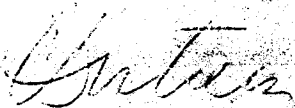


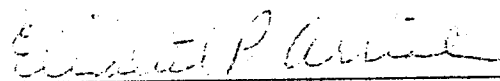
SEVENTEENTH GUAM LEGISLATURE
1984 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

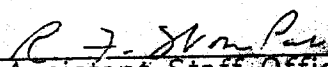
This is to certify that Substitute Bill No. 581, "AN ACT TO REPEAL AND REENACT CHAPTER VIII OF TITLE VIII OF PART II OF THE CIVIL PROCEDURE CODE RELATIVE TO TRIAL BY JURY AND FOR OTHER PURPOSES," was on the 3rd day of August, 1984, duly and regularly passed.


CARL T. C. GUTIERREZ
Speaker

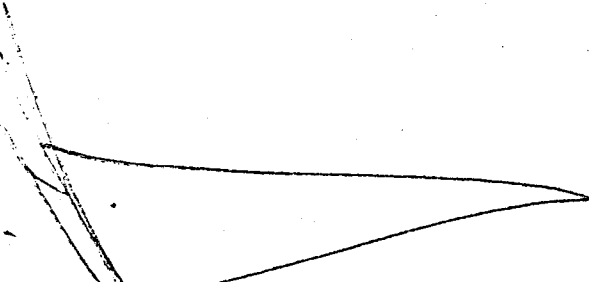
Attested:


ELIZABETH P. ARRIOLA
Senator and Legislative Secretary

This Act was received by the Governor this 6th day of August
1984, at 2:47 o'clock P.m.


Assistant Staff Officer
Governor's Office

APPROVED:


RICARDO J. BORDALLO
Governor of Guam

Date:

8/17/84

Public Law No.

13:11 P.M.

SEVENTEENTH GUAM LEGISLATURE
1984 (SECOND) Regular Session

Bill No. 581
Substitute
(August 1, 1984)

Introduced by:

Committee on Federal, Foreign, and
Legal Affairs

AN ACT TO REPEAL AND REENACT CHAPTER VIII OF
TITLE VIII OF PART II OF THE CIVIL PROCEDURE
CODE RELATIVE TO TRIAL BY JURY AND FOR OTHER
PURPOSES.

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

2 Section 1. Chapter VIII of Title VIII of Part II of the Civil Procedure
3 Code is repealed and reenacted as follows:

4 "CHAPTER VIII

5 Trial by Jury.

6 §680.1. Definitions. As used in this chapter:

- 7 (1) 'Clerk' and 'clerk of the court' include any deputy clerk;
8 (2) 'Court' means the Superior Court of Guam, and includes,
9 when the context requires, any judge of the court;
10 (3) 'Jury Wheel' means any physical device or electronic system
11 for the storage of the names or identifying numbers of
12 prospective jurors;
13 (4) 'Master Jury Wheel' means the jury wheel in which are placed
14 names or identifying numbers of prospective jurors taken from the
15 master list;
16 (5) 'Master List' means the voter registration lists which shall be
17 supplemented with names from other sources prescribed pursuant
18 to this Chapter in order to foster the policy and protect rights
19 secured by this Chapter;
20 (6) 'Name' when used in connection with prospective jurors,
21 includes identifying numbers of the jurors;

1 (7) 'Physical disability' means a physical impairment which
2 substantially limits one or more of a person's major life activities;

3 (8) 'Qualified jury wheel' means the jury wheel in which are
4 placed the names of prospective jurors drawn at random from the
5 master jury wheel who are not disqualified; and

6 (9) 'Voter registration list' means the official record of persons
7 registered to vote in the most recent general election.

8 §680.2. Declaration of policy. It is the policy of the Territory
9 of Guam that all persons selected for jury service be selected at
10 random from a fair cross section of the population of the Territory,
11 and that all qualified citizens have the opportunity in accordance with
12 this chapter to be considered for jury service on grand or petit
13 juries, in this Territory and an obligation to serve as jurors when
14 summoned for that purpose.

15 §680.3. Prohibition of discrimination. A citizen shall not be
16 excluded from jury service in the courts of Guam on account of race,
17 color, religion, sex, national origin, economic status, or on account of
18 a physical disability except as provided in Section 680.5(5) of this
19 Chapter.

20 §680.4. Right to Jury Trial. In all cases at law in which the
21 demand, exclusive of interest and costs, or the value of the property
22 in controversy amounts to more than Twenty Dollars (\$20.00), except
23 for small claims cases and appeals thereafter, and in all criminal cases
24 where the authorized punishment consists of confinement or exceeds
25 fines of not more than Five Hundred Dollars (\$500.00), the parties
26 shall be entitled to a trial by jury.

27 §680.5. Grounds of disqualification. A prospective juror is
28 disqualified to serve as a juror if he:

29 (1) is not a citizen of the United States;

30 (2) is not at least eighteen years old;

31 (3) has not resided for a period of at least one year within
32 Guam;

33 (4) is unable to read, write, speak, and understand the English
34 language;

1 (5) is incapable, by reason of his physical or mental disability,
2 of rendering satisfactory jury service; but a person claiming this
3 disqualification may be required to submit a physician's certificate
4 as to the disability, and the certifying physician is subject to
5 inquiry by the court at its discretion; or

6 (6) has been convicted of a felony in a state, territorial or
7 federal court and has not been pardoned.

8 §680.6. Disqualification by interest. No person shall sit as a
9 juror in any case in which his relative by affinity or by consanguinity
10 within the third degree is interested, either as a plaintiff or
11 defendant, or in the issue of which the juror has, either directly or
12 through such relative, any pecuniary interest.

13 §680.7. Exempt when. A person may claim exemption from
14 service as a juror if he is:

15 (1) a member in the active services of the armed forces of the
16 United States;

17 (2) An elected official, or a judge, of the United States or the
18 Territory of Guam;

19 (3) an actively engaged member of the clergy;

20 (4) an actively practicing attorney, physician, dentist, or
21 registered nurse;

22 (5) a member of the Fire or Police Division of the Department of
23 Public Safety or an employee of a government contractor engaged
24 in providing internal security or fire protection for such
25 contractors;

26 (6) a person who has served as a juror, either in the Superior
27 Court or the United States District Court of Guam, within two (2)
28 years preceding the time of filling out the juror qualification
29 form; or

30 (7) over sixty-five years old.

31 §680.8. Excused when, for cause. A juror shall not be excused
32 by the court for slight or trivial cause, but only when it appears that
33 jury duty would entail a serious personal hardship, or that for other
34 good cause he should be excused either temporarily or otherwise.

1 §680.9. Fees. Jurors in the courts of Guam shall receive the
2 following fees, except as otherwise expressly provided by law:

3 For actual attendance at the place of trial or hearing and for the
4 time necessarily occupied in going to and from such place at the
5 beginning and end of such service or at any time during the same,
6 forty dollars (\$40.00) per day, except that any juror required to
7 attend more than thirty (30) days in hearing one case may be paid in
8 the discretion and upon the certification of the judge a per diem fee
9 not exceeding fifty dollars (\$50.00) for each day in excess of thirty
10 (30) days he is required to hear such case.

11 Whenever in any case the jury is ordered to be kept together and
12 not to separate, the cost of subsistence during such period shall be
13 paid upon the order of the court. Jury fees provided by this section
14 shall be paid on the certificate of the clerk of the court, and in the
15 case of jury fees in excess of forty dollars (\$40.00) per diem, when
16 allowed as hereinabove provided, on the certificate of the trial judge.

17 §680.10. Master list. (a) The clerk shall compile a master list.
18 The master list shall consist of the vote registration list for the
19 Territory, which may be supplemented with names from other lists of
20 persons resident therein such as lists of property taxpayers, utility
21 customers, and drivers' licenses which the court from time to time
22 designates. Additionally, any person whose name may not appear on
23 any list used in the compilation of the master list may request the
24 clerk to place his name on the master list, and the clerk shall comply
25 with such request if he finds the person qualified to serve as a juror.

26 (b) Whoever has custody, possession, or control of any of the
27 lists which are to be used in compiling the master list, shall make the
28 list available to the clerk for inspection, reproduction, and copying at
29 all reasonable times.

30 §680.11. Master jury wheel. Each year the clerk shall, by
31 random selection, place in the master jury wheel the names of
32 prospective jurors taken from the master list, in such number as the
33 court determines should be processed in order to provide the number
34 of jurors required for the ensuing year. The clerk shall make the

1 random selection of names as follows: One out of every ten (10)
2 names from the master list shall be selected by first selecting a
3 starting number, by chance, between one and ten, and every tenth
4 name thereafter shall be selected. From time to time an additional
5 number may be ordered by the court to be placed in the master jury
6 wheel. The master jury wheel shall be emptied and refilled between
7 July 1 and September 1 of every year.

8 §680.12. Juror qualification form. (a) The clerk shall prepare
9 an alphabetical list of the name in the master jury wheel, which shall
10 not be disclosed to any person other than pursuant to this chapter or
11 specific order of the court. The clerk shall have delivered to every
12 person whose name appears on such list a juror qualification form
13 accompanied by instructions to fill out and return the form by mail or
14 in person to the clerk within ten days after its receipt. The form
15 shall be subject to approval by the court as to matters of form and
16 shall elicit the name, address of resident, age of the prospective
17 juror, other information pertinent to disqualification or exemption from
18 jury service and such other matters as may be ordered by the court.
19 The form further shall contain the prospective juror's declaration that
20 his responses are true to the best of his knowledge and his acknow-
21 ledgement that a willful misrepresentation of material fact may be
22 punished by a fine of not more than \$500 or imprisonment for not more
23 than thirty days, or both. Notarization of the juror qualification form
24 shall not be required. If the prospective juror is unable to fill out
25 the form, another person may do it for him and shall indicate that he
26 has done so and the reason therefor. Upon failure or refusal of any
27 person duly receiving the juror qualification form to complete and
28 return it as required, or in case of an omission, ambiguity, or error
29 in a return form, the court, after first summoning the person to
30 appear before the clerk to complete or correct the form, may punish
31 the person for contempt.

32 (b) At the time of his appearance for jury service, or at the
33 time of any interview before the court or clerk, any prospective juror
34 may be required or permitted to fill out another juror qualification

1 form in the presence of the court or clerk, at which time the pros-
2 pective juror may be questioned, but only with regard to his
3 responses to questions contained on the form and grounds for his
4 exemption, excuse or disqualification. Any information thus acquired
5 by the court or clerk shall be noted on the juror qualification form.

6 (c) The clerk may in his discretion, by court process, summon
7 prospective jurors before him for examination.

8 (d) Any person who willfully misrepresents a material fact on a
9 juror qualification form for the purpose of avoiding or securing service
10 as a juror is guilty of a petty misdemeanor.

11 §680.13. Qualified jury wheel. Upon return of the juror
12 qualification forms, the clerk shall select for jury service all those
13 persons whom he believes are qualified and not exempt; provided, that
14 any person who is exempt may be selected if he waives his exemption.
15 The names of the persons so selected shall be placed in the qualified
16 jury wheel, to be used in compiling lists of jurors subject to service
17 during the ensuing year; provided that the clerk may, with the
18 approval of the court, excuse a prospective juror for any cause set
19 forth under Section 680.7, in which case the name of such excused
20 person shall not be placed in the qualified jury wheel.

21 §680.14. Selection and summoning of jury panels. (a) From
22 time to time, the clerk shall draw at random from the qualified jury
23 wheel such number of persons as may be required for assignment to
24 grand and petit jury panels. The clerk shall prepare a separate list
25 of names of persons assigned to each grand and petit jury panel.
26 When the court orders a grand or petit jury to be drawn, the clerk
27 shall issue summonses for the required number of jurors and deliver
28 them to the Marshal for service.

29 (b) Each person drawn for jury service shall be served
30 personally or by mail addressed to such person at his usual residence
31 or business address. Such service shall be made by the Marshal who
32 shall attach to his return the addressee's receipt for registered or
33 certified mail where service is made by mail.

1 (c) A juror who willfully or without reasonable excuse fails to
2 attend after service of a summons in accordance with this section may
3 be ordered to be arrested by the court and may be punished for
4 contempt.

5 §680.15. Requests for exemption or excuse. If a person who is
6 exempt or who believes himself to be entitled to be excused from jury
7 duty, is summoned as a juror, he may, even though he did not
8 request exemption or excuse previously, or was not exempted or
9 excused by the clerk, make his request for exemption or excuse to the
10 judge of the court for which he is summoned. The request may be
11 made to the clerk, who shall deliver it to the judge and if sufficient in
12 substance it shall be received as an excuse for nonattendance in
13 person.

14 §680.16. Jurors disqualified, exempted, or excused.

15 Whenever a juror has been disqualified, exempted, or excused,
16 that fact shall be noted on his juror qualification form and he shall not
17 be subject to service for the period of time commensurate with the
18 nature and circumstances of his disqualification, exemption, or excuse.

19 §680.17. Challenging compliance with selection procedures.

20 (a) In criminal cases, before the voir dire examination ends, the
21 defendant may move to dismiss the indictment or stay the proceedings
22 against him on the ground of substantial failure to comply with the
23 provisions of this Title in selecting the grand or petit jury.

24 (b) In criminal cases, before the voir dire examination ends, the
25 prosecuting attorney may move to dismiss the indictment or stay the
26 proceedings on the ground of substantial failure to comply with the
27 provisions of this Title in selecting the petit jury.

28 (c) In civil cases, before the voir dire examination ends, any
29 party may move to stay the proceedings on the ground of substantial
30 failure to comply with the provisions of this Title in selecting the petit
31 jury.

32 d) Upon motion filed under subsection (a), (b) or (c) of this
33 section, containing a sworn statement of facts which, if true, would
34 constitute a substantial failure to comply with the provisions of this

1 Title, the moving party shall be entitled to present in support of such
2 motion the testimony of the clerk, if available, any relevant records
3 and papers not public or otherwise available used by the clerk, and
4 any other relevant evidence. If the court determines that there has
5 been a substantial failure to comply with the provisions of this Title in
6 selecting a grand jury, the court shall stay the proceedings pending
7 the selection of a grand jury in conformity with this Title or dismiss
8 the indictment, whichever is appropriate. If the court determines that
9 there has been a substantial failure to comply with the provisions of
10 this Title in selecting the petit jury, the court shall stay the
11 proceedings pending the selection of a petit jury in conformity with
12 this Title.

13 (e) The procedures prescribed by this section shall be the
14 exclusive means by which a person accused of a territorial crime, the
15 prosecuting attorney, or a party in civil case may challenge any jury
16 on the ground that such jury was not selected in conformity with the
17 provisions of this Title. Nothing in this section shall preclude any
18 person or the government of Guam from pursuing any other remedy,
19 civil or criminal, which may be available for the vindication or
20 enforcement of any law prohibiting discrimination on account of race,
21 color, religion, sex, national origin or economic status in the selection
22 of persons for service on grand or petit juries.

23 (f) The contents of records or papers used by the clerk in
24 connection with the jury selection process shall not be disclosed,
25 except pursuant to the Superior Court plan or as may be necessary in
26 the preparation or presentation of a motion under subsection (a), (b),
27 or (c) of this section, until after the master jury wheel has been
28 emptied and refilled pursuant to §680.10 of this Chapter and all
29 persons selected to serve as jurors before the master wheel was
30 emptied have completed such service. The parties in a case shall be
31 allowed to inspect, reproduce, and copy such records or papers at all
32 reasonable times during the preparation and pendency of such a
33 motion. Any person who discloses the contents of any record or paper
34 in violation of this subsection is guilty of a misdemeanor.

1 §680.18. Challenges. In civil cases, each party shall be entitled
2 to three peremptory challenges. Several defendants or several
3 plaintiffs may be considered as a single party for the purpose of
4 making challenges, or the court may allow additional peremptory
5 challenges and permit them to be exercised separately or jointly. All
6 challenges for cause or favor, whether to the array or panel or to
7 individual jurors, shall be determined by the court.

8 §680.19. Preservation of records. After the master jury wheel is
9 emptied and refilled pursuant to Section 680.10 of this Title, and after
10 all persons selected to serve as jurors before the master wheel was
11 emptied have completed such service, all records and papers compiled
12 and maintained by the clerk before the master wheel was emptied shall
13 be preserved in the custody of the clerk for four (4) years or for
14 such longer period as may be ordered by the court, and shall be
15 available for public inspection for the purpose of determining the
16 validity of the selection of any jury.

17 §680.20. Protection of jurors' employment. (a) An employer
18 shall not deprive an employee of his employment, or threaten or
19 otherwise coerce him with respect thereto, because the employee
20 receives a summons, responds thereto, serves as a juror, or attends
21 court for prospective jury service.

22 (b) Any employer who violates subsection (a) is guilty of a
23 petty misdemeanor.

24 (c) If an employer discharges an employee in violation of
25 subsection (a) the employee within ninety days from the date of
26 discharge may bring a civil action for recovery of wages lost as a
27 result of the violation and for an order requiring the reinstatement of
28 the employee. Damages recoverable shall not exceed lost wages for six
29 weeks. If he prevails, the employee shall be allowed a reasonable
30 attorney's fee fixed by the court.

31 §680.21. Use of electronic or electromechanical devices for
32 drawing grand and petit juries. Selections of potential jurors and
33 drawings of jury lists and panels, may be made by means of electronic
34 or electromechanical devices commonly designated as data processing

1 equipment such as punch cards, electronic tape, random access files,
2 and other solid state devices when the same are available for their use
3 and the court so orders.

4 §680.22. Continuation of law. This chapter shall be deemed a
5 continuation of former law so far as sections of the former law are
6 continued unamended. The present jury panel shall continue until its
7 term expires.

8 Section 2. 8 GCA Section 50.14 (b) is amended to read:

9 "(b) A motion to dismiss the indictment may be based on
10 objections to the array or on the lack of legal qualification of an
11 individual juror, if not previously determined upon challenge. It shall
12 be made in the manner prescribed in Section 680.17 of the Code of
13 Civil Procedure and shall be granted under the conditions prescribed
14 in that section. An indictment shall not be dismissed on the ground
15 that one or more members of the grand jury were not legally qualified
16 if it appears from the record kept pursuant to Section 50.22 that
17 twelve or more jurors, after deducting the number not legally
18 qualified, concurred in finding the indictment."

19 Section 3. A new Chapter 1.5 is added to Title XXIX of the
20 Government Code to read:

21 "Chapter 1.5

22 Attorney Discipline

23 §28050. Superior Court Jurisdiction; Definition.

24 (a) Whenever the term 'Superior Court' is used in this Chapter it
25 shall mean an action taken by a majority of all of the judges of the Superior
26 Court sitting en banc, unless a different meaning is specifically stated.

27 (b) The Superior Court has jurisdiction to disbar, suspend or
28 otherwise discipline members of the Bar of Guam for misconduct.

29 (c) The Superior Court shall establish rules of disciplinary
30 procedure, including evidentiary provisions, which shall apply to
31 proceedings before the court under this Chapter. Such rules shall be
32 effective upon their approval by a majority of the judges of the Superior
33 Court.

1 §28051. Ethics Committee of the Bar of Guam.

2 In performing its duties and responsibilities under this Chapter, the
3 Bar of Guam shall act through an Ethics Committee, which shall consist of
4 seven (7) members of the Bar of Guam, all in good standing, appointed by
5 the President of the Bar of Guam, and approved by the Superior Court, for
6 terms as provided in the By-laws of the Bar of Guam. A quorum shall
7 consist of four members and no action upon any recommendation for
8 discipline may be taken without the concurrence of four members.

9 §28052. Discipline of Attorneys.

10 (a) The Bar of Guam, through its Ethics Committee, is authorized to
11 investigate and to hear all complaints brought by any source, or on its own
12 motion, against attorneys admitted to the Bar of Guam. The Ethics
13 Committee is authorized to investigate and hear any complaints, or, on its
14 own motion, initiate an investigation and complaint against any person who
15 is alleged to be engaged in the unauthorized practice of law.

16 (b) The Ethics Committee shall establish rules governing the
17 investigation, hearing and recommendation procedure relating to all matters
18 coming before it. Such rules shall be approved by the Superior Court.

19 (c) Upon concluding its investigation, the Ethics Committee shall, if it
20 determines discipline is to be recommended, or finds unauthorized practice
21 of law, report to the Superior Court what action it recommends with respect
22 to the complaint.

23 (d) The Ethics Committee may also attempt to mediate any complaint
24 before it and, if it deems the behavior to be a minor infraction, issue a
25 reprimand, public or private, as it deems proper. The Ethics Committee
26 shall always consider the interests of both the complainant and of the
27 profession as a whole when taking action under this subsection.

28 (e) Upon receipt of a recommendation for discipline, the Presiding
29 Judge of the Superior Court shall promptly set the matter for a hearing.
30 The hearing shall be conducted by a panel composed of three judges of the
31 Superior Court and any decision shall require the concurrence of at least
32 two of such judges. If any of the judges of the Superior Court shall
33 disqualify themselves in the matter so that there are not three judges
34 remaining to sit on the panel, the Presiding Judge shall appoint as judges

1 pro tempore from attorneys as are admitted to the Bar of Guam and who
2 are in good standing before it and who have not previously been the
3 subject of an order imposing discipline in Guam so as to make up a total of
4 three judges to hear the discipline matter.

5 At the hearing, the disciplinary case shall be prosecuted by such
6 counsel as the Chairman of the Ethics Committee shall designate, or by
7 himself. The evidence, if otherwise admissible, found in the record of the
8 hearing of the Ethics Committee and presented to the Superior Court shall
9 be admitted. The person who is the subject of the complaint may rebut
10 such evidence or mitigate it, through witnesses, argument, or both, as he
11 deems proper, subject to the Rules of Court for Disciplinary Procedure.
12 The prosecuting counsel may introduce additional evidence.

13 At the conclusion of the hearing, the Court shall issue a final
14 judgment in the matter. If discipline is found to be warranted by the
15 preponderance of the evidence, the Court shall consider the
16 recommendations of the Ethics Committee before making its judgment.

17 (f) An aggrieved party may appeal from such judgment in the manner
18 provided in §28059 of this Chapter.

19 §28053. Administration of Disciplinary System.

20 (a) The Ethics Committee shall administer the disciplinary system of
21 the Bar of Guam as established in this Chapter through its Chairman and
22 according to its Rules.

23 (b) Any committee member shall be reimbursed for any expenses
24 undertaken by him in furtherance of his duties under this Article and both
25 the Chairman and the Ethics Committee members may be compensated for the
26 time spent in the work of the committee in such amount as may be
27 determined by the Board of Governors of the Bar of Guam.

28 (c) Subject to the supervision of the Ethics Committee, the Chairman,
29 or a member designated by him with the approval of the Committee, may:

30 (1) employ at such compensation as may be authorized by the
31 Board of Governors of the Bar of Guam, or contract for the services
32 of such clerical personnel as may be necessary for the efficient
33 conduct of his office;

1 (2) discharge any such personnel whose performance is
2 unsatisfactory to him; and

3 (3) maintain such records, make such reports and perform such
4 other duties as may be prescribed by the Ethics Committee from time
5 to time.

6 §28054. Additional Powers of the Ethics Committee.

7 (a) The Ethics Committee, upon majority vote of its members, has the
8 power to issue subpoenas to compel the attendance and testimony of
9 witnesses and compel the production or inspection by it of books, records
10 and other tangible objects and the authority to take testimony under oath.
11 The Committee may direct that such testimony or the subpoenaed books,
12 records, documents or other tangible objects be brought before the
13 Committee or before a specified member thereof. Such powers are for the
14 purpose of aiding in cases of discipline, suspension and disbarment of
15 members of the Bar of Guam and investigating matters involving alleged
16 unauthorized practice of law under such regulations and restrictions as the
17 Superior Court may prescribe.

18 (b) The Ethics Committee, upon majority vote of its members, may
19 issue public or private advisory opinions respecting matters within the
20 scope of the Committee's authority.

21 §28055. Grounds for Imposing Discipline Upon Attorneys.

22 Discipline may be imposed for any of the following reasons:

23 (a) conviction of a crime other than a non-serious traffic
24 offense;

25 (b) violation of a rule of professional conduct in effect in Guam;

26 (c) discipline imposed in another jurisdiction;

27 (d) violation of any disciplinary or disability rule or order of
28 any court having jurisdiction in Guam, or any law imposing a rule of
29 professional conduct upon attorneys.

30 §28056. Sanctions to be imposed in Disciplinary Proceedings.

31 The sanctions to be imposed in any given instance of a finding that an
32 attorney is subject to discipline as provided in §28055 shall be determined
33 by the Superior Court after hearing the recommendation of the Bar of

1 Guam. Sanctions imposed by the Superior Court may range from permanent
2 disbarment to suspension to a public reprimand.

3 §28057. Standards of Conduct in General.

4 The Model Code of Professional Conduct of the American Bar
5 Association, adopted by the Judicial Council and presented to the
6 Legislature prior to the effective date of this Chapter, shall apply to the
7 conduct of attorneys in Guam, unless it shall be modified by law or by
8 Superior Court rule.

9 §28058. Immunity From Liability for Official Action.

10 Members of the Bar of Guam, and employees and agents of the Bar
11 shall not be held liable for any action performed in the course of their
12 official duties undertaken pursuant to this Chapter relative to the discipline
13 of attorneys and to the unauthorized practice of law.

14 §28059. Appeals Under This Chapter.

15 (a) The Bar of Guam, or an attorney against whom a final judgment
16 has been rendered by the Superior Court in any case involving suspension,
17 disbarment or non-disciplinary suspension or disbarment may appeal any
18 final judgment of the Superior Court to the Appellate Division of the
19 District Court of Guam on matters of law and fact, but the Appellate
20 Division of the District Court of Guam may reverse or remand to the
21 Superior Court on matters of fact only where the findings of the Superior
22 Court on matters of fact were clearly erroneous.

23 The action of the Superior Court shall be stayed pending the outcome
24 of the appeal to the District Court Appellate Division.

25 (b) A decision by the Ethics Committee on the matters within its
26 authority to decide, such as reprimands and settlements, may not be
27 appealed to the Appellate Division of the District Court of Guam, but
28 reprimands may be appealed only to the Superior Court. Proceedings in
29 such an appeal to the Superior Court shall be taken in the same manner as
30 are recommendations reported to the Court by the Bar of Guam, but shall
31 be taken by the attorney aggrieved.

32 §28060. Confidentiality of Proceedings.

33 All disciplinary proceedings and deliberations of the Ethics Committee
34 of the Bar of Guam shall be confidential and private until the Committee has

1 made its recommendations to the Superior Court or until the Ethics
2 Committee issues the attorney in question a public reprimand, but the
3 person under investigation may request that any hearings held may be open
4 to the public. After the Ethics Committee has made its recommendation to
5 the Superior Court or issued the public reprimand, it may publish the facts
6 and nature of its recommendation.

7 §28061. Announcing Ethics Committee's Existence.

8 The Bar of Guam shall, at least three times a year, in a newspaper of
9 general circulation available in public places in Guam, announce in a
10 prominent manner the fact of its existence and purpose and where members
11 of the public can seek information about the Ethics duties of the Bar and
12 the means by which the public may make a complaint against an attorney.

13 §28062. Administrative Adjudication Law and Open Government Law
14 Not Applicable.

15 Neither the Administrative Adjudication Law nor the Open Government
16 Law shall be applicable to proceedings, deliberations and activities covered
17 by this Chapter; provided that the Administrative Adjudication Act and the
18 Open Government Law of Guam shall be applicable to any rule-making
19 functions provided herein.

20 §28063. Transition Provisions.

21 (a) All disciplinary matters pending before the Judicial Council upon
22 the effective date of this Chapter shall be transferred immediately to the
23 Superior Court for proceedings in accordance with this Chapter. The
24 Judicial Council shall have no further jurisdiction over such matters.

25 (b) All matters pending before the Committee on Professional Ethics
26 and Unauthorized Practice of Law of the Bar of Guam upon the effective
27 date of this Chapter shall continue with the newly constituted Ethics
28 Committee under the procedures prescribed by this Chapter.

29 (c) Members of the Committee on Professional Ethics and Unauthorized
30 Practice of Law of the Bar of Guam appointed and serving upon the
31 effective date of this Chapter shall continue in their respective positions as
32 members of the newly constituted Ethics Committee for the full term to
33 which each was appointed.

1 (d) In determining matters of discipline under this Chapter, both the
2 Ethics Committee and the Superior Court shall use the standards of conduct
3 applicable at the time of the conduct in question.

4 (e) Rules promulgated by the Judicial Council pursuant to the Guam
5 Integrated Bar Act shall remain in full force and effect except for the Rules
6 for Lawyer Discipline, which are deemed repealed upon the effective date of
7 this Chapter."

8 Section 4. Section 28010 of the Government Code is amended to read:

9 "§28010. Guam Bar; Regulation by Superior Court.

10 The Superior Court has the power to provide for the
11 organization, government and membership of the Bar of Guam and to
12 adopt rules and regulations concerning the conduct and activities of
13 the Bar of Guam and its members, the schedule of membership fees
14 due therein, and the investigation and examination of applicants for
15 admission for the Bar."

16 Section 5. Section 28011 of the Government Code is amended to read:

17 "§28011. Same: Subpoena; Administration of Oaths.

18 The Judicial Council has the power of subpoena and the authority
19 to take testimony under oath which may be exercised by its officers
20 and committees for the purpose of aiding in cases of applicants for
21 admission to the Bar under such regulations and restrictions as the
22 Superior Court may prescribe. The person exercising the power
23 granted by this Section has the power to administer the necessary
24 oaths.

25 The Superior Court has jurisdiction to admit to the Bar of Guam
26 persons who possess the required qualifications and to reinstate
27 licenses to practice law."

28 Section 6. Sections 1 and 2 of this Act shall take effect on October 1,
29 1984.

30 Section 7. Section 90, Code of Civil Procedure, is hereby amended to
31 read:

32 "Section 90. Selection of judges. Whenever a vacancy shall
33 occur in the office of the judge or justice, the Governor shall fill such
34 vacancy by appointing a person with the advice and consent of the

1 Legislature, who has practiced law on Guam for at least five (5)
2 years. In making said appointment, the Governor shall give
3 consideration to names which have been timely submitted to him by the
4 Judicial Council. Within fifteen (15) calendar days of the expiration of
5 the term of any judge or justice whose office has not been filled
6 pursuant to §91 of this Chapter, the Governor shall submit his
7 appointment for said office to the Legislature for its advice and
8 consent. Should a judge or justice vacate his office before his term
9 expires, the Governor shall submit his appointment for that office to
10 the Legislature for its advice and consent."