

I MINA' TRENTAI UNO NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 34-31 (con)

Introduced by:

B.J.F. Cruz

2011 JAN 18 PM 2:06

**AN ACT TO AMEND § 11306 OF ARTICLE 3, CHAPTER 11,
TITLE 7 OF THE GUAM CODE ANNOTATED; RELATIVE
TO THE STATUTE OF LIMITATIONS FOR CIVIL ACTIONS
INVOLVING CHILD SEXUAL ABUSE**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that child sexual abuse survivors often are disabled from revealing abuse at the time they suffer it and for many years thereafter. For some, the abuser was a parent, stepparent, or relative, a member of the clergy, a teacher or other trusted adult. Some victims blame themselves and fear retribution if the abuse is revealed. For many, the trauma itself prevents them from coming forward earlier. As adults, victims may not connect the assault to its long-lasting impact until they seek therapeutic help years later. Many of the injuries associated with childhood sexual abuse do not manifest themselves until much later in life. The expiration of applicable statute of limitations during this period had the effect of barring many meritorious claims. This has allowed many child sexual abusers to escape civil liability. If evidence is sufficient to prove civil liability, the mere passage of time should not foreclose child sexual abuse survivors from seeking justice. Therefore, *I Liheslatura* finds that justice for child sexual abuse survivors may be achieved by

1 reviving the statute of limitations for civil actions for past child sexual abuse for a
2 two year period.

3 **Section 2.** Subsection § 11306 of Article 3, Chapter 11 of Title 7, Guam
4 Code Annotated is hereby *amended* to read:

5 **“§ 11306. Within Two Years.**

6 (1) An action for assault, battery, false imprisonment, seduction of a
7 person below the age of legal consent, or for injury to, or for the death of, a
8 person caused by the wrongful act or neglect of another except as provided
9 for in § 11308.

10 (2) Notwithstanding the provisions of subsection (1) of this section,
11 for a period of two years following the effective date of this bill, victims of
12 child sexual abuse that occurred on Guam who have been barred from filing
13 suit against their abusers by virtue of the expiration of the civil statute of
14 limitations, shall be permitted to file those claims in the Guam Superior
15 Court. If the person committing the act of sexual abuse against a minor was
16 employed by an institution, agency, firm, business, corporation, or other
17 public or private legal entity that owed a duty of care to the victim, or the
18 accused and the minor were engaged in some activity over which the legal
19 entity had some degree of responsibility of control, damages against the
20 legal entity shall be awarded under this subsection only if there is a finding
21 of gross negligence on the part of the legal entity.

22 (3) A person against whom a suit is filed may recover attorney’s fees
23 where the Court determines that a false accusation was made with no basis
24 in fact and with malicious intent. A verdict in favor of the accused shall not
25 be the sole basis for a determination that an accusation was false. The court
26 must make an independent finding of an improper motive to award attorneys
27 fees under this section.”

I MINA' TRENTAI UNO NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 33-31 (COR)

Introduced by:

B.J.F. Cruz

2011 JAN 18 PM 2:06

**AN ACT TO REPEAL THE STATUTE OF LIMITATION
FOR THE PROSECUTION OF A SEX CRIME
INVOLVING A VICTIM WHO IS UNDER THE AGE OF
THE MAJORITY BY *ADDING* A NEW § 10.16 TO
CHAPTER 10 OF TITLE 8, GUAM CODE ANNOTATED**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that child sexual abuse survivors often are disabled from revealing abuse at the time they suffer it and for many years thereafter. Furthermore, the expiration of applicable statutes of limitation has the effect of barring both civil claims and criminal prosecution of the perpetrators.

I Liheslaturan Guåhan finds that several state legislatures in the country have already passed or are attempting to enact legislation to open a window for civil claims against such perpetrators. However, as long as the applicable statutes of limitation for criminal prosecution remain in place, there will be a perpetual need to introduce such window legislation in the future.

I Liheslaturan Guåhan intends to address this by abolishing the statute of limitations for the criminal prosecution of perpetrators for sex crimes against children altogether, thereby serving to protect children from sex

1 crimes and the kind of suffering already being endured by victims who are
2 denied justice and relief under the current legal system.

3 **Section 2.** A new § 10.16 is hereby *added* to Chapter 10 of Title 8,
4 Guam Code Annotated to read:

5 **"§ 10.16 No limitation on Sex Crimes committed against victims**
6 **under the age of the majority.** If the offense is a violation of Chapter
7 25 of Title 9 GCA and the victim was under the age of the majority at
8 the time the offense was committed, a prosecution of the offense may
9 be commenced at any time. This section applies to any such offense
10 *except* an offense the prosecution of which would have been *barred*
11 by § 10.15 of this Chapter on or before enactment of this Act."

12 **Section 3. Effective Date.** This Act shall be effective upon enactment
13 into law.