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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY: J. Dela Rosa
TIME: 11:28 a.m. DATE: 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

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

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

This is to certify that **Bill No. 153-32 (COR), "AN ACT TO ADD A NEW CHAPTER 4B TO DIVISION 1 OF TITLE 19, GUAM CODE ANNOTATED; TO AMEND § 22107, DIVISION 2, CHAPTER 22 OF TITLE 7, GUAM CODE ANNOTATED; TO ADD A NEW § 80.49.1 OF CHAPTER 80, ARTICLE 2 OF TITLE 9, GUAM CODE ANNOTATED; AND TO ADD A NEW § 1036 TO CHAPTER 10 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE RIGHTS OF NURSING MOTHERS AND THEIR CHILDREN IN REGARDS TO BREASTFEEDING, AND TO BE KNOWN AS THE "NANA YAN PATGON ACT",** was on the 12th day of November 2013, 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'lahen Guåhan* this 15th day of Nov., 2013, at 11:28 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 153-32 (COR)
As amended by the Committee on Education, Public Library and Women's Affairs; and further amended on the Floor.

Introduced by: Aline A. Yamashita, Ph.D.
Dennis G. Rodriguez, Jr.
Judith T. Won Pat, Ed.D.
T. R. Muña Barnes
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
Vicente (ben) C. Pangelinan
R. J. Respicio
Michael F. Q. San Nicolas

AN ACT TO *ADD* A NEW CHAPTER 4B TO DIVISION 1 OF TITLE 19, GUAM CODE ANNOTATED; TO *AMEND* § 22107, DIVISION 2, CHAPTER 22 OF TITLE 7, GUAM CODE ANNOTATED; TO *ADD* A NEW § 80.49.1 OF CHAPTER 80, ARTICLE 2 OF TITLE 9, GUAM CODE ANNOTATED; AND TO *ADD* A NEW § 1036 TO CHAPTER 10 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE RIGHTS OF NURSING MOTHERS AND THEIR CHILDREN IN REGARDS TO BREASTFEEDING, AND TO BE KNOWN AS THE "*NANA YAN PATGON ACT*."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 4B is hereby *added* to Division 1 of Title 19, Guam Code Annotated, to read:

"CHAPTER 4B

NANA YAN PATGON ACT

§ 4B101. Title.
§ 4B102. Legislative Findings.
§ 4B103. Purpose and Declaration of Policy.
§ 4B104. Right to Breastfeed.
§ 4B105. Breastfeeding-Prohibition Against Discrimination.
§ 4B106. Nursing Mothers-Workplace Accommodations.
§ 4B107. Nursing Rooms-Government of Guam.
§ 4B108. Nursing Mothers-Educational Institutions Accommodations.
§ 4B109. Discrimination - Responsible Agencies.
§ 4B110. Rules and Regulations.
§ 4B111. Breastfeeding Promotion and Education-Department of Public Health and Social Services.
§ 4B112. Breastfeeding Promotion and Education-Guam Memorial Hospital, Maternal Health Care Providers and Maternal Health Care Facilities.
§ 4B113. Effective Date.

§ 4B101. Title. This Chapter *shall* be known, and may be cited, as *"The Nana yan Patgon Act"* or *"The Mother and Child Act."*

§ 4B102. Legislative Findings.

I Liheslaturan Guåhan finds that throughout the United States, laws have been enacted to ensure that women have the right to breastfeed children in recognition of the health and economic benefits of breastfeeding. Currently, Guam lacks any laws relative to breastfeeding to address potential obstacles a woman may face when wanting to breastfeed a child.

I Liheslatura finds that the Patient Protection and Affordable Care Act (Affordable Care Act) amended Section 7 of the Fair Labor Standards Act (FLSA) to require employers to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk.

I Liheslatura also finds that in 2011, Surgeon General of the United States Regina M. Benjamin, MD, MBA, released the *"Call to Action to Support Breastfeeding"* citing health benefits and outlining steps to be taken to remove obstacles that women face when wanting to breastfeed their children.

The Centers for Disease Control (CDC) Breastfeeding Report Card for the U.S. in 2012, showed that breastfeeding increased from 74.6 percent in the 2008 births to 76.9 percent in the 2009 births. However, the CDC also reported that of the 2008 figure only 23.4 percent met the recommended breastfeeding duration of twelve (12) months, and only 13 percent of infants were exclusively breastfed at the end of six (6) months, which indicated that women may need more support to continue breastfeeding.

Dr. Benjamin's "Call to Action" identified ways that families, communities, employers and health care professionals can improve breastfeeding rates and increase support for breastfeeding. Recommendations included communities expanding and improving programs that provide mother-to-mother support and peer counseling; healthcare systems ensuring that maternity care practices provide education and counseling on breastfeeding; hospitals becoming more "baby-friendly,"

by taking steps like those recommended by the UNICEF/WHO's Baby-Friendly Hospital Initiative; clinicians ensuring that they are trained to properly care for nursing mothers and babies: the promotion of breastfeeding to pregnant patients and ensuring that mothers receive the best advice on how to breastfeed; employers working toward establishing paid maternity leave and high-quality lactation support programs; employers expanding the use of programs that allow nursing mothers to have their babies close by so they can feed them during the day, providing women with break time and private space to express breast milk; and families providing mothers the support and encouragement they need to breastfeed.

I Liheslatura further finds that breastfeeding protects babies from infections and illnesses that include diarrhea, ear infections, and pneumonia. Breastfed babies are also less likely to develop asthma, and those who are breastfed for six (6) months are less likely to become obese. Nursing mothers also have a decreased risk of breast and ovarian cancers and postpartum depression.

A study published in the journal *Pediatrics* estimated that the U.S. would save $13 billion dollars per year in healthcare and other costs if 90 percent of U.S. babies were exclusively breastfed for six (6) months. Dr. Benjamin also added that, by providing accommodations for nursing women, employers would be able to reduce their company's healthcare costs and lower their absenteeism and turnover rates.

§ 4B103. Purpose and Declaration of Policy.

The purpose and policy of this Chapter is to ensure that women have a right to breastfeed children or express breast milk in a safe and clean environment or private designated area without the fear of social constraints, discrimination, embarrassment, or even prosecution. It is nationally

recommended that babies from birth to *at least* one (1) year of age be breastfed *unless* medically contraindicated, in order for babies to attain an optimal healthy start in life. Breastfeeding can also be considered a low-cost means of improving health for both mothers and babies, and education, awareness, encouragement, promotion and acceptance of breastfeeding is vital as it will provide maternal and infant health benefits and economic benefits.

§ 4B104. Right to Breastfeed.

(a) Notwithstanding any other provision of the law, a woman *may* breastfeed a baby or express breast milk in any location, public or private, *except* the private home or residence of another, where the woman is otherwise authorized to be.

(b) Breastfeeding a child or expressing breast milk as part of breastfeeding *shall not* under any circumstance violate Article 2, Chapter 28 of Title 9, Guam Code Annotated.

(c) No entity, public or private, in Guam shall enact a policy that prohibits or restricts a woman breastfeeding a child or expressing breast milk in a public or private location, *except* the private home or residence of another, where the woman and child are otherwise authorized to be.

(d) No person shall interfere with a woman breastfeeding a child in any location, public or private, *except* the private home or residence of another, where the woman and child is otherwise authorized to be.

§ 4B105. Breastfeeding – Prohibition Against Discrimination.

It is a discriminatory practice to deny, or attempt to deny, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and

accommodations of a place of public accommodations to a woman because she is breastfeeding a child.

§ 4B106. Nursing Mothers-Workplace Accommodations.

For the purposes of this Section, *employer* means a person or entity that employs one (1) or more employees.

(a) An employer must provide reasonable paid break time each day to an employee who needs to express breast milk for an infant child up to the age of two (2). The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is required to provide reasonable break time under this Chapter.

(b) An employer must make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express her milk in privacy.

(c) An employer may *not* discriminate – meaning to restrict, harass or penalize – against an employee who chooses to express breast milk in the workplace.

§ 4B107. Nursing Rooms-Government of Guam.

The executive, legislative and judiciary branches, and all autonomous and semiautonomous agencies, public corporations and other public instrumentalities of the government of Guam, *shall* provide a safe and clean room or private designated area, in close proximity to the work area, other than a toilet stall, where a nursing mother, who is an employee of the government of Guam, can express her milk in privacy.

Additionally, the A.B. Won Pat International Airport Authority, Guam will identify an area, other than a restroom, within its facilities as a "Family Room" where traveling families may nurse young children in privacy and

safety.

§ 4B108. Nursing Mothers - Educational Institutions Accommodations.

For the purposes of this Section, *educational institution* means any public school, university or college with enrolled students.

(a) Educational institutions must make reasonable efforts to provide a safe and clean room or-private designated area, other than a toilet stall, where a nursing mother can express her milk in privacy.

(b) Educational institutions *shall not* discriminate – meaning to restrict, harass or penalize – against a woman who chooses to express breast milk.

§ 4B109. Discrimination — Responsible Agencies.

The Guam Department of Labor Director (GDOL) *shall* be responsible for recording data and addressing allegations of discrimination against nursing women in the workplace of both the government and non-government of Guam entities, and to ensure that women are aware of breastfeeding rights in statute. Information *may* be made available through informational pamphlets and/or published on the Department's website. The Department of Administration *shall* investigate allegations of workplace discrimination and/or grievances by nursing women employed within the executive branch of the government of Guam pursuant to Chapter 4 of Title 4 of the Guam Code Annotated. The legislative and judicial branches and all autonomous and semiautonomous agencies, public corporations and other public instrumentalities of the government of Guam *shall* investigate allegations of workplace discrimination and/or grievances by nursing women employed within the respective entities pursuant to established rules and regulations and procedures.

§ 4B110. Rules and Regulations.

If deemed necessary, the Directors of the Department of Labor and Department of Administration *shall* promulgate joint rules and regulations, pursuant to the provisions of the Administrative Adjudication Act, governing the procedures whereby a person can make a claim of discrimination and how the allegations will be processed and resolved.

The Department of Labor *shall* also coordinate with government of Guam agency directors and private business employers' organizations in an effort to ensure that informational/educational sessions are conducted with employers and human resources managers and/or administrators to increase awareness and education of breastfeeding rights and statutes.

§ 4B111. Breastfeeding Promotion and Education-Department of Public Health and Social Services.

The Director of the Department of Public Health and Social Services *shall* develop and implement a community-wide public education program promoting breastfeeding and its benefits. The education campaign *shall* include a component that strongly encourages pregnant women and mothers of newborn infants who receive any form of public assistance from the Department of Public Health and Social Services to attend prenatal educational courses on the promotion and benefits of breastfeeding. The Department of Public Health and Social Services *shall* coordinate with the Guam Memorial Hospital to develop and implement prenatal educational courses, in accordance with this Chapter. Breastfeeding information *shall* be published in pamphlets for distribution at the Department of Public Health and Social Services facilities and posted on the Department's website. Additionally, the Department of Public Health and Social Services *shall* distribute such information to maternal health care providers, maternal

health care facilities as described, *infra*, and to other entities upon request.

§ 4B112. Breastfeeding Promotion and Education-Maternal Health Care Providers and Maternal Health Care Facilities.

For purposes of this Section, *maternal health care providers* means a physician, midwife, or other authorized practitioner attending a pregnant woman; and *maternal health care facility* includes hospitals and freestanding birthing centers providing perinatal services. Every maternal health care provider and maternal health care facility *shall*:

(a) provide pregnant women and new mothers, where appropriate as determined by the attending physician, with information on breastfeeding and the benefits to the child;

(b) provide pregnant women and new mothers, where appropriate as determined by the attending physician, with information on local breastfeeding support groups and Department of Public Health and Social Services programs; and

(c) every licensed physician who provides obstetrical or gynecological consultation *shall*, where appropriate as determined by such physician, inform patients as to the prenatal preparation for and postnatal benefits of breastfeeding a child.

§ 4B113. Effective Date.

This Act *shall* take effect ninety (90) days after its enactment."

Section 2. §22107, Division 2, Chapter 22 of Title 7, Guam Code Annotated, is hereby *amended* to read:

"**§ 22107. Exempt When.**

A person may claim exemption from service as a juror if he or she is:

(1) a member in the active service of the armed forces of the United States;

(2) an elected official, or a judge, of the United States or the Territory of Guam;

(3) an actively engaged member of the clergy;

(4) an actively practicing attorney, physician, dentist, or registered nurse;

(5) a member of the Fire or Police Department, or an employee of a government contractor engaged in providing internal security or fire protection for such contractors;

(6) a person who has served as a juror, either in the Superior Court or the United States District Court of Guam, within two (2) years preceding the time of filling out the juror qualification form;

(7) over sixty-five years old; or

(8) any woman who is breastfeeding, but only if the child receives nourishment exclusively from breastfeeding and the woman is able to present a medical attestation from a physician, a Certified Lactation Counselor (CLC), or an International Board Certified Lactation Consultant (IBCLC) to such fact."

Section 3. A new § 80.49.1 of Chapter 80, Article 2 of Title 9, Guam Code Annotated, is *added* to read:

"**§ 80.49.1. Nursing Mothers-Accommodations.**

(a) The Director of the Department of Corrections must make reasonable efforts to provide a breast pump and a sanitary room, other than a toilet stall, or a private area where a nursing mother confined at the Department of Corrections facilities can express her milk.

(b) A nursing mother confined at the Department of Corrections facilities may be allowed to breastfeed her child in a sanitary room, other than a toilet stall, or a private area as long as safeguards are in place, as

determined by the Director, to prevent her escape and as long as it is *not* a threat to the infant's and the public's safety and welfare."

Section 4. A new §1036 is *added* to Chapter 10 of Title 1, Guam Code Annotated, to read:

"**§ 1036. Breastfeeding Awareness Month.**

(a) August of each year is hereby designated as "*Breastfeeding Awareness Month*," to educate our community and promote the benefits of breastfeeding to infants and mothers.

(b) *I Maga'lahen Guåhan shall* issue annually a proclamation calling on all interested parties to hold activities on behalf of the practice of breastfeeding and to develop ways to support collective awareness of such activity."

Section 5. Severability. *If* any provision of this Law or its application to any person or circumstances is found to be invalid or contrary to law, such invalidity s*hall not* affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.