

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

Bill No. 311-36 (COR) As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended in the Committee of the Whole.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 28, 2022					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telen Cruz Nelson					✓	✓
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin					✓	✓
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

TOTAL

13

0

2

2

Aye

Nay

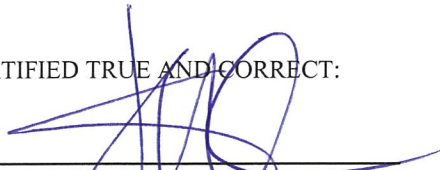
Not
Voting/
Abstained

Out
During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. C. MENO
 Clerk of the Legislature

I = Pass

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

Bill No. 311-36 (COR)

As amended by the Committee on General
Government Operations, Appropriations, and Housing;
and further amended in the Committee of the Whole.

*

Introduced by:

Frank Blas Jr.
Joe S. San Agustin
Therese M. Terlaje
Joanne Brown
Telo T. Taitague
Tina Rose Muna Barnes
Sabina Flores Perez
Clynton E. Ridgell
Mary Camacho Torres

**AN ACT TO ADD A NEW CHAPTER 25 TO TITLE 1,
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A GUAM CRIMINAL LAW AND
PROCEDURE REVIEW COMMISSION FOR THE
PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF
THE GUAM CODE ANNOTATED.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that it has been nearly fifty (50) years since the last comprehensive review of Guam’s
4 laws on crimes and criminal procedure through the work of the Guam Law Revision
5 Commission created by Public Law 12-93 (1974). The work of the Law Revision
6 Commission resulted in the enactment of Public Law 13-185, which established the
7 Criminal and Correctional Code (1976); Public Law 13-186, which established the

1 Criminal Procedure Code (1976); and Public Law 13-187, which amended existing
2 Guam laws to conform with the terminology of the two (2) newly-adopted codes
3 (1976). In 1980, the Fifteenth (15th) Guam Legislature adopted the new Guam Code
4 Annotated (GCA) as Guam's statutory code, establishing Title 8 of the GCA as the
5 Criminal Procedure Code, and Title 9 of the GCA as the Criminal and Correctional
6 Code.

7 *I Liheslaturan Guåhan* further finds that since the comprehensive review of
8 the Guam Law Revision Commission, the amendments, additions, and repeals of
9 Guam's criminal laws have been on a piecemeal basis, and as a result, the laws and
10 procedures used to prosecute criminal behavior may, in some cases, be unnecessary,
11 unclear, duplicative, overly broad, or otherwise, insufficient to serve the purpose of
12 the law.

13 Since this review, there have been amendments to 48 U.S.C. § 1421 et seq. of
14 the Organic Act of Guam to recognize the authority of the Supreme Court of Guam
15 as a separate and co-equal branch of the government of Guam, and to give the
16 Supreme Court the authority to “make and promulgate rules governing the
17 administration of the judiciary and the practice and procedure in the courts of the
18 judicial branch of Guam[.]” [48 U.S.C.A. § 1424-1(a)(6)].

19 Therefore, it is the intent of this legislation to create a commission composed
20 of key stakeholders and experts to review the laws that address the criminal
21 procedures and criminal laws of Guam and to recommend enactments, amendments
22 and repeals to *I Liheslaturan Guåhan* for action.

23 **Section 2.** A new Chapter 25 is *added* to Title 1, Guam Code Annotated, to
24 read:

25 **“CHAPTER 25**

26 **GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION**

27 § 25.01. Short Title.

1 § 25.02. Establishment; No Derogation of Organic Act Authority.

2 § 25.03. Duties and Responsibilities.

3 § 25.04. Composition.

4 § 25.05. Executive Director.

5 § 25.06. Meetings.

6 § 25.07. Reporting Requirements.

7 § 25.08. Administrative Support.

8 **§ 25.01. Short Title.**

9 This Act shall be known as the *Guam Criminal Law and Procedure Review*
10 *Commission Act*.

11 **§ 25.02. Establishment; No Derogation of Organic Act Authority.**

12 (a) There is created the Guam Criminal Law and Procedure Review
13 Commission (Commission) to review the laws that address the criminal procedures
14 and criminal laws of Guam; and to recommend enactments, amendments, and
15 repeals to *I Liheslaturan Guåhan* for action.

16 (b) Neither this Act, nor the duties and responsibilities of the Commission
17 established here, shall derogate, limit, or circumvent the authority of the Supreme
18 Court of Guam to make and promulgate rules governing the administration of the
19 judiciary and the practice and procedure in the courts of the judicial branch of Guam
20 granted by 48 U.S.C.A. § 1424-1(a)(6).

21 **§ 25.03. Duties and Responsibilities.**

22 (a) The Commission shall conduct a comprehensive and systematic review
23 of Guam laws, including the Guam Criminal Procedure Code codified in Title 8 of
24 the Guam Code Annotated (GCA), the Guam Criminal and Correctional Code
25 codified in Title 9 of the GCA, and other provisions in the statutory code and session
26 laws of Guam relating to criminal law or procedure.

27 (b) In preparing the criminal code reform recommendations required by

1 Subsection (a) of this Section, the Commission may:

2 (1) review criminal codes and code reform efforts in other
3 jurisdictions, the American Law Institute Model Penal Code, including
4 recently proposed amendments, and other criminal law resources;

5 (2) consult with other Guam, federal, and state departments and
6 agencies, conduct community outreach, and engage in other activities to
7 advance the Commission's statutory duties; and

8 (3) prioritize the review of Title 9.

9 (c) At the conclusion of its review, the Commission shall submit
10 comprehensive criminal code reform recommendations to the Chief Justice of the
11 Supreme Court of Guam, *I Maga'hågan Guåhan*, and the Speaker of *I Liheslaturan*
12 *Guåhan* within twenty-four (24) months of the initial meeting described in § 25.06
13 of this Chapter.

14 (d) The Commission may contract for any professional services if such
15 services cannot be satisfactorily performed by its employees.

16 (e) The Commission shall study and report on any relevant topic which *I*
17 *Liheslaturan Guåhan*, by resolution, shall refer to the Commission for action.

18 (f) After completion of the review and submission of the recommendations
19 required in this Section, the Commission shall, subject to additional appropriations
20 by *I Liheslaturan Guåhan*, conduct periodic reviews, but not less than every five (5)
21 years, of Guam's criminal laws under the provisions set forth in this Chapter to
22 recommend amendments or repeals to bring the criminal laws of Guam into harmony
23 with modern conditions.

24 **§ 25.04. Composition.**

25 (a) The Commission shall be composed as follows:

26 (1) three (3) members appointed by the Chief Justice, of whom one
27 (1) shall be a member of the general public with experience and interest in the

1 services provided by community-based and public interest organizations
2 relating to the criminal justice system;

3 (2) three (3) members appointed by *I Maga'hågan Guåhan*, of whom
4 one (1) shall be a member of the general public with experience and interest
5 in the services provided by community-based and public interest
6 organizations relating to the criminal justice system;

7 (3) three (3) members appointed by the Speaker of *I Liheslaturan*
8 *Guåhan*, of whom one (1) shall be a member of the general public with
9 experience and interest in the services provided by community-based and
10 public interest organizations relating to the criminal justice system, and may
11 hold a degree in Human Services or a related field, including the Social
12 Sciences;

13 (4) the Attorney General of Guam, or his or her designee;

14 (5) the Executive Director of the Public Defender Service
15 Corporation, or his or her designee;

16 (6) the Chief of the Guam Police Department, or his or her designee;

17 (7) the Director of the Department of Corrections, or his or her
18 designee;

19 (8) the Compiler of Laws, who shall serve as an ex-officio non-
20 voting member; and

21 (9) the Executive Director of the Commission, who shall serve as an
22 ex-officio non-voting member.

23 (10) two (2) members of the Guam Bar Association appointed by the
24 President of the Guam Bar Association.

25 (b) As a result of their participation in the Commission, members shall not
26 be subject to legislative confirmation, and shall not be subject to the public official
27 reporting requirements in 4 GCA, Chapter 13.

1 (c) Commission members shall be appointed or designated within sixty
2 (60) days of enactment of this Chapter, and shall serve until the submission of the
3 report described in § 25.07 of this Chapter, unless replaced by the appointing or
4 designating authority. Any vacancy in Commission membership shall be filled
5 expeditiously by the appointing or designating authority, so as to not impede the
6 work of the Commission.

7 (d) The Chair of the Commission shall be an appointee of the Chief Justice,
8 and shall be a judicial officer.

9 (e) The Chair of the Commission shall have the authority to create different
10 subcommissions from among its members to focus on different areas of law and to
11 report back to the entire Commission on findings and recommendations, and the
12 Chair of the Commission shall appoint a chairperson for each subcommission.

13 (f) The appointees in this Section who are employees of any branch of the
14 government of Guam may participate in the duties and responsibilities of the
15 Commission if such participation is compatible with the ethical duties of their
16 respective offices and positions.

17 **§ 25.05. Executive Director.**

18 (a) There is created the position of Executive Director of the Commission,
19 who shall be responsible for and oversee the operations of the Commission; develop
20 and institute internal policies, procedures, and processes to ensure efficient
21 operations; and assume such duties and responsibilities as delegated and assigned by
22 the Commission.

23 (b) In addition to any other qualifications which may be established, the
24 Executive Director shall be an attorney licensed to practice in Guam; and shall be in
25 good standing in every jurisdiction where he or she is licensed to practice law.

26 (c) The Executive Director shall be appointed by the Chief Justice, and
27 shall be a full-time, unclassified employee of the Judiciary compensated and subject

1 to removal in accordance with Judiciary of Guam Personnel Rules and Regulations
2 adopted and promulgated by the Judicial Council, and shall be administratively
3 supported by the Judiciary.

4 (d) In the exercise of his or her responsibilities under this Chapter, the
5 Executive Director may:

6 (1) work closely with the Compiler of Laws in all aspects of
7 searching and researching the GCA and the laws of Guam;

8 (2) request and utilize the services of any bar association, legislative
9 committee, legislative office, profession, or other organization in any matter
10 suitable for fulfilling the purposes of this Chapter;

11 (3) have access to any legislative, executive, or judicial reports,
12 opinions, orders, or documents necessary to carry out the purposes of this
13 Chapter; and

14 (4) conduct meetings, formal or informal, with attorneys,
15 representatives from government entities, private sector businesses,
16 community-based organizations, and others interested in the results and work
17 of the Commission.

18 **§ 25.06. Meetings.**

19 (a) Initial Meeting. The Commission shall hold an initial planning and
20 organizational meeting within thirty (30) days of the appointment of the Executive
21 Director. Thereafter, the Commission shall hold regular meetings as necessary to
22 fulfill the statutory responsibilities of the Commission.

23 (b) Plenary Meetings. The Commission shall hold a plenary meeting,
24 consisting of all members of the Commission, at least once every six (6) months.

25 (1) A majority of all Commission members shall constitute a quorum
26 for a plenary meeting.

27 (2) A formal vote on the recommendations in the final report under

1 § 25.07(b) of this Chapter shall be conducted only during plenary meetings.

2 (3) A recommendation must receive at least eight (8) votes in favor
3 in a plenary meeting to be included in the final report under § 25.07(b).

4 (4) Plenary meetings shall be subject to the Open Government
5 Law, codified at 5 GCA Chapter 8.

6 (5) Plenary meetings shall be scheduled by the Chair of the
7 Commission.

8 (c) Subcommittee Meetings. Members of subcommissions shall meet
9 regularly to fulfill the statutory duties of the Commission.

10 (1) Subcommittee meetings shall serve as working sessions for
11 members to conduct discussions to further the Commission's duties and
12 responsibilities under § 25.03 of this Chapter. A subcommission shall prepare
13 its findings and recommendations, and present them to the entire Commission
14 for consideration.

15 (2) Subcommittee meetings shall not be subject to the Open
16 Government Law, codified at 5 GCA, Chapter 8.

17 (3) There is no quorum requirement for subcommission meetings.

18 (4) Subcommittee meetings may be scheduled by the Chair of the
19 Commission, the Executive Director, or a subcommission chairperson.

20 (d) Commission meetings may be conducted in-person or virtually, and
21 members may attend in-person, by videoconference, or by teleconference.

22 **§ 25.07. Reporting Requirements.**

23 (a) Progress Reports. The Commission shall submit progress reports to the
24 Chief Justice, *I Maga'hågan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*
25 each quarter; and these reports shall be a summary of Commission activities during
26 the prior quarter.

27 (b) Final Report. The Commission shall submit comprehensive criminal

1 code reform recommendations as required by § 25.03(c) of this Chapter, which shall
2 include proposed legislation for the revision of Title 8 and Title 9 of the GCA, and
3 other provisions in the statutory code relating to criminal law and procedure. The
4 report and proposed legislation should:

- 5 (1) use clear and plain language;
- 6 (2) apply consistent definitions;
- 7 (3) describe all elements, including mental states, that must be
8 proven;
- 9 (4) reduce unnecessary overlap and gaps between criminal offenses;
- 10 (5) eliminate archaic and unused offenses;
- 11 (6) adjust penalties, fines, and the gradation of offenses to provide
12 for proportionate penalties;
- 13 (7) organize existing criminal statutes in a logical order;
- 14 (8) identify any crimes defined in common law that should be
15 codified, and propose recommended language for codification;
- 16 (9) identify criminal statutes held to be unconstitutional and
17 recommend their removal or amendment;
- 18 (10) propose such other amendments as the Commission believes are
19 necessary; and
- 20 (11) articulate specific steps for implementing the recommendations.

21 **§ 25.08. Administrative Support.**

22 (a) Administrative support for the Commission shall be provided through
23 the Judiciary of Guam for any assistance required by the Commission, or hearing to
24 be held under this Chapter.

25 (b) The Judiciary shall provide technical, clerical, and administrative
26 support to the Commission. In exercising the responsibilities in this Chapter, the
27 Judiciary may:

- 1 (1) accept grants, contributions, and appropriations;
- 2 (2) employ such professional or clerical staff as necessary for the
3 operations of the Commission, under the Personnel Rules and Regulations of
4 the Judicial Branch promulgated by the Judicial Council; and
- 5 (3) enter into contracts as necessary for the operations of the
6 Commission, under the law and the rules and regulations promulgated by the
7 Judicial Council.

8 (c) The Office of the Compiler of Laws shall provide technical and other
9 assistance to the Commission, to the extent such assistance does not conflict with
10 the duties of the Compiler of Laws as set forth in 1 GCA, Chapter 16 and Judiciary
11 of Guam Personnel Rules and Regulations. The Compiler of Laws shall ensure that
12 assistance provided to the Commission does not conflict with his or her duties to the
13 Guam Code Advisory Commission under 1 GCA, Chapter 16, § 1611.”

14 **Section 3. Funding.** There is appropriated Two Hundred Fifty Thousand
15 Dollars (\$250,000) from the Audited Fiscal Year 2022 General Fund surplus balance
16 to carry out the purposes of this Act.

17 **Section 4. Effective Date.** This Act shall be effective upon enactment.

18 **Section 5. Severability.** If any provision of this Act or its application to any
19 person or circumstance is found to be invalid or contrary to law, such invalidity shall
20 not affect other provisions or applications of this Act that can be given effect without
21 the invalid provision or application, and to this end the provisions of this Act are
22 severable.