

FILE COPY

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

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

This is to certify that Bill No. 288 (EC), "AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF TITLE 7 AND A NEW SUBSECTION (d) TO §40.50 OF CHAPTER 40 OF TITLE 8, AND TO AMEND §5501 AND TO ADD A NEW §5505 OF TITLE 19, GUAM CODE ANNOTATED, TO PROVIDE FOR THE APPOINTMENT OF MAGISTRATES AND JUDICIAL HEARINGS DIVISION HEARINGS OFFICERS WITHIN THE JUDICIARY OF GUAM AND TO PROVIDE FOR THE CREATION OF SATELLITE COURT FACILITIES; TO AMEND P.L. 29-82 TO EXTEND THE APPROPRIATION TO THE HEALING HEARTS CRISIS CENTER; TO AMEND §5030 (k) OF TITLE 5, GUAM CODE ANNOTATED, TO EXEMPT THE RETIREMENT FUND FROM THE GOVERNMENT PROCUREMENT LAW; AND FOR OTHER PURPOSES," was on the 14th day of August, 2008, duly and regularly passed.

Judith T. Won Pat Ed. D.
Speaker

Attested:

Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by I Maga'lahaen Guåhan this 15 day of aug, 2008, at 2:44 o'clock P.M.

Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 288 (EC)

As amended in the Committee
of the Whole.

Introduced by:

James V. Espaldon
Dr. David L.G. Shimizu
B. J.F. Cruz
Frank T. Ishizaki
R. J. Respicio
Frank F. Blas, Jr.
Edward J.B. Calvo
Mark Forbes
Judith P. Guthertz, DPA
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
Ray Tenorio
J. T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 4 OF TITLE 7 AND A NEW SUBSECTION (d) TO §40.50 OF CHAPTER 40 OF TITLE 8, AND TO *AMEND* §5501 AND TO *ADD* A NEW §5505 OF TITLE 19, GUAM CODE ANNOTATED, TO PROVIDE FOR THE APPOINTMENT OF MAGISTRATES AND JUDICIAL HEARINGS DIVISION HEARINGS OFFICERS WITHIN THE JUDICIARY OF GUAM AND TO PROVIDE FOR THE CREATION OF SATELLITE COURT FACILITIES; TO *AMEND* P.L. 29-82 TO EXTEND THE APPROPRIATION TO THE HEALING HEARTS CRISIS CENTER; TO *AMEND* §5030 (k) OF TITLE 5, GUAM CODE ANNOTATED, TO EXEMPT THE RETIREMENT FUND FROM THE GOVERNMENT PROCUREMENT LAW; AND FOR OTHER PURPOSES.

1 (1) Upon request by the Chief Justice, the Guam Bar
2 Association will solicit interest for the position of magistrate;

3 (2) The Guam Bar Association will then submit the
4 names of three (3) candidates to the Chief Justice;

5 (3) The Chief Justice must appoint the magistrate from
6 the list provided by the Guam Bar Association.

7 (4) The appointment by the Chief Justice is subject to
8 the approval of *I Liheslaturan Guåhan*.

9 (b) A magistrate *shall*:

10 (1) serve a four (4) year term, removable for cause;

11 (2) be at least thirty (30) years of age;

12 (3) meet the qualifications required of a Superior
13 Court Judge as articulated by §3109(c), (d) & (e), Title 7, GCA;

14 (4) be a member in good standing of the Guam Bar
15 Association;

16 (5) not have been convicted of any felony *or* any
17 misdemeanor involving moral turpitude;

18 (6) not be related by blood within the third degree of
19 consanguinity *or* marriage to a judge *or* justice of the courts of
20 Guam at the time of his *or* her initial appointment;

21 (7) be subject to the same ethical standards as a
22 Superior Court Judge *or* Justice, to include the Guam Rules for
23 Judicial Disciplinary Enforcement; and

24 (8) receive a salary *no greater than* ninety percent
25 (90%) of a Judge who is *not* the Presiding Judge.

26 (c) A magistrate *shall* be empowered to hear the following,
27 as assigned by the Chief Justice:

1 (1) small claims matters, and to issue and hear returns
2 of warrants of arrest in such cases;

3 (2) traffic matters, and to issue and hear returns of
4 warrants of arrest in such cases;

5 (3) changes of name;

6 (4) post-judgment civil matters relative to execution of
7 judgments such as judgment debtor exams, garnishment
8 matters, and writs of execution, and to issue warrants of arrest
9 and hear returns of warrants of arrest in such cases;

10 (5) first appearances of criminal defendants within the
11 context of §45.30, Title 8, Guam Code Annotated, which
12 include appearances pursuant to §45.10, Title 8 of the Guam
13 Code Annotated and which are commonly referred to in
14 practice within our local criminal court as "magistrate
15 hearings", as well as appearances pursuant to Chapter 15
16 (summons), Title 8, GCA, and §25.20 (notice to appear),
17 although *no* authority exists to issue *or* hear returns of warrants
18 of arrest in such cases;

19 (6) set *or* change bail and conditions of release in
20 criminal cases;

21 (7) criminal arraignments, although *no* authority exists
22 to issue *or* hear returns of warrants of arrest in such cases; and

23 (8) any matters which may be heard by a referee of the
24 Superior Court of Guam.

25 **§4402. Satellite Courts.** The Chief Justice of the Supreme Court of
26 Guam is hereby authorized to establish a Northern Court Satellite (NCS).”

1 **Section 3.** A new Subsection (d) is hereby *added* to §40.50 of Chapter 40 of
2 Title 8, Guam Code Annotated, to read as follows:

3 “(d) *If* conditions of release are imposed by a magistrate pursuant to
4 §4401, Title 7 of the Guam Code Annotated, any judge may review such
5 conditions.”

6 **Section 4.** Funding requirements for this Act *shall* be included in the
7 Unified Judiciary of Guam Fiscal Year 2009 Budget Request.

8 **Section 5.** §5501 of Chapter 5A of Title 19, Guam Code Annotated is
9 hereby *amended* to read as follows:

10 “**§5501. Authorization for Expedited Judicial Process; Hearings**
11 **Officers.** (a) There is hereby created an expedited judicial process agency
12 which *shall* constitute a division of the Superior Court to be designated the
13 Judicial Hearings Division.

14 (b) The Judicial Hearings Division (the Division) *shall* be a court of
15 record administered by one (1) *or more* Hearings Officers who *shall* be
16 appointed by the Chief Justice of the Supreme Court of Guam to serve on a
17 full-time *or* part-time basis and who *shall* be subject to the conditions
18 articulated in §4401(b) of Title 7, Guam Code Annotated, regarding
19 magistrates.”

20 **Section 6.** A new §5505 is hereby *added* to Chapter 5A of Title 19, Guam
21 Code Annotated, to read as follows:

22 “**§5505. Referee shall mean Hearing Officer.** Any reference to
23 referee *or* referees within this Chapter *shall* also mean "Hearings Officer" *or*
24 "Hearings Officers".”

25 **Section 7.** The Supreme Court of Guam may promulgate administrative
26 rules as necessary to effectively implement this Act.

27 **Section 8. Annual Reporting Requirements.**

- 1 (a) The Chief Justice *shall* report annually to the Director of the
2 Bureau of Statistics and Plans on the financial impact on the
3 Courts as a direct consequence of unrestricted immigration
4 from the Freely Associated States of Micronesia.
- 5 (b) The Chief Justice *shall* report annually to the Director of the
6 Bureau of Statistics and Plans on the financial impact on the
7 Courts resulting from the impending military buildup.
- 8 (c) The annual reports required in this Section *shall* be due on the
9 date established by the Director of the Bureau of Statistics and
10 Plans.

11 **Section 9.** Section 5 of Public Law 29-82 is hereby *amended* to read as
12 follows:

13 **“Section 5. Authorization for Supplemental Funding for Healing**
14 **Hearts Crisis Center.** A new Section 15 is hereby *added* to Public Law 29-
15 69 to read as follows:

16 **Section 15. Authorization.** *I Maga'lahaen Guåhan* is hereby
17 authorized to use One Hundred Thousand Dollars (\$100,000) from
18 General Fund revenues collected in Fiscal Year 2008 that are in
19 excess of the General Fund revenues adopted in P.L. 29-19, and from
20 savings as a result of the 'appropriation reserves' imposed by the
21 Bureau of Budget and Management Research on Executive Branch
22 entities to the Department of Mental Health and Substance Abuse for
23 the purpose of supporting the programs and services of the Healing
24 Hearts Crisis Center. This authorization *shall* continue until fully
25 expended and *shall* not expire.”

26 **Section 10.** §5030(k) of Article 1 of Chapter 5, Title 5, Guam Code
27 annotated is hereby *amended* to read:

1 “(k) *Governmental Body* means any Department, Commission,
2 Council, Board, Bureau, Committee, Institution, Agency, Government
3 Corporation, Authority *or* other establishment *or* establishment *or* official of the
4 Executive Branch of the government of Guam, *except* for the Government of
5 Guam Retirement Fund, Guam Community College, the University of Guam, the
6 Guam Public School System, and the Guam Memorial Hospital Authority.”

7 **Section 11. Severability.** *If* any provision of this Act or the application
8 thereof to any person or circumstance is held invalid, such invalidity shall *not*
9 affect any other provision or application of this Act which can be given effect
10 without the invalid provision or application, and to this end the provisions of this
11 Act are severable.