bill 54-30, then it may be prudent as a way to withstand an unconstitutional vagueness challenge that the following proposed language be considered:

A physician shall not require or obtain payment for providing the information and certification required by this Section of law.

The above information is submitted in response to your request for guidance concerning the constitutionality of Bill 54-30.

  
J. PATRICK MASON  
Deputy Attorney General

## **Reference Documents**

1. Bill No. 54-30 (COR), as Introduced.
2. Bill No. 54-30 (COR), as Substituted by Committee.

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
(FIRST AND SECOND) Regular Sessions  
FINAL LEGISLATIVE HISTORY  
January 2009 - December 2010**

**BILLS**

**2009 (SECOND) Regular Session**

**Bill No. 54-30 (COR) – by E. J. B. Calvo, T. R. Muña-Barnes, F. F. Blas, Jr.**

AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2009".

- 02/02/09 - Read first time. Referred to the Committee on Rules.
- 02/03/09 - Referred to the Committee on Economic Development, Health & Human Services, & Judiciary.
- 03/27/09 - Public hearing scheduled by the Committee Economic Development, Health & Human Services, & Judiciary.
- 03/30/09(03/26/09)\* - From the Committee on Economic Development, Health & Human Services, & Judiciary with the recommendation to do pass.
- 01/09/10 - Referred back to Committee on Economic Development, Health & Human Services, & Judiciary during Committee on Rules meeting.
- 11/05.10 - From the Committee on Economic Development, Health & Human Services, & Judiciary with the recommendation to do pass.
- 11/22/10 - Placed on Second Reading File.
- 11/26/10 - Discussed; amended; through motion placed on the Third Reading File.

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

Bill No. 54 (COR)

Introduced by:

E. J.B. Calvo *EJC*  
T. R. Muña-Barnes *TMB*  
F. F. Blas, Jr. *F. F. Blas, Jr.*

2009 FEB - 2 PM 3: 57mc

AN ACT TO ADD NEW SECTION 3218.1 TO CHAPTER 3  
ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO THE WOMAN'S INFORMED CONSENT  
FOR ABORTION AND TO CITE THE ACT AS "THE  
WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT  
OF 2009."

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslatura* finds that it is essential to  
3 the psychological and physical well-being of a woman considering an abortion that she  
4 receives complete and accurate information material to her decision of whether or not to  
5 undergo an abortion and abortion alternatives, and that every woman submitting to an  
6 abortion do so only after giving her voluntary and informed consent in writing to the  
7 abortion procedure.

8 Section 2. A new Section 3218.1 is hereby added to Chapter 3 Article 2 Title 10 of  
9 the Guam Code Annotated to read as follows:

10 "Section 3218.1. The Woman's Reproductive Health Information Act of  
11 2009. (a) Definitions. For purposes of this Act, the following words and  
12 phrases are defined to mean:

13 1. "Abortion" means the act of using or prescribing any  
14 instrument, medicine, drug, or any other substance, device, or means with the  
15 intent to terminate the clinically diagnosable pregnancy of a woman with  
16 knowledge that the termination by those means will with reasonable  
17 likelihood cause the death to the unborn child. Such use, prescription, or  
18 means is not an abortion if done with the intent to:

- 19 (i) save the life or preserve the health of an unborn child;  
20 (ii) remove a dead unborn child caused by spontaneous  
21 abortion; or  
22 (iii) remove an ectopic pregnancy.



1                   2.     "**Complication**" means that condition which includes but is not  
2 limited to hemorrhage, infection, uterine perforation, cervical laceration,  
3 pelvic inflammatory disease, endometritis, and retained products. The  
4 Department may further define "complication."

5                   3.     "**Conception**" means the fusion of a human spermatozoon with  
6 a human ovum.

7                   4.     "**Department**" means the Department of Public Health and  
8 Social Services Records Section.

9                   5.     "**Facility**" or "**medical facility**" means any public or private  
10 hospital, clinic, center, medical school, medical training institution, health  
11 care facility, physician's office, infirmary, dispensary, ambulatory surgical  
12 treatment center, or other institution or location wherein medical care is  
13 provided to any person.

14                  6.     "**First trimester**" means the first twelve (12) weeks of gestation.

15                  7.     "**Gestational age**" means the time that has elapsed since the first  
16 day of the woman's last menstrual period.

17                  8.     "**Hospital**" means an institution licensed pursuant to the  
18 provisions of the law of Guam

19                  9.     "**Medical emergency**" means that condition which, on the basis  
20 of the physician's good faith clinical judgment, so complicates the medical  
21 condition of a pregnant woman as to necessitate the immediate termination of  
22 her pregnancy to avert her death or for which a delay will create serious risk  
23 of substantial and irreversible impairment of a major bodily function.

24                  10.    "**Physician**" means any person licensed to practice healing arts,  
25 pursuant to the laws of Guam. The term includes medical doctors and doctors  
26 of osteopathy.

27                  11.    "**Pregnant**" or "**pregnancy**" means that female reproductive  
28 condition of having an unborn child in the mother's uterus.

29                  12.    "**Qualified person**" means an agent of the physician who is a  
30 psychologist, licensed social worker, licensed professional counselor,  
31 registered nurse, or physician.

32                  13.    "**Unborn child**" means the offspring of human beings from  
33 conception until birth.

34                  14.    "**Viability**" means the state of fetal development when, in the  
35 judgment of the physician based on the particular facts of the case before him  
36 or her and in light of the most advanced medical technology and information  
37 available to him or her, there is a reasonable likelihood of sustained survival  
38 of the unborn child outside the body of his or her mother, with or without  
39 artificial support.

1           **(b) Informed consent requirement.** No abortion shall be performed or  
2 induced without the voluntary and informed consent of the woman upon whom the  
3 abortion is to be performed or induced. Except in the case of a medical emergency,  
4 consent to an abortion is voluntary and informed if and only if:

5           1. At least twenty-four (24) hours before the abortion, the  
6 physician who is to perform the abortion or the referring physician has  
7 informed the woman in person of the following:

8           (i) The name of the physician who will perform the  
9 abortion;

10           (ii) Medically accurate information that a reasonable patient  
11 would consider material to the decision of whether or not to undergo  
12 the abortion, including (a) a description of the proposed abortion  
13 method; (b) the immediate and long-term medical risks associated  
14 with the proposed abortion method including, but not limited to, the  
15 risks of infection, hemorrhage, cervical or uterine perforation, danger  
16 to subsequent pregnancies; and (c) alternatives to the abortion;

17           (iii) The probable gestational age of the unborn child at the  
18 time the abortion is to be performed;

19           (iv) The probable anatomical and physiological  
20 characteristics of the unborn child at the time the abortion is to be  
21 performed;

22           (v) The medical risks associated with carrying the child to  
23 term; and

24           (vi) Any need for anti-Rh immune globulin therapy if she is  
25 Rh negative, the likely consequences of refusing such therapy, and the  
26 cost of the therapy.

27           2. At least twenty-four (24) hours before the abortion, the  
28 physician who is to perform the abortion, the referring physician, or a  
29 qualified person has informed the woman in person, that:

30           (i) Medical assistance benefits may be available for prenatal  
31 care, childbirth, and neonatal care and that more detailed information  
32 on the availability of such assistance is contained in the printed  
33 materials and informational video given to her and described in  
34 Subsection (c).

35           (ii) The printed materials and informational video in  
36 Subsection (c) describe the unborn child and list agencies that offer  
37 alternatives to abortion.

38           (iii) The father of the unborn child is liable to assist in the  
39 support of this child, even in instances where he has offered to pay for

1 the abortion. In the case of rape or incest, this information may be  
2 omitted.

3 (iv) She is free to withhold or withdraw her consent to the  
4 abortion at any time without affecting her right to future care or  
5 treatment and without the loss of any state or federally funded benefits  
6 to which she might otherwise be entitled.

7 3. The information in Subsection B(1) and (2) is provided to the  
8 woman individually and in a private room to protect her privacy and  
9 maintain the confidentiality of her decision to ensure that the information  
10 focuses on her individual circumstances and that she has an adequate  
11 opportunity to ask questions.

12 4. At least twenty-four (24) hours before the abortion, the woman  
13 is given a copy of the printed materials and a viewing of, or a copy of, the  
14 informational video described in Subsection (c). If the woman is unable to  
15 read the materials, they shall be read to her. If the woman asks questions  
16 concerning any of the information or materials, answers shall be provided to  
17 her in a language she can understand.

18 5. Prior to the abortion, the woman certifies in writing on a  
19 checklist form provided or approved by the Department that the information  
20 required to be provided under Subsection (b) (1), (2), and (4) has been  
21 provided. All physicians who perform abortions shall report the total number  
22 of certifications received monthly to the Department. The department shall  
23 make the number of certifications received available to the public on an  
24 annual basis.

25 6. Except in the case of a medical emergency, the physician who is  
26 to perform the abortion shall receive and sign a copy of the written  
27 certification prescribed in Subsection (5) of this Section prior to performing  
28 the abortion. The physician shall retain a copy of the checklist certification  
29 form in the woman's medical record.

30 7. In the event of a medical emergency requiring an immediate  
31 termination of pregnancy, the physician who performed the abortion shall  
32 clearly certify in writing the nature of the medical emergency and the  
33 circumstances which necessitated the waiving of the informed consent  
34 requirements of this section. This certification shall be signed by the physician  
35 who performed the emergency abortion, and shall be permanently filed in  
36 both the records of the physician performing the abortion and the records of  
37 the facility where the abortion takes place.

38 8. A physician shall not require or obtain payment for a service  
39 provided to a patient who has inquired about an abortion or scheduled an

1 abortion until the expiration of the twenty-four (24) hour reflection period  
2 required in Subsection (b) (1), (2) and (4).

3 (c) **Publication of Materials.** The Department of Public Health and  
4 **Social Services** shall cause to be published printed materials and an informational  
5 video in **culturally sensitive languages** within 180 days after this Act becomes law.  
6 On an annual basis, the Department shall review and update, if necessary, the  
7 following easily comprehensible printed materials and informational video:

8 1. Materials that inform the woman of public and private agencies  
9 and services available to assist a woman through pregnancy, upon childbirth  
10 and while her child is dependent, including but not limited to adoption  
11 services.

12 2. The materials shall include a comprehensive list of the agencies,  
13 a description of the services they offer, and the telephone numbers and  
14 addresses of the agencies, and shall inform the woman about available  
15 medical assistance benefits for prenatal care, childbirth, and neonatal care.  
16 The Department shall ensure that the materials described in this section are  
17 comprehensive and do not directly or indirectly promote, exclude, or  
18 discourage the use of any agency or service described in this section. The  
19 materials shall also contain a twenty-four-hour-a-day telephone number  
20 which may be called to obtain information about the agencies in the locality  
21 of the caller and of the services they offer.

22 The materials shall state that it is unlawful for any individual to coerce  
23 a woman to undergo an abortion and that if a minor is denied financial  
24 support by the minor's parents, guardian, or custodian due to the minor's  
25 refusal to have an abortion performed, the minor shall be deemed  
26 emancipated for the purposes of eligibility for public assistance benefits,  
27 except that such benefits may not be used to obtain an abortion. The materials  
28 shall also state that any physician who performs an abortion upon a woman  
29 without her informed consent may be liable to her for damages in a civil  
30 action at law and that the law permits adoptive parents to pay costs of  
31 prenatal care, childbirth, and neonatal care. The materials shall include the  
32 following statement:

33 "There are public and private services willing and able to help you to  
34 carry your child to term, and to assist you and your child after your child is  
35 born, whether you choose to keep your child or to place her or him for  
36 adoption. The Territory of Guam strongly urges you to contact one or more of  
37 the agencies before making a final decision about abortion. The law required  
38 that your physician or his agent give you the opportunity to call agencies like  
39 these before you undergo an abortion."

1                   3.       Materials that include information on the support obligations of  
2 the father of a child who is born alive, including but not limited to the father's  
3 legal duty to support his child, which may include child support payments  
4 and health insurance, and the fact that paternity may be established by the  
5 father's signature on a birth certificate or statement of paternity, or by court  
6 action. The printed material shall also state that more information concerning  
7 paternity establishment and child support services and enforcement may be  
8 obtained by calling the Department of Public Health and Social Services  
9 Public Assistance Branch.

10                   4.       Materials that inform the pregnant woman of the probable  
11 anatomical and physiological characteristics of an unborn child at two (2)-  
12 week gestational increments from fertilization to full term, including color  
13 photographs of the developing unborn child at two (2)-week gestational  
14 increments. The descriptions shall include information about brain and heart  
15 functions, the presence of external members and internal organs during the  
16 applicable stages of development, and any relevant information on the  
17 possibility of the child's survival. If a photograph is not available, a picture  
18 must contain the dimensions of the unborn child and must be realistic. **The**  
19 **materials shall be objective, nonjudgmental, and designed to convey only**  
20 **accurate scientific information about the unborn child at the various**  
21 **gestational ages.**

22                   5.       Materials which contain objective information describing the  
23 various surgical and drug-induced methods of abortion, as well as the  
24 immediate and long-term medical risks commonly associated with each  
25 abortion method including, but not limited to, the risks of infection,  
26 hemorrhage, cervical or uterine perforation or rupture, danger to subsequent  
27 pregnancies, the possible adverse psychological effects associated with an  
28 abortion, and the medical risks associated with carrying a child to term.

29                   6.       A checklist certification form to be used by the physician or a  
30 qualified person under Subsection (b) (5) of this Act, which will list all the  
31 items of information which are to be given to the woman by a physician or  
32 the agent under this Act.

33                   7.       The materials shall be printed in a typeface large enough to be  
34 clearly legible.

35                   8.       The Department shall produce a standardized video that may  
36 be used island wide, presenting the information described in subsection (c)  
37 (1), (2), (3), and (4), in accordance with the requirements of those Subsections.  
38 In preparing the video, the Department may summarize and make reference  
39 to the printed comprehensive list of geographically indexed names and  
40 services described in Subsection (c) (1). The video shall in addition to the

1 information described in Subsection c) (1), (2), (3), and (4), show an  
2 ultrasound of the heartbeat of an unborn child at four (4) to five (5) weeks  
3 gestational age to six (6) to eight (8)-weeks gestational age, and each month  
4 thereafter, until viability. That information shall be presented in an objective,  
5 unbiased manner designed to convey only accurate scientific information.

6 9. The materials required under this section and the video  
7 described in Subsection(c) (8) shall be available at no cost from the  
8 Department upon request and in appropriate number to any person, facility,  
9 or hospital.

10 **(d) Emergencies.** When a medical emergency compels the performance of  
11 an abortion, the physician shall inform the woman, before the abortion if possible, of  
12 the medical indications supporting the physician's judgment that an immediate  
13 abortion is necessary to avert her death or that a twenty-four (24) hour delay will  
14 cause substantial and irreversible impairment of a major bodily function.

15 **(e) Criminal Penalties.** Any person who intentionally, knowingly, or  
16 recklessly violates this Act is guilty of a **misdemeanor**.

17 **(f)** In addition to whatever remedies are available under the common or  
18 statutory laws of Guam, failure to comply with the requirements of this Act shall:

19 1. Provide a basis for a civil malpractice action. Any intentional  
20 violation of this Act shall be admissible in a civil suit as prima facie evidence  
21 of a failure to obtain informed consent. When requested, the court shall allow  
22 a woman to proceed using solely her initials or a pseudonym and may close  
23 any proceedings in the case and enter other protective orders to preserve the  
24 privacy of the woman upon whom the abortion was performed.

25 2. Provide a basis for professional disciplinary action under  
26 Section 11110 of Chapter 11 of Title 10 Guam Code Annotated.

27 3. Provide a basis for recovery for the woman for the wrongful  
28 death of her unborn child under Section 12109 of Chapter 12 of Title 7 Guam  
29 Code Annotated, whether or not the unborn child was born alive or was  
30 viable at the time the abortion was performed."

31 **Section 3. Severability.** If any provision of this Act held to be invalid *or*  
32 unenforceable by its terms, *or* as applied to any person or circumstance, *shall* be construed  
33 so as give it the maximum effect permitted by law unless such holding shall be one of utter  
34 invalidity or unenforceability, in which even such provision *shall* be deemed severable  
35 herefrom and *shall* not affect the remainder hereof *or* the application of such provision to  
36 other persons *not* similarly situated *or* to other, dissimilar circumstances.

37 **Section 4. Effective Date.** This Act *shall* take effect 180 days after enactment.

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

**Bill No. 54-30 (COR**  
**As Substituted by the Committee on**  
**Economic Development, Health &**  
**Human Services, and Judiciary**

Introduced by:

E. J. B. Calvo  
T. R. Muña-Barnes  
F. F. Blas, Jr.

**AN ACT TO ADD A NEW SECTION 3218.1 TO  
CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM  
CODE ANNOTATED, RELATIVE TO THE WOMAN'S  
INFORMED CONSENT FOR ABORTION AND TO  
CITE THE ACT AS "THE WOMAN'S  
REPRODUCTIVE HEALTH INFORMATION ACT OF  
2010".**

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

**Section 1. Legislative Findings and Intent.** *I Liheslatura* finds that it is essential to the psychological and physical well-being of a woman considering an abortion that she receives complete and accurate information on her alternatives. It is the intent of *I Liheslatura* to ensure that every woman considering an abortion receive complete information on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure.

**Section 2.** A new Section 3218.1 is hereby added to Chapter 3 Article 2 Title 10 of the Guam Code Annotated to read as follows:

**"Section 3218.1. The Woman's Reproductive Health Information Act of 2010.**

(a) For purposes of this Act, the following words and phrases are defined to mean:

1. **"Abortion"** means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that

1 the termination by those means will with reasonable  
2 likelihood cause the death to the unborn child. Such use,  
3 prescription, or means is not an abortion if done with the  
4 intent to:

- 5 (i) save the life or preserve the health of an unborn  
6 child;
- 7 (ii) remove a dead unborn child caused by  
8 spontaneous abortion; or
- 9 (iii) remove an ectopic pregnancy.
- 10 2. **“Complication”** means that condition which includes but  
11 is not limited to hemorrhage, infection, uterine perforation,  
12 cervical laceration, pelvic inflammatory disease,  
13 endometritis, and retained products. The Department may  
14 further define “complication.”
- 15 3. **“Conception”** means the fusion of a human spermatozoon  
16 with a human ovum.
- 17 4. **“Department”** means the Department of Public Health  
18 and Social Services Records Section.
- 19 5. **“Facility”** or **“medical facility”** means any public or  
20 private hospital, clinic, center, medical school, medical  
21 training institution, health care facility, physician’s office,  
22 infirmary, dispensary, ambulatory surgical treatment  
23 center, or other institution or location wherein medical  
24 care is provided to any person.
- 25 6. **“First trimester”** means the first twelve (12) weeks of  
26 gestation.
- 27 7. **“Gestational age”** means the time that has elapsed since  
28 the first day of the woman’s last menstrual period.
- 29 8. **“Hospital”** means an institution licensed pursuant to the  
30 provisions of the law of Guam
- 31 9. **“Medical emergency”** means that condition which, on the  
32 basis of the physician’s good faith clinical judgment, so  
33 complicates the medical condition of a pregnant woman as  
34 to necessitate the immediate termination of her pregnancy  
35 to avert her death or for which a delay will create serious  
36 risk of substantial and irreversible impairment of a major  
37 bodily function.
- 38 10. **“Physician”** means any person licensed to practice  
39 healing arts, pursuant to the laws of Guam. The term  
40 includes medical doctors and doctors of osteopathy.



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- 11. **“Pregnant”** or **“pregnancy”** means that female reproductive condition of having an unborn child in the mother’s uterus.
- 12. **“Qualified person”** means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.
- 13. **“Unborn child”** means the offspring of human beings from conception until birth.
- 14. **“Viability”** means the state of fetal development when, in the judgment of the physician based on the particular facts of the case before him or her and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.

(b) Informed consent requirement. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

- 1. At least twenty-four (24) hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:
  - (i) The name of the physician who will perform the abortion;
  - (ii) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including (a) a description of the proposed abortion method; (b) the immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies, and increased risk of breast cancer; and (c) alternatives to the abortion;
  - (iii) The probable gestational age of the unborn child at the time the abortion is to be performed;

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- (iv) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed;
  - (v) The medical risks associated with carrying the child to term; and
  - (vi) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.
2. At least twenty-four (24) hours and up to thirty (30) days before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman in person, that:
- (i) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of such assistance is contained in the printed materials and informational video given to her and described in Subsection (c).
  - (ii) The printed materials and informational video in Subsection (c) describe the unborn child and list agencies that offer alternatives to abortion.
  - (iii) The father of the unborn child is liable to assist in the support of this child, even in instances where he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted.
  - (iv) She is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.
3. The information in Subsection (b) (1) and (2) is provided to the woman individually and in a private room to protect her privacy and maintain the confidentiality of her decision to ensure that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.
4. At least twenty-four (24) hours and up to thirty (30) days before the before the abortion, the woman is given a copy

1 of the printed materials and a viewing of, or a copy of, the  
2 informational video described in Subsection (c). If the  
3 woman is unable to read the materials, they shall be read  
4 to her. If the woman asks questions concerning any of the  
5 information or materials, answers shall be provided to her  
6 in a language she can understand.

7 5. Prior to the abortion, the woman certifies in writing on a  
8 checklist form provided or approved by the Department  
9 that the information required to be provided under  
10 Subsection (b) (1), (2), and (4) has been provided. All  
11 physicians who perform abortions shall report the total  
12 number of certifications received monthly to the  
13 Department. The department shall make the number of  
14 certifications received available to the public on an annual  
15 basis.

16 6. Except in the case of a medical emergency, the physician  
17 who is to perform the abortion shall receive and sign a  
18 copy of the written certification prescribed in Subsection  
19 (5) of this Section prior to performing the abortion. The  
20 physician shall retain a copy of the checklist certification  
21 form in the woman's medical record.

22 7. In the event of a medical emergency requiring an  
23 immediate termination of pregnancy, the physician who  
24 performed the abortion shall clearly certify in writing the nature  
25 of the medical emergency and the circumstances which  
26 necessitated the waiving of the informed consent requirements  
27 of this section. This certification shall be signed by the  
28 physician who performed the emergency abortion, and shall be  
29 permanently filed in both the records of the physician  
30 performing the abortion and the records of the facility where the  
31 abortion takes place.

32 8. A physician shall not require or obtain payment for  
33 providing the information and certification required by  
34 this Section of law.

35  
36 (c) **Publication of Materials.** The Department of Public Health and  
37 Social Services shall cause to be published printed materials and  
38 an informational video in culturally sensitive languages within  
39 180 days after this Act becomes law. On an annual basis, the

1 Department shall review and update, if necessary, the following  
2 easily comprehensible printed materials and informational video:

3 1. Geographically indexed materials that inform the woman  
4 of public and private agencies and services available to  
5 assist a woman through pregnancy, upon childbirth and  
6 while her child is dependent, including but not limited to  
7 adoption agencies.

8 2. The materials shall include a comprehensive list of the  
9 agencies, a description of the services they offer, and the  
10 telephone numbers and addresses of the agencies, and  
11 shall inform the woman about available medical assistance  
12 benefits for prenatal care, childbirth, and neonatal care.

13 The Department shall ensure that the materials described in  
14 this section are comprehensive and do not directly or  
15 indirectly promote, exclude, or discourage the use of any  
16 agency or service described in this section. The materials  
17 shall also contain a twenty-four-hour-a-day telephone  
18 number which may be called to obtain information about  
19 the agencies in the locality of the caller and of the services  
20 they offer.

21 The materials shall state that it is unlawful for any  
22 individual to coerce a woman to undergo an abortion and  
23 that if a minor is denied financial support by the minor's  
24 parents, guardian, or custodian due to the minor's refusal  
25 to have an abortion performed, the minor shall be deemed  
26 emancipated for the purposes of eligibility for public  
27 assistance benefits, except that such benefits may not be  
28 used to obtain an abortion. The materials shall also state  
29 that any physician who performs an abortion upon a  
30 woman without her informed consent may be liable to her  
31 for damages in a civil action at law and that the law  
32 permits adoptive parents to pay costs of prenatal care,  
33 childbirth, and neonatal care. The materials shall include  
34 the following statement:

35 "There are public and private agencies willing and able to  
36 help you to carry your child to term, and to assist you and  
37 your child after your child is born, whether you choose to  
38 keep your child or to place her or him for adoption. Guam  
39 strongly urges you to contact one or more of the agencies  
40 before making a final decision about abortion. The law

1 required that your physician or his agent give you the  
2 opportunity to call agencies like these before you undergo  
3 an abortion.”

- 4 3. Materials that include information on the support  
5 obligations of the father of a child who is born alive,  
6 including but not limited to the father’s legal duty to  
7 support his child, which may include child support  
8 payments and health insurance, and the fact that paternity  
9 may be established by the father’s signature on a birth  
10 certificate or statement of paternity, or by court action.  
11 The printed material shall also state that more information  
12 concerning paternity establishment and child support  
13 services and enforcement may be obtained by calling the  
14 Department of Public Health and Social Services Public  
15 Assistance Branch.
- 16 4. Materials that inform the pregnant woman of the probable  
17 anatomical and physiological characteristics of an unborn  
18 child at two (2)-week gestational increments from  
19 fertilization to full term, including color photographs of  
20 the developing unborn child at two (2)-week gestational  
21 increments. The descriptions shall include information  
22 about brain and heart functions, the presence of external  
23 members and internal organs during the applicable stages  
24 of development, and any relevant information on the  
25 possibility of the child’s survival. If a photograph is not  
26 available, a picture must contain the dimensions of the  
27 unborn child and must be realistic. The materials shall be  
28 objective, nonjudgmental, and designed to convey only  
29 accurate scientific information about the unborn child at  
30 the various gestational ages.
- 31 5. Materials which contain objective information describing  
32 the various surgical and drug-induced methods of  
33 abortion, as well as the immediate and long-term medical  
34 risks commonly associated with each abortion method  
35 including, but not limited to, the risks of infection,  
36 hemorrhage, cervical or uterine perforation or rupture,  
37 danger to subsequent pregnancies, the possible adverse  
38 psychological effects associated with an abortion, and the  
39 medical risks associated with carrying a child to term.

- 1           6. A checklist certification form to be used by the physician  
2           or a qualified person under Subsection (b) (5) of this Act,  
3           which will list all the items of information which are to be  
4           given to the woman by a physician or the agent under this  
5           Act.
- 6           7. The materials shall be printed in a typeface large enough  
7           to be clearly legible.
- 8           8. The Department shall produce a standardized video that  
9           may be used island wide, presenting the information  
10          described in subsection (c) (1), (2), (3), and (4), in  
11          accordance with the requirements of those Subsections. In  
12          preparing the video, the Department may summarize and  
13          make reference to the printed comprehensive list of  
14          geographically indexed names and services described in  
15          Subsection (c) (1). The video shall in addition to the  
16          information described in Subsection(c) (1), (2), (3), and  
17          (4), show an ultrasound of the heartbeat of an unborn child  
18          at four (4) to five (5) weeks gestational age to six (6) to  
19          eight (8)-weeks gestational age, and each month  
20          thereafter, until viability. That information shall be  
21          presented in an objective, unbiased manner designed to  
22          convey only accurate scientific information.
- 23          9. The materials required under this section and the video  
24          described in Subsection(c) (8) shall be available at no cost  
25          from the Department upon request and in appropriate  
26          number to any person, facility, or hospital.

27       (d) **Emergencies.** When a medical emergency compels the  
28       performance of an abortion, the physician shall inform the  
29       woman, before the abortion if possible, of the medical indications  
30       supporting the physician's judgment that an immediate  
31       abortion is necessary to avert her death or that a twenty-four (24)  
32       hour delay will cause substantial and irreversible impairment  
33       of a major bodily function.

34       (e) **Criminal Penalties.** Any person who intentionally, knowingly,  
35       or recklessly violates this Act is guilty of a misdemeanor.

36       (f) In addition to whatever remedies are available under the  
37       common or statutory laws of Guam, failure to comply with the  
38       requirements of this Act shall:

- 39           1. Provide a basis for a civil malpractice action. Any  
40           intentional violation of this Act shall be admissible in a

- 1 civil suit as prima facie evidence of a failure to obtain  
2 informed consent. When requested, the court shall allow a  
3 woman to proceed using solely her initials or a pseudonym  
4 and may close any proceedings in the case and enter other  
5 protective orders to preserve the privacy of the woman  
6 upon who the abortion was performed.
- 7 2. Provide a basis for professional disciplinary action under  
8 Section 11110 of Chapter 11 of Title 10 Guam Code  
9 Annotated.
- 10 3. Provide a basis for recovery for the woman for the  
11 wrongful death of her unborn child under Section 12109 of  
12 Chapter 12 of Title 7 Guam Code Annotated, whether or  
13 not the unborn child was born alive or was viable at the  
14 time the abortion was performed.”

15 **Section 3. Funding.** *I Maga’Lahan Guahan shall identify the*  
16 *funds necessary* within the Executive Branch Budget, as required and  
17 necessary to fully implement the purposes and intent set forth in this  
18 Act.

19 **Section 4. Severability.** *If any provision of this Act held to be*  
20 *invalid or unenforceable by its terms, or as applied to any person or*  
21 *circumstance, shall be construed so as give it the maximum effect*  
22 *permitted by law unless such holding shall be one of utter invalidity*  
23 *or unenforceability, in which even such provision shall be deemed*  
24 *severable herefrom and shall not affect the remainder hereof or the*  
25 *application of such provision to other persons not similarly situated or*  
26 *to other, dissimilar circumstances.*

27 **Section 5. Effective Date.** This Act shall take effect 180 days  
28 after enactment.



# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
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Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

February 9, 2011

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

VIA FACSIMILE  
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Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Ms. Benita Manglona  
Acting Director  
Bureau of Budget & management Research  
P.O. Box 2950  
Hagåtña, Guam 96910

2011 FEB 10 AM 10:14

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

RE: Request for Fiscal Note -  
Bill Nos. 27-31(COR) through 28-31(COR) and 30-31(COR) through 53-31(COR)

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

*Hafa Adai* Ms. Manglona:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Senator  
Thomas C. Ada

*Si Yu'os ma'åse'* for your attention to this matter.

Senator  
Adolpho B. Palacios, Sr.

Very Truly Yours,

Senator  
vicente c. pangelinan

Rory J. Respicio

MINORITY  
MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Attachments

Senator  
Christopher M. Duenas

Cc: Clerk of the Legislature

Rec'd: Jackie  
2/10/11 8:57am



*I Mina'Trentai Umu Na Linessaturan Guåhan*  
**Bill Log Sheet**  
**January 25, 2011**  
Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
51-31 (COR)	Committee on Rules, Federal, Foreign & Micronesian Affairs and Human Natural Resources	AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011."	1/25/11 3:12 p.m.	1/27/11		Committee on Health & Human Services Senior Citizens, Economic Development and Election Reform			
052-31 (COR)	Committee on Rules, Federal, Foreign & Micronesian Affairs and Human Natural Resources	AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011" ..	1/25/11 3:12 p.m.	1/27/11		Committee on Health & Human Services Senior Citizens, Economic Development and Election Reform			



# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

MAJORITY  
MEMBERS:

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

MINORITY  
MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

January 26, 2011

## MEMORANDUM

To: Pat Santos  
Clerk of the Legislature

Attorney Therese M. Terlaje  
Legislative Legal Counsel

From: Senator Rory J. Respicio  
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 49-31 (COR) through 52-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 49-31 (COR) through 52-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os ma'åse!*

(3) Attachments

2011 JAN 27 PM 3:16

*I Mina'Trentai Unu Na Liheshaturan Guåhan*

**Bill Log Sheet**

**January 25, 2011**

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
51-31 (COR)	Committee on Rules, Federal, & Foreign Micronesian Affairs and Human Natural Resources By request of 1 Maga'låhen in Guåhan in accordance with the Organic Act of Guam.	AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011."	1/25/11 3:12 p.m.	1/27/11		Committee on Health & Human Services, Senior Citizens, Economic Development and Election Reform			
052-31 (COR)	Committee on Rules, Federal, & Foreign Micronesian Affairs and Human Natural Resources By request of 1 Maga'låhen in Guåhan in accordance with the Organic Act of Guam.	AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."	1/25/11 3:12 p.m.	1/27/11		Committee on Health & Human Services, Senior Citizens, Economic Development and Election Reform			

Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com>

# FIRST NOTICE OF PUBLIC HEARING ON FRIDAY, FEB. 11, 2011 8:30am & 4pm

1 message

Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com> Fri, Feb 4, 2011 at 2:50 PM  
 To: "Adolpho B. Palacios, Sr." <senabpalacios@gmail.com>, ben c pangelinan <senbenp@guam.net>, "Benjamin J. Cruz" <senadotbjcruz@aol.com>, "Christopher M. Duenas" <duenasenator@gmail.com>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, Judith P Guthertz <judiguthertz@gmail.com>, Judith T Won Pat <speaker@judiwonpat.com>, Mana Silva Taijeron <senatormana@gmail.com>, Pat Santos <psantos@guamlegislature.org>, Rory J Respicio <roryforguam@gmail.com>, Sam Mabini <drsamabini@gmail.com>, Therese Terlaje <tterlaje@guam.net>, "Thomas C. Ada" <office@senatorada.org>, Tina Rose Muna Barnes <tinamunabarnes@gmail.com>, Senator Tom Ada <tom@senatorada.org>, Tom Unsiog <tunsiog@guamlegislature.org>, V Anthony Ada <senatoronyada@guamlegislature.org>, Vince Arriola <vparriola@teleguam.net>, Yong <yong@guamlegislature.org>

February 4, 2011

## MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: FIRST NOTICE of Public Hearing scheduled for Friday, February 11, 2011.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform has scheduled a Confirmation and Public Hearing on Friday, February 11, 2011, at *I Liheslaturan Guåhan*'s Public Hearing Room in Hagåtña, on the following:

### 8:30am

- The Executive Appointment of Ms. Arlene P. Bordallo to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. David J. John to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. George Chiu to serve as a Member of the Guam Economic Development Authority Board.
- **Bill No. 46-31(COR)**-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.-by V.A. Ada, J.P. Guthertz, DPA
- **Bill No. 47-31(COR)**-AN ACT TO AMEND §1032 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO SENIOR CITIZENS DAY AT THE LEGISLATURE.-by J.T. Won Pat, Ed.D.
- **Bill No. 55-31(COR)**-AN ACT TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO SOLICIT AND CONTRACT, IN WHOLE OR IN PART, FOR THE MANAGEMENT AND OPERATION OF VENDOR SERVICES RELATIVE TO CAFETERIA, SNACK BAR, RESTAURANT, AND/OR OTHER FOOD SERVICE ACTIVITIES, BY ADDING A NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. -by R.G. Rodriguez, Jr.

### 4:00pm

- **Bill No. 51-31 (COR)**-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011." -by *I Maga'låhen Guåhan*, Eddie B. Calvo

- **Bill No. 52-31 (COR)- AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS THE "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."**-by *I Moga'lahen Guåhan*, Eddie B. Calvo

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Seremu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to

*Guåhan's website* at [http://www.guam.gov](#). Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan*. Individuals requiring special accommodations or services, please contact Clifton Herbert or Joe Mesngon at 649-8638. We look forward to your presence and participation.

- cc:        -Clerk of the Legislature    -Legislative Legal Counsel  
           -Executive Director        -MIS  
           -Sergeant-At-Arms/Protocol

Senator Dennis G. Rodriguez, Jr.  
*I Moga'lahen Guåhan*  
 31st Guam Legislature  
 176 Seremu Avenue Suite 107  
 Tamuning, Guam 96913  
 671-649-8638



## Ufisinan Todu Guam

### *I Mina'trentai Unu Na Liheslaturan Guåhan* CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES, ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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February 4, 2011

#### MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: FIRST NOTICE of Public Hearing scheduled for Friday, February 11, 2011.

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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Seremu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan Guåhan*'s website at [www.guamlegislature.org](http://www.guamlegislature.org). Individuals requiring special accommodations or services, please contact Clifton Herbert or Joe Mesngon at 649-8638. We look forward to your presence and participation.

cc: -Clerk of the Legislature -Legislative Legal Counsel  
-Executive Director -MIS  
-Sergeant-At-Arms/Protocol

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

# Press Release-- Public Hearing & Confirmation Hearing Feb. 11, 2011

1 message

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, Feb 3, 2011 at 3:54 PM

Bcc: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbguam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, kevin@spbguam.com, kstone@ite.net, managingeditor@glimpsesofiguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@guampdn.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofiguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, scoop@guamnewswatch.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, therese@mvguam.com, zita@mvguam.com, Jesse Lujan <jesselujan27@yahoo.com>, Lannie Walker <lannie@kuam.com>, Ronnie Perez <marketing@hitradio100.com>, Telo Taitague <telo.taitague@guam.gov>, William Gibson <breakfastshowk57@gmail.com>, "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>

Ufisinan Todu Guam

I Mina'trentai Unu Na Liheslaturan Guåhan  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

## PRESS RELEASE

### FIRST NOTICE OF PUBLIC HEARING

Friday, February 11, 2011 8:30am & 4:00pm

Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting Confirmations as well as a Public Hearing on Friday, February 11, 2011, at / *Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

8:30am

- The Executive Appointment of **Ms. Arlene P. Bordallo** to serve as a **Member of the Guam Economic Development Authority Board.**
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- **Bill No. 46-31(COR)**-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.- *(Introduced by V.A. Ada, J.P. Guthertz, DPA)*
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NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. – *(Introduced by D.G. Rodriguez, Jr.)*

4:00pm

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Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to [clifton.herbert@senatorrodriguez.com](mailto:clifton.herbert@senatorrodriguez.com). In accordance with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations please contact Clifton Herbert or Joe Mesngon at 649-8638 (TODU). We look forward to your attendance and participation

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931


Telephone:

Email: [Cherbert.senatorrodriguez@gmail.com](mailto:Cherbert.senatorrodriguez@gmail.com)

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

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 PH Feb 11,2011.pdf  
965K





Clifton Herbert &lt;cherbert.senatorrodriguez@gmail.com&gt;

## Press Release- Public Hearing Revised Feb. 11

4 messages

Clifton Herbert &lt;cherbert.senatorrodriguez@gmail.com&gt;

Fri, Feb 4, 2011 at 9:32 AM

Bcc: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbg Guam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdu mat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbg Guam.com, kevin@spbg Guam.com, kstone ws@ite.net, managingeditor@glimps esofguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@guampdn.com, news@spbg Guam.com, nick.delgado@kuam.com, parro yo@k57.com, reporter3@glimps esofguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, scoop@guamnews watch.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, therese@mvguam.com, zita@mvguam.com, Jesse Lujan <jesselujan27@yahoo.com>, Lannie Walker <lannie@kuam.com>, Ronnie Perez <marketing@hitradio100.com>, Telo Taitague <telo.taitague@guam.gov>, William Gibson <breakfastshowk57@gmail.com>, "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>

Ufisinan Todu Guam  
 SENATOR DENNIS G. RODRIGUEZ, JR.  
 I Mina'trentai Unu Na Liheslaturan Guáhan  
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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(Revised)

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AND/OR OTHER FOOD SERVICE ACTIVITIES, BY ADDING A NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. – (Introduced by D.G. Rodriguez, Jr.)

4:00pm

**Bill No. 51-31 (COR)**-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS “THE UNBORN CHILD PROTECTION ACT OF 2011.” –(Introduced by I Maga'låhen Guåhan, Eddie B. Calvo)

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Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). In accordance with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations please contact Clifton Herbert or Joe Mesngon at 649-8638 (TODU). We look forward to your attendance and participation

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 649-8638

Email: [Cherbert.senatordrodriguez@gmail.com](mailto:Cherbert.senatordrodriguez@gmail.com)

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information.

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 PH Revised Feb 11.pdf  
718K

Clifton Herbert <[cherbert.senatordrodriguez@gmail.com](mailto:cherbert.senatordrodriguez@gmail.com)>  
To: [llmatthews@guampdn.com](mailto:llmatthews@guampdn.com), [news@guampdn.com](mailto:news@guampdn.com)

Fri, Feb 4, 2011 at 1:05 PM

Please respond that you have recieved this.

<https://mail.google.com/mail/?ui=2&ik=c0c298993c&view=pt&q=public%20hearing%20f...> 2/16/2011



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

## Public Hearing

4 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Feb 8, 2011 at  
8:59 AM

Bcc: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbguam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, kevin@spbguam.com, kstone@ite.net, managingeditor@glimpsesofofguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofofguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, scoop@guamnewswatch.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, therese@mvguam.com, zita@mvguam.com, Jesse Lujan <jesselujan27@yahoo.com>, Lannie Walker <lannie@kuam.com>, Pacific Daily News <news@guampdn.com>, Ronnie Perez <marketing@hitradio100.com>, Telo Taitague <telo.taitague@guam.gov>, William Gibson <breakfastshowk57@gmail.com>, Laura Matthews <llmatthews@guampdn.com>

Ufisinan Todu Guam  
SENATOR DENNIS G. RODRIGUEZ, Jr.  
I Mina'trentai Unu Na Liheslaturan Guahan  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Please find public hearing and agenda attached.

Thanks,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671-735-3333

Email: [Cherbert.senatorrodriguez@gmail.com](mailto:Cherbert.senatorrodriguez@gmail.com)

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information). The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information. By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.



## Ufisinan Todu Guam

### *I Mina'trentai Unu Na Liheslaturan Guåhan* CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES, ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

February 4, 2011

#### MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: FIRST NOTICE of Public Hearing scheduled for Friday, February 11, 2011.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform has scheduled a Confirmation and Public Hearing on Friday, February 11, 2011, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

8:30am

- The Executive Appointment of Ms. Arlene P. Bordallo to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. David J. John to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. George Chiu to serve as a Member of the Guam Economic Development Authority Board.
- Bill No. 46-31(COR)-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.-by V.A. Ada, J.P. Guthertz, DPA
- Bill No. 47-31(COR)-AN ACT TO AMEND §1032 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO SENIOR CITIZENS DAY AT THE LEGISLATURE.-by J.T. Won Pat, Ed.D.
- Bill No. 55-31(COR)-AN ACT TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO SOLICIT AND CONTRACT, IN WHOLE OR IN PART, FOR THE MANAGEMENT AND OPERATION OF VENDOR SERVICES RELATIVE TO CAFETERIA, SNACK BAR, RESTAURANT, AND/OR OTHER FOOD SERVICE ACTIVITIES, BY ADDING A NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. -by R.G. Rodriguez, Jr.

4:00pm

- Bill No. 51-31 (COR)-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "*THE UNBORN CHILD PROTECTION ACT OF 2011.*" -by *I Maga'låhen Guåhan*, Eddie B. Calvo
- Bill No. 52-31 (COR)- AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS THE "*THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011.*"-by *I Maga'låhen Guåhan*, Eddie B. Calvo

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Serenu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.org](http://www.guamlegislature.org). Individuals requiring special accommodations or services, please contact Clifton Herbert or Joe Mesngon at 649-8638. We look forward to your presence and participation.

cc: -Clerk of the Legislature -Legislative Legal Counsel  
-Executive Director -MIS  
-Sergeant-At-Arms/Protocol

Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com>

# SECOND NOTICE for PUBLIC HEARING on FRIDAY, FEBRUARY 11, 2011

1 message

Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com> Tue, Feb 8, 2011 at 4:39 PM  
 To: "Adolpho B. Palacios, Sr." <senabpalacios@gmail.com>, ben c pangelinan <senbenp@guam.net>, "Benjamin J. Cruz" <senadotbjcruz@aol.com>, "Christopher M. Duenas" <duenasenator@gmail.com>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, Judith P Guthertz <judiguthertz@gmail.com>, Judith T Won Pat <speaker@judiwonpat.com>, Mana Silva Tajeron <senatormana@gmail.com>, Pat Santos <psantos@guamlegislature.org>, Rory J Respicio <roryforguam@gmail.com>, Sam Mabini <senatorsam@senatormabini.com>, Therese Terlaje <terlaje@guam.net>, "Thomas C. Ada" <office@senatorada.org>, Tina Rose Muna Barnes <tinamunabarnes@gmail.com>, Senator Tom Ada <tom@senatorada.org>, Tom Unsiog <tunsiog@guamlegislature.org>, V Anthony Ada <senatortonyada@guamlegislature.org>, Vince Amiola <vpamiola@teleguam.net>, Yong <yong@guamlegislature.org>

February 8, 2011

## MEMORANDUM

TO: ALL SENATORS  
 FROM: Senator Dennis G. Rodriguez, Jr.  
 SUBJECT: SECOND NOTICE of Public Hearing scheduled for Friday, February 11, 2011.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform has scheduled a Confirmation and Public Hearing on Friday, February 11, 2011, at *I Liheslaturan Guåhan*'s Public Hearing Room in Hagåtña, on the following:

8:30am

- The Executive Appointment of Ms. Arlene P. Bordallo to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. David J. John to serve as a Member of the Guam Economic Development Authority Board.
- The Executive Appointment of Mr. George Chiu to serve as a Member of the Guam Economic Development Authority Board.
- **Bill No. 46-31(COR)-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.-by V.A. Ada, J.P. Guthertz, DPA**
- **Bill No. 47-31(COR)-AN ACT TO AMEND §1032 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO SENIOR CITIZENS DAY AT THE LEGISLATURE.-by J.T. Won Pat, Ed.D.**
- **Bill No. 55-31(COR)-AN ACT TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO SOLICIT AND CONTRACT, IN WHOLE OR IN PART, FOR THE MANAGEMENT AND OPERATION OF VENDOR SERVICES RELATIVE TO CAFETERIA, SNACK BAR, RESTAURANT, AND/OR OTHER FOOD SERVICE ACTIVITIES, BY ADDING A NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. -by R.G. Rodriguez, Jr.**

4:00pm

- **Bill No. 51-31 (COR)-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF**

THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011." -by *I Moga'låhen Guåhan*, Eddie B. Calvo

- **Bill No. 52-31 (COR)- AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS THE "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."**-by *I Moga'låhen Guåhan*, Eddie B. Calvo

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Seremu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to

Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan*

*Guåhan's* website at

Individuals requiring special accommodations or services, please contact Clifton Herbert or Joe Mesngon at 649-8638. We look forward to your presence and participation.

- cc:
- Clerk of the Legislature
  - Legislative Legal Counsel
  - Executive Director
  - MIS
  - Sergeant-At-Arms/Protocol

Senator Dennis G. Rodriguez, Jr.  
*I Mind'tromai Van Na Liheslaturan Guåhan*  
 176 Seremu Avenue, Suite 107  
 Tamuning, Guam 96913  
 671.649.6638



Ufisinan Todu Guam

48hr.

# SENATOR DENNIS G. RODRIGUEZ, Jr.

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

February 8, 2011

## MEMORANDUM

TO: ALL SENATORS  
FROM: Senator Dennis G. Rodriguez, Jr.  
SUBJECT: SECOND NOTICE of Public Hearing scheduled for Friday, February 11, 2011.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform has scheduled a Confirmation and Public Hearing on Friday, February 11, 2011, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

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4:00pm

- Bill No. 51-31 (COR)-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011." -by *I Maga'låhen Guåhan*, Eddie B. Calvo
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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Serenu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.org](http://www.guamlegislature.org). Individuals requiring special accommodations or services, please contact Clifton Herbert or Joe Mesngon at 649-8638. We look forward to your presence and participation.

cc: -Clerk of the Legislature -Legislative Legal Counsel  
-Executive Director -MIS  
-Sergeant-At-Arms/Protocol



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

## Public Hearing

4 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Feb 8, 2011 at  
8:59 AM

Bcc: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbguam.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, kevin@spbguam.com, kstone@ite.net, managingeditor@glimpsesofofguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofofguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, scoop@guamnewswatch.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, therese@mvguam.com, zita@mvguam.com, Jesse Lujan <jesselujan27@yahoo.com>, Lannie Walker <lannie@kuam.com>, Pacific Daily News <news@guampdn.com>, Ronnie Perez <marketing@hitradio100.com>, Telo Taitague <telo.taitague@guam.gov>, William Gibson <breakfastshowk57@gmail.com>, Laura Matthews <lmatthews@guampdn.com>

Ufisinan Todu Guam  
SENATOR DENNIS G. RODRIGUEZ, JR.  
I Mina'trental Unu Na Liheslaturan Guahan  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Please find public hearing and agenda attached.

Thanks,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: (671) 639-8431

Email: [Cherbert.senatorrodriguez@gmail.com](mailto:Cherbert.senatorrodriguez@gmail.com)

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information). The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information. By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.



**2 attachments**



**2nd Notice Feb 11, 11.pdf**  
723K



**AGENDA Public Hearing #2 Feb 11,2011.pdf**  
717K



*Ufisinan Todu Guam*  
**SENATOR DENNIS G. RODRIGUEZ, Jr.**  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM  
PRESS RELEASE

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## SECOND NOTICE OF PUBLIC HEARING

Friday, February 11, 2011 8:30am & 4:00pm

Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting Confirmations as well as a Public Hearing on Friday, February 11, 2011, at I Liheslaturan Guåhan's Public Hearing Room in Hagåtña, on the following:

8:30am

· The Executive Appointment of **Ms. Arlene P. Bordallo** to serve as a **Member of the Guam Economic Development Authority Board.**

· The Executive Appointment of **Mr. David J. John** to serve as a **Member of the Guam Economic Development Authority Board.**

· The Executive Appointment of **Mr. George Chiu** to serve as a **Member of the Guam Economic Development Authority Board.**

- **Bill No. 46-31(COR)**-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.- *(Introduced by V.A. Ada, J.P. Guthertz, DPA)*
- **Bill No. 47-31(COR)**-AN ACT TO AMEND §1032 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO SENIOR CITIZENS DAY AT THE LEGISLATURE.- *(Introduced by J.T. Won Pat, Ed.D.)*
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4:00pm

· **Bill No. 51-31 (COR)**-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011."-*(Introduced by I Maga'låhen Guåhan, Eddie B. Calvo)*

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Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). In accordance with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations please contact Clifton Herbert at 649-8638 (TODU). We look forward to your attendance and participation

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

**2 attachments**

 **2nd Notice Feb 11, 11.pdf**  
723K

 **AGENDA Public Hearing #2 Feb 11,2011.pdf**  
717K



### 3 Board appointees scheduled for hearing

Pacific Daily News • news@guampdn.com •  
February 5, 2011

Three appointees to the Guam Economic Development Authority board of directors are scheduled to appear for their legislative confirmation hearing at 8:30 a.m. on Feb. 11 in the Legislature's public hearing room.

The confirmation hearing will be before the Committee on Health and Human Services, Economic Development, Senior Citizens and Election Reform. Sen. Dennis Rodriguez Jr. is its chairman.

Appointed to the GEDA board:

- Ariene P. Bordallo;
- George Chiu, vice president, CTSI Logistics; and
- David John, president of ASC Trust Corp. and immediate past president of the Guam



ChiuJohn

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A	7.4%
B	3.7%
C	17.5%
D	14.7%
F	56.6%

Total Votes: 136  
As of 8:15 p.m., Feb. 6

# 5 bills to see public hearing

## Pacific Sunday News

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will hold a public hearing Friday at the Guam Legislature's public hearing room. Testimony on the following bills will be heard:

▲ Bill 46, which would require all elected members of the Education Board to be citizens of the United States.

▲ Bill 47, which would change the date of Senior Citizens Day from the third Wednesday of May to a date in May specified by the speaker of the Guam Legislature.

▲ Bill 55, which would authorize Guam Memorial Hospital Authority to solicit and contract, in whole or in part, for the management and operation of vendor services relative to cafeteria, snack bar, restaurant, and/or other food service activities.

▲ Bill 51, which would prohibit the abortion of fetuses more than 20 weeks of age, with exceptions for the health of the mother, and

▲ Bill 52, known as the "The Woman's Reproductive Health Information Act of 2011," which would require a woman's "informed consent" before an abortion, including information about the anatomical and physiological characteristics of the fetus.

Testimony may be submitted via hand delivery to 176 Sereno Avenue, Suite 107, Tamuning, Guam 96931 or at the main Legislature building at 155 Hessler Place, Hagåtña, Guam 96910, or via e-mail to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com).

## Village Voice

### PUBLIC HEARING Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform

WHEN Friday, February 11, 2011, 8:30 – 9:30am

WHERE I Liheslaturan Guåhan's Public Hearing Room in Hagåtña

NOTE 8:30am

- The Executive Appointment of Ms. Arlene P. Bordallo to serve as a Member of the Guam Economic Development Authority Board.

- The Executive Appointment of Mr. David J. John to serve as a Member of the Guam Economic Development Authority Board.

- Bill No. 46-31(COR)-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.- (Introduced by V.A. Ada, J.P. Guthertz, DPA)

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4:00pm

- Bill No. 51-31 (COR)-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "THE UNBORN CHILD PROTECTION ACT OF 2011." –(Introduced by I Maga'låhen Guåhan, Eddie B. Calvo)

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Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via-hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to

. In accordance with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations please contact Clifton Herbert or Joe Mesngon at 649-8638 (TODU). We look forward to your attendance and participation

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Printed: Thursday, February 03, 2011 at 4:57 PM PST



*Ufisinan Todu Guam*  
**SENATOR DENNIS G. RODRIGUEZ, Jr.**  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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**PUBLIC HEARING AGENDA**

Friday, February 11, 2011

8:30am to 12noon & 4:00pm

Public Hearing Room, *I Liheslaturan Guåhan*, Hagatña, Guam

- I. Call to Order
- II. Announcements
- III. Items for Public Consideration

**8:30am**

- The Executive Appointment of **Ms. Arlene P. Bordallo** to serve as a **Member** of the **Guam Economic Development Authority Board**.
- The Executive Appointment of **Mr. David J. John** to serve as a **Member** of the **Guam Economic Development Authority Board**.
- The Executive Appointment of **Mr. George Chiu** to serve as a **Member** of the **Guam Economic Development Authority Board**.
- **Bill No. 46-31(COR)**-AN ACT TO AMEND §3102.3 OF CHAPTER 3 OF 17GCA RELATIVE TO CITIZENSHIP REQUIREMENTS FOR EDUCATION BOARD MEMBERS.-by V.A. Ada, J.P. Guthertz, DPA
- **Bill No. 47-31(COR)**-AN ACT TO AMEND §1032 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO SENIOR CITIZENS DAY AT THE LEGISLATURE.-by J.T. Won Pat, Ed.D.
- **Bill No. 55-31(COR)**-AN ACT TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO SOLICIT AND CONTRACT, IN WHOLE OR IN PART, FOR THE MANAGEMENT AND OPERATION OF VENDOR SERVICES RELATIVE TO CAFETERIA, SNACK BAR, RESTAURANT, AND/OR OTHER FOOD SERVICE ACTIVITIES, BY ADDING A NEW SUBSECTION (u) TO §80109 OF CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED. -by R.G. Rodriguez, Jr.

**IV. Recess until 4pm**

**4:00pm**

- **Bill No. 51-31 (COR)**-AN ACT TO ADD A NEW CHAPTER 91B TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING ABORTION OF UNBORN CHILDREN CAPABLE OF FEELING PAIN; TO AMEND §3218(a) OF CHAPTER 3, DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED; AND TO CITE THE ACT AS "*THE UNBORN CHILD PROTECTION ACT OF 2011.*" -by *I Maga'låhen Guåhan*, Eddie B. Calvo
- **Bill No. 52-31 (COR)**- AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS THE "*THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011.*"-by *I Maga'låhen Guåhan*, Eddie B. Calvo

- V. Announcements
- VI. Adjournment

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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Dennis G. Rodriguez, Jr. at 176 Serenu Avenue Suite 107, Tamuning, Guam, at our mailbox in the Legislature Building at 155 Hesler Place, Hagåtña, Guam or via email to [senatordrodriguez@gmail.com](mailto:senatordrodriguez@gmail.com). Copies of the aforementioned Resolution and/or Bills may be obtained at *I Liheslaturan Guåhan*'s website at [www.guamlegislature.org](http://www.guamlegislature.org). Individuals requiring special accommodations or services, please contact Clifton Herbert at 649-8638. We look forward to your presence and participation.

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# I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN

2012 (FIFTH) Special Session

SIXTH

Date: 10/24/2012

1:15pm

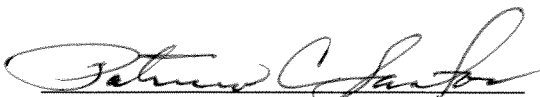
## SESSION ATTENDANCE ROLL CALL

<u>NAME</u>	<u>PRESENT</u>	<u>Out During Roll Call</u>	<u>Absent</u>	
ADA, Thomas C.	✓			
ADA, V. Anthony	✓			
BLAS, Frank F., Jr.	✓			
CRUZ, Benjamin J. F.	✓			
DUENAS, Christopher M.	✓			
GUTHERTZ, Judith Paulette	✓			
MABINI, Sam	✓			
MUNA-BARNES, Tina Rose	✓			
PALACIOS, Adolpho Borja, Sr.	✓			
PANGELINAN, vicente (ben) cabrera	✓			
RESPICIO, Rory J.	✓			
RODRIGUEZ, Dennis G., Jr.	✓			
SILVA TAIJERON, Mana	✓			
WON PAT, Judith T.	✓			
YAMASHITA, Aline A.	✓			

TOTAL

15

CERTIFIED TRUE AND CORRECT:

  
Clerk of the Legislature





# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

MAJORITY  
MEMBERS:

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

MINORITY  
MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

October 23, 2012

## MEMORANDUM

**To:** Patricia C. Santos  
*Clerk of the Legislature*

**From:** Senator Rory J. Respicio  
*Majority Leader & Rules Chair*

**Subject:** Supplement to Committee Report -  
Substitute Bill No. 52-31 (COR)

*Hafa Adai!*

Transmitted herewith is a supplement to the Report on Substitute Bill No. 52-31 (COR) "AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3, ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMEN'S INFORMED CONSENT FOR ABORTION; AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2011." submitted by Senator Dennis G. Rodriguez, Jr.

Please include this memo and the attachment as a "Supplement" to the Committee Report on Substitute Bill No. 52-31 (COR).

Please make the appropriate indication in your records; and forward to MIS for posting on our website. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

*Si Yu'os ma'åse'!*

2012 OCT 23 PM 3:11



## COMMITTEE ON RULES

*I Mina'trentai Unu na Libeslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

### MAJORITY MEMBERS:

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Senator  
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ASST. MAJORITY WHIP

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Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

### MINORITY MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

## Supplement to the Committee Report Bill No. 52-31 (COR)

**"AN ACT TO ADD A NEW SECTION 3218.1 TO  
CHAPTER 3, ARTICLE 2, TITLE 10 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
WOMEN'S INFORMED CONSENT FOR  
ABORTION; AND TO CITE THE ACT AS "THE  
WOMAN'S REPRODUCTIVE HEALTH  
INFORMATION ACT OF 2011."**

As Substituted by the Committee on Health & Human  
Services, Economic Development, Senior Citizens, and  
Election Reform

\*NOTE: The original Committee Report on  
Substitute Bill No. 52-31 (COR)  
was filed on March 28, 2011.



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

---

October 22, 2012

**MEMORANDUM**

**To: The Honorable Rory J. Respicio**  
**Chairperson**  
**Committee on Rules.**

**From: SENATOR DENNIS G. RODRIGUEZ, JR.**   
Committee Chairperson

**Subject: Supplemental Committee Report on Bill No. 52-31 (COR), as Substituted** by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** by the Committee on Rules; and **referred back to Committee** by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform..

*Buenas yan Hafa Adai.*

Transmitted herewith for your consideration is the **Supplemental Committee Report on SUBSTITUTE Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010"; Bill No. 52-31 (COR), as Substituted**, was originally reported out on March 17, 2011.

This report includes the following:

- Committee Voting Sheet
- Supplemental Committee Report Narrative / Digest
- Copy of Bill No. 52-31 (COR), as Substituted
- Copy of Bill No.52-31 (COR)

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os Ma'åse'!*

Attachment

---



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

---

## **COMMITTEE REPORT**

**ON**

**BILL NO. 52-31 (COR), as Substituted** by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** by the Committee on Rules; and **referred back to Committee** by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform

**“AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3  
ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO THE WOMAN’S INFORMED CONSENT FOR  
ABORTION AND TO CITE THE ACT AS “THE WOMAN’S  
REPRODUCTIVE HEALTH INFORMATION ACT OF 2010.”**

[Bill No. 52-31 (COR), as Introduced: Introduced by Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga'lahen Guåhan* in accordance with the Organic Act of Guam.]



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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October 16, 2012

**MEMORANDUM**

**To: ALL MEMBERS**

Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

**From: SENATOR DENNIS G. RODRIGUEZ, JR.**   
Committee Chairperson

**Subject: Committee Report on Bill No. 52-31 (COR), as Substituted** by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** by the Committee on Rules; and **referred back to Committee** by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

Transmitted herewith is the **Committee Report on Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2012"; sponsored by** Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga'lahaen Guahan* in accordance with the Organic Act of Guam.

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative / Digest
- Copy of Bill No. 52-31 (COR), as Substituted
- Copy of Bill No.52-31 (COR)
- Copies of Supporting Documents

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*

Attachment



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

**COMMITTEE VOTING SHEET**

**BILL NO. 52-31 (COR), as Substituted** by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** by the Committee on Rules; and **referred back to Committee** by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

**Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010."**

	SIGNATURE	TO PASS	NOT TO PASS	REPORT OUT ONLY	ABSTAIN	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, JR. Chairman		✓ 10/16/12				
ADOLPHO B. PALACIOS, SR. Vice Chairman		✓ 10/16/12				
JUDITH T. WON PAT Speaker		✓ 10/22/12				
BENJAMIN J.F. CRUZ Vice Speaker		✓ 10/16/12				
TINA ROSE MUÑA BARNES Legislative Secretary		✓				
THOMAS C. ADA		✓				
JUDITH P. GUTHERTZ		✓				
VICENTE C. PANGELINAN						
RORY J. RESPICIO		✓ 10/17/12				
V. ANTHONY ADA		✓ 10/17/12				
FRANK F. BLAS, JR.						
CHRISTOPHER M. DUENAS		✓ 10/17/12				
SAM MABINI				✓ 10/22/12		
MANA SILVA TAJERON						
ALINE A. YAMASHITA				✓ 10/18/12		



*Ufisinan Todu Guam*

**SENATOR DENNIS G. RODRIGUEZ, Jr.**

*I Mina'trentai Unu Na Liheslaturan Guåhan*

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,  
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

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**COMMITTEE REPORT DIGEST**

**Bill No. 52-31 (COR), as Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** By Committee on Rules and **referred back to Committee** on Health & Human Services by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

**I. OVERVIEW:** The Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform conducted a public hearing on **February 11, 2011**. The Hearing convened at 08:30 A.M. in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of **Bill No. 52-31 (COR); AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE WOMAN'S INFORMED CONSENT FOR ABORTION AND TO CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE HEALTH INFORMATION ACT OF 2010"**; Introduced by the Committee on Rules, Federal, Foreign, & Micronesian Affairs and Human & Natural Resources; By request of *I Maga'lahaen Guåhan* in accordance with the Organic Act Of Guam.

**Bill No. 52-31 (COR), as Substituted**, was reported out on by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform on March 17, 2011. Committee Report, as Substituted - Attached.

**Bill No. 52-31 (COR), as Substituted**, was further Substituted by the Committee on Rules and placed on the Second Reading File. Substitute Bill 52-31 (COR), as further substituted by Committee on Rules – Attached.

**Bill No. 52-31 (COR), as Substituted**, and further Substituted by the Committee on Rules, was referred back by the Committee of the Whole to the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.

**Bill No. 52-31 (COR), as Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** By Committee on Rules and **referred back to Committee** on Health & Human Services by the Committee of the Whole; and **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform, is Attached to this Committee Report.

## **Public Notice Requirements**

Notices for the February 11, 2011 Public Hearing were disseminated via hand-delivery/fax and/or e-mail to all senators and all main media broadcasting outlets on February 04, 2011 (5-Day Notice), and again on February 08, 2011 (48-Hour Notice). Notices were published in the Village Voice on February 03, 2011 (5 Day Notice), in the Guam PDN.com on February 06, 2011 (5 Day Notice), and in the Village Voice on February 09, 2011.

## **Senators Present** (February 11, 2011 Public Hearing)

Senator Dennis G. Rodriguez, Jr.	Chairperson
Senator Adolpho B. Palacios, Sr.	Vice-Chairperson
Senator Rory J. Respicio	Committee Member
Senator Christopher M. Duenas	Committee Member
Senator Mana Silva Taijeron	Committee Member

The public hearing on Bill No. 52-31 (COR) was Called-to-Order at 4:00 P.M.

## **II. SUMMARY OF TESTIMONY & DISCUSSION.**

**Chairman Dennis G. Rodriguez, Jr.:** Bill No. 52-31 (COR), as well as the prior Bill 54-30 (COR) which is identical to Bill No. 52-31 (COR), have provided more than ample opportunity's for public consideration during two (2) duly convened public hearings, and the receipt of testimony, both oral and written. THEREFORE, the additional conduct of a subsequent hearing on Bill No. 52-31 (COR) is unnecessary.

**Historic Note:** Bill No. 52-31 (COR) and Bill No. 54-30 (COR), as introduced, are essentially identical (see A.G.s Opinions).

Bill No. 54-30 (COR), as Substituted, was reported out of Committee, and was subsequently referred by the Committee on Rules back to Committee for the purpose of clarifying constitutional issues. An Attorney's General Opinion was obtained and the Bill was amended accordingly. Bill No. 54-30 (COR) was reported out a 2<sup>nd</sup> time, and subsequently was substantively substituted by the Committee on Rules. Bill No. 54-30 (COR), as Passed on November 30, 2012, was vetoed by the Governor.

Bill No. 52-31 (COR), as Substituted, was reported out of Committee, and subsequently was substantively substituted by the Committee on Rules. Bill 52,31 (COR), as further substituted by the Committee on Rules was placed on the Second Reading File. Bill No.



52-31 (COR), as Substituted and further Substituted, was referred by the Committee of the Whole back to Committee on Health & Human Services.

The substitute versions of Bill No. 54-30 (COR) and Bill No. 52-31 (COR), as further substituted by the Committee on Rules are essentially identical.

It is of note that this issue remains a serious topic of social import, even among Guam's youth. On October 12, 2012 fifty-seven (57) high school students attending various schools on Guam came together to develop a youth agenda for public policy action. The students were participants of the 2012 Guam Youth Summit sponsored by the Close-Up Foundation of America. After three days of intensive research of current pressing issues on Guam, the fifty-seven students developed a set of policy proposals that addresses Economic Development, Education, Energy and the Environment, Healthcare, Children and Families, Law Enforcement and Public Safety, and Cultural Affairs. One of the nine (9) policy proposals these students adopted to recommend to the 31st Guam Legislature was the issue of the rising numbers of abortion on Guam.

The 2012 Guam Youth Summit adopted the following statement: *"We fully endorse the Women's Productive Health Information Act of 2011, Bill No. 52-31, and believe that it will decrease the rate of abortion on Guam. We also propose that it be required that both the legal guardian and partner of an abortion patient know the full medical information regarding the procedure and the risks the patient will experience. We call upon the 31st Guam Legislature to recognize and pass the Women's Productive Health Information Act."*

The Committee Chairman was present at the Guam Youth Summit presentation on October 12, 2012, at the Guam Marriott Resort, and takes due note of the youth policy agenda adopted. It is therefore the intent of the Committee to include the Guam Youth Summit 2012 *Youth Agenda For Policy Action* into this committee report on Bill 52-31.

#### REFERENCE DOCUMENTS (ATTACHED):

1. **Bill No. 52-31 (COR), as Introduced.**
2. **Bill No. 52-31 (COR) Committee Report, as Substituted** by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform.
3. **Bill No. 52-31 (COR), as Substituted** by the Committee on Health & Human Services, and **further Substituted** by the Committee on Rules.
4. **Bill No. 54-30 (COR), as Introduced** on February 02, 2009.

5. **Bill No. 54-30 (COR) Committee Report, as Substituted** by the Committee on Economic Development, Health & Human Services, and Judiciary.

a. **Bill No. 54-30 (COR) – Legislative History**

6. **Attorney General Legal Opinions (Attached):** Committee Chairman, Dennis G. Rodriguez, Jr., in a letter dated February 07, 2011, to the Attorney General of Guam, requested a legal opinion “*Relative to the Constitutionality of Bill No. 52-31 (COR)*” (attached).

Deputy Attorney General, J. Patrick Mason, in his response dated and received March 11, 2011, stated that **Bill No. 52-31 (COR) is essentially the same as Bill No. 54-30 (COR)**, as introduced in the 30<sup>th</sup> Guam Legislature. **Therefore, the same “Interpretation of the Constitutionality of Bill No. 54-30 (COR) – AG File No. LEG 10-0956”, as provided relative to Bill No. 54-30 (COR), has now been provided as the Attorney General’s response relative to Bill No. 52-31 (COR).**

7. **Guam Youth Summit 2012 Youth Agenda For Policy Action.**

### III. FINDINGS & RECOMMENDATIONS

Notwithstanding the intense debate on this legislation, and the protracted period of time it is taking for this Bill to reach the session floor of the Guam Legislature with the language and intent somewhat intact, there still remains strong public support that this should occur. What is legitimately required and desired by the people of Guam at this point, is the open, transparent consideration of Bill No. 52-31 (COR), as again substituted and reported out in this Committee Report, by *I Liheslaturan Guåhan* during a duly convened Legislative Session, in a manner in keeping with the legitimate practice and true spirit of an open democracy.

The Committee on, Health & Human Services, Economic Development, Senior Citizens, and Election Reform, hereby **reports out Bill No. 52-31 (COR), as Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; and **further Substituted** By Committee on Rules; and **referred back to Committee** on Health & Human Services by the Committee of the Whole; and as **further Substituted** by Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform, with the recommendation to TO PASS.

*I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2012 (SECOND) Regular Session

**Bill No. 52-31 (COR), as Substituted**  
Committee on Health & Human Services,  
Economic Development, Senior Citizens, and  
Election Reform; and **further Substituted** by  
Committee on Rules; and referred back to  
Committee by the Committee of the Whole; and **further**  
**Substituted** by Committee on Health & Human Services,  
Economic Development, Senior Citizens, and  
Election Reform

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesian Affairs and  
Human & Natural Resources  
By request of *I Maga'lahaen Guåhan*  
in accordance with the Organic Act  
of Guam

1  
2           **AN ACT TO ADD A NEW SECTION 3218.1 TO**  
3           **CHAPTER 3, ARTICLE 2, TITLE 10 OF THE**  
4           **GUAM CODE ANNOTATED, RELATIVE TO**  
5           **WOMEN'S INFORMED CONSENT FOR**  
6           **ABORTION; AND TO CITE THE ACT AS "THE**  
7           **WOMEN'S REPRODUCTIVE HEALTH**  
8           **INFORMATION ACT OF 2012."**  
9

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

11           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
12 that it is essential to the psychological and physical well-being of a woman  
13 considering an abortion that she receives complete and accurate information  
14 material to her decision of whether to undergo an abortion including information  
15 concerning abortion alternatives. *I Liheslaturan Guåhan* further finds that every  
16 woman submitting to an abortion should do so only after giving her voluntary and  
17 informed consent in writing to the abortion procedure.

1           **Section 2. A New Section 3218.1.** A new Section 3218.1 is hereby added to  
2 Chapter 3, Article 2, Title 10 of the Guam Code Annotated to read, as follows:

3           **“§ 3218.1. The Women's Reproductive Health Information Act of**  
4 **2011.**

5           **(a) Definitions.** For the purposes of this Section 3218.1, the following  
6 words and phrases are defined to mean:

7           1.    *Abortion* means the use or prescription of any instrument,  
8           medicine, drug, or other substance or device to terminate the pregnancy of a  
9           woman known to be pregnant with an intention other than to increase the  
10          probability of a live birth, to preserve the life or health of the child after live  
11          birth, to act upon an ectopic pregnancy, or to remove a dead unborn child  
12          who died as the result of natural causes *in utero*, accidental trauma, or a  
13          criminal assault on a pregnant woman or her unborn child, and which causes  
14          the premature termination of the pregnancy;

15          2.    *Act* means the Women's Reproductive Health Information Act  
16          of 2012 codified at 10 GCA § 3218.1;

17          3.    *Complication* means that condition which includes but is not  
18          limited to hemorrhage, infection, uterine perforation, cervical laceration,  
19          pelvic inflammatory disease, endometriosis, and retained products. The  
20          Department may further define the term “complication” as necessary and in  
21          a manner not inconsistent with this Section 3218.1;

22          4.    *Conception* means the fusion of a human spermatozoon with a  
23          human ovum;

24          5.    *Department* means the Department of Public Health and Social  
25          Services;

26          6.    *Facility or medical facility* means any public or private hospital,  
27          clinic, center, medical school, medical training institution, health care

1 facility, physician's office, infirmary, dispensary, ambulatory surgical  
2 treatment center, or other institution or location wherein medical care is  
3 provided to any person;

4 7. *First trimester* means the first twelve (12) weeks of gestation;

5 8. *Gestational age* means the time that has elapsed since the first  
6 day of the woman's last occurring menstruation;

7 9. *Hospital* means any building, structure, institution or place,  
8 public or private, whether organized for profit or not, devoted primarily to  
9 the maintenance and operation of facilities for the diagnosis, treatment and  
10 provision of medical or surgical care for three (3) or more non-related  
11 individuals, admitted for overnight stay or longer in order to obtain medical,  
12 including obstetric, psychiatric and nursing care of illness, disease, injury or  
13 deformity, whether physical or mental and regularly making available at  
14 least clinical laboratory services and diagnostic x-ray services and treatment  
15 facilities for surgery or obstetrical care or other definitive medical treatment;

16 10. *Medical emergency* means a condition which, in reasonable  
17 medical judgment, so complicates the medical condition of the pregnant  
18 woman as to necessitate the immediate termination of her pregnancy to avert  
19 her death or for which a delay will create a serious risk of substantial and  
20 irreversible physical impairment of a major bodily function. No condition  
21 shall be deemed a medical emergency if based on a claim or diagnosis that  
22 the woman will engage in conduct which would result in her death or in  
23 substantial and irreversible physical impairment of a major bodily function;

24 11. *Physician* means any person licensed to practice medicine or  
25 surgery or osteopathic medicine under the Physicians Practice Act (10 GCA  
26 § 12201, *et seq.*) or in another jurisdiction of the United States;

1           12. *Pregnant* or *pregnancy* means that female reproductive  
2 condition of having an unborn child in the mother's uterus;

3           13. *Qualified person* means an agent of a physician who is a  
4 psychologist, licensed social worker, licensed professional counselor,  
5 registered nurse, or physician;

6           14. *Records Section* means the Guam Memorial Hospital Medical  
7 Records Section;

8           15. *Unborn child* or *fetus* each means an individual organism of the  
9 species *homo sapiens* from conception until live birth;

10          16. *Viability* means the state of fetal development when, in the  
11 reasonable judgment of a physician based on the particular facts of the case  
12 before him or her and in light of the most advanced medical technology and  
13 information available to him or her, there is a reasonable likelihood of  
14 sustained survival of the unborn child outside the body of his or her mother,  
15 with or without artificial support; and

16          17. *Woman* means a female human being whether or not she has  
17 reached the age of majority.

18          **(b) Informed consent requirement.** No abortion shall be performed or  
19 induced without the voluntary and informed consent of the woman upon whom the  
20 abortion is to be performed or induced. Except in the case of a medical  
21 emergency, consent to an abortion is voluntary and informed if and only if:

22           1. At least twenty-four (24) hours before the abortion, the  
23 physician who is to perform the abortion or a qualified person has informed  
24 the woman in person of the following:

25           (i) The name of the physician who will perform the  
26 abortion;

1 (ii) The following medically accurate information that a  
2 reasonable person would consider material to the decision of whether  
3 or not to undergo the abortion: (a) a description of the proposed  
4 abortion method and (b) the immediate and long-term medical risks  
5 associated with the proposed abortion method, including but not  
6 limited to any risks of infection, hemorrhage, cervical or uterine  
7 perforation, and any potential effect upon future capability to conceive  
8 as well as to sustain a pregnancy to full term;

9 (iii) The probable gestational age of the unborn child at the  
10 time the abortion is to be performed;

11 (iv) The probable anatomical and physiological  
12 characteristics of the unborn child at the time the abortion is to be  
13 performed;

14 (v) The medical risks associated with carrying the child to  
15 term;

16 (vi) Any need for anti-Rh immune globulin therapy if she is  
17 Rh negative, the likely consequences of refusing such therapy, and the  
18 cost of the therapy;

19 2. At least twenty-four (24) hours before the abortion, the  
20 physician who is to perform the abortion or a qualified person has informed  
21 the woman in person, that:

22 (i) Medical assistance benefits may be available for prenatal  
23 care, childbirth, and neonatal care and that more detailed information  
24 on the availability of such assistance is contained in the printed  
25 materials given to her and described in Subsection (c) of this Section  
26 3218.1;

1 (ii) Public assistance may be available to provide medical  
2 insurance and other support for her child while he or she is a  
3 dependent and that more detailed information on the availability of  
4 such assistance is contained in the printed materials given to her and  
5 described in Subsection (c) of this Section 3218.1;

6 (iii) Public services exist which will help to facilitate the  
7 adoption of her child and that more detailed information on the  
8 availability of such services is contained in the printed materials given  
9 to her and described in Subsection (c) of this Section 3218.1;

10  
11 (iv) The printed materials in Subsection (c) of this Section  
12 3218.1 describe the unborn child;

13 (v) The father of the unborn child is liable to assist in the  
14 support of this child, even in instances where he has offered to pay for  
15 the abortion. In the case of rape or incest, this information may be  
16 omitted; and

17 (vi) She is free to withhold or withdraw her consent to the  
18 abortion at any time without affecting her right to future care or  
19 treatment and without the loss of any locally or federally funded  
20 benefits to which she might otherwise be entitled.

21 3. At least twenty-four (24) hours before the abortion, the  
22 physician who is to perform the abortion or a qualified person has given the  
23 woman a copy of the printed materials described in Subsection (c) of this  
24 Section 3218.1. If the woman is unable to read the materials, they shall be  
25 read to her. If the woman asks questions concerning any of the information  
26 or materials, answers shall be provided to her in a language she can  
27 understand.



1           4.     The information in Subsections (b)(1), (b)(2) and (b)(3) of this  
2     Section 3218.1 is provided to the woman individually and in a private room  
3     to protect her privacy and maintain the confidentiality of her decision and to  
4     ensure that the information focuses on her individual circumstances and that  
5     she has an adequate opportunity to ask questions.

6           5.     Prior to the abortion, the woman certifies in writing on a  
7     checklist certification provided by the Department that the information  
8     required to be provided under Subsections (b)(1), (b)(2) and (b)(3) of this  
9     Section 3218.1 has been provided. All physicians who perform abortions  
10    shall report the total number of certifications received monthly to the  
11    Records Section. The Records Section shall make the number of  
12    certifications received available to the public on an annual basis.

13          6.     Except in the case of a medical emergency, the physician who  
14    is to perform the abortion shall receive and sign a copy of the written  
15    checklist certification prescribed in Subsection (b)(5) of this Section 3218.1  
16    prior to performing the abortion. The physician shall retain a copy of the  
17    checklist certification in the woman's medical record.

18          7.     In the event of a medical emergency requiring an immediate  
19    termination of the pregnancy, the physician who performed the abortion  
20    shall clearly certify in writing the nature of the medical emergency and the  
21    circumstances which necessitated the waiving of the informed consent  
22    requirements of this Section 3218.1. This certification shall be signed by the  
23    physician who performed the emergency termination of pregnancy, and shall  
24    be permanently filed in both the patient records maintained by the physician  
25    performing the emergency procedure and the records maintained by the  
26    facility where the emergency procedure occurred.

1           8.     A physician shall not require or obtain payment from anyone  
2     for providing the information and certification required by this Section  
3     3218.1 until the expiration of the twenty-four (24) hour reflection period  
4     required by this Section 3218.1.

5           (c)    **Publication of Materials.**   The Department shall cause to be  
6     published printed materials in English and any other culturally sensitive languages  
7     which the Department deems appropriate within 180 days after this Act becomes  
8     law. The printed materials shall be printed in a typeface large enough to be clearly  
9     legible and shall be presented in an objective, unbiased manner designed to convey  
10    only accurate scientific information. On an annual basis, the Department shall  
11    review and update, if necessary, the following easily comprehensible printed  
12    materials:

13           1.     Printed materials that inform the woman of any entities  
14    available to assist a woman through pregnancy, upon childbirth and while  
15    her child is dependent, including but not limited to adoption services.

16           The printed materials shall include a list of the entities, a description  
17    of the services they offer, and the telephone numbers of the entities, and  
18    shall inform the woman about available medical assistance benefits for  
19    prenatal care, childbirth, and neonatal care. The Department shall ensure  
20    that the materials described in this Section 3218.1 are comprehensive and do  
21    not directly or indirectly promote, exclude, or discourage the use of any  
22    entity described in this Section 3218.1.

23           These printed materials shall state that it is unlawful for any  
24    individual to coerce a woman to undergo an abortion. The printed materials  
25    shall also state that any physician who performs an abortion upon a woman  
26    without her informed consent may be liable to her for damages in a civil

1 action and that the law permits adoptive parents to pay costs of prenatal care,  
2 childbirth, and neonatal care. The printed materials shall include the  
3 following statement:

4 “The Territory of Guam strongly urges you to contact the resources  
5 provided in this booklet before making a final decision about abortion. The  
6 law requires that your physician or his or her agent give you the opportunity  
7 to call agencies and service providers like these before you undergo an  
8 abortion.”

9 2. Printed materials that include information on the support  
10 obligations of the father of a child who is born alive, including but not  
11 limited to the father’s legal duty to support his child, which may include  
12 child support payments and health insurance, and the fact that paternity may  
13 be established by written declaration of paternity or by court action. The  
14 printed material shall also state that more information concerning paternity  
15 establishment and child support services and enforcement may be obtained  
16 by calling the Office of the Attorney General of Guam, Child Support  
17 Enforcement Division.

18 3. Printed materials that inform the pregnant woman of the  
19 probable anatomical and physiological characteristics of an unborn child at  
20 two (2)-week gestational increments from fertilization to full term, including  
21 color photographs of the developing unborn child at two (2)-week  
22 gestational increments. The descriptions shall include information about  
23 brain and heart functions, the presence of external members and internal  
24 organs during the applicable stages of development, and any relevant  
25 information on the possibility of the child’s survival at several and  
26 equidistant increments throughout a full term pregnancy. If a photograph is  
27 not available, a picture must contain the dimensions of the unborn child and

1 must be anatomically accurate and realistic. The materials shall be  
2 objective, nonjudgmental, and designed to convey only accurate scientific  
3 information about the unborn child at the various gestational ages.

4 4. Printed materials which contain objective information  
5 describing the various surgical and drug-induced methods of abortion, as  
6 well as the immediate and long-term medical risks commonly associated  
7 with each abortion method including but not limited to the risks of infection,  
8 hemorrhage, cervical or uterine perforation or rupture, any potential effect  
9 upon future capability to conceive as well as to sustain a pregnancy to full  
10 term, the possible adverse psychological effects associated with an abortion,  
11 and the medical risks associated with carrying a child to term.

12 5. A checklist certification to be used by the physician or a  
13 qualified person under Subsection (b)(5) of this Section 3218.1, which will  
14 list all the items of information which are to be given to the woman by the  
15 physician or a qualified person under this Section 3218.1.

16 **(d) Cost of Materials.** The Department shall make available the  
17 materials enumerated in Subsection (c) of this Section 3218.1 for purchase by the  
18 physician or qualified person who is required to provide these materials to women  
19 pursuant to Subsection (b)(3) of this Section 3218.1 at such cost as reasonably  
20 determined by the Department. No claim of inability to pay the cost charged by  
21 the Department for these materials will excuse any party from complying with the  
22 requirements set forth in this Section 3218.1.

23 **(e) Emergencies.** When a medical emergency compels the performance  
24 of an abortion or termination of pregnancy, the physician shall inform the woman,  
25 before the abortion if possible, of the medical indications supporting the  
26 physician's judgment that an immediate abortion or termination of pregnancy is

1 necessary to avert her death or that a twenty-four (24) hour delay would cause  
2 substantial and irreversible impairment of a major bodily function.

3       **(f) Criminal Penalties.** Any person who intentionally, knowingly, or  
4 recklessly violates this Act is guilty of a misdemeanor.

5       **(g) Civil and Administrative Claims.** In addition to whatever remedies  
6 are available under the common law or statutory laws of Guam, failure to comply  
7 with the requirements of this Act shall:

8           1. Provide a basis for a civil malpractice action, and provide  
9 standing to any woman upon whom an abortion was performed or attempted  
10 allegedly in violation of this Act to bring such an action. Any intentional  
11 violation of this Act shall be admissible in a civil suit as *prima facie*  
12 evidence of a failure to obtain informed consent. When requested, the court  
13 shall allow a woman upon whom an abortion was performed or attempted to  
14 be performed allegedly in violation of this Act to be identified in any action  
15 brought pursuant to this Act using solely her initials or the pseudonym “Jane  
16 Doe.” Further, with or without a request, the court may close any  
17 proceedings in the case from public attendance, and the court may enter  
18 other protective orders in its discretion to preserve the privacy of the woman  
19 upon whom the abortion was performed or attempted to be performed  
20 allegedly in violation of this Act.

21           2. Provide a basis for professional disciplinary action under 10  
22 GCA § 11110.

23           3. Provide a basis for recovery for the woman for the wrongful  
24 death of her unborn child under 7 GCA § 12109, whether or not the unborn  
25 child was born alive or was viable at the time the abortion was performed.

1           **Section 3. Severability.** Any provision of this Act held to be invalid *or*  
2 unenforceable by its terms or as applied to any person or circumstance, *shall* be  
3 construed so as to give it the maximum effect permitted by law unless such holding  
4 shall be one of utter invalidity or unenforceability, in which event, such provision  
5 *shall* be deemed severable here from and *shall* not affect the remainder hereof *or*  
6 the application of such provision to other persons *not* similarly situated *or* to other  
7 dissimilar circumstances.

8           **Section 4. Effective Date.** This Act *shall* take effect 60 days after the  
9 “printed materials” described in proposed Section 3218.1(c) and the “checklist  
10 certification” described in proposed Section 3218.1(c)(5) have been approved by  
11 the Department and, pursuant to its rule making process set forth in Title 5,  
12 Chapter 9, Article 3 of the Guam Code Annotated.

***I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
**2011 (FIRST) Regular Session**

**Bill No. 52-31 (COR), as Substituted**

Committee on Health & Human Services,  
Economic Development, Senior Citizens, and  
Election Reform; and **further Substituted** by  
Committee on Rules and referred back to  
Committee by the Committee of the Whole; and **further**  
**Substituted** by Committee on Health & Human Services,  
Economic Development, Senior Citizens, and  
Election Reform

Introduced by:

Committee on Rules, Federal,  
Foreign, & Micronesian Affairs  
and Human & Natural Resources  
By request of *I Maga'lahen*  
*Guahan* in accordance with the  
Organic Act of Guam

**AN ACT TO ADD A NEW SECTION 3218.1 TO  
CHAPTER 3 ARTICLE 2 TITLE 10 OF THE GUAM  
CODE ANNOTATED, RELATIVE TO ESTABLISHING  
INFORMED CONSENT FOR A WOMAN  
CONSIDERING AN ABORTION; AND TO CITE THE  
ACT AS “THE WOMAN’S REPRODUCTIVE HEALTH  
INFORMATION ACT OF 2012 ~~2014~~”.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that it is essential to the psychological and physical well-being of a  
4 woman considering an abortion that she receives complete and accurate  
5 information ~~on her material~~ to her decision of whether to undergo an  
6 abortion including information concerning abortion alternatives. ~~It is the~~  
7 ~~intent of I Liheslaturan Guåhan further finds to ensure that every woman~~

1 ~~considering an abortion receive complete information on her alternatives and~~  
2 that every woman submitting to an abortion do so only after giving her  
3 voluntary and informed consent in writing to the abortion procedure.

4 **Section 2.** A new Section 3218.1 is hereby added to Chapter 3 Article  
5 2 Title 10 of the Guam Code Annotated to read as follows:

6 **“Section 3218.1. The Woman’s Reproductive Health Information**  
7 **Act of 2010.**

8 (a) For purposes of this Act Section 3218.1, the following words and  
9 phrases are defined to mean:

10 1. **“Abortion”** means the ~~act of using or prescribing~~ use or  
11 prescription of any instrument, medicine, drug, or any other  
12 substance, device, or means with the intent to terminate the  
13 clinically diagnosable pregnancy of a woman known to be  
14 pregnant with an intention other than to increase the probability  
15 of a live birth, to preserve the life or health of the child after  
16 live birth, to act upon an ectopic pregnancy, or to remove a  
17 dead unborn child who died as the result of natural causes *in*  
18 *utero*, accidental trauma, or a criminal assault on a pregnant  
19 woman or her unborn child, and which causes the premature  
20 termination of the pregnancy ~~with knowledge that the~~  
21 ~~termination by those means will with reasonable likelihood~~  
22 ~~cause the death to the unborn child. Such use, prescription, or~~  
23 ~~means is not an abortion if done with the intent to:~~

24 (i) ~~save the life of the mother or the fetus or preserve the~~  
25 ~~health of an unborn child;~~

26 (ii) ~~remove a dead unborn child caused by spontaneous~~  
27 ~~abortion; or~~



- 1 (iii) ~~remove an ectopic pregnancy.~~
- 2 2. Act means the Women's Reproductive Health Information Act  
3 of 2011 codified at 10 GCA § 3218.1;
- 4 3. **“Complication”** means that condition which includes but is not  
5 limited to hemorrhage, infection, uterine perforation, cervical  
6 laceration, pelvic inflammatory disease, endometritis, and  
7 retained products. The Department may further define  
8 “complication” as necessary and in a manner not inconsistent  
9 with this Section 3218.1.
- 10 4. **“Conception”** means the fusion of a human spermatozoon with  
11 a human ovum.
- 12 5. **“Department”** means the Department of Public Health and  
13 Social Services ~~Records Section.~~
- 14 6. **“Facility”** or **“medical facility”** means any public or private  
15 hospital, clinic, center, medical school, medical training  
16 institution, health care facility, physician’s office, infirmary,  
17 dispensary, ambulatory surgical treatment center, or other  
18 institution or location wherein medical care is provided to any  
19 person.
- 20 7. **“First trimester”** means the first twelve (12) weeks of  
21 gestation.
- 22 8. **“Gestational age”** means the time that has elapsed since the  
23 first day of the woman’s last ~~menstrual period~~ menstruation.

1           9.     ~~“Hospital” means an institution licensed pursuant to the~~  
2           ~~provisions of the law of Guam any building, structure,~~  
3           ~~institution or place, public or private, whether organized for~~  
4           ~~profit or not, devoted primarily to the maintenance and~~  
5           ~~operation of facilities for the diagnosis, treatment and provision~~  
6           ~~of medical or surgical care for three (3) or more non-related~~  
7           ~~individuals, admitted for overnight stay or longer in order to~~  
8           ~~obtain medical, including obstetric, psychiatric and nursing care~~  
9           ~~of illness, disease, injury or deformity, whether physical or~~  
10          ~~mental and regularly making available at least clinical~~  
11          ~~laboratory services and diagnostic x-ray services and treatment~~  
12          ~~facilities for surgery or obstetrical care or other definitive~~  
13          ~~medical treatment.~~

14          10.    ~~“Medical emergency” means that condition which, on the~~  
15          ~~basis of the physician’s good faith clinical judgment in~~  
16          ~~reasonable medical judgment, so complicates the medical~~  
17          ~~condition of a pregnant woman as to necessitate the immediate~~  
18          ~~termination of her pregnancy to avert her death or for which a~~  
19          ~~delay will create serious risk of substantial and irreversible~~  
20          ~~impairment of a major bodily function. No condition shall be~~  
21          ~~deemed a medical emergency if based on a claim or diagnosis~~  
22          ~~that the woman will engage in conduct which would result in~~  
23          ~~her death or in substantial and irreversible physical impairment~~  
24          ~~of a major bodily function;~~

25          11.    ~~“Physician” means any person licensed to practice healing arts,~~  
26          ~~pursuant to the laws of Guam. The term includes medical~~

1 ~~doctors and doctors of osteopathy~~ medicine or surgery or  
2 osteopathic medicine under the Physicians Practice Act (10  
3 GCA § 12201, et seq.) or in another jurisdiction of the United  
4 States

5 12. **“Pregnant”** or **“pregnancy”** means that female reproductive  
6 condition of having an unborn child in the mother’s uterus.

7 13. **“Qualified person”** means an agent of the physician who is a  
8 psychologist, licensed social worker, licensed professional  
9 counselor, registered nurse, or physician.

10 14. **“Records Section”** means the Guam Memorial Hospital  
11 Medical Records Section;

12 15. **“Unborn child”** of **“fetus”** means an individual organism of  
13 the species *homo sapiens* from conception until live birth.

14 ~~**“Unborn child”** or **“fetus”** each means the offspring of human~~  
15 ~~beings from conception until birth.~~

16 16. **“Viability”** means the state of fetal development when, in the  
17 reasonable judgment of the a physician based on the particular  
18 facts of the case before him or her and in light of the most  
19 advanced medical technology and information available to him  
20 or her, there is a reasonable likelihood of sustained survival of  
21 the unborn child outside the body of his or her mother, with or  
22 without artificial support.

1           17. **Woman** means a female human being whether or not she has  
2           reached the age of majority.

3           (b) **Informed consent requirement.** No abortion shall be  
4 performed or induced without the voluntary and informed consent of the  
5 woman upon whom the abortion is to be performed or induced. Except in  
6 the case of a medical emergency, consent to an abortion is voluntary and  
7 informed if and only if:

8           1. At least twenty-four (24) hours before the abortion, the  
9 physician who is to perform the abortion or ~~the referring~~  
10 ~~physician~~ a qualified person has informed the woman, ~~orally~~  
11 ~~and in person,~~ of the following:

12           (i) The name of the physician who will perform the  
13 abortion;

14           (ii) The following Medically accurate information that a  
15 reasonable patient would consider material to the  
16 decision of whether or not to undergo the abortion,  
17 including (a) a description of the proposed abortion  
18 method and; (b) the immediate and long-term medical  
19 risks associated with the proposed abortion method  
20 including, but not limited to, the risks of infection,  
21 hemorrhage, cervical or uterine perforation, ~~danger to~~  
22 subsequent pregnancies, and increased risk of breast  
23 cancer; and (c) alternatives to the abortion and any  
24 potential effect upon future capability to conceive as well  
25 as to sustain a pregnancy to full term;

1 ~~Medically accurate information that a reasonable patient~~  
2 ~~would consider material to the decision of whether or not~~  
3 ~~to undergo the abortion, including (a) a description of the~~  
4 ~~proposed abortion method; (b) the immediate and long-~~  
5 ~~term medical risks associated with the proposed abortion~~  
6 ~~method including, but not limited to, the risks of~~  
7 ~~infection, hemorrhage, cervical or uterine perforation,~~  
8 ~~danger to subsequent pregnancies, and increased risk of~~  
9 ~~breast cancer; and (c) alternatives to the abortion;~~

10  
11 (iii) The probable gestational age of the unborn child at the  
12 time the abortion is to be performed;

13 ~~The probable gestational age of the unborn child at the~~  
14 ~~time the abortion is to be performed;~~

15 (iv) The probable anatomical and physiological  
16 characteristics of the unborn child at the time the abortion  
17 is to be performed;

18 ~~The probable anatomical and physiological~~  
19 ~~characteristics of the unborn child at the time the abortion~~  
20 ~~is to be performed;~~

21 (v) The medical risks associated with carrying the child to  
22 term; and

1                   ~~The medical risks associated with carrying the child to~~  
2                   ~~term; and~~

3                   (vi)     Any need for anti-Rh immune globulin therapy if she is  
4                   Rh negative, the likely consequences of refusing such  
5                   therapy, and the cost of the therapy.

6                   2.     At least twenty-four (24) hours ~~and up to thirty (30) days~~ before  
7                   the abortion, the physician who is to perform the abortion, the  
8                   referring physician, or a qualified person has informed the  
9                   woman in person, that:

10                  (i)     Medical assistance benefits may be available for  
11                  prenatal care, childbirth, and neonatal care and that more  
12                  detailed information on the availability of such assistance  
13                  is contained in the printed materials and informational  
14                  video given to her and described in Subsection (c) of this  
15                  Section 3218.1;

16                  ~~Medical assistance benefits may be available for prenatal~~  
17                  ~~care, childbirth, and neonatal care and that more detailed~~  
18                  ~~information on the availability of such assistance is~~  
19                  ~~contained in the printed materials and informational~~  
20                  ~~video given to her and described in Subsection (c) of this~~  
21                  ~~Section 3218.1;~~

22                  (ii)     The printed materials and informational video in  
23                  Subsection (c) describe the unborn child and list agencies  
24                  that offer alternatives to abortion; Public assistance may

1                    be available to provide medical insurance and other  
2                    support for her child while he or she is a dependent and  
3                    that more detailed information on the availability of such  
4                    assistance is contained in the printed materials given to  
5                    her and described in Subsection (c) of this Section  
6                    3218.1;

7                    ~~The printed materials and informational video in~~  
8                    ~~Subsection (c) describe the unborn child and list agencies~~  
9                    ~~that offer alternatives to abortion;~~

10                  (iii)    ~~The father of the unborn child is liable to assist in the~~  
11                  ~~support of this child, even in instances where he has~~  
12                  ~~offered to pay for the abortion. In the case of rape or~~  
13                  ~~incest, this information may be omitted; and Public~~  
14                  ~~services exist which will help to facilitate the adoption of~~  
15                  ~~her child and that more detailed information on the~~  
16                  ~~availability of such services is contained in the printed~~  
17                  ~~materials given to her and described in Subsection (c) of~~  
18                  ~~this Section 3218.1~~

19                  ~~The father of the unborn child is liable to assist in the~~  
20                  ~~support of this child, even in instances where he has~~  
21                  ~~offered to pay for the abortion. In the case of rape or~~  
22                  ~~incest, this information may be omitted; and~~

23                  (iv)    ~~She is free to withhold or withdraw her consent to the~~  
24                  ~~abortion at any time without affecting her right to future~~  
25                  ~~care or treatment and without the loss of any state or~~

1                    ~~federally funded benefits to which she might otherwise~~  
2                    ~~be entitled.~~ The printed materials in Subsection (c) of this  
3                    Section 3218.1 describe the unborn child;

4                    (v)     The father of the unborn child is liable to assist in the  
5                    support of this child, even in instances where he has  
6                    offered to pay for the abortion. In the case of rape or  
7                    incest, this information may be omitted; and

8                    (vi)     She is free to withhold or withdraw her consent to the  
9                    abortion at any time without affecting her right to future  
10                   care or treatment and without the loss of any locally or  
11                   federally funded benefits to which she might otherwise  
12                   be entitled.

13  
14                   3.     At least twenty-four (24) hours before the abortion, the  
15                   physician who is to perform the abortion or a qualified person  
16                   has given the woman a copy of the printed materials described  
17                   in Subsection (c) of this Section 3218.1. If the woman is  
18                   unable to read the materials, they shall be read to her. If the  
19                   woman asks questions concerning any of the information or  
20                   materials, answers shall be provided to her in a language she  
21                   can understand.

22                   ~~3. The information in Subsection (b)(1 and (2) is provided to the~~  
23                   ~~women individually and in a private room to protect her privacy~~  
24                   ~~and maintain the confidentiality of her decision to ensure that~~



1           ~~the information focuses on her individual circumstances and~~  
2           ~~that she has an adequate opportunity to ask questions.~~

3           ~~4. At least twenty four (24) hours before the abortion, the~~  
4           ~~physician who is to perform the abortion or a qualified person~~  
5           ~~has given the woman a copy of the printed materials described~~  
6           ~~in Subsection (c) of this Section 3218.1. If the woman is~~  
7           ~~unable to read the materials, they shall be read to her. If the~~  
8           ~~woman asks questions concerning any of the information or~~  
9           ~~materials, answers shall be provided to her in a language she~~  
10           ~~can understand.~~

11           4.    The information in Subsection (b)(1) and (b)(2) and (b)(3) is  
12           provided to the woman individually and in a private room to  
13           protect her privacy and maintain the confidentiality of her  
14           decision to ensure that the information focuses on her  
15           individual circumstances and that she has an adequate  
16           opportunity to ask questions.

17           ~~4. At least twenty four (24) hours and up to thirty (30) days before~~  
18           ~~the before the abortion, the woman is given a copy of the~~  
19           ~~printed materials and a viewing of, or a copy of, the~~  
20           ~~informational video described in Subsection (c). If the woman~~  
21           ~~is unable to read the materials, they shall be read to her. If the~~  
22           ~~woman asks questions concerning any of the information or~~  
23           ~~materials, answers shall be provided to her in a language she~~  
24           ~~can understand.~~

1           5.     Prior to the abortion, the woman certifies in writing on a  
2                     checklist form provided or approved by the Department that the  
3                     information required to be provided under Subsections (b)(1),  
4                     (b)(2) and (b)(3) of this Section 3218.1 has been provided. All  
5                     physicians who perform abortions shall report the total number  
6                     of certifications received monthly to the Records Section. The  
7                     Records Section shall make the number of certifications  
8                     received available to the public on an annual basis.

9                     ~~Prior to the abortion, the woman certifies in writing on a~~  
10                    ~~checklist form provided or approved by the Department that the~~  
11                    ~~information required to be provided under Subsection (b) (1),~~  
12                    ~~(2), and (4) has been provided. All physicians who perform~~  
13                    ~~abortions shall report the total number of certifications received~~  
14                    ~~monthly to the Department. The department shall make the~~  
15                    ~~number of certifications received available to the public on an~~  
16                    ~~annual basis.~~

17           6.     Except in the case of a medical emergency, the physician who  
18                     is to perform the abortion shall receive and sign a copy of the  
19                     written certification prescribed in Subsection (5) of this Section  
20                     prior to performing the abortion. The physician shall retain a  
21                     copy of the checklist certification form in the woman's medical  
22                     record.

23                    ~~Except in the case of a medical emergency, the physician who~~  
24                    ~~is to perform the abortion shall receive and sign a copy of the~~  
25                    ~~written certification prescribed in Subsection (5) of this Section~~  
26                    ~~prior to performing the abortion. The physician shall retain a~~

1           ~~copy of the checklist certification form in the woman's medical~~  
2           ~~record.~~

- 3           7.    In the event of a medical emergency requiring an immediate  
4           termination of pregnancy, the physician who performed the  
5           abortion shall clearly certify in writing the nature of the medical  
6           emergency and the circumstances which necessitated the  
7           waiving of the informed consent requirements of this section  
8           3218.1. This certification shall be signed by the physician who  
9           performed the emergency abortion, and shall be permanently  
10          filed in both the records of the physician performing the  
11          abortion and the records of the facility where the abortion takes  
12          place—the patient records maintained by the physician  
13          performing the emergency procedure and the records  
14          maintained by the facility where the emergency procedure  
15          occurred.

16          ~~In the event of a medical emergency requiring an immediate~~  
17          ~~termination of pregnancy, the physician who performed the~~  
18          ~~abortion shall clearly certify in writing the nature of the medical~~  
19          ~~emergency and the circumstances which necessitated the~~  
20          ~~waiving of the informed consent requirements of this section.~~  
21          ~~This certification shall be signed by the physician who~~  
22          ~~performed the emergency abortion, and shall be permanently~~  
23          ~~filed in both the records of the physician performing the~~  
24          ~~abortion and the records of the facility where the abortion takes~~  
25          ~~place.~~

1           8.     A physician shall not require or obtain payment from anyone  
2                     for providing the information and certification required by this  
3                     Section 3218.1 until the expiration of the twenty-four (24) hour  
4                     reflection period required by this Section 3218.1.

5           (c)    **Publication of Materials.** The Department of Public Health  
6                     and Social Services shall cause to be published printed materials in English,  
7                     ~~Chamorro~~ and any other ~~and an informational video~~ in culturally sensitive  
8                     languages within 180 days after this Act becomes law. The printed materials  
9                     shall be printed in a typeface large enough to be clearly legible and shall be  
10                    presented in an objective, unbiased manner designed to convey only accurate  
11                    scientific information. On an annual basis, the Department shall review and  
12                    update, if necessary, the following easily comprehensible printed materials  
13                    ~~and informational video:~~

14           1.     Printed materials that inform the woman of public and private  
15                    agencies and service providers available to assist a woman  
16                    through pregnancy, upon childbirth and while her child is  
17                    dependent, including but not limited to adoption services.

18                    The printed materials shall include a comprehensive list of the  
19                    agencies and service providers, a description of the services  
20                    they offer, and the telephone numbers and addresses of the  
21                    agencies and service providers, and shall inform the woman  
22                    about available medical assistance benefits for prenatal care,  
23                    childbirth, and neonatal care. The Department shall ensure that  
24                    the materials described in this Section 3218.1 are  
25                    comprehensive and do not directly or indirectly promote,

1 exclude, or discourage the use of any agency or service  
2 provider described in this Section 3218.1.

3 These printed materials shall state that it is unlawful for any  
4 individual to coerce a woman to undergo an abortion and that if  
5 a minor is denied financial support by the minor's parents,  
6 guardian, or custodian due to the minor's refusal to have an  
7 abortion performed, the minor shall be deemed emancipated for  
8 the limited purpose of eligibility for public assistance benefits,  
9 except that such benefits may not be used to obtain an abortion.

10 The printed materials shall also state that any physician who  
11 performs an abortion upon a woman without her informed  
12 consent may be liable to her for damages in a civil action and  
13 that the law permits adoptive parents to pay costs of prenatal  
14 care, childbirth, and neonatal care. The printed materials shall  
15 include the following statement:

16 “There are public and private agencies and service providers  
17 willing and able to help you to carry your child to term, and to  
18 assist you and your child after your child is born, whether you  
19 choose to keep your child or to place her or him for adoption.  
20 You are strongly urged- The Territory of Guam strongly urges  
21 you to contact one or more of these agencies and service  
22 providers before making a final decision about abortion. The  
23 law requires that your physician or his or her agent give you the  
24 opportunity to call agencies and service providers like these  
25 before you undergo an abortion.”

1           2. Printed materials that include information on the support  
2           obligations of the father of a child who is born alive, including  
3           but not limited to the father’s legal duty to support his child,  
4           which may include child support payments and health  
5           insurance, and the fact that paternity may be established by the  
6           father’s signature on a birth certificate or statement of paternity,  
7           or by court action. The printed material shall also state that  
8           more information concerning paternity establishment and child  
9           support services and enforcement may be obtained by calling  
10           the Office of the Attorney General of Guam, Child Support  
11           Enforcement Division ~~or the Department of Public Health and~~  
12           Social Services, Division of Public Welfare.

13           3. Printed materials that inform the pregnant woman of the  
14           probable anatomical and physiological characteristics of an  
15           unborn child at two (2)-week gestational increments from  
16           fertilization to full term, including color photographs of the  
17           developing unborn child at two (2)-week gestational  
18           increments. The descriptions shall include information about  
19           brain and heart functions, the presence of external members and  
20           internal organs during the applicable stages of development,  
21           and any relevant information on the possibility of the child’s  
22           survival at several and equidistant increments throughout a full  
23           term pregnancy. If a photograph is not available, a picture must  
24           contain the dimensions of the unborn child and must be  
25           anatomically accurate and realistic. The materials shall be  
26           objective, nonjudgmental, and designed to convey only accurate

1           scientific information about the unborn child at the various  
2           gestational ages.

3           4. Printed materials which contain objective information  
4           describing the various surgical and drug-induced methods of  
5           abortion, as well as the immediate and long-term medical risks  
6           commonly associated with each abortion method including but  
7           not limited to the risks of infection, hemorrhage, cervical or  
8           uterine perforation or rupture, any potential effect upon future  
9           capability to conceive as well as to sustain a pregnancy to full  
10           term, the possible adverse psychological effects associated with  
11           an abortion, and the medical risks associated with carrying a  
12           child to term.

13           5. A checklist certification form to be used by the physician or a  
14           qualified person under Subsection (b)(5) of this Section 3218.1,  
15           which will list all the items of information which are to be  
16           given to the woman by the physician or a qualified person  
17           under this Section 3218.1.

18           ~~1. Geographically indexed materials that inform the woman of~~  
19           ~~public and private agencies and services available to assist a~~  
20           ~~woman through pregnancy, upon childbirth and while her child~~  
21           ~~is dependent, including but not limited to adoption agencies.~~

22           ~~2. The materials shall include a comprehensive list of the~~  
23           ~~agencies, a description of the services they offer, and the~~  
24           ~~telephone numbers and addresses of the agencies, and shall~~

1 ~~inform the woman about available medical assistance benefits~~  
2 ~~for prenatal care, childbirth, and neonatal care.~~

3 ~~The Department shall ensure that the materials described in this~~  
4 ~~section are comprehensive and do not directly or indirectly~~  
5 ~~promote, exclude, or discourage the use of any agency or~~  
6 ~~service described in this section. The materials shall also contain~~  
7 ~~a twenty-four-hour-a-day telephone number which may be~~  
8 ~~called to obtain information about the agencies in the locality of~~  
9 ~~the caller and of the services they offer.~~

10 ~~The materials shall state that it is unlawful for any individual to coerce~~  
11 ~~a woman to undergo an abortion and that if a minor is denied~~  
12 ~~financial support by the minor's parents, guardian, or custodian~~  
13 ~~due to the minor's refusal to have an abortion performed, the~~  
14 ~~minor shall be deemed emancipated for the purposes of~~  
15 ~~eligibility for public assistance benefits, except that such~~  
16 ~~benefits may not be used to obtain an abortion. The materials~~  
17 ~~shall also state that any physician who performs an abortion~~  
18 ~~upon a woman without her informed consent may be liable to~~  
19 ~~her for damages in a civil action at law and that the law permits~~  
20 ~~adoptive parents to pay costs of prenatal care, childbirth, and~~  
21 ~~neonatal care. The materials shall include the following~~  
22 ~~statement:~~

23 ~~“There are public and private agencies willing and able to help you to~~  
24 ~~carry your child to term, and to assist you and your child after~~  
25 ~~your child is born, whether you choose to keep your child or to~~  
26 ~~place her or him for adoption. Guam strongly urges you to~~  
27 ~~contact one or more of the agencies before making a final~~



1 ~~decision about abortion. The law required that your physician~~  
2 ~~or his agent give you the opportunity to call agencies like these~~  
3 ~~before you undergo an abortion.”~~

4 ~~3. Materials that include information on the support obligations of~~  
5 ~~the father of a child who is born alive, including but not limited~~  
6 ~~to the father’s legal duty to support his child, which may~~  
7 ~~include child support payments and health insurance, and the~~  
8 ~~fact that paternity may be established by the father’s signature~~  
9 ~~on a birth certificate or statement of paternity, or by court~~  
10 ~~action. The printed material shall also state that more~~  
11 ~~information concerning paternity establishment and child~~  
12 ~~support services and enforcement may be obtained by calling~~  
13 ~~the Department of Public Health and Social Services Public~~  
14 ~~Assistance Branch.~~

15 ~~4. Materials that inform the pregnant woman of the probable~~  
16 ~~anatomical and physiological characteristics of an unborn child~~  
17 ~~at two (2) week gestational increments from fertilization to full~~  
18 ~~term, including color photographs of the developing unborn~~  
19 ~~child at two (2) week gestational increments. The descriptions~~  
20 ~~shall include information about brain and heart functions, the~~  
21 ~~presence of external members and internal organs during the~~  
22 ~~applicable stages of development, and any relevant information~~  
23 ~~on the possibility of the child’s survival. If a photograph is not~~  
24 ~~available, a picture must contain the dimensions of the unborn~~  
25 ~~child and must be realistic. The materials shall be objective,~~  
26 ~~nonjudgmental, and designed to convey only accurate scientific~~

1 ~~information about the unborn child at the various gestational~~  
2 ~~ages.~~

3 ~~5. Materials which contain objective information describing the~~  
4 ~~various surgical and drug-induced methods of abortion, as well~~  
5 ~~as the immediate and long-term medical risks commonly~~  
6 ~~associated with each abortion method including, but not limited~~  
7 ~~to, the risks of infection, hemorrhage, cervical or uterine~~  
8 ~~perforation or rupture, danger to subsequent pregnancies, the~~  
9 ~~possible adverse psychological effects associated with an~~  
10 ~~abortion, and the medical risks associated with carrying a child~~  
11 ~~to term.~~

12 ~~6. A checklist certification form to be used by the physician or a~~  
13 ~~qualified person under Subsection (b) (5) of this Act, which will~~  
14 ~~list all the items of information which are to be given to the~~  
15 ~~woman by a physician or the agent under this Act.~~

16 ~~7. The materials shall be printed in a typeface large enough to be~~  
17 ~~clearly legible.~~

18 ~~8. The Department shall produce a standardized video that may be~~  
19 ~~used island wide, presenting the information described in~~  
20 ~~subsection (c) (1), (2), (3), and (4), in accordance with the~~  
21 ~~requirements of those Subsections. In preparing the video, the~~  
22 ~~Department may summarize and make reference to the printed~~  
23 ~~comprehensive list of geographically indexed names and~~  
24 ~~services described in Subsection (e) (1). The video shall in~~  
25 ~~addition to the information described in Subsection (e) (1), (2),~~  
26 ~~(3), and (4), show an ultrasound of the heartbeat of an unborn~~  
27 ~~child at four (4) to five (5) weeks gestational age to six (6) to~~

1 ~~eight (8) weeks gestational age, and each month thereafter, until~~  
2 ~~viability. That information shall be presented in an objective,~~  
3 ~~unbiased manner designed to convey only accurate scientific~~  
4 ~~information.~~

5 ~~9. The materials required under this section and the video~~  
6 ~~described in Subsection(c) (8) shall be available at no cost from~~  
7 ~~the Department upon request and in appropriate number to any~~  
8 ~~person, facility, or hospital.~~

9 (d) **Cost of Materials.** The Department shall provide the materials  
10 enumerated in Subsection (c) of this Section 3218.1 to the physician or  
11 qualified person who is required to provide these materials to women  
12 pursuant to Subsection (b)(3) of this Section 3218.1 upon the request of such  
13 physician or qualified person and at such cost as reasonably determined by  
14 the Department. No claim of inability to pay the cost charged by the  
15 Department for these materials will excuse any party from complying with  
16 the requirements set forth in this Section 3218.1.

17 (e ~~d~~) **Emergencies.** When a medical emergency compels the  
18 performance of an abortion, the physician shall inform the woman, before  
19 the abortion if possible, of the medical indications supporting the physician's  
20 judgment that an immediate abortion is necessary to avert her death or that  
21 a twenty-four (24) hour delay will cause substantial and irreversible  
22 impairment of a major bodily function.

23 (f) **Criminal Penalties.** Any person who intentionally, knowingly,  
24 or recklessly violates this Act is guilty of a misdemeanor.

1 (g) Civil and Administrative Claims. In addition to whatever  
2 remedies are available under the common or statutory laws of Guam, failure  
3 to comply with the requirements of this Act shall:

4 1. Provide a basis for a civil malpractice action, and provide  
5 standing to any woman upon whom an abortion was performed  
6 or attempted allegedly in violation of this Act to bring such an  
7 action. Any intentional violation of this Act shall be admissible  
8 in a civil suit as *prima facie* evidence of a failure to obtain  
9 informed consent. When requested, the court shall allow a  
10 woman to proceed using solely her initials or a pseudonym and  
11 may close any proceedings in the case and enter other  
12 protective orders to preserve the privacy of the woman upon  
13 who the abortion was performed upon whom an abortion was  
14 performed or attempted to be performed allegedly in violation  
15 of this Act to be identified in any action brought pursuant to  
16 this Act using solely her initials or the pseudonym “Jane Doe.”

17 2. Provide a basis for professional disciplinary action under 10  
18 GCA § 11110.

19 3. Provide a basis for recovery for the woman for the wrongful  
20 death of her unborn child under 7 GCA § 12109, whether or not  
21 the unborn child was born alive or was viable at the time the  
22 abortion was performed.”

23 **Section 3. Funding.** *I Maga’Lahan Guahan shall identify the funds*  
24 *necessary* within the Executive Branch Budget, as required and necessary  
25 to fully implement the purposes and intent set forth in this Act.

1           **Section 4. Severability.** *If* any provision of this Act held to be  
2 invalid *or* unenforceable by its terms, *or* as applied to any person or  
3 circumstance, *shall* be construed so as give it the maximum effect permitted  
4 by law unless such holding shall be one of utter invalidity *or*  
5 unenforceability, in which even such provision *shall* be deemed severable  
6 here from and *shall* not affect the remainder hereof *or* the application of  
7 such provision to other persons *not* similarly situated *or* to other, dissimilar  
8 circumstances.

9           **Section 5. Effective Date.** ~~This Act shall take effect 180 days after~~  
10 ~~enactment~~ 60 days after the “printed materials” described in proposed  
11 Section 3218.1(c) and the “checklist certification” described in proposed  
12 Section 3218.1(c)(5) have been approved by the Department and, to the  
13 ~~extent that either constitutes a rule or regulation, they have undergone the~~  
14 pursuant to its rule making process set forth in Title 5, Chapter 9, Article 3  
15 of the Guam Code Annotated and become effective.

16

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2011 (FIRST) Regular Session

2011 JUN 25 PM 3:12



Bill No. 52 <sup>31</sup> (COR)

Introduced by:

Committee on Rules, Federal,  
Foreign & Micronesia Affairs and  
Human & Natural Resources

By request of *I Maga'laha*  
*Guåhan* in accordance with the  
Organic Act of Guam

**AN ACT TO ADD A NEW SECTION 3218.1 TO CHAPTER 3,  
ARTICLE 2, TITLE 10 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO WOMEN'S INFORMED CONSENT FOR  
ABORTION; AND TO CITE THE ACT AS "THE WOMAN'S  
REPRODUCTIVE HEALTH INFORMATION ACT OF 2011."**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that it is essential to the psychological and physical well-being of a woman  
4 considering an abortion that she receives complete and accurate information  
5 material to her decision of whether to undergo an abortion or abortion alternatives.  
6 *I Liheslaturan Guåhan* further finds that every woman submitting to an abortion  
7 should do so only after giving her voluntary and informed consent in writing to the  
8 abortion procedure.

9        **Section 2.** A new Section 3218.1 is hereby *added* to Chapter 3, Article 2,  
10 Title 10 of the Guam Code Annotated to read as follows:

11        **§3218.1. The Woman's Reproductive Health Information Act of**

1 **2011.**

2 (a) **Definitions.** For purposes of this Act, the following words and  
3 phrases are defined to mean:

4 (1) *Abortion* means the use or prescription of any instrument,  
5 medicine, drug, or other substance or device to terminate the pregnancy of a  
6 woman known to be pregnant with an intention other than to increase the  
7 probability of a live birth, to preserve the life or health of the child after live  
8 birth, to act upon an ectopic pregnancy, or to remove a dead unborn child  
9 who died as the result of natural causes *in utero*, accidental trauma, or a  
10 criminal assault on a pregnant woman or her unborn child, and which causes  
11 the premature termination of the pregnancy;

12 (2) *Complication* means that condition which includes but is not  
13 limited to hemorrhage, infection, uterine perforation, cervical laceration,  
14 pelvic inflammatory disease, endometriosis, and retained products. The  
15 Department may further define the term “complication” as necessary and in  
16 a manner not inconsistent with this Act;

17 (3) *Conception* means the fusion of a human spermatozoon with a  
18 human ovum;

19 (4) *Department* means the Department of Public Health and Social  
20 Services and, when applicable, may more specifically mean the Records

1 Section of the Department of Public Health and Social Services;

2 (5) *Facility or medical facility* means any public or private hospital,  
3 clinic, center, medical school, medical training institution, health care  
4 facility, physician's office, infirmary, dispensary, ambulatory surgical  
5 treatment center, or other institution or location wherein medical care is  
6 provided to any person;

7 (6) *First trimester* means the first twelve (12) weeks of gestation;

8 (7) *Gestational age* means the time that has elapsed since the first  
9 day of the woman's last occurring menstruation;

10 (8) *Hospital* means any building, structure, institution or place,  
11 public or private, whether organized for profit or not, devoted primarily to  
12 the maintenance and operation of facilities for the diagnosis, treatment and  
13 provision of medical or surgical care for three (3) or more non-related  
14 individuals, admitted for overnight stay or longer in order to obtain medical,  
15 including obstetric, psychiatric and nursing care of illness, disease, injury or  
16 deformity, whether physical or mental and regularly making available at  
17 least clinical laboratory services and diagnostic x-ray services and treatment  
18 facilities for surgery or obstetrical care or other definitive medical treatment;

19 (9) *Medical emergency* means a condition which, in reasonable  
20 medical judgment, so complicates the medical condition of the pregnant



1 woman as to necessitate the immediate termination of her pregnancy to avert  
2 her death or for which a delay will create a serious risk of substantial and  
3 irreversible physical impairment of a major bodily function. No condition  
4 shall be deemed a medical emergency if based on a claim or diagnosis that  
5 the woman will engage in conduct which would result in her death or in  
6 substantial and irreversible physical impairment of a major bodily function;

7 (10) *Physician* means any person licensed to practice medicine or  
8 surgery or osteopathic medicine under the Physicians Practice Act (10 GCA  
9 §12201 *et seq.*) or in another jurisdiction of the United States;

10 (11) *Pregnant* or *pregnancy* means that female reproductive  
11 condition of having an unborn child in the mother's uterus;

12 (12) *Qualified person* means an agent of a physician who is a  
13 psychologist, licensed social worker, licensed professional counselor,  
14 registered nurse, or physician;

15 (13) *Unborn child* or *fetus* each mean an individual organism of  
16 the species *homo sapiens* from conception until live birth;

17 (14) *Viability* means the state of fetal development when, in the  
18 reasonable judgment of a physician based on the particular facts of the case  
19 before him or her and in light of the most advanced medical technology and  
20 information available to him or her, there is a reasonable likelihood of

1           sustained survival of the unborn child outside the body of his or her mother,  
2           with or without artificial support; and

3                       (15) *Woman* means a female human being whether or not she has  
4           reached the age of majority.

5           **(b) Informed consent requirement.** No abortion shall be performed or  
6           induced without the voluntary and informed consent of the woman upon whom the  
7           abortion is to be performed or induced. Except in the case of a medical  
8           emergency, consent to an abortion is voluntary and informed if and only if:

9                       1. At least twenty-four (24) hours before the abortion, the physician  
10          who is to perform the abortion or the referring physician has informed the woman  
11          in person of the following:

12                       (i) The name of the physician who will perform the abortion;

13                       (ii) Medically accurate information that a reasonable person  
14          would consider material to the decision of whether or not to undergo the abortion,  
15          including (a) a description of the proposed abortion method; (b) the immediate and  
16          long-term medical risks associated with the proposed abortion method, including  
17          but not limited to any risks of infection, hemorrhage, cervical or uterine  
18          perforation, and any potential effect upon future capability to conceive as well as  
19          to sustain a pregnancy to full term; and (c) alternatives to abortion;

20                       (iii) The probable gestational age of the unborn child at the

1 time the abortion is to be performed;

2 (iv) The probable anatomical and physiological characteristics  
3 of the unborn child at the time the abortion is to be performed;

4 (v) The medical risks associated with carrying the child to  
5 term;

6 (vi) Any need for anti-Rh immune globulin therapy if she is Rh  
7 negative, the likely consequences of refusing such therapy, and the cost of the  
8 therapy;

9 2. At least twenty-four (24) hours before the abortion, the physician  
10 who is to perform the abortion, the referring physician, or a qualified person has  
11 informed the woman in person, that:

12 (i) Medical assistance benefits may be available for prenatal  
13 care, childbirth, and neonatal care and that more detailed information on the  
14 availability of such assistance is contained in the printed materials and  
15 informational video given to her and described in Subsection (c);

16 (ii) The printed materials and informational video in Subsection  
17 (c) describe the unborn child and list agencies that offer alternatives to abortion;

18 (iii) The father of the unborn child is liable to assist in the  
19 support of this child, even in instances where he has offered to pay for the abortion.

20 In the case of rape or incest, this information may be omitted; and

1 (iv) She is free to withhold or withdraw her consent to the  
2 abortion at any time without affecting her right to future care or treatment and  
3 without the loss of any locally or federally funded benefits to which she might  
4 otherwise be entitled.

5 3. The information in Subsections B(1) and B(2) is provided to the  
6 woman individually and in a private room to protect her privacy and maintain the  
7 confidentiality of her decision to ensure that the information focuses on her  
8 individual circumstances and that she has an adequate opportunity to ask questions.

9 4. At least twenty-four (24) hours before the abortion, the woman is  
10 given a copy of the printed materials and a viewing of, or a copy of, the  
11 informational video described in Subsection (c). If the woman is unable to read the  
12 materials, they shall be read to her. If the woman asks questions concerning any of  
13 the information or materials, answer shall be provided to her in a language she can  
14 understand.

15 5. Prior to the abortion, the woman certifies in writing on a checklist  
16 form provided or approved by the Department that the information required to be  
17 provided under Subsections (b)(1), (b)(2), and (b)(4) has been provided. All  
18 physicians who perform abortions shall report the total number of certifications  
19 received monthly to the Department. The department shall make the number of  
20 certifications received available to the public on an annual basis.

1           6. Except in the case of a medical emergency, the physician who is to  
2 perform the abortion shall receive and sign a copy of the written certification  
3 prescribed in Subsection (5) of this Section prior to performing the abortion. The  
4 physician shall retain a copy of the checklist certification from in the woman's  
5 medical record.

6           7. In the event of a medical emergency requiring an immediate  
7 termination of the pregnancy, the physician who performed the abortion shall  
8 clearly certify in writing the nature of the medical emergency and the  
9 circumstances which necessitated the waiving of the informed consent  
10 requirements of this Section. This certification shall be signed by the physician  
11 who performed the emergency termination of pregnancy, and shall be permanently  
12 filed in both the patient records maintained by the physician performing the  
13 emergency procedure and the records maintained by the facility where the  
14 emergency procedure occurred.

15           8. A physician shall not require of anyone or obtain payment from  
16 anyone for providing the information and certification required by this Section  
17 until the expiration of the twenty-four (24) hour reflection period required by  
18 Subsections (b)(1), (b)(2) and (b)(4).

19           (c) **Publication of Materials.** The Department of Public Health and Social  
20 Services shall cause to be published printed materials and an informational video

1 in culturally sensitive languages within 180 days after this Act becomes law (and  
2 not 180 days after the effective date described in Section 4). On an annual basis,  
3 the Department shall review and update, if necessary, the following easily  
4 comprehensible printed materials and informational video:

5 1. Materials that inform the woman of public and private agencies  
6 and services available to assist a woman through pregnancy, upon childbirth and  
7 while her child is dependent, including but not limited to adoption services.

8 2. The materials shall include a comprehensive list of the agencies, a  
9 description of the services they offer, and the telephone numbers and addresses of  
10 the agencies, and shall inform the woman about available medical assistance  
11 benefits for prenatal care, childbirth, and neonatal care. The Department shall  
12 ensure that the materials described in this Section are comprehensive and do not  
13 directly or indirectly promote, exclude, or discourage the use of any agency or  
14 service described in this Section. The materials shall also contain a twenty-four-  
15 hour-a-day telephone number which may be called to obtain information about the  
16 agencies in the locality of the caller and of the services they offer.

17 The materials shall state that it is unlawful for any individual to coerce  
18 a woman to undergo an abortion and that if a minor is denied financial support by  
19 the minor's parents, guardian, or custodian due to the minor's refusal to have an  
20 abortion performed, the minor shall be deemed emancipated for the limited

1 purpose of eligibility of public assistance benefits, except that such benefits may  
2 not be used to obtain an abortion. The materials shall also state that any physician  
3 who performs an abortion upon a woman without her informed consent may be  
4 liable to her for damages in a civil action at law and that the law permits adoptive  
5 parents to pay costs of prenatal care, childbirth, and neonatal care. The materials  
6 shall include the following statement:

7           “There are public agencies and private services willing and able to  
8 help you to carry your child to term, and to assist you and your child after your  
9 child is born, whether you choose to keep your child or to place her or him for  
10 adoption. You are strongly urged to contact one or more of these agencies and  
11 services before making a final decision about abortion. The law required that your  
12 physician or his or her agent give you the opportunity to call agencies and services  
13 like these before you undergo an abortion.”

14           3. Materials that include information on the support obligations of the  
15 father of a child who is born alive, including but not limited to the father’s legal  
16 duty to support his child, which may include child support payments and health  
17 insurance, and the fact that paternity may be established by the father’s signature  
18 on a birth certificate or statement of paternity, or by court action. The printed  
19 material shall also state that more information concerning paternity establishment  
20 and child support services and enforcement may be obtained by calling the Guam

1 Attorney General's Office Child Support Division or the Department of Public  
2 Health and Social Services Public Assistance Branch.

3 4. Materials that inform the pregnant woman of the probable  
4 anatomical and physiological characteristics of an unborn child at two (2)-week  
5 gestational increments from fertilization to full term, including color photographs  
6 of the developing unborn child at two (2)-week gestational increments. The  
7 descriptions shall include information about brain and heart functions, the presence  
8 of external members and internal organs during the applicable stages of  
9 development, and any relevant information on the possibility of the child's survival  
10 at several and equidistant increments throughout a full term pregnancy. If a  
11 photograph is not available, a picture must contain the dimensions of the unborn  
12 child and must be realistic. The materials shall be objective, nonjudgmental, and  
13 designed to convey only accurate scientific information about the unborn child at  
14 the various gestational ages.

15 5. Materials which contain objective information describing the  
16 various surgical and drug-induced methods of abortion, as well as the immediate  
17 and long-term medical risks commonly associated with each abortion method  
18 including but not limited to the risks of infection, hemorrhage, cervical or uterine  
19 perforation or rupture, any potential effect upon future capability to conceive as  
20 well as to sustain a pregnancy to full term, the possible adverse psychological



1 effects associated with an abortion, and the medical risks associated with carrying  
2 a child to term.

3 6. A checklist certification form to be used by the physician or a  
4 qualified person under Subsection (b)(5) of this Act, which will list all the items of  
5 information which are to be given to the woman by a physician or agent of the  
6 physician under this Act.

7 7. The materials shall be printed in a typeface large enough to be  
8 clearly legible.

9 8. The Department shall produce a standardized video that may be  
10 used islandwide, presenting the information described in Subsection (c)(1), (c)(2),  
11 (c)(3), and (c)(4), in accordance with the requirements of those Subsections. In  
12 preparing the video, the Department may summarize and make reference to the  
13 printed comprehensive list of geographically indexed names and services described  
14 in Subsection (c)(1). The video shall in addition to the information described in  
15 Subsections (c)(1), (c)(2), (c)(3), and (c)(4), show an ultrasound of the heartbeat of  
16 an unborn child at four (4) to five (5) weeks gestational age gestational age to six  
17 (6) to eight (8)-weeks gestational age, and each month thereafter, until visibility.  
18 That information shall be presented in an objective, unbiased manner designed to  
19 convey only accurate scientific information.

20 9. The materials required under this Section and the video described

1 in Subsection (c)(8) shall be available at no cost from the Department upon request  
2 and in appropriate number to any person, facility or hospital.

3 **(d) Emergencies.** When a medical emergency compels the performance of  
4 an abortion or termination of pregnancy, the physician shall inform the woman,  
5 before the abortion if possible, of the medical indications supporting the  
6 physician's judgment that an immediate abortion or termination of pregnancy is  
7 necessary to avert her death or that a twenty-four (24) hour delay would cause  
8 substantial and irreversible impairment of a major bodily function.

9 **(e) Criminal Penalties.** Any person who intentionally, knowingly, or  
10 recklessly violates this Act is guilty of a misdemeanor.

11 **(f)** In addition to whatever remedies are available under the common or  
12 statutory laws of Guam, failure to comply with the requirements of this Act shall:

13 1. Provide a basis for a civil malpractice action, and provide standing  
14 to any woman upon whom an abortion was performed or attempted allegedly in  
15 violation of this Act to bring such an action. Any intentional violation of this Act  
16 shall be admissible in a civil suit as *prima facie* evidence of a failure to obtain  
17 informed consent. When requested, the court shall allow a woman upon whom an  
18 abortion was performed or attempted to be performed allegedly in violation of this  
19 Act to be identified in any action brought pursuant to this Act using solely her  
20 initials or the pseudonym "Jane Doe". Further, with or without a request, the court

1 may close any proceedings in the case from public attendance, and the court may  
2 enter other protective orders in its discretion to preserve the privacy of the woman  
3 upon whom the abortion was performed or attempted to be performed allegedly in  
4 violation of this Act.

5           2. Provide a basis for professional disciplinary action under Section  
6 11110 of Chapter 11 of Title 10 Guam Code Annotated.

7           3. Provide a basis for recovery for the woman for the wrongful death  
8 of her unborn child under Section 12109 of Chapter 12 of Title 7 Guam Code  
9 Annotated, whether or not the unborn child was born alive or was viable at the  
10 time the abortion was performed.

11           **Section 3. Severability.** If any provision of this Act is held to be invalid *or*  
12 unenforceable by its terms, *or* as applied to any person or circumstance, *shall* be  
13 construed so as to give it the maximum effect permitted by law unless such holding  
14 shall be one of utter invalidity or unenforceability, in which even such provision  
15 *shall* be deemed severable herefrom and *shall* not affect the remainder hereof *or*  
16 the application of such provision to other persons *not* similarly situated *or* to other,  
17 dissimilar circumstances.

18           **Section 4. Effective Date.** This Act shall take effect 180 days after  
19 enactment.