

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session

Bill No. 381 (EQ)

Introduced by:

  
Robert Klitzkie

**AN ACT TO ADD SECTION 7122 TO CHAPTER 7 OF TITLE 7, GUAM CODE ANNOTATED, TO PROVIDE FOR THE APPOINTMENT OF MAGISTRATES; TO ADD SECTION 40.50(b) TO CHAPTER 40 OF TITLE 8, GUAM CODE ANNOTATED, PROVIDING THAT REVIEW OF RELEASE CONDITIONS SET BY A MAGISTRATE SHALL BE UNDERTAKEN BY A JUDGE UPON APPLICATION; TO AMEND SECTION 5501 OF CHAPTER 5A OF TITLE 19, GUAM CODE ANNOTATED, TO PROVIDE FOR THE APPOINTMENT OF JUDICIAL HEARINGS DIVISION HEARINGS OFFICERS; TO PROVIDE FOR THE ASSIGNMENT OF MAGISTRATES OR JUDICIAL HEARINGS DIVISION HEARINGS OFFICERS TO SATELLITE FACILITIES OF THE JUDICIARY; TO PROVIDE FOR PROMULGATION OF SUPREME COURT ADMINISTRATIVE RULES TO FACILITATE IMPLEMENTATION OF THIS ACT AND TO PROVIDE FOR REPORTING OF MAGISTRATE AND JUDICIAL HEARINGS DIVISION HEARINGS OFFICER DATA ON THE SUPREME COURT WEBSITE**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2       **Section 1. Legislative Findings.** I Liheslatura Guahan finds that:

3           1. A need exists for additional judicial officers within the Judicial Branch as evidenced by  
4 the September 2006 Guam Judicial Workload Assessment Final Report commissioned by the  
5 Judiciary and undertaken by the National Center for State Courts.

6           2. The Judiciary should employ the services of subordinate judicial officers such as  
7 magistrates and Judicial Hearings Division Hearings Officers ("JHD Hearings Officers") to  
8 handle voluminous and time-consuming yet less complicated matters before the Superior Court  
9 to facilitate completion of the Court's business more frugally than by adding a new Superior  
10 Court Judge.

1           3. As the majority of our population is in the northern part of Guam, which is likely to  
2 further increase given the projected military expansion, and as the current Judicial Center is  
3 essentially incapable of expansion, the efficacy of the Superior Court establishing satellite  
4 facilities in highly populated areas to better serve the public is recognized.

5           **Section 2. Appointment of Magistrates.** A new Section 7122 is hereby added to Chapter  
6 7 of Title 7, Guam Code Annotated, to read as follows:

7           “§7122. Magistrates. The Chief Justice of the Supreme Court of Guam is hereby  
8 authorized to appoint such magistrates to serve on a full or part-time basis as necessary for the  
9 proper administration of justice.

10           (a) A magistrate shall:

- 11           (i)     serve a four year term and be removable for cause;
- 12           (ii)    Be at least thirty (30) years of age;
- 13           (iii)   meet the qualifications required of a Superior Court Judge set forth in 7  
14                    GCA §§ 3109(c),(d) & (e);
- 15           (iv)    Be a member of the Guam Bar Association in good standing;
- 16           (v)     Not have been convicted of any felony or any misdemeanor involving  
17                    moral turpitude;
- 18           (vi)    not be related by blood within the third degree of consanguinity or  
19                    marriage to a judge or justice of the courts of Guam at the time of his or  
20                    her initial appointment;
- 21           (vii)   be subject to the same ethical and judicial standards as a Superior Court  
22                    Judge or Justice, to include the Guam Rules for Judicial Disciplinary  
23                    Enforcement; and
- 24           (viii)   receive a salary no greater than 90% of a Superior Court of Guam Judge's  
25                    (who is not the Presiding Judge) salary.

26           (b) A magistrate may hear the following:

- 27           (i)     small claims matters, and to issue and hear returns of warrants of arrest in  
28                    such cases;
- 29           (ii)    traffic matters, and to issue and hear returns of warrants of arrest in such  
30                    cases;

- 1 (iii) changes of name;
- 2 (iv) post-judgment civil matters relative to execution of judgments such as  
3 judgment debtor exams, issuance and hearing of orders to show cause to  
4 include contempt orders, garnishment matters, writs of execution, and to  
5 issue and hear returns of warrants of arrest in such cases;
- 6 (v) first appearances of criminal defendants pursuant to Title 8 GCA § 45.30,  
7 which include appearances pursuant to Title 8 GCA § 45.10 which are  
8 commonly referred to as “magistrate hearings,” as well as appearances  
9 pursuant to Title 8 GCA Chapter 15 (summons) and Title 8 GCA § 25.20  
10 (notice to appear), provided that such authority shall not extend to issuance  
11 or hearing returns of warrants of arrest in such cases;
- 12 (vi) set bail and other conditions of release in criminal cases;
- 13 (vii) criminal arraignments, provided that such authority shall not extend to  
14 issuance or hearing returns of warrants of arrest in such cases; and
- 15 (viii) any matters which may be heard by a referee of the Superior Court of  
16 Guam.”

17 **Section 3.** Section 40.50(d) is hereby added to Section 40.50 of Chapter 40 of Title 8,  
18 Guam Code Annotated, to read as follows:

19 “(d) Review of conditions of release imposed by a magistrate pursuant to Section 7122  
20 of Chapter 7 of Title 7, Guam Code Annotated shall be reviewed by any judge  
21 upon application pursuant to subsection (a).”

22 **Section 4.** Section 5501 of Chapter 5A of Title 19, Guam Code Annotated, is hereby  
23 amended to read as follows:

24 “§5501. Authorization for Expedited Judicial Process; Hearings Officers. (a) There is  
25 hereby created an expedited judicial process agency which shall constitute a division of the  
26 Superior Court to be designated the Judicial Hearings Division.

27 (b) The Judicial Hearings Division (the Division) shall be a court of record administered by one  
28 (1) or more Hearings Officers who shall be appointed by the Chief Justice of the Supreme Court  
29 of Guam to serve on a full-time or part-time basis and who shall be subject to the conditions  
30 articulated in Section 7122(a) of Chapter 7 of Title 7 regarding magistrates.”

1           **Section 5.** Any reference to referee or referees within Chapter 5A of Title 19, Guam Code  
2 Annotated, shall be read as “Hearings Officer” or “Hearings Officers.”

3           **Section 6.** Upon a determination by the Chief Justice of the Supreme Court of Guam that  
4 the business of the Judiciary would be better facilitated and the public better served by such, the  
5 Chief Justice may assign such magistrates or JHD Hearings Officers to such satellite facilities of  
6 the Judiciary as the Chief Justice determines to be in the best interest of justice.

7           **Section 7. Implementation.** The Supreme Court of Guam shall promulgate  
8 administrative rules as necessary to effectively implement this Act provided that no salary shall  
9 be reduced by implementation of this Act.

10          **Section 8. Effective Date.** This Act shall be effective upon promulgation by the Supreme  
11 Court of Guam of administrative rules pursuant to Section 7 which shall include procedures for  
12 including on the Supreme Court of Guam’s website data regarding the caseloads of any  
13 magistrates or JHD Hearings Officers in a timely manner which shall be updated regularly.