I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session
VOTING RECORD

Notwithstanding the objection of *I Maga'hågan Guåhan,* shall **VETOED Bill No. 351-37 (COR)** be overridden?	**Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building December 30, 2024**					
NAME	**Aye**	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher		✓				
Senator Jesse A. Lujan					✓	✓
Vice Speaker Tina Rose Muña Barnes		III ✓				
Senator William A. Parkinson		✓				
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata		III ✓				
Senator Joe S. San Agustin	✓					
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton		✓				
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					
TOTAL	**9**	**5**			**1**	**1**
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

JOAQUIN R. TAITAGUE
Clerk of the Legislature

I = Pass

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via Email to: speaker@guamlegislature.org

December 28, 2024

THE HON. THERESE M. TERLAJE, *Speaker*
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

RE: Bill No. 351-37 (COR), "AN ACT TO *AMEND* § 7.10(a) OF ARTICLE 1, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTIONS FROM CRIMINAL LIABILITY DUE TO JUVENILE STATUS; AND TO *AMEND* § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION OF THE SUPERIOR COURT OF GUAM"

Håfa Adai Madam Speaker,

Bill No. 351-37 would make it easier for Guam courts to try fourteen-year-olds as adults if accused of certain crimes.

Section 1 of the Bill would remove an existing protection in the law at 9 GCA § 7.10(a) that ensures that minors accused of crimes are tried in the Family Division of the Superior Court. Bill No. 351 would eliminate this protection for fourteen-year-olds accused of homicide or criminal sexual conduct. Section 2 of the Bill attempts to expand the ability of the government to try minors as adults by revising 19 GCA § 5106 to allow judges to order children under the age of 16 to be tried as adults if accused of criminal sexual conduct. That provision already allows them to be tried as adults if accused of homicide.

Altogether, the Bill makes it easier for the government to try children accused of homicide or criminal sexual conduct, and to sentence them as adults.

This Bill is bad for Guam.

First, the Bill is unconstitutional. It would authorize the harshest available sentences for young teenagers, including life sentences without parole, e.g. 9 GCA § 25.15(b), and the mandatory life without parole sentence for aggravated murder, 9 G.C.A. § 16.30(b).

More than a decade ago, the U.S. Supreme Court held that sentencing minors to life imprisonment without parole for crimes other than homicide violated the Eighth Amendment to the U.S. Constitution. *Graham v. Florida*, 560 U.S. 48, 74 (2010). In 2021, the U.S. Supreme Court found that the Eighth Amendment further prohibits mandatory life without parole sentences for minors.

Jones v. Mississippi, 593 U.S. 98, 100 (2021). Bill No. 351-37, which purports to be a "law and order" bill actually flouts the law.

While the Bill does not *require* imposition of these unconstitutional sentences, it purports to authorize such sentences. This Administration will not condone any effort to undermine the rights of our people under the U.S. Constitution or the U.S. Bill of Rights, or the protections afforded to us by the Organic Act of Guam and the Guam Bill of Rights.

The Supreme Court of Guam recently issued a decision confirming that the courts of Guam, not federal courts, decide the meaning of the Guam Bill of Rights found in the Organic Act. *People v. Adriatico*, 2024 Guam 7 ¶¶ 50, 56. Our Supreme Court is the final arbiter of the protections provided by our local Bill of Rights, *id.* at ¶ 2, and our courts can decide that in Guam the prohibition against cruel and unusual punishment carries more protection than the bare minimum the U.S. Constitution provides. *Id.* at 62. We can protect our people even more than the U.S. Constitution requires. *Id.* at 2, 61.

Guam courts are presently considering the application of these principles to "youthful offenders." For nearly sixty years, Guam law has recognized that, especially for young people under the age of twenty-five, there is still an opportunity for them to change their lives—even after making terrible decisions. *See Adriatico*, 2024 Guam 7 ¶ 10 n.4; *Youth Correction Act of 1965*, 9 GCA §§ 83.10, *et seq.* Guam law has recognized the wastefulness of locking people away at the public's expense when those people could work their way back to being productive, law-abiding members of their communities, churches, and families. Moreover, as the Court suggested, increasing scientific evidence may support this approach. *See Adriatico*, 2024 Guam 7 ¶ 68. In this context, it makes absolutely no sense for our laws to seek to try as adults increasingly younger defendants. *Cf. Miller v. Alabama*, 567 U.S. 460, 471-72 & n.5 (2012) (noting that the scientific evidence supporting a rehabilitory approach to juveniles has "become even stronger").

Because this Bill purports to authorize imposition of unconstitutional and inorganic sentences, because it is bad policy meant only to sound tough while providing no solutions, and because it only serves to harm our families and those in our community with the greatest potential for change and rehabilitation, I hereby exercise my powers to veto Bill No. 351-37.

Senseramente,

LOURDES A. LEON GUERRERO
I Maga'hågan Guåhan
Governor of Guam

37GL-24-3162
Messages and Communications
RECEIVED
Committee on Rules
December 28, 2024
7:27 p.m.
Kamarin Nelson

Enclosure(s): Bill No. 351-37 (COR) - VETOED
cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

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

This is to certify that **Bill No. 351-37 (COR), "AN ACT TO *AMEND* § 7.10(a) OF ARTICLE 1, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTIONS FROM CRIMINAL LIABILITY DUE TO JUVENILE STATUS; AND TO *AMEND* § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION OF THE SUPERIOR COURT OF GUAM,"** was on the 16th day of December 2024, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Chris Barnett
Acting Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 17th day of December 2024, at 3:52 o'clock P .M.

Jomichael C. Quinata

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date:_____

Public Law No._____

2024-22891
OFFICE OF THE GOVERNOR
CENTRAL FILES OFFICE
Rec'd By: Jomichael C. Quinata
Date: 12-17-24 Time: 3:52 PM

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 351-37 (COR)
As amended by the Committee on
Health, Land, Justice and Culture; and
further amended on the Floor.

Introduced by:

Frank Blas Jr.
Joanne M. Brown
Telo T. Taitague
Jesse A. Lujan
William A. Parkinson
Dwayne T.D. San Nicolas
Christopher M. Dueñas
Therese M. Terlaje
Chris Barnett
Thomas J. Fisher
Tina Rose Muña Barnes
Sabina Flores Perez
Roy A. B. Quinata
Joe S. San Agustin
Amanda L. Shelton

AN ACT TO *AMEND* § 7.10(a) OF ARTICLE 1, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTIONS FROM CRIMINAL LIABILITY DUE TO JUVENILE STATUS; AND TO *AMEND* § 5106 OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION OF THE SUPERIOR COURT OF GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 7.10(a) of Article 1, Chapter 7, Title 9, Guam Code Annotated, is *amended* to read as follows:

"**§ 7.10. Exemption from Criminal Liability Due to Juvenile Status.**

No person may be tried for or convicted of an offense if:

(a) his age at the time he is charged with an offense places him within the exclusive jurisdiction of the Family Division of the Superior Court, except in cases involving homicide or criminal sexual conduct wherein the offender is at least fourteen (14) years old but less than eighteen (18) years old at the time of the offense;"

Section 2. § 5106 of Chapter 5, Title 19, Guam Code Annotated, is *amended* to read as follows:

"**§ 5106. Certification for Criminal Proceedings.**

(a) If a child is sixteen (16) years of age or older at the time he committed the offense for which he is charged, and if the conduct is a misdemeanor or a felony of the third degree, and if the court after full investigation deems it contrary to the best interest of such child or of the public to retain jurisdiction, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult. A child who is sixteen (16) years of age or older at the time he committed the offense for which he is charged shall automatically be charged as an adult for any act which would constitute a felony of the first or second degree along with any acts which are misdemeanors or felonies of the third degree which are part of the same scheme of criminal activity as the felony. If a child is under sixteen (16) years of age at the time he committed the offense for which he is charged, and if the conduct would constitute an offense under 9 GCA Chapter 16 (Homicides), or under 9

GCA § 25.15 or § 25.20 of Chapter 25 (Sexual Offenses), and if the court after full investigation deems it contrary to the best interest of such child or of the public to retain jurisdiction, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult. If a child is certified as an adult, the same judge shall not, in turn preside over the criminal proceedings against such child.

(b) If a person over the age of eighteen (18) years, over whom the court retains jurisdiction under this Title, is subject to a commitment or probation order of the Family Division and is charged with any offense against the laws of Guam not triable in the Traffic Division of the Court, such person shall be tried and punished as an adult. If, during the pendency of such adult proceedings, the person would be entitled to bail as an adult, the Superior Court shall, instead of releasing such person, remand him to the custody of the department, agency, or institution to which he was committed at the time of the bail proceedings. If such person was not committed under this Title, but was on probation, he may be admitted to bail and the conditions of his probation under this Title made a part of the conditions of his bail. Nothing in this Section shall prevent the Family Division, upon the appropriate proceedings, from taking action against such person based upon a violation of his conditions of probation.

(c) Should the adult proceedings against any person described in Subsection (b), above, be terminated for any reason, or such person released from the judgment of the adult court, including by the completion of any adult sentence, before the person has reached his twenty-first (21st) birthday, such person shall be remanded to the

jurisdiction of the Family Division for the completion of his original juvenile disposition. Upon such remand, the judge of the Family Division may determine, in light of all the circumstances then existing, whether this person shall be returned to the custody of the juvenile institution to which he had been committed at the time he was sentenced as an adult or, whether, because of such conviction and other circumstances, a modification of the juvenile commitment, or discharge from the jurisdiction of the Family Division, should be made. The court may continue the juvenile confinement, or may release the person from the jurisdiction of the Family Court, or may modify the order previously issued in any manner the court deems necessary.

(d) Notwithstanding Subsection (a) of this Section, on motion of either the prosecutor or defendant, or *sua sponte* by the Court, the complaint or indictment may be transferred to the jurisdiction of the Family Court upon a finding based on clear and convincing evidence that the best interest of the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

(1) the age of the minor;

(2) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor;

(B) any previous abuse or neglect history of the minor; and

(C) any mental health, physical, or educational history of the minor, or a combination of these factors;

(3) the circumstances of the offense, including:

(A) the seriousness of the offense;

(B) whether the minor is charged through accountability;

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner;

(D) whether there is evidence the offense caused serious bodily harm; and

(E) whether there is evidence the minor possessed a deadly weapon;

(4) the advantages of treatment within the juvenile justice system, including whether there are facilities or programs, or both, particularly available in the juvenile system;

(5) whether the security of the public requires sentencing under Title 9, Chapter 80 Guam Code Annotated;

(6) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(7) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(8) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this Section.

Furthermore, this Section does not define the jurisdiction of the Superior Court of Guam to entertain cases brought in adult court."

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or inorganic, 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 upon enactment.