

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | STATUS |
|------------|-------------------|--|------------------------|---------------|--|---------------------|-----------------------------|--------|
| 41-32 (LS) | Frank B. Aguon Jr | AN ACT TO AMEND CHAPTER 30, TITLE 9 GUAM CODE ANNOTATED RELATIVE TO STRENGTHENING THE PENALTIES FOR CRIMES OF FAMILY VIOLENCE. | 2/11/2013 2:27 P.M. | 2/11/13 | Committee on Guam U.S. Military Relocation, Homeland Security, Veteran's Affairs and Judiciary | | | |



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

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February 11, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Referral of Bill No. 41-32(LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. **41-32(LS)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

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

Si Yu'os Ma'åse!

Attachment

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

Bill No. ()

Introduced by:

FRANK B. AGUON, JR.

B. J. F. CRUZ

J. T. WON PAT, ED.

V. ANTHONY ADA

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (e) An admission by the defendant that he or she had knowledge of the court
6 order shall be admissible in court notwithstanding the corpus delicti rule.”
7