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
314-36 (COR) 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 "Pedo" 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 40B TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STALKING PROTECTION ORDER FOR VICTIMS OF STALKING.	6/7/22 4:24 p.m.	6/13/22	Committee on Health, Land, Justice, and Culture	9/21/22 10:30 a.m.	10/21/22 8:28 a.m. As amended by the Committee on Health, Land, Justice, and Culture	Request: 6/13/22 6/21/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
12/2/22	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.	12/16/22	12/16/22	12/28/22	36-127	12/27/22	Received: 12/28/22 Mess and Comm. Doc. No. 36GL-22-2924

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

Doc Type: 36GL-22-2924
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

-12- 27 2022
Time: 4:57pm
Received:

December 27, 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. 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

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 36th 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

RECEIVED
DEC 28 2022
8:00 AM
COMMITTEE ON RULES

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. 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,"** was on the 16th day of December 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 16TH day of Dec, 2022, at 10:06 o'clock P .M.

POS C C Chong 562

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/27/2022

Public Law No. 36-127

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

Bill No. 314-36 (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 40B TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STALKING PROTECTION ORDER FOR VICTIMS OF STALKING.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that stalking impacts 3.4 million people in the United States every year. Of those stalked, almost seventy-five percent (75%) know their stalker. *I Liheslaturan Guåhan* further finds that stalking can escalate to other crimes perpetrated against victims. According to a national study on stalking victimization (Baum, Catalano,

Rand & Rose 2009), over thirty-five percent (35%) of victims reported that they were physically attacked by their stalker, or that a family member, friend, coworker, or pet was attacked by their stalker; and twenty-four percent (24%) had property damaged by the stalker.

I Liheslaturan Guåhan duly notes that there are few legal options for victims who have not had an intimate relationship with the individual stalking them. Some stalking cases are not prosecuted despite being reported. Further, while reporting is encouraged, victims who do not come forward are still entitled to protection from their stalker. These cases necessitate civil remedies that require the stalker to keep away from his or her victim.

It is, therefore, the intent of *I Liheslaturan Guåhan* that a stalking protection order be a remedy for victims who do not qualify for a protection from abuse order under 7 GCA Chapter 40. Stalking victims require the same protection and judicial access as domestic violence and sexual assault victims, and this may be done without intruding on constitutionally protected speech or activities.

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

"CHAPTER 40B

STALKING PROTECTION ORDER

§ 40B101. Definitions.

§ 40B102. Jurisdiction.

§ 40B103. Petition for Stalking Protection Order.

§ 40B104. Fees Not Permitted.

§ 40B105. Hearing.

§ 40B106. Remedies.

§ 40B107. *Ex Parte* Temporary Order for Protection.

§ 40B108. Court Initiated Stalking No-Contact Orders.

§ 40B109. Notification to Enforce Protection Order.

§ 40B101. Definitions.

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

(a) *Petitioner* means any named petitioner for the stalking protection order or any named victim of stalking conduct on whose behalf the petition is brought.

(b) *Stalking conduct* means any of the following:

(1) any act of stalking as defined under 9 GCA, Chapter 19, §19.70;

(2) any course of conduct, whether physical, verbal, written, electronic, telephonic, via or by use of a computer, computer network, computer system, telephone network, data network, text message, instant message, or otherwise, involving repeated or continuing contacts, attempts to contact, monitoring, tracking, keeping under observation, or following of another that:

(A) would cause a reasonable person to feel intimidated, frightened, or threatened;

(B) serves no lawful purpose; and

(C) the stalker knows or reasonably should know their conduct threatens, frightens, or intimidates the person, even if the stalker did not intend to intimidate, frighten, or threaten the person.

(c) *Stalking no-contact order* means a temporary order or a final order granted under this Chapter against a person charged with or arrested for stalking, which includes a remedy authorized under § 40B106 of this Chapter.

(d) *Stalking protection order* means an *ex parte* temporary order or a final order granted under this Chapter, which includes a remedy authorized under § 40B106 of this Chapter.

§ 40B102. Jurisdiction.

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

§ 40B103. Petition for Stalking Protection Order.

(a) A person who does not qualify for a protection from abuse order under 7 GCA Chapter 40 and who is a victim of stalking conduct may seek relief under this Chapter by filing a petition with the court alleging that the person has been the victim of stalking conduct committed by the respondent. A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(b) A person may seek relief under this Chapter on behalf of another person if they have personal knowledge that such person has been a victim of stalking, or any adult household member may seek relief under this Chapter on behalf of minor children by filing a petition with the court alleging stalking by the defendant.

(c) Victim advocates, as defined in 6 GCA, Chapter 9, § 9102(a), shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. The court shall allow victim advocates to assist victims of stalking in the preparation of petitions for stalking protection orders. Communications between the petitioner and a victim advocate shall be protected as provided in 6 GCA, Chapter 9, § 9102(b).

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

§ 40B104. Fees Not Permitted.

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

§ 40B105. Hearing.

Upon receipt of the petition, the court shall order a hearing which shall be held no later than ten (10) days from the date of the order. A plaintiff or witness in a protective order case may request, without the need for a motion, or good cause determination, that the court allow appearance by telephone, videoconference, or by other two (2)-way electronic communication device. The court shall consider whether the safety or welfare of the plaintiff or witness would be threatened if testimony were required to be provided in person at a proceeding. The court may issue an *ex parte* temporary order pending the hearing as provided in § 40B107 of this Chapter.

§ 40B106. Remedies.

(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of stalking conduct by the respondent, the court shall issue a stalking protection order. The petitioner shall not be denied a stalking protection order because the petitioner or the respondent is a minor or because the petitioner did not report the stalking conduct to law enforcement. The court, when determining whether or not to issue a stalking protection order, may not require proof of the respondent's intentions regarding the acts alleged by the petitioner.

(b) The court may provide relief as follows:

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

(2) exclude the respondent from the petitioner's residence, workplace, or school, or from the daycare or school of the petitioner's minor children;

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

(4) prohibit the respondent from keeping the petitioner and/or the petitioner's minor children under surveillance, to include electronic surveillance;

(5) order any other injunctive relief as necessary or appropriate for the protection of the petitioner;

(6) order any other injunctive relief as necessary or appropriate for the protection of the petitioner, to include a mental health and/or chemical dependency evaluation; and

(7) require the respondent to pay the administrative court costs and service fees incurred in bringing the action, including reasonable attorneys' fees.

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

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

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

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

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

(d) Any protection order shall be for a fixed period of time as the court deems appropriate. The court may not terminate or modify an existing stalking protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent will not resume acts of stalking conduct against the petitioner or those persons protected by the protection order if the order is terminated or modified. The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.

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

§ 40B107. *Ex Parte* Temporary Order for Protection.

(a) Where it appears from the petition and any additional evidence that the respondent has engaged in stalking conduct and that irreparable injury could result if an order is not issued immediately without prior notice, the court may grant an *ex parte* temporary order for protection, pending a full hearing, and grant such injunctive relief as it deems proper, including the relief as specified under § 40B106(b)(1)-(4) of this Chapter.

(b) Irreparable injury under this Section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of stalking conduct against the petitioner.

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

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

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

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

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

(d) If the court declines to issue an *ex parte* temporary stalking protection order, the court shall state the particular reasons for the court's denial.

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

§ 40B108. Court Initiated Stalking No-Contact Orders.

(a)(1) When any person charged with or arrested for stalking, as defined in Title 9 GCA, Chapter 19, § 19.70 or any other stalking-related offense, is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that

person from having contact with the victim, and the victim does not qualify for a protection from abuse order under 7 GCA Chapter 40, the court authorizing the release may issue a stalking protection order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(2) In issuing the order, the court shall order the respondent to surrender all firearms, ammunition, permits to purchase firearms, permits to carry firearms, and other dangerous weapons that are in the care, custody, possession, ownership, or control of the respondent if the court finds any of the following factors are present and the petitioner requests that the respondent's firearms, ammunition, permits to purchase firearms, permits to carry concealed firearms, and other dangerous weapons be seized:

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

(B) threats to seriously injure or kill the petitioner or minor child by the respondent;

(C) threats to commit suicide by the respondent; or

(D) serious injuries inflicted by the respondent upon the petitioner or a minor child.

(b) A stalking protection order issued by the court in conjunction with criminal charges shall terminate if the respondent is acquitted or the charges are dismissed, unless the victim files an independent action for a stalking protection order. If the victim files an independent action for a stalking protection order, the order may be continued by the court until a full hearing is conducted pursuant to § 40B105 of this Chapter.

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

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

(e) When a respondent is found guilty of stalking, as defined in Title 9 GCA Chapter 19, § 19.70 or any other stalking-related offense, and a condition of the sentence restricts the respondent's ability to have contact with the victim, and the victim does not qualify for a protection from abuse order under 7 GCA Chapter 40, the condition shall be recorded as a stalking no-contact order.

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

(g) A final stalking no-contact order entered in conjunction with a criminal prosecution shall remain in effect for a period of at least five (5) years following the expiration of the latest sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.

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

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

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

§ 40B109. Notification to Enforce Protection Order.

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

Section 3. Effective Date. This Act shall be effective thirty (30) days following the date of enactment, but the Superior Court of Guam may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this Act.

Section 4. 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.