I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
238-36 (COR)	James C. Moylan	AN ACT TO *AMEND* § 82202 OF CHAPTER 82, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO A PEACE OFFICER'S AUTHORITY AND RESPONSIBILITY WHEN BRINGING AN INDIVIDUAL TO A QUALIFIED MENTAL HEALTH PROFESSIONAL FOR AN EXAMINATION.	1/3/22 2:04 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 238-36 (COR)

Introduced by: James C. Moylan

AN ACT TO *AMEND* § 82202 OF CHAPTER 82, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO A PEACE OFFICER'S AUTHORITY AND RESPONSIBILITY WHEN BRINGING AN INDIVIDUAL TO A QUALIFIED MENTAL HEALTH PROFESSIONAL FOR AN EXAMINATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. *I Liheslaturan Guåhan* finds that under Guam statute, when a peace officer brings an individual in to either the Department of Behavioral Health and Wellness Center (GBHWC) or to an emergency room of a hospital for an examination by a qualified mental health professional, they must remain with the individual until the completion of the exam. The officer also has a responsibility to determine through probable cause if they believe that the person is a danger to self, a danger to others or gravely disabled because of a mental illness, of which is the case, they have the statutory authority to use reasonable force to restrain or detain the individual if that need arises.

However not all individuals who are brought to GBHWC or an emergency room of a hospital for an examination by a qualified mental health professional are a danger to self, a danger to others, or gravely disabled because of a mental illness. In some cases, these individuals are also compliant towards the process, thus it is only appropriate that if the officer, through probable cause, determines that no

threat exists, that in lieu of their presence for the remaining duration of the individual's examination, that they can leave the individual in the hands of a peer support volunteer who is certified in addressing such cases.

This Act would allow for more flexibility of peace officers, that instead of addressing, what is determined as a deescalated public safety issue at the time, that resources can be used to address other critical areas within the community. Further, it would allow certified experts to assist a compliant individual going through the process of medical care, versus an officer who may not be certified in the matter.

Section 2. § 82202 of Chapter 82, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

§ 82202. Authority for Bringing an Individual to a Qualified Mental Health Professional for Consideration of Involuntary Hospitalization.

(a) Any person may bring another to the Department or an emergency room of a hospital for examination by a qualified mental health professional. The person bringing the other for examination must stay with the person until such examination is completed.

(b) If a peace officer has probable cause to believe that a person is a danger to self, a danger to others or gravely disabled because of a mental illness he *may* bring the person to the Department or the emergency room of a hospital for examination. Only a peace officer may use reasonable force to restrain and detain the person in need of evaluation. The peace officer's written report on the reasons for detaining a person for evaluation *shall* be included in the 72-hour application.

(c) If the qualified health professional conducting the examination does not find the person to be a danger to self, a danger to others or gravely disabled because of a mental illness he must notify the peace officer if he is still present, or the police department, if the peace officer has certified in writing that the

person may be charged with a crime as specified in the written report of the peace officer.

(d) When a peace officer brings an individual for an examination, other than what is specified pursuant to § 82202(e) of this Chapter, he *shall* remain available until the examination is completed and it is determined that the person is accepted for involuntary hospitalization. The peace officer *shall* provide for the safety of others during the examination, if necessary.

(e) Notwithstanding any other provisions of the law, rule, or regulation to the contrary, if the peace officer has probable cause to believe that the individual is not a danger to self, is not a danger to others, or is not gravely disabled because of mental illness, and is compliant, he *may* contact a peer support volunteer to monitor the individual who is undergoing the examination pursuant to § 82202(d) of this Chapter and does not have to remain available for the duration of the examination if the volunteer is present.

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. Effective Date. This Act *shall* be effective immediately upon enactment.