



Eddie Baza Calvo
Governor of Guam

PORT AUTHORITY OF GUAM

ATURIDAT I PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

1026 Cabras Highway, Suite 201, Piti, Guam 96925

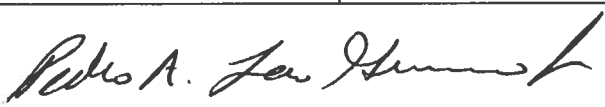
Telephone: (671) 477-5931/35 * Facsimile: (671) 477-2689/4445

Website: www.portguam.com



Ray Tenorio
Lieutenant Governor

POLICY MEMORANDUM NO. 2011-02

To: All Employees	Subject: Employment Leave for Victims of Violence
Effective Date:	Revision Date:
Approved by:  PEDRO A. LEON GUERRERO, JR., General Manager	

I. **PURPOSE:** To comply with Public Law 30-236, *An Act to add New Article 4 to Chapter 3 of Title 22, Guam Code Annotated, Relative to Employment Leave for Victims of Violence*.

II. **SCOPE:** All full-time employees of the Port Authority of Guam.

III. **DEFINITIONS:**

A. Domestic violence means:

1. physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members;
2. sexual assault of one family or household member by another; or
3. stalking as defined in Title 22, GCA of one family or household member of another family or household member.

B. Sexual assault means one or more of the following:

1. rape or rape of a child;
2. assault with intent to commit rape or rape of a child;
3. incest or indecent liberties;
4. child molestation;
5. sexual misconduct with a minor; custodial sexual misconduct;
6. crimes with a sexual motivation; or
7. an attempt to commit any of the aforementioned offenses.

- C. A family member includes any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

For purposes of this policy, daughter, son, parent and spouse have the same meanings as those terms have under federal regulations adopted pursuant to 29, USC, Section 2654, which are as follows:

1. the term "daughter" or "son" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:
 - (a) under 18 years of age; or
 - (b) 18 years of age or older and incapable of self-care because of a mental or physical disability.
2. the term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

- D. A dating relationship means a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

1. the length of time the relationship has existed;
2. the nature of the relationship; and
3. the frequency of interaction between the parties.

- E. The act of stalking as defined in Title 22, Guam Code Annotated.

- F. Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek or hours per weekday of an employee.

- G. Intermittent leave means leave that is taken in separate blocks of time due to a single qualifying reason.

IV. POLICY:

Port Authority of Guam will comply with all provisions set forth in Public Law 30-236. An employee may take reasonable leave from work, intermittent leave, or leave on a reduced leave schedule to:

- A. Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members, including, but not limited to preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;
- B. Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;
- C. Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;
- D. Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

V. **PROCEDURE:**

- A. Employees must contact Human Resources Administrator prior to discussing their need for leave with their supervisor. Human Resources Administrator will work with the employee and his/hersupervisor to facilitate the leave request in the most confidential manner.
- B. An employee must give advanced notice of leave to the Human Resources Office, unless advanced notice cannot be given because of an emergency or unforeseen circumstance due to domestic violence, sexual assault, or stalking. If advanced notice cannot be given, the employee or his/her designee must give notice no later than the end of the first day that the employee takes such leave, and make arrangements to complete/submit the appropriate leave forms and leave documentation.
- C. The employee must complete the "Request to Take Domestic Violence Leave" form and provide the appropriate verification, as well as, submit the required Leave Authorization, whichever is appropriate.

- D. Human Resources will maintain confidentiality of all information provided by the employee under this provision including the fact that the employee or his/her family member is a victim of domestic violence, sexual assault, or stalking, that the employee has requested or obtained leave under this policy, and any written or oral statement, documentation, record, or corroborating evidence provided by the employee.
- E. Information given by an employee may be disclosed by Port Authority of Guam only if:
 - 1. Requested or consented to by the employee;
 - 2. Ordered by a court or administrative agency; or
 - 3. Otherwise required by applicable local or federal law.
- F. The employee must provide the appropriate documentation which may include one or more of the following:
 - 1. A policy report indicating that the employee or his/her family member was a victim of domestic violence, sexual assault, or stalking;
 - 2. A court order protecting or separating the employee or of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or his/her family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;
 - 3. Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking:
 - a. An advocate for victims of domestic violence, sexual assault, or stalking;
 - b. an attorney;
 - c. a member of the clergy; or
 - d. a medical or other professional, or

4. An employee's written statement on the form that the employee or his/her family member is a victim of domestic violence or sexual assault and that the leave taken was for the purposes described in Section IV.
- G. If the victim of domestic violence, sexual assault, or stalking is the employee's family member, the Port will require verification of the familial relationship between the employee and victim. Such verification may include, but is not limited to, written statement from the employee, a birth certificate, a court document, or other similar documentation.
- H. An employee is not required to produce or discuss any information beyond the scope of the verification as stated in F.4. or that would compromise the employee or family member's safety.
- I. An employee who is approved to be absent from work under this policy may elect to use any of their sick and annual leave and/or compensatory time off as allowed under the provisions of the Personnel Rules and Regulations or may take leave without pay. Employees may also apply for shared leave donations.
- J. Upon returning from leave, the employee will be restored to the position held at the time leave began or to an equivalent position unless the employee was hired for a specific term (i.e., temporary or limited term appointment) or the employee was hired for a specific project and the Port would not have otherwise continued the employment. To the extent allowed by law, the Port will maintain coverage under any health and life insurance plans for an employee already on health and life insurance benefits who takes approved leave under this policy. The coverage will be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave. The employee will be responsible for timely payment of his/her own employee premiums.
- K. The Port may not discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee:

Subject: Employment Leave for Victims of Violence

Page 6

Policy Memorandum No. 2011-02

1. Exercised rights under the Domestic Violence Leave or this policy;
2. Filed or communicated to the Port an intent to file a complaint under the Domestic Violence Leave mandate for non-compliance with the law; or
3. Participated or assisted, as a witness or otherwise, in another employee's attempt to exercise right under the Domestic Violence Leave law.

VI. EXCEPTIONS: The Policy is not violated if:

- A. the Port would sustain undue hardship from the employee's absence;
- B. the request for leave is not communicated to the Port within a reasonable time under the circumstances; or
- C. the requested leave is impractical, unreasonable or unnecessary based on the facts then made known to the Port.

VII. CIVIL PENALTIES: The Department of Labor may assess civil penalties of up to \$200.00 for each violation of the law, if notice of the violation was given to the Port within six (6) months of the occurrence.

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

January 20, 2011

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

31-11-077
Office of the Governor
Judith T. Won Pat, Ed.D.
Date: 1/21/11
Time: 2:36 PM
Received by: [Signature]

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 381-30 (LS) "AN ACT TO ADD NEW ARTICLE 4 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO EMPLOYMENT LEAVE FOR VICTIMS OF VIOLENCE", which I signed into law on January 20, 2011 as **Public Law 30-236**.

Senseramente,


EDDIE BAZA CALVO

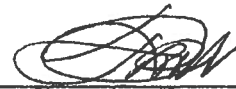
JAN 21 PM 5:01
Haw

Attachment: copy of Bill

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

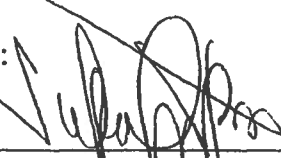
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 381-30 (LS), "AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO EMPLOYMENT LEAVE FOR VICTIMS OF VIOLENCE," was on the 22nd day of December, 2010, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:

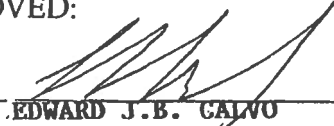


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this _____ day of _____, 2010, at
_____ o'clock _____.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD J.B. CALVO

I Maga'lahaen Guåhan

JAN 20 2011

Date: _____

Public Law No. 30-236

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 381-30 (LS)

As amended.

Introduced by:

Telo Taitague
V. Anthony Ada
E. J.B. Calvo
Ray Tenorio
F. F. Blas, Jr.
F. B. Aguon, Jr.
T. C. Ada
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 3
OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE
TO EMPLOYMENT LEAVE FOR VICTIMS OF
VIOLENCE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 4 is *added* to Chapter 3 of Title 22, Guam Code
Annotated, to read as follows:

“Article 4

Employment Leave for Victims of Violence

1 **§3401. Required Leave.** An employer must grant reasonable
2 and necessary leave from work, with or without pay, for an employee to:

- 3 (a) prepare for and attend court proceedings;
4 (b) receive medical treatment or attend to medical treatment for a
5 victim who is the employee's daughter, son, parent or spouse; or
6 (c) obtain necessary services to remedy a crisis caused by domestic
7 violence, sexual assault or stalking.

8 The leave must be needed because the employee or the employee's
9 daughter, son, parent or spouse is a victim of a crime of violence to include,
10 *but not be limited to*, domestic violence, assault, sexual assault, stalking or
11 any act that would support an order for protection. An employer may *not*
12 sanction an employee or deprive an employee of pay or benefits for
13 exercising a right granted by this Article.

14 **§3402. Definitions.** For purposes of this Article, the terms
15 *daughter, son, parent, and spouse* have the same meanings as those terms
16 have under federal regulations adopted pursuant to 29, United States Code,
17 Section 2654. An employer may require an employee to provide reasonable
18 documentation of the family relationship, which may include a statement
19 from the employee, a birth certificate, a court document or similar
20 documents.

21 **§3403. Exceptions.** §3401 of this Article is *not* violated if:

- 22 (a) the employer would sustain undue hardship from the
23 employee's absence;
24 (b) the request for leave is *not* communicated to the employer
25 within a reasonable time under the circumstances; or
26 (c) the requested leave is impractical, unreasonable or unnecessary
27 based on the facts then made known to the employer.

1 **§3404. Civil Penalties.** The Department of Labor may assess
2 civil penalties of *up to* Two Hundred Dollars (\$200) for each violation of
3 this Article, *if* notice of the violation was given to the employer and the
4 department within six (6) months of the occurrence.

5 **§3405. Application.** This Article applies to all public and
6 private employers.”