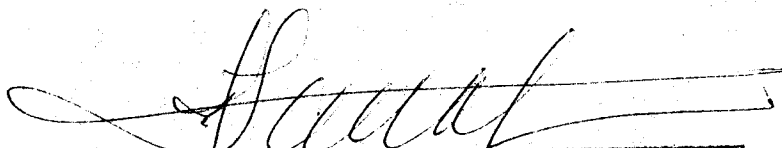



FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 602, "An Act to amend Sections 1.15, 65.17, 1.21 and 50.38; to amend Section 50.42 and to add Sections 75.45 and 130.15(e) of the Criminal Procedure Code and Section 1.30(c) of the Criminal and Correctional Code to eliminate unnecessary delay in criminal proceedings and to assist in the conviction of drug offenders and for other purposes", was on the 8th day of January 1980, duly and regularly passed.


THOMAS V. C. TANAKA
Speaker

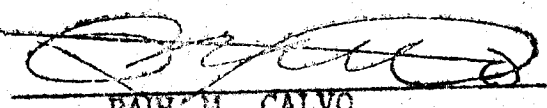
ATTESTED:


JAMES H. UNDERWOOD
Legislative Secretary

This Act was received by the Governor this 9th day of
January, 1980, at 4:30 o'clock P.M.


SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Staff

APPROVED:


PAUL M. CALVO
Governor of Guam

DATED: 1/17/80 2:45 p.m.
P.L. 15-94

FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session

Bill No. 602
(As Substituted
by the Committee on
Criminal Justice)

Introduced by

P. F. Perez, Jr.
E. R. Duenas
R. F. Taitano
A. C. Lamorena III

AN ACT TO AMEND SECTIONS 1.15, 65.17,
1.21 AND 50.38; TO AMEND SECTION
50.42 AND TO ADD SECTIONS 75.45 AND
130.15(e) OF THE CRIMINAL PROCEDURE
CODE AND SECTION 1.30(c) OF THE
CRIMINAL AND CORRECTIONAL CODE TO
ELIMINATE UNNECESSARY DELAY IN
CRIMINAL PROCEEDINGS AND TO ASSIST
IN THE CONVICTION OF DRUG OFFENDERS
AND FOR OTHER PURPOSES.

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

2 Section 1. Section 1.15 of the Criminal Procedure Code
3 is amended to read:

4 "Section 1.15. Indictments; when required. Any
5 felony together with any related misdemeanor shall be
6 prosecuted by indictment, or, if indictment is waived,
7 or a preliminary hearing held and an order issued holding
8 the defendant to answer under Section 45.80 of this Code,
9 it may be prosecuted by indictment or by information. Any
10 other offense shall be prosecuted by complaint."

11 Section 2. Section 65.17 of the Criminal Procedure Code
12 is hereby repealed and reenacted to read:

13 "Section 65.17. Review of Suppression Orders. Prior
14 to trial, the prosecuting attorney may apply to the Trial
15 Division of the District Court for a new determination on
16 the issue of suppression of evidence made in a case in the
17 Superior Court pursuant to Section 65.15(c) of this
18 Chapter. The application shall be for a writ of mandate.

1 Such application shall not be brought if the Superior
2 Court, prior to the time review is sought, has dismissed
3 the action."

4 Section 3. A new Section 130.15(e) is hereby added to
5 the Criminal Procedure Code to read:

6 "(e) From a judgement of conviction upon a plea of
7 guilty or nolo contendere, where the defendant has filed
8 with the trial court a written statement, executed under
9 oath or penalty of perjury showing reasonable constitu-
10 tional, jurisdictional or other grounds going to the
11 legality of any proceedings held in this case under
12 Section 65.15(c) of this Code and the trial court has
13 executed and filed a certificate of probable cause for
14 such appeal with the District Court."

15 Section 4. A new Section 1.30(c) is hereby added to the
16 Criminal and Correctional Code to read:

17 "(c) The former prosecution resulted in a plea of
18 guilty or nolo contendere which was held invalid in an
19 appeal under Section 130.15(e) of the Criminal Procedure
20 Code and the defendant may be retried as if the former
21 plea had not been entered."

22 Section 5. Section 1.21(b) of the Criminal Procedure Code
23 is repealed and reenacted to read:

24 "(b) After complying, and if, but for this Section,
25 the person would have been privileged to withhold the
26 answer given or the evidence produced by him, no testimony
27 or evidence provided under compulsion of the court order
28 (or any information derived directly or indirectly
29 therefrom) may be used against such witness in any
30 criminal proceeding other than one for perjury."

1 Section 6. Section 50.38 of the Criminal Procedure Code is
2 repealed and reenacted to read:

3 "Section 50.38. Recording Grand Jury Proceedings.

4 (a) In all grand jury proceedings, the testimony taken and
5 questions asked before the grand jury has commenced its
6 deliberations shall be recorded stenographically or
7 electronically. The prosecuting attorney and defendant,
8 or his attorney, may request a copy of the transcript at any
9 time after it is taken and the court shall order such tran-
10 script to be prepared within a reasonable time after the
11 request is made. After preparing the transcript, the
12 reporter shall certify it, file the original with the clerk
13 of the court and deliver one copy each to the prosecuting
14 attorney and defendant, or his attorney.

15 (b) Grand jury transcripts are not public documents.
16 Upon good cause shown, the court may restrict the distribu-
17 tion of the transcript to persons who are shown to have need
18 of them, or delay its release to a defendant if its release,
19 or the release of any part of the transcript, may prevent a
20 fair and impartial trial or could cause danger to any
21 witness whose testimony appears within the transcript or
22 about whom a witness testifies (except a defendant). Any
23 transcript, or part of a transcript not released by the
24 court under this subsection shall remain sealed until after
25 the trial has been completed, or may be released upon
26 earlier order of the court. No person to whom a grand jury
27 transcript has been given, except for a witness as to his
28 own testimony, shall release its contents to any other
29 person except a client or, in the case of the prosecuting
30 attorney, to any law enforcement agency."

1 Section 7. Section 50.42 of the Criminal Procedure Code is
2 amended to read:

3 "Section 50.42. Evidence Presented to the Grand Jury.
4 The grand jury shall receive only competent evidence but the
5 fact that evidence which is incompetent was received by the
6 grand jury does not render the indictment void where suffi-
7 cient competent evidence to support the indictment was
8 received by the grand jury."

9 Section 8. Section 75.25 of the Criminal Procedure Code is
10 amended to read:

11 "Section 75.25. Subpoenas; who may serve. A subpoena
12 may be served by the marshal, by his deputy, by any peace
13 officer of the territory, or by any other person who is not
14 a party and who is not less than eighteen (18) years of
15 age. Service of a subpoena shall be made by delivering a
16 copy thereof to the person named and by tendering to him
17 the fee for one (1) day's attendance and the mileage allowed
18 by law."

19 Section 9. A new Section 75.45 is hereby added to the
20 Criminal Procedure Code to read:

21 "Section 75.45. Grand Jury Subpoenas. (a) A subpoena
22 requiring the attendance of a witness before the grand jury
23 may be signed and issued by the Attorney General, or, upon
24 request of the grand jury, by any judge of the Superior
25 Court, in support of the prosecution, for those witnesses
26 whose testimony, in his opinion, is material in an investi-
27 gation before the grand jury, and for such other witnesses
28 as the grand jury, upon an investigation pending before
29 them, may direct.

1 (b) Failure of any person to obey a grand jury sub-
2 poena, or to comply with the requirements thereof, or to
3 obey a lawful order of the foreman of the grand jury, shall
4 be deemed a contempt of court."

5 Section 10. Subsection (b) of Section 28019.1 of the
6 Government Code, as enacted by Public Law 14-104 and amended by
7 Public Law 15-66, is further amended to read:

8 "(b) Upon investigation and hearing by the Board of
9 Bar Examiners, must satisfy the Board that the applicant is
10 professionally, morally and ethically qualified for admis-
11 sion to the Bar of Guam and admission of such applicant
12 would be in the best interest of the citizens and Bar of
13 Guam. In every such case, the burden shall be upon the
14 applicant to establish his qualification for admission on
15 motion. A license issued pursuant to this section, shall
16 terminate: upon the termination by the licensee of his
17 position with the Attorney General, the Public Defender
18 Service Corporation, the Department of Education or the
19 Office of the United States Attorney, as the case may be.
20 While licensed under the provisions of this Section, an
21 attorney shall be classified as an active member of the Bar
22 of Guam with all responsibilities and privileges thereof."

23 Section 11. Part Six, Section 7 of Public Law 15-66 is
24 repealed in its entirety.

25 Section 12. There is hereby appropriated from the General
26 Fund the sum of Ninety-Three Thousand Fifty-Four Dollars (\$93,054)
27 to the Department of Administration for the purpose of making
28 payment to the United States Naval Supply Depot for services and
29 goods received during the post Typhoon Pamela Mass Feeding
30 Program.

15TH GUAM LEGISLATURE

VOTING RECORD

S BILL/RESOLUTION NO. 602, as amended

MAIN SPONSOR
NOT
VOTING

PFP

| SENATOR | AYE | NAY | MAIN SPONSOR NOT VOTING | ABSENT |
|---------------------------|--------------|-----|-------------------------------|--------|
| AGUON, Katherine B. | ✓ | | | |
| BAMBA, Cecilia C. | ✓ | | | |
| BLAS, Frank F. | ✓ | | | |
| CHARFAUROS, Edward T. | ✓ | | | |
| CRISOSTOMO, Thomas C. | ✓ | | | |
| DUENAS, Edward R. | ✓ | | | |
| ESPALDON, Ernesto M. | ✓ | | | |
| KASPERBAUER, Carmen A. | ✓ | | | |
| LAMORENA, Alberto C., III | <i>out</i> | | | |
| PALOMO, Antonio M. | ✓ | | | |
| PALOMO, Benigno M. | ✓ | | | |
| PEREZ, Peter, Jr. | ✓ | | | |
| QUAN, John F. | ✓ | | | |
| QUITUGUA, Franklin J. | ✓ | | | |
| SAN AGUSTIN, Joe T. | ✓ | | | |
| SANTOS, Francisco R. | ✓ | | | |
| SUDO, Ramon Q. | ✓ | | | |
| TAITANO, Richard F. | ✓ | | | |
| TANAKA, Thomas V. C. | ✓ | | | |
| UNDERWOOD, James H. | ✓ | | | |
| UNPINGCO, Antonio R. | ✓ | | | |

TOTAL

20 ~~19~~ 0 0 1