

*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
<b>313-36 (COR)</b> As amended by the Committee on Health, Land, Justice, and Culture; and further amended on the Floor.	Mary Camacho Torres Tina Rose Muña Barnes Christopher M. Dueñas Jose "Pedro" Terlaje Telena Cruz Nelson James C. Moylan V. Anthony Ada Frank Blas Jr. Joe S. San Agustin Amanda L. Shelton Sabina F. Perez Therese M. Terlaje Joanne Brown Telo T. Taitague Clynton E. Ridgell	AN ACT TO ADD A NEW CHAPTER 40A TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROTECTION ORDER FOR A PERSON WHO IS A VICTIM OF NONCONSENSUAL SEXUAL CONTACT OR NONCONSENSUAL SEXUAL PENETRATION.	6/7/22 4:24 p.m.	6/13/22	Committee on Health, Land, Justice, and Culture	9/21/22 9:30 a.m.	10/21/22 4:41 p.m.  As amended by the Committee on Health, Land, Justice, and Culture	Request: 6/13/22  6/21/22	
	<b>SESSION DATE</b>	<b>TITLE</b>	<b>DATE PASSED</b>	<b>TRANSMITTED</b>	<b>DUE DATE</b>	<b>PUBLIC LAW NO.</b>	<b>DATE SIGNED</b>	<b>NOTES</b>	
	12/2/22	AN ACT TO ADD A NEW CHAPTER 40A TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROTECTION ORDER FOR A PERSON WHO IS A VICTIM OF NONCONSENSUAL SEXUAL CONTACT OR NONCONSENSUAL SEXUAL PENETRATION.	12/16/22	12/16/22	12/28/22	36-126	12/27/22	Received: 12/28/22 Mess and Comm. Doc. No. 36GL-22-2923	

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN  
OFFICE OF THE GOVERNOR OF GUAM

**Transmitted via email to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)**

December 27, 2022

Doc Type: 36GL-22-2923  
OFFICE OF THE SPEAKER  
THERESE M. TERLAJE

**HONORABLE THERESE M. TERLAJE**

*Speaker*

*I Mina'trentai Sais Na Liheslaturan Guåhan*

36<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

-12- 27 2022

Time: 4:57pm  
Received: [Signature]

Re: **BILL NO. 312-36 (COR) - AN ACT TO AMEND §§ 40103 AND 40105 OF ARTICLE 1, CHAPTER 40, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING NECESSARY PROTECTIONS FOR VICTIMS OF ABUSE TO MAINTAIN THE SAFETY AND BASIC NEEDS OF THE VICTIM OR THE MINOR CHILD OR CHILDREN IN COMMON WITH THE DEFENDANT**

**BILL NO. 313-36 (COR) - AN ACT TO ADD A NEW CHAPTER 40A TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROTECTION ORDER FOR A PERSON WHO IS A VICTIM OF NONCONSENSUAL SEXUAL CONTACT OR NONCONSENSUAL SEXUAL PENETRATION**

**BILL NO. 314-36 (COR) - AN ACT TO ADD A NEW CHAPTER 40B TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STALKING PROTECTION ORDER FOR VICTIMS OF STALKING**

*Hafa Adai Madame Speaker,*

It has been said that the best measure of a society is how it treats its citizens with the least power. Bill Nos. 312-36, 313-36, and 314-36, are designed to protect Guam's most vulnerable people in a time of possibly their greatest need. These bills provide a mechanism to more easily obtain a protective order to prevent perpetrators from having contact with their victims.

Bill No. 312-36 empowers individuals seeking a protective order from an abuser to not only seek a stay-away order, but authorizes the court to order the abuser to continue to provide the resources to allow the victim to maintain the basic needs for shelter and safety. Bill No. 313-36 creates a new class of protective order for people who are victims of nonconsensual sexual contact or sexual penetration, while Bill 314-36 creates a new class of protective order for victims of stalking. These

RICARDO J. BORDALLO GOVERNOR'S COMPLEX  
513 W. Marine Corps Drive Hagåtña, Guam 96910  
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To: Speaker Terlaje  
Fr: Governor of Guam  
Date: December 27, 2022  
Re: Bill No. 312-36 (COR), Bill No. 313-36 (COR), and Bill No. 314-36 (COR)

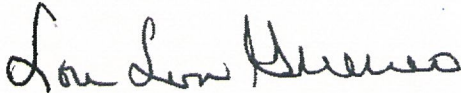
Page 2 of 2

three important bills will afford greater protections for victims, and enable them to participate in society without fear of further violence or threat of violence.

As the 36<sup>th</sup> Guam Legislature draws to a close, it is timely and appropriate to recognize Senator Mary Torres, the sponsor these bills, for her demonstrated commitment to protecting victims of abuse during her tenure in the Guam Legislature. Countless people on Guam, many of them women and children, are safer because of her work. Senator Torres will be missed at the Legislature, but her legacy will live on in all whose lives she has changed with her steadfast compassion.

I hereby sign into law Bill No. 312-36 as **Public Law 36-125**, Bill No. 313-36 as **Public Law 36-126**, and, Bill No. 314-36 as **Public Law 36-127**.

*Senseremente,*



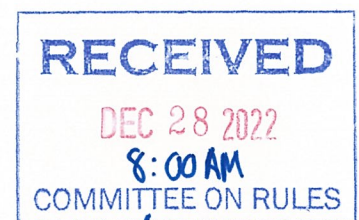
**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam

Enclosure: Bill Nos. 312-36 (COR), 313-36 (COR), and 314-36 (COR) *nka P.L. No. 36-125, P.L. 36-126, and P.L. 36-127, respectively.*

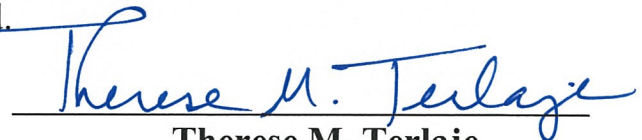
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam  
Compiler of Laws



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

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

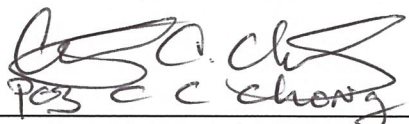
This is to certify that **Bill No. 313-36 (COR)**, “AN ACT TO *ADD A NEW CHAPTER 40A TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PROTECTION ORDER FOR A PERSON WHO IS A VICTIM OF NONCONSENSUAL SEXUAL CONTACT OR NONCONSENSUAL SEXUAL PENETRATION,*” was on the 16<sup>th</sup> day of December 2022, duly and regularly passed.

  
Therese M. Terlaje  
Speaker

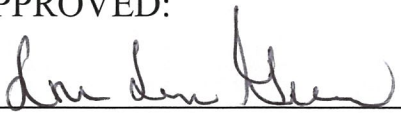
Attested:

  
Amanda L. Shelton  
Legislative Secretary

-----  
This Act was received by *I Maga'hågan Guåhan* this 16<sup>th</sup> day of Dec,  
2022, at 10:06 o'clock P.M.

  
Patsy C. Chong SG2  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: 12/27/2022

Public Law No. 36-126

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

**Bill No. 313-36 (COR)**

As amended by the Committee on Health, Land,  
Justice, and Culture; and further amended on the Floor.

Introduced by:

Mary Camacho Torres  
Tina Rose Muña Barnes  
Christopher M. Dueñas  
Jose “Pedo” Terlaje  
Telena Cruz Nelson  
James C. Moylan  
V. Anthony Ada  
Frank Blas Jr.  
Joe S. San Agustin  
Amanda L. Shelton  
Sabina Flores Perez  
Therese M. Terlaje  
Joanne Brown  
Telo T. Taitague  
Clynton E. Ridgell

**AN ACT TO *ADD* A NEW CHAPTER 40A TO TITLE 7,  
GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING A PROTECTION ORDER FOR A  
PERSON WHO IS A VICTIM OF NONCONSENSUAL  
SEXUAL CONTACT OR NONCONSENSUAL SEXUAL  
PENETRATION.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that sexual violence remains an enduring issue in the community. According to the  
4 National Organization of Asians and Pacific Islanders Ending Sexual Violence,

1 Guam has the second highest number of sexual assaults per capita with 64.2 reported  
2 rapes per 100,000 people.

3 *I Liheslaturan Guåhan* further recognizes that, in addition to physical and  
4 emotional pain, victims of sexual assault are often subjected to shame and  
5 degradation. While reporting is encouraged, those who choose not to come forward  
6 are still entitled to protection from their perpetrator. Moreover, even when rape is  
7 reported, the perpetrator is not always brought to justice. Restricting an offender’s  
8 contact with a victim in certain cases should be possible through a civil remedy.

9 *I Liheslaturan Guåhan* notes that Guam’s protection from abuse statute under  
10 Chapter 40, Title 7, Guam Code Annotated, is limited to specific acts of abuse  
11 inflicted on victims of family violence, such as attempting to cause or intentionally,  
12 knowingly, or recklessly causing bodily injury or serious bodily injury with or  
13 without a deadly weapon; placing by physical menace another person in fear of  
14 imminent serious bodily injury; or sexually abusing minor children (7 GCA, Chapter  
15 40, § 40101). Under this definition, victims of sexual assault may not be eligible to  
16 use the protective order process under current law. At a legislative public hearing  
17 held on April 6, 2022, the Office of the Attorney General of Guam (OAG) likewise  
18 testified that it may be easier for domestic abuse victims to obtain a stay away order  
19 than for victims of sexual assault.

20 It is, therefore, the intent of *I Liheslaturan Guåhan* that a sexual offense  
21 protection order be created as a remedy for victims of nonconsensual sexual contact  
22 or penetration who do not qualify for a protection from abuse order under 7 GCA  
23 Chapter 40.

24 **Section 2.** A new Chapter 40A is hereby *added* to Title 7, Guam Code  
25 Annotated, to read:

26 **“CHAPTER 40A**

27 **SEXUAL OFFENSE PROTECTION ORDER**

- 1       § 40A101. Definitions.
- 2       § 40A102. Jurisdiction.
- 3       § 40A103. Petition for Sexual Offense Protection Order.
- 4       § 40A104. Fees Not Permitted.
- 5       § 40A105. Hearing.
- 6       § 40A106. Remedies.
- 7       § 40A107. *Ex Parte* Temporary Order for Protection.
- 8       § 40A108. Court Initiated Issuance of Sexual Offense Protection Orders
- 9       § 40A109. Notification to Enforce Protection Order.

10       **§ 40A101. Definitions.**

11       The definitions in this Section apply throughout this Chapter unless the  
12 context clearly requires otherwise.

13           (a) *Intimate parts* means the primary genital area, groin, inner thigh,  
14 buttock, or breast of a human being;

15           (b) *Nonconsensual* means the lack of a freely given present  
16 agreement to perform a particular sexual act with the respondent;

17           (c) *Nonphysical contact* includes, but is not limited to, telephone  
18 calls, mail, electronic mail, facsimile, mobile messaging, private messaging,  
19 direct messaging, and other written notes;

20           (d) *Petitioner* means any named petitioner for the sexual offense  
21 protection order or any named victim of nonconsensual sexual conduct or  
22 nonconsensual sexual penetration on whose behalf the petition is brought;

23           (e) *Sexual offense protection order* means an *ex parte* temporary  
24 order or a final order granted under this Chapter, which includes a remedy  
25 authorized by § 40A106 of this Chapter;

26           (f) *Sexual contact* means any of the following:

1           (1) any intentional touching of the victim's or respondent's  
2 intimate parts or the intentional touching of the clothing covering the  
3 immediate area of the victim's or respondent's intimate parts, if that  
4 intentional touching can reasonably be construed as being for the  
5 purpose of sexual arousal or gratification; or

6           (2) any intentional display of the victim's or respondent's  
7 genitals, anus, or breasts for the purposes of sexual arousal or  
8 gratification;

9           (g) *Sexual penetration* means sexual intercourse, cunnilingus,  
10 fellatio, anal intercourse, or any other intrusion, however slight, of any part of  
11 a person's body or of any object into the genital or anal openings of another  
12 person's body, but emission of semen is not required.

13           **§ 40A102. Jurisdiction.**

14           The Superior Court of Guam shall have jurisdiction over all proceedings under  
15 this Chapter.

16           **§ 40A103. Petition for Sexual Offense Protection Order.**

17           (a) A person who does not qualify for a protection order under 7 GCA  
18 Chapter 40 and who is a victim of nonconsensual sexual contact or nonconsensual  
19 sexual penetration, including a single incident of nonconsensual sexual contact or  
20 nonconsensual sexual penetration, may seek relief under this Chapter by filing a  
21 petition with the court alleging that the person has been the victim of nonconsensual  
22 sexual contact or nonconsensual sexual penetration committed by the respondent. A  
23 petition for relief may be made regardless of whether or not there is a pending  
24 lawsuit, complaint, petition, or other action between the parties.

25           (b) A person may seek relief under this Chapter on behalf of another person  
26 if they have personal knowledge that such person has been a victim of nonconsensual  
27 sexual contact or nonconsensual sexual penetration, or any adult household member

1 may seek relief under this Chapter on behalf of minor children by filing a petition  
2 with the court alleging nonconsensual sexual contact or nonconsensual sexual  
3 penetration by the defendant.

4 (c) Victim advocates, as defined in 6 GCA, Chapter 9, § 9102(a), shall be  
5 allowed to accompany the victim and confer with the victim, unless otherwise  
6 directed by the court. The court shall allow victim advocates to assist victims of  
7 nonconsensual sexual contact or nonconsensual sexual penetration in the preparation  
8 of petitions for sexual offense protection orders. Communications between the  
9 petitioner and a victim advocate are protected as provided by 6 GCA, Chapter 9, §  
10 9102(b).

11 (d) Any proceeding under this Chapter shall be in accordance with the  
12 Rules of Civil Procedure and shall be in addition to any other available civil or  
13 criminal remedies.

14 **§ 40A104. Fees Not Permitted.**

15 No fees for filing or service of process may be charged by a public agency to  
16 petitioners seeking relief under this Chapter. Petitioners shall be provided the  
17 necessary number of certified copies at no cost.

18 **§ 40A105. Hearing.**

19 Upon receipt of the petition, the court shall order a hearing which shall be held  
20 no later than ten (10) days from the date of the order. A plaintiff or witness in a  
21 protective order case may request, without the need for a motion, or good cause  
22 determination, that the court allow appearance by telephone, videoconference, or by  
23 other two (2)-way electronic communication device. The court shall consider  
24 whether the safety or welfare of the plaintiff or witness would be threatened if  
25 testimony were required to be provided in person at a proceeding. The court may  
26 issue an *ex parte* temporary sexual offense protection order pending the hearing as  
27 provided in § 40A108 of this Chapter.

1           **§ 40A106. Remedies.**

2           (a) If the court finds by a preponderance of the evidence that the petitioner  
3 has been a victim of nonconsensual sexual contact or nonconsensual sexual  
4 penetration by the respondent, the court shall issue a sexual offense protection order.  
5 The petitioner shall not be denied a sexual offense protection order because the  
6 petitioner or the respondent is a minor or because the petitioner did not report the  
7 assault to law enforcement. The court, when determining whether or not to issue a  
8 sexual offense protection order, may not require proof of physical injury on the  
9 person of the victim or proof that the petitioner has reported the sexual assault to law  
10 enforcement.

11           (b) The court may provide relief as follows:

12               (1) restrain the respondent from having any contact, including  
13 nonphysical contact, with the petitioner directly, indirectly, or through third  
14 parties regardless of whether those third parties know of the order;

15               (2) exclude the respondent from the petitioner's residence,  
16 workplace, or school, or from the day care or school of a child, if the victim  
17 is a child;

18               (3) prohibit the respondent from knowingly coming within, or  
19 knowingly remaining within, a specified distance from a specified location;  
20 and

21               (4) order any other injunctive relief as necessary or appropriate for  
22 the protection of the petitioner.

23           (c) Denial of a remedy may not be based, in whole or in part, on evidence  
24 that:

25               (1) the respondent was voluntarily intoxicated;

26               (2) the petitioner was voluntarily intoxicated; or

27               (3) the petitioner engaged in limited consensual sexual touching.

1 (d) The court may order the respondent to surrender all firearms,  
2 ammunition, permits to purchase firearms, permits to carry firearms, and other  
3 dangerous weapons that are in the care, custody, possession, ownership, or control  
4 of the respondent if the court finds any of the following factors are present and the  
5 petitioner requests that the respondent's firearms, ammunition, permits to purchase  
6 firearms, permits to carry concealed firearms, and other dangerous weapons be  
7 seized:

8 (1) the use or threatened use of a dangerous weapon by the  
9 respondent or a pattern of prior conduct involving the use or threatened use of  
10 violence with a firearm against persons;

11 (2) threats to seriously injure or kill the petitioner or minor child by  
12 the respondent;

13 (3) threats to commit suicide by the respondent; or

14 (4) serious injuries inflicted by the respondent upon the petitioner or  
15 a minor child.

16 (e) Any protection order shall be for a fixed period of time as the court  
17 deems appropriate. The court may amend its order or agreement at any time upon  
18 subsequent petition or motion filed by either party.

19 (f) A knowing violation of a court order issued under this Section is a  
20 misdemeanor punishable by imprisonment of no less than forty-eight (48) hours and  
21 not more than one (1) year, and by a fine of not more than One Thousand Dollars  
22 (\$1,000).

23 **§ 40A107. *Ex Parte* Temporary Order for Protection.**

24 (a) An *ex parte* temporary sexual offense protection order shall issue if the  
25 petitioner satisfies the requirements of this Subsection by a preponderance of the  
26 evidence. The petitioner shall establish that:

1 (1) the petitioner has been a victim of nonconsensual sexual contact  
2 or nonconsensual sexual penetration by the respondent; and

3 (2) there is good cause to grant the remedy, regardless of the lack of  
4 prior service of process or of notice upon the respondent, because the harm  
5 which that remedy is intended to prevent would be likely to occur if the  
6 respondent were given any prior notice, or greater notice than was actually  
7 given, of the petitioner's efforts to obtain judicial relief.

8 (b) Upon issuance of an *ex parte* order, the court may order the respondent  
9 to surrender all firearms, ammunition, permits to purchase firearms, permits to carry  
10 firearms, and other dangerous weapons that are in the care, custody, possession,  
11 ownership, or control of the respondent if the court finds any of the following factors  
12 are present and the petitioner requests that the respondent's firearms, ammunition,  
13 permits to purchase firearms, permits to carry concealed firearms, and other  
14 dangerous weapons be seized:

15 (1) the use or threatened use of a dangerous weapon by the  
16 respondent or a pattern of prior conduct involving the use or threatened use of  
17 violence with a firearm against persons;

18 (2) threats to seriously injure or kill the petitioner or minor child by  
19 the respondent;

20 (3) threats to commit suicide by the respondent; or

21 (4) serious injuries inflicted by the respondent upon the petitioner or  
22 a minor child.

23 (c) If the court declines to issue an *ex parte* temporary sexual offense  
24 protection order, the court shall state the particular reasons for the court's denial.

25 (d) A knowing violation of a court order issued under this Section is a  
26 misdemeanor punishable by imprisonment of no less than forty-eight (48) hours and

1 not more than one (1) year, and by a fine of not more than One Thousand Dollars  
2 (\$1,000).

3 **§ 40A108. Court Initiated Issuance of Sexual Offense Protection**  
4 **Orders.**

5 (a) When any person charged with or arrested for criminal sexual conduct  
6 as defined in Title 9 GCA Chapter 25, or any other crime as defined in Title 9 GCA  
7 Chapter 25A, Chapter 26, Chapter 28, and Chapter 89 is released from custody  
8 before arraignment or trial on bail or personal recognizance, the court authorizing  
9 the release may prohibit that person from having any contact with the victim.

10 (1) A sexual offense protection order issued by the court in  
11 conjunction with criminal charges shall terminate if the respondent is  
12 acquitted or the charges are dismissed, unless the victim files an independent  
13 action for a sexual offense protection order. If the victim files an independent  
14 action for a sexual offense protection order, the order may be continued by  
15 the court until a full hearing is conducted pursuant to § 40A105 of this  
16 Chapter.

17 (2) The written order releasing the person charged or arrested shall  
18 contain the court's directives and shall bear the legend: "Violation of this  
19 order is a criminal offense and will subject a violator to arrest. You can be  
20 arrested even if any person protected by the order invites or allows you to  
21 violate the order's prohibitions. You have the sole responsibility to avoid or  
22 refrain from violating the order's provisions. Only the court can change the  
23 order."

24 (3) A certified copy of the order shall be provided to the victim at no  
25 charge.

26 (b) When a respondent is found guilty of criminal sexual conduct as  
27 defined in Title 9 GCA Chapter 25, or any other crime as defined in Title 9 GCA

1 Chapter 25A, Chapter 26, Chapter 28, and Chapter 89 and a condition of the sentence  
2 restricts the respondent's ability to have contact with the victim, the condition shall  
3 be recorded as a sexual offense protection order.

4 (1) The written order entered as a condition of sentencing shall  
5 contain the court's directives and shall bear the legend: "Violation of this  
6 order is a criminal offense and will subject a violator to arrest. You can be  
7 arrested even if any person protected by the order invites or allows you to  
8 violate the order's prohibitions. You have the sole responsibility to avoid or  
9 refrain from violating the order's provisions. Only the court can change the  
10 order."

11 (2) A certified copy of the order shall be provided to the victim at no  
12 charge.

13 (c) A final sexual offense protection order entered in conjunction with a  
14 criminal prosecution shall remain in effect for a period of five (5) years following  
15 the expiration of the latest sentence of imprisonment and subsequent period of  
16 community supervision, conditional release, probation, or parole.

17 (d) A knowing violation of a court order issued under this Section is a  
18 misdemeanor punishable by imprisonment of no less than forty-eight (48) hours and  
19 not more than one (1) year, and by a fine of not more than One Thousand Dollars  
20 (\$1,000).

21 **§ 40A109. Notification to Enforce Protection Order.**

22 A copy of any order under this Chapter shall be issued to the plaintiff, the  
23 defendant, and the Guam Police Department with appropriate jurisdiction to enforce  
24 the order or agreement."

25 **Section 3. Effective Date.** This Act shall be effective thirty (30) days  
26 following the date of enactment, but the Superior Court of Guam may take such

1 anticipatory administrative action in advance thereof as shall be necessary for the  
2 implementation of this Act.

3 **Section 4. Severability.** If any provision of this Act or its application to any  
4 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
5 not affect other provisions or applications of this Act that can be given effect without  
6 the invalid provision or application, and to this end the provisions of this Act are  
7 severable.