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
244-36 (LS) As amended by the Committee on Health, Land, Justice, and Culture; and further amended on the Floor	Mary Camacho Torres Therese M. Terlaje Tina Rose Muña Barnes Amanda L. Shelton James C. Moylan Jose "Pedo" Terlaje V. Anthony Ada Frank Blas Jr. Clynton E. Ridgell Joe S. San Agustin Christopher M. Dueñas Sabina F. Perez Telena Cruz Nelson	AN ACT TO *ADD* A NEW CHAPTER 163 TO TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A BILL OF RIGHTS FOR VICTIMS OF SEXUAL ASSAULT; AND TO CITE THIS ACT AS THE "SURVIVOR'S BILL OF RIGHTS ACT OF 2022."	1/26/22 8:00 a.m.	2/1/22	Committee on Health, Land, Justice, and Culture	4/6/22 10:00 a.m.	5/16/22 5:39 p.m. As amended by the Committee on Health, Land, Justice, and Culture	Request: 2/4/22 Waiver: 2/10/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
5/27/22	AN ACT TO *ADD* A NEW CHAPTER 163 TO TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A BILL OF RIGHTS FOR VICTIMS OF SEXUAL ASSAULT; AND TO CITE THIS ACT AS THE "SURVIVOR'S BILL OF RIGHTS ACT OF 2022."	6/2/22	6/3/22	6/15/22	36-102	6/15/22	Received: 6/15/22 Mess and Comm. Doc. No. 36GL-22-2142

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

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

36GL-22-2140
Doc Type: to 36GL-22-2142

OFFICE OF THE SPEAKER
THERESE M. TERLAJE

06 15 2022
Time: 3:54pm
Received:

June 15, 2022

HONORABLE THERESE M. TERLAJE, *Speaker*
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **BILL NO. 242-36 (LS) – AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 40 OF TITLE 7, GUAM CODE ANNOTATED, AND A NEW § 30.400 TO CHAPTER 30 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO TRANSFERRING OR RELEASING VICTIMS OF FAMILY VIOLENCE, SEXUAL ASSAULT, AND STALKING FROM SHARED WIRELESS PLANS**

BILL NO. 243-36 (LS) – AN ACT TO *AMEND* § 25.10(a), 25.15(a)(4)-(7), 25.20(a)(4)-(7), 25.25(a)(3), AND 25.30(a)(2) OF CHAPTER 25, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DEFINING "CONSENT," REVISING THE LANGUAGE OF "MENTALLY DEFECTIVE" TO "MENTALLY IMPAIRED," AND EXPANDING THE DEFINITION OF "MENTAL INCAPACITATION" AND "PHYSICALLY HELPLESS"

BILL NO. 244-36 (LS) – AN ACT TO *ADD* A NEW CHAPTER 163 TO TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A BILL OF RIGHTS FOR VICTIMS OF SEXUAL ASSAULT; AND TO CITE THIS ACT AS THE "SURVIVOR'S BILL OF RIGHTS ACT OF 2022"

Hafa Adai Madame Speaker,

Over time, as society grows to further understand the nature of domestic violence and criminal sexual conduct, and the dynamics between aggressors and victims involved in these crimes, it is imperative that the body of governing law likewise evolves. Bill Nos. 242-36, 243-36, and 244-36 are three such efforts, intended to provide victims of domestic and sexual violence access to greater legal protections and rights. Today, I sign these bills into law as Public Law Nos. 36-100, 36-101, and 36-102, respectively, and I thank Senator Mary Torres, the main sponsor of these bills, for her leadership on these important issues.

Bill No. 242-36, now known as ***Public Law No. 36-100***, requires wireless telecommunications service providers to remove or release complaining witnesses from a shared or family wireless service contract upon submission of a written request, along with documented evidence of family violence, sexual assault or stalking in the form of a court order, a police report, or a declaration from certain care providers for the complaining witnesses. The request may be submitted by the complaining witness

themselves, their attorney, or their advocate. Once the request and documentation is provided, the wireless service provider must act within 48 hours to transfer or remove the complaining witness from the shared family plan without charge, penalty, or fee. The bill emphasizes that a conviction is not necessary to effectuate the release. The intent of Bill No. 242-36 is clear and laudable – often, in cases involving domestic violence, sexual assault or stalking, time is of the essence, and immediate steps must be taken to ensure the safety of the complaining witness, including preventing alleged perpetrators of these crimes from tracking or contacting the complaining witnesses, or worse, confronting them in a manner that endangers all parties involved. By ensuring the confidentiality of the complaining witnesses, they can seek the services and support they need when they are vulnerable, and feel empowered to leave abusive circumstances, without potentially exposing them, their children, and their network to further harm.

Bill No. 243-36, now known as ***Public Law No. 36-101***, is a critical measure updating our laws to reflect, among other things, that individuals who are significantly impaired or intoxicated are mentally incapacitated within the meaning of Guam law, such that they cannot consent to a sexual act, regardless of whether such impairment or intoxication was voluntary or involuntary. For too long, perpetrators of sexual assault, in Guam and in similarly situated U.S. jurisdictions, have relied on the fact that their victims *voluntarily* consumed alcohol or other substances as a defense for sexual misconduct committed while these victims were clearly unable to consent. This loophole allowed predators to prey on victims they knew, or should have known, did not have the mental capacity to freely agree to engage in sexual acts. Closing this gap in our statute more accurately represents our community's understanding about the responsibilities we have to each other when we engage in conduct that involves our bodily agency, more fully protects our right to control our bodies, and restores to us the power to decide when and with whom we want to share our most intimate selves.

Bill No. 244-36, now known as ***Public Law No. 36-102***, enacts the Survivor's Bill of Rights. This bill codifies the rights that victims of sexual assault shall have. It encapsulates key priorities to sexual assault survivors, including being treated with respect, dignity and compassion, and providing access to services and advocacy, including access to timely examinations, testing, protection, and support. It further requires publication of the Survivor's Bill of Rights in hospitals, police stations, and school campuses, ensuring that the necessary information is available and readily accessible to affected persons. This Bill will help raise awareness in our communities, that our island stands with survivors of sexual assault, that we support them, and that we are committed to helping them achieve justice, and, ultimately, peace.

Senseremente,

Lou Leon Guerrero

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



Enclosure: Bill No. 242-36 (LS) *nka P.L. No. 36-100*
Bill No. 243-36 (LS) *nka P.L. No. 36-101*
Bill No. 244-36 (LS) *nka P.L. No. 36-102*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
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. 244-36 (LS), "AN ACT TO *ADD* A NEW CHAPTER 163 TO TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A BILL OF RIGHTS FOR VICTIMS OF SEXUAL ASSAULT; AND TO CITE THIS ACT AS THE "SURVIVOR'S BILL OF RIGHTS ACT OF 2022,"** was on the 2nd day of June 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 3rd day of June, 2022, at 3:17 o'clock P .M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lou

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 6/15/2022

Public Law No. 36-102

2022-16708
RCVD AT CENTRAL FILES
JUN 3 '22 PM3:17

Elaine Tajalle

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

Bill No. 244-36 (LS)
As amended by the Committee on Health,
Land, Justice, and Culture; and further amended on the Floor.

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

AN ACT TO *ADD* A NEW CHAPTER 163 TO TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A BILL OF RIGHTS FOR VICTIMS OF SEXUAL ASSAULT; AND TO CITE THIS ACT AS THE "SURVIVOR'S BILL OF RIGHTS ACT OF 2022."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 163 is hereby *added* to Title 8, Guam Code Annotated, to read:

"CHAPTER 163

SURVIVOR'S BILL OF RIGHTS

§ 163.10. Short Title.
§ 163.20. Legislative Findings and Intent.
§ 163.30. Definition of Sexual Assault.
§ 163.40. Bill of Rights.
§ 163.50. Notice of Rights.
§ 163.60. Severability.

§ 163.10. Short Title.

This Act shall be known and may be cited as the "Survivor's Bill of Rights Act of 2022."

§ 163.20. Legislative Findings and Intent.

I Liheslatura finds and declares that the enactment of the "Crime Victim's Rights Act of 2004," established by Public Law 21-96 and amended by Public Law 27-138:2, has resulted in significant advances in the recognition and protection of the rights of crime victims and survivors once they enter the criminal justice system. Nonetheless, victims of sexual assault, more than other victims, are likely to be blamed for the crime, assumed to be fabricating the crime, or taken less seriously than their injuries warrant. These victims are sometimes discouraged from proceeding with their complaints and as a result are not afforded the protections and rights that other crime victims receive in the criminal justice system. Therefore, with no diminution of the legislatively-recognized rights of crime victims, it is the intent of *I Liheslatura* to accord victims of sexual assault with rights which may be easily located in this Chapter.

§ 163.30. Definition of Sexual Assault.

For purposes of this Chapter, the term "sexual assault" means any nonconsensual sexual act proscribed by federal, tribal, state, or Guam law, including when the victim lacks the capacity to consent.

§ 163.40. Bill of Rights.

Victims of sexual assault shall have the following rights:

(a) to have any allegation of sexual assault treated seriously; to be treated with dignity and compassion; and to be notified of existing medical, counseling, mental health, or other services available for victims of criminal sexual conduct, whether or not the crime is reported to law enforcement;

(b) to be free, to the extent consistent with the Organic Act of Guam or the United States Constitution, from any suggestion that victims are responsible for the commission of crimes committed against them or any suggestion that victims were contributorily negligent or assumed the risk of being sexually assaulted;

(c) to be free from any suggestion that victims are to report the crimes to be assured of any other guaranteed right; and to be free from any suggestion that victims should refrain from reporting crimes in order to avoid unwanted personal publicity;

(d) when applicable, to access the services, at no cost, of Guam's Sexual Assault Response Team (SART) comprised of: the Healing Hearts Crisis Center, the Guam Police Department, Child Protective Services, and the Office of the Attorney General, as well as advocacy agencies such as Victim Advocates Reaching Out, and the choice to opt into or out of any of SART's services;

(e) to be informed of, and assisted in exercising, the right to be confidentially or anonymously tested for acquired immune deficiency syndrome (AIDS), or the human immunodeficiency virus (HIV), or any other related virus identified as a probable cause agent of AIDS pursuant to 8 GCA § 120.60; and to be informed of, and assisted in exercising, any rights that may be provided by law to compel and disclose the test results of a person

convicted of criminal sexual conduct, for communicable diseases pursuant to 8 GCA § 120.60(a);

(f) to not be prevented from, or charged for, receiving a medical forensic examination;

(g) to have forensic medical evidence, if collected, preserved without charge for the duration of the maximum applicable statute of limitations, or twenty (20) years, whichever is shorter; and to

(1) receive written information about the status of the evidence upon request, including the location, testing date, and testing results of a kit, whether a DNA profile was obtained from the kit, whether or not the DNA profile was consistent with DNA profiles in state or federal databases, a toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation;

(2) upon written request, receive written notification from the Guam Police Department not later than sixty (60) days before the date of the intended destruction or disposal of the kit;

(3) be informed in writing of policies governing the collection and preservation of a forensic medical evidence collection kit; and

(4) upon written request, be granted further preservation of the kit or its probative contents.

(h) to choose whether to participate in any investigation of the sexual assault, unless subpoenaed under 8 GCA Chapter 75;

(i) to reasonable efforts to provide treatment and interviews in a language in which the victim is fluent and the right to be given access to appropriate assistive devices to accommodate disabilities that the victim may have, whether temporary or long term;

(j) to information and assistance in accessing specialized mental health services; protection from further violence; and other appropriate community or governmental services, including services provided by the Criminal Injuries Compensation Program; and all other assistance available to crime victims under current law; and

(k) to be apprised of the availability and process by which to seek protection through a temporary or permanent restraining order if the victim believes that the victim is at risk for re-victimization or further harm by the perpetrator.

§ 163.50 Notice of Rights.

The Office of the Attorney General Victim Services Center shall publish a notice of these rights which shall be posted in all hospital emergency departments, police stations and other law enforcement agencies, sexual violence service organizations, the Guam Department of Education, the Guam Community College, the University of Guam, and any other appropriate place to inform victims of sexual assault of their rights. The Attorney General shall incorporate the rights and services enumerated in this Chapter in its standards for providing services to victims of sexual assault to ensure the compassionate and sensitive delivery of services to all sexual assault victims.

§ 163.60. Severability.

If any provision of this Chapter 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 Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable."

Section 2. Effective Date. This Act shall be effective thirty (30) days following the date of enactment, but the Office of the Attorney General may take

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