

1 Code Annotated is hereby amended to read as follows:

2 **§5102. Powers of the Judicial Council.** The Council shall have the  
3 following powers:

- 4 (a) ~~To initiate, receive and consider charges concerning alleged~~  
5 ~~misconduct or incapacity of any Justice or Judge of the courts of~~  
6 ~~Guam~~ To initiate, receive and consider charges concerning  
7 alleged misconduct or incapacity of any Justice or Judge of the  
8 Courts and to form subcommittees that will determine and make  
9 recommendations as to the removal of any Justice or Judge;
- 10 (b) To adopt polices for the court and make recommendations  
11 ~~recommnd such policies to the court and~~ to the Legislature as  
12 may be deemed appropriate for the effective and expeditious  
13 administration of the judicial system;
- 14 (c) To make other recommendations regarding the administration of  
15 justice ~~to the Supreme Court,~~ to the Governor, or to the  
16 Legislature as it deems proper;
- 17 (d) To adopt a unified pay schedule for the employees of the  
18 judiciary;

- 1 (e) To adopt policy and rules for the operations of the Courts,  
2 including but not limited to, personnel, procurement, facilities  
3 and property, financial and travel (the provisions of §6302(c),  
4 §6303 and §4105 of Title 4 of the Guam Code Annotated and  
5 §23104(b) and §23109 of Title 5 of the Guam Code Annotated are  
6 reaffirmed);
- 7 (f) To establish rules and regulations for appeals and grievances  
8 brought upon by classified employees of the Courts, who have  
9 exhausted administrative remedies. The Council is authorized to  
10 designate and delegate a hearing officer, to hear and decide  
11 personnel matters. The decision of the hearing officer shall be  
12 final and may be appealed to the Superior Court of Guam;
- 13 (g) To review the budget for the operation of the Courts and its  
14 divisions, and submit its recommendations to the Guam  
15 Legislature, under the signature of its Chairperson, by the first  
16 day of May of each year;
- 17 (h) To employ, retain or contract for the services of qualified  
18 specialists or experts, as individuals or as organizations, to advise

1           and assist the Courts in the fulfillment of its duties;

2           (i)   To adopt filing fees and other court fees;

3           (j)   To promulgate the Judicial Council's own rules for its conduct  
4           and operation;

5           (k)   To sue on behalf of the Courts, including on behalf of the Court's  
6           employees, or itself to enforce any rights granted to the Courts;

7           (l)   To lease, evict, or sue on behalf of the Courts, relative to Court  
8           properties, equipment, and facilities.

9           (m)   Nothing contained in this Section shall be construed directly or by  
10           implication to be in any way in derogation or limitation of the  
11           powers conferred upon the Judicial Council or existing in the  
12           Supreme Court and the Superior Court or the Judiciary by virtue  
13           of any provision of the Organic Act of Guam or any statutes of  
14           Guam;

15           (n)   To have authority to act over all matters relating to the Judicial  
16           Building Fund and;

17           (o)   To approve and/or appoint nominees to positions provided for by  
18           this Act.

1        **Section 16.**     Section 5104 of Chapter 5, Division 1 of Title 7 of the  
2     Guam Code Annotated is hereby amended as follows:

3        **§5104. Removal of Justices or Judges.** A subcommittee ~~of the Council~~  
4        judges and justices shall be formed composed of three (3) members  
5        ~~consisting of the Chairperson of the Judiciary and Criminal Justice~~  
6        ~~Committee of the Legislature or its successor committee, or his or her~~  
7        ~~designee, the Attorney General of Guam, and the President of the Guam~~  
8        ~~Bar Association~~ appointed by the Chairman. The subcommittee shall  
9        have the following powers and duties with respect to the removal of  
10       Justices or Judges from the courts of Guam:

11       (a) It shall initiate, receive and consider charges concerning alleged  
12       misconduct or incapacity of any Chief Justice, Justice, Presiding  
13       Judge or Judge, of the courts of Guam;

14       (b) It may subpoena witnesses, administer oaths and take testimony  
15       relating to matters before it;

16       (c) It shall report its findings and make recommendations to the Judicial  
17       Council ~~Supreme Court of Guam~~ for action.

18       **Section 17.** Subsection 6108(a) of Chapter 6, Division 1 of Title 7 of the

1 Guam Code Annotated is hereby amended to read as follows:

2 §6108 (a) When there is no judge qualified or available to hear a cause  
3 ~~or~~, action or hearing in the Superior Court, the Presiding Judge shall  
4 request the Chief Justice to appoint a judge pro tempore to hear the  
5 ~~action~~ matter. Such judge pro tempore shall meet the same  
6 qualifications as a regularly appointed judge of the Superior Court or be  
7 appointed in accordance with Guam law. When there is no justice  
8 qualified or available to hear a cause ~~or~~, action, or hearing in the  
9 Supreme Court, the Chief Justice shall appoint a justice pro tempore to  
10 participate in the ~~action or hearing~~ matter. Such justice pro tempore  
11 shall meet the same qualifications as a regularly appointed justice of the  
12 Supreme Court or be appointed in accordance with Guam law.

13 **Section 18.** Section 6109 of Chapter 6, Division 1 of Title 7 of the Guam  
14 Code Annotated is hereby repealed as follows:

15 ~~§6109. Justice sitting in trial court. In addition to the Judges pro~~  
16 ~~tempore provided for in §6108 of this Chapter, the Chief Justice of the~~  
17 ~~Supreme Court may designate himself or herself or an Associate Justice~~  
18 ~~to sit as a judge in the Superior Court of Guam on cases or proceedings~~

1        ~~in which a Judge pro tempore may be appointed.~~

2        **Section 19.** Section 6115 of Chapter 6, Division 1 of Title 7 of the Guam  
3 Code Annotated is hereby amended as follows:

4        **§6115. Assignment of retired Judge or Justice to active duty.** (a) Any  
5 retired Judge or Justice may be designated and assigned by the Chief Justice to  
6 perform ~~without additional compensation~~ such judicial duties in ~~any court~~ the  
7 courts of Guam as he or she is willing to undertake. Except that retired Judges  
8 shall only perform such duties in the Superior Court of Guam.

9        (b) No retired Judge or Justice shall perform judicial duties except when  
10 designated and assigned.

11        (c) All designations and assignments of Judges or Justices shall be filed  
12 with the clerk and entered on the minutes of the court from and to which  
13 made.

14        (d) A retired Judge designated and assigned by the Chief Justice to  
15 perform judicial duties shall be referred to as a Judge Pro-Tempore.

16        (e) A retired Justice designated and assigned by the Chief Justice to  
17 perform judicial duties shall be referred to as a Justice Pro-Tempore.

18        **Section 20.** Section 7102 of Chapter 7, Division 1 of Title 7 of the Guam

1 Code Annotated is hereby amended to read as follows:

2 **§7102. Sessions of the Superior Court.** The Superior Court shall always  
3 be open on court days. It shall hold its regular sessions in Hagåtña  
4 ~~Agaña~~ at times determined by the rules of the court. Special sessions  
5 may be held at such places as the nature of the business may require  
6 and upon such notices as the court orders, pursuant to rules prescribed  
7 by the Supreme Court.

8 **Section 21.** Section 7103 of Chapter 7, Division 1 of Title 7 of the Guam

9 Code Annotated is hereby amended to read as follows:

10 **§7103. (a) Superior Court Administrator.** The Presiding Judge shall  
11 appoint a Superior Court Administrator, who shall ~~be subject to~~  
12 ~~removal by him or her~~ serve at his or her pleasure. The Court  
13 Administrator shall be responsible for the general supervision of all  
14 personnel of the Superior Court other than Judges, their immediate  
15 staff, and Referees, the buildings and grounds assigned to the Superior  
16 Court, property in the custody of the court used for the court's  
17 operation, and shall be responsible for other matters assigned to him or  
18 her by the Presiding Judge. The salary of the Court Administrator shall

1 be fixed by the ~~Presiding Judge~~ Judicial Council pursuant to a general  
2 Personnel Rule covering compensation. The Court Administrator may  
3 appoint and assign duties to, ~~with the approval of the Presiding Judge,~~  
4 ~~necessary~~ deputies and assistants in such number as may be approved  
5 by the budget and necessary for operations ~~approved by the Presiding~~  
6 ~~Judge, whose salaries shall be fixed by the Judicial Council pursuant to~~  
7 ~~a general Personnel Rule covering compensation.~~ The appointment,  
8 assignment, removal and salaries of such deputies and assistants shall  
9 be governed by the applicable Personnel Rules and Regulations  
10 governing employment practices within the Judicial Branch as  
11 promulgated by the Judicial Council.

12 **(b) Supreme Court Administrator.** The Chief Justice shall appoint a  
13 Supreme Court Administrator, who shall ~~be subject to removal by him~~  
14 ~~or her~~ serve at his or her pleasure. The Court Administrator shall be  
15 responsible for the general supervision of all personnel of the Supreme  
16 Court other than Justices and their immediate staff; any property in the  
17 custody of the court used for the court's operation, and shall be  
18 responsible for other matters assigned to him or her by the Chief Justice.



1 The salary of the Court Administrator shall be fixed by the ~~Chief Justice~~  
2 Judicial Council pursuant to a general Personnel Rule covering  
3 compensation. The Court Administrator may appoint, ~~with the~~  
4 ~~approval of the Chief Justice~~ necessary deputies and assistants in such  
5 number as may be approved by the budget and necessary for operations  
6 ~~approved by the Judicial Council, whose salaries shall be fixed pursuant~~  
7 ~~to a general Personnel Rule covering compensation.~~ The appointment,  
8 assignment, removal and salaries of such deputies and assistants shall  
9 be governed by the applicable Personnel Rules and Regulations  
10 governing employment practices within the Judicial Branch as  
11 promulgated by the Judicial Council.

12 **(c) Administrator of the Courts.** The Judicial Council shall have the  
13 authority to appoint an Administrator of the Courts, who shall be  
14 responsible for the general supervision of all personnel of the Superior  
15 Court of Guam and the Supreme Court of Guam and all its divisions  
16 except for Judges, Justices, Referees, and their immediate staff. The  
17 salary of the Administrator of the Courts shall be fixed by the Judicial  
18 Council pursuant to a general Personnel Rule covering compensation.

1        The Administrator shall have all other authorities assigned to the  
2        Superior Court Administrator and the Supreme Court Administrator  
3        described in subsections (a) and (b) of this section and may be assigned  
4        other duties as necessary by the Judicial Council. Upon the appointment  
5        of the Administrator of the Courts by the Judicial Council, the legal  
6        authority for the Superior Court Administrator and the Supreme Court  
7        Administrator shall expire and cease to exist. The Administrator of the  
8        Courts may appoint deputies and assistants in such number as may be  
9        approved by the budget and necessary for operations. The appointment,  
10       removal and salaries of such deputies and assistants shall be governed  
11       by the applicable Personnel Rules and Regulations governing  
12       employment practices within the Judicial Branch as promulgated by the  
13       Judicial Council.

14       **Section 22.** Section 7104 of Chapter 7, Division 1, of Title 7 of the Guam  
15       Code Annotated is hereby amended to read as follows:

16       **§7104. Clerks. (a) Superior Court Clerk.** The Presiding Judge shall  
17       appoint a Superior Court Clerk who shall be subject to removal by him  
18       or her. ~~The salary of the Superior Court Clerk shall be fixed by the~~

1 ~~Judicial Council.~~ The Superior Court Clerk may appoint, with the  
2 approval of the ~~Presiding Judge~~ Judicial Council, such deputies and  
3 assistants in such numbers as are necessary for the daily operations of  
4 the Superior Court. Such deputies and assistants shall be subject to  
5 removal by the Superior Court Clerk, ~~with the approval of the Presiding~~  
6 ~~Judge,~~ pursuant to the Personnel Rules and Regulations of the Judicial  
7 Council governing employment practices within the Judicial Branch  
8 promulgated by the Judicial Council. The salaries of ~~such deputies and~~  
9 ~~assistants shall be fixed by the Judicial Council~~ the Superior Court Clerk  
10 and his or her deputies and assistants shall be fixed pursuant to a  
11 general Personnel Rule covering compensation. The appointment and  
12 removal of the Superior Court Clerk and such deputies and assistants  
13 shall be subject to the applicable Personnel Rules and Regulations  
14 governing employment practices within the Judicial Branch  
15 promulgated by the Judicial Council.

16 **(b) Supreme Court Clerk.** The Chief Justice shall appoint a Supreme  
17 Court Clerk who shall be subject to removal by him or her. ~~The salary of~~  
18 ~~the Supreme Court Clerk shall be fixed by the Judicial Council.~~ The

1 Supreme Court Clerk may appoint, with the approval of the ~~Chief~~  
2 ~~Justice~~ Judicial Council, such deputies and assistants in such numbers as  
3 are necessary for the daily operations of the Supreme Court. Such  
4 deputies and assistants shall be subject to removal by the Supreme  
5 Court Clerk, ~~with the approval of the Chief Justice~~ pursuant to a  
6 Personnel Rules covering compensation. The salaries of ~~the Supreme~~  
7 ~~Court Clerk and his or her~~ such deputies and assistants shall be fixed  
8 pursuant to a general Personnel Rule covering compensation. The  
9 appointment and removal of the Supreme Court Clerk and of such  
10 deputies and assistants shall be subject to the applicable Personnel  
11 Rules and Regulations governing employment practices within the  
12 Judicial Branch promulgated by the Judicial Council.

13 **Section 23.** Section 7119 of Chapter 7, Division 1 of Title 7 of the Guam  
14 Code Annotated is hereby amended as follows:

15 **§7119. Referees.** The Presiding Judge shall ~~appoint~~ nominate referees  
16 for approval by the Judicial Council as provided in this Title, the  
17 Probate Code (Title 15), Title 19 (Family Court Law) and the applicable  
18 rules of procedure, which referees may hear cases in more than one

1 division or court of the Superior Court of Guam and such referees are  
2 judicial officers pursuant to this Chapter.”

3 **Section 24.** Section 8102 of Chapter 8, Division 1 of Title 7 of the Guam  
4 Code Annotated is hereby amended as follows:

5 **§8102. Official Reporters; Appointment; Qualifications.** The  
6 ~~Presiding Judge for the Superior Court and the Chief Justice for the~~  
7 ~~Supreme Court~~ Judicial Council may appoint official reporters for *the*  
8 ~~their~~ respective courts, or may share reporters, as the need is made  
9 known, in such number as the ~~Presiding Judge or the Chief Justice,~~  
10 ~~respectively~~ Judicial Council may designate who shall be subject to  
11 removal as provided in the Personnel Rules for the Judicial Branch of  
12 ~~the Supreme Court~~. The qualifications of the reporters shall be  
13 determined by standards formulated by the Judicial Council ~~Supreme~~  
14 ~~Court~~.

15 **Section 25.** Section 8104 of Chapter 8, Division 1 of Title 7 of the Guam  
16 Code Annotated is hereby amended as follows:

17 **§8104. Official Reporters; Compensation and Fee.** Each reporter shall  
18 may receive a salary ~~to be fixed by the Supreme Court~~ pursuant to the

1 Personnel Rules on compensation of the Judicial Council, and or may  
2 charge and collect fees, at rates fixed by the ~~Supreme Court~~ Judicial  
3 Council, for transcripts requested by the parties, but not for the certified  
4 copy filed with the clerk for the records of the court. No fee shall be  
5 assessed for transcripts for use by the court appointed attorney in such  
6 case, and the Office of the Attorney General. Each reporter shall make  
7 such reports as the Judicial Council may require as to the transcripts  
8 prepared and fees charged by him or her.

9 **Section 26.** Section 8105 of Chapter 8, Division 1 of Title 7 of the Guam  
10 Code Annotated is hereby amended to read as follows:

11 **§8105. Chief Marshal of the Court; Appointment; Salary.** The Judicial  
12 Council Chief Justice and Presiding Judge may each shall appoint a  
13 Marshal of the Court who shall be subject to removal in accordance with  
14 the Personnel Rules and Regulations of the Judicial Branch as  
15 promulgated by the Judicial Council appoint Chief marshals of their  
16 respective courts who shall be subject to removal by such courts in  
17 compliance with the Personnel Rules and Regulation. The Chief  
18 Marshal, with the approval of the Chief Justice of Presiding Judge, for

1 ~~their respective court, may appoint deputies whose salaries shall be~~  
2 ~~fixed by the General Rule on compensation. The Marshal of the Court~~  
3 ~~shall receive a salary to be fixed by a general Personnel Rule on~~  
4 ~~compensation. The Judicial Council may assign other duties as~~  
5 ~~necessary to the Chief Probation Officer. The Marshal of the Court may~~  
6 ~~assign deputies and assistants in such number as may be approved by~~  
7 ~~the budget. The appointment, removal and salaries of such deputies and~~  
8 ~~assistants shall be governed by the applicable Personnel Rules and~~  
9 ~~Regulations governing employment practices within the Judicial Branch~~  
10 ~~as promulgated by the Judicial Council.~~

11 **Section 27.** Section 8106 of Chapter 8, Division 1 of Title 7 of the Guam

12 Code Annotated is hereby amended as follows:

13 **§8106. Marshal; Duties.** The Marshal or his or her deputies shall attend  
14 all sessions of the Supreme and Superior Courts, unless excused by a  
15 Judge or Justice at whose session the marshal or deputy should  
16 otherwise attend, and preserve order. He or she shall serve and execute  
17 process, writs and orders issued under the laws of Guam by a court of  
18 record when so directed by the court and for this purpose shall have all

1 the powers conferred by law on the Police Chief of the Guam Police  
2 Department and on the Mayors of municipal districts. He or she shall  
3 perform such other duties as may be directed by the ~~Superior Court~~, by  
4 ~~the Supreme Court~~, Judicial Council, or by the rules and procedures  
5 adopted by the Judicial Council ~~Supreme Court~~.

6 **Section 28.** Section 8107 of Chapter 8, Division 1 of Title 7 of the Guam  
7 Code Annotated is hereby amended to read as follows:

8 **§8107. Marshal; Appointment of Special Deputies.** The Chief Justice,  
9 at the request of the Marshal of the Court, ~~The Superior Court and the~~  
10 ~~Supreme Court~~ may appoint employees of the Department of Law and  
11 of the Department of Revenue & Taxation of the government of Guam  
12 as special deputy marshals of the Guam Judiciary ~~Superior Court~~  
13 ~~Marshal~~. Such appointments shall be for a term of one (1) year, unless  
14 sooner revoked by the Chief Justice ~~Superior Court~~, or for as long as  
15 such employees remain in their employment with their respective  
16 departments, whichever is earlier.

17 **Section 29.** Section 8108 of Chapter 8, Division 1 of Title 7 of the Guam  
18 Code Annotated is hereby amended to read as follows:



1        §8108. **Special Deputy Marshal; Duties, Compensation.** The  
2 employees of the Department of Law who are appointed as deputies  
3 under §8107 of this Chapter shall exercise their office only in cases  
4 wherein the Government of Guam is a party. The employees of the  
5 Department of Revenue & Taxation who are appointed as deputies  
6 under said §8107 shall exercise their office only in matters concerning  
7 the income tax laws and other tax and revenue laws of Guam. No  
8 deputies under said §8107 shall be entitled to compensation in addition  
9 to the compensation they are receiving as employees of the Government  
10 of Guam.

11            ~~Deputy Marshals who are appointed as full-time deputies of the~~  
12 ~~Superior Court or the Supreme Court may exercise the full power of a~~  
13 ~~marshal of the Superior Court of the Supreme Court in all matters of the~~  
14 ~~Superior or Supreme Court, and shall be compensated by a salary fixed~~  
15 ~~by a the General Rule on compensation.~~

16        **Section 30.** Section 8109 of Chapter 8, Division 1 of Title 7 of the Guam  
17 Code Annotated is amended as follows:

18        §8109. Chief Probation Officer; Appointment; Salary. The Judicial

1 Council shall ~~The Superior Court may~~ appoint a Chief Probation Officer  
2 ~~probation officer~~ who shall be subject to removal in accordance with the  
3 Personnel Rules and Regulations of the Judicial Branch promulgated by  
4 the Judicial Council ~~the Court~~. ~~The salaries of the probation officer and~~  
5 ~~his or her assistants shall be~~ The Chief Probation Officer shall receive a  
6 salary to be fixed by a general Personnel Rule on compensation. The  
7 duties of the Chief Probation Officer shall be established in writing by  
8 the Superior Court Administrator and approved by the Judicial Council.  
9 The Judicial Council may assign other duties as necessary to the Chief  
10 Probation Officer. ~~Appointment and removal of assistant probation~~  
11 ~~officers shall be subject to applicable Personnel Rules and Regulations.~~  
12 The Chief Probation Officer may appoint deputies and assistants in such  
13 numbers as may be necessary. The appointment, removal and salaries of  
14 such deputies and assistants shall be governed by the applicable  
15 Personnel Rules and Regulations governing employment practices  
16 within the Judicial Branch as promulgated by the Judicial Council.

17 **Section 31.** Section 8111(a) of Chapter 8, Division 1 of Title 7 of the

18 Guam Code Annotated is hereby amended to read as follows:

1        **§8111(a)** Each clerk of the Supreme and Superior Courts, before entering  
2        on the duties of his or her office, shall give a bond in the sum of not less  
3        than Ten Thousand Dollars (\$10,000.00), ~~or such greater sum as the~~  
4        ~~Supreme Court may determine~~, for the faithful performance of duty by  
5        himself or herself, his or her deputies and assistant clerks during his or  
6        her continuance in office and by his or her deputies and assistant clerks  
7        after his or her death until his or her successor is appointed and  
8        qualified. The amount of the bond shall be set and approved by the  
9        ~~Supreme Court~~ Judicial Council and filed and recorded in the office of  
10       the Clerk of the Court.

11       **Section 32.** Section 8112(a) of Chapter 8, Division 1 of Title 7 of the  
12       Guam Code Annotated is hereby amended as follows:

13       **§8112 (a)** The Marshal of the ~~Superior Court, and of the Supreme Court,~~  
14       before entering on the duties of his or her office, shall give a bond in the  
15       sum of not less than Ten Thousand Dollars (\$10,000.00) ~~or such greater~~  
16       ~~sum as the Supreme Court may determine~~ for the faithful performance  
17       of duty by himself or herself and his or her deputies during his or her  
18       continuance in office and by his or her deputies after his or her death

1 until his or her successor is appointed and qualified. The amount of the  
2 bond shall be set and approved by the ~~Supreme Court~~ Judicial Council  
3 and filed and recorded in the office of the clerk of the Supreme Court.

4 **Section 33.** Section 8113 of Chapter 8, Division 1 of Title 7 of the Guam  
5 Code Annotated is hereby amended as follows:

6 **§8113. Other Court Personnel.** The Presiding Judge for the Superior  
7 Court and the Chief Justice for the Supreme Court may appoint and  
8 may remove from their respective courts, pursuant to all applicable  
9 Personnel Rules and Regulations of the ~~Supreme Court and the Superior~~  
10 ~~Court~~ Judicial Branch as promulgated by the Judicial Council such other  
11 officers and personnel as are necessary to carry out the duties of the  
12 courts. If such officers and personnel are appointed to fill new positions  
13 or to have duties not already specified in law or in a plan approved by  
14 the ~~Chief Justice or Presiding Judge, respectively,~~ Judicial Council, no  
15 such appointments shall be made or new duties assigned until a plan  
16 ~~therefore has been approved by the Chief Justice or Presiding Judge,~~  
17 ~~respectively,~~ and adoption of such plan by the Judicial Council.

18 **Section 34.** Section 9107 of Chapter 9, Article 1, Division 1, of Title 7 of

1 the Guam Code Annotated is hereby amended as follows:

2 § 9107. **Immunity from liability for official action.** Justices of the  
3 Supreme Court and those acting pursuant to orders or rules of court as  
4 their employees or agents, including but not limited to members of the  
5 Guam Bar Association Ethics Committee, designated Ethics Prosecutors,  
6 and their employees or agents, shall not be held liable for any action  
7 performed in the course of their official duties undertaken pursuant to  
8 this Chapter Article relative to the discipline of attorneys and to the  
9 unauthorized practice of law.

10 **Section 35.** Section 9203 of Article 2, Chapter 9, Division 1 of Title 7 of  
11 the Guam Code Annotated is hereby repealed and reenacted as follows:

12 **§9203. Membership of Board: Number of Members; Manner of**  
13 **Appointment, Term.** The Board of Law Library established in §9202 of  
14 this Chapter shall consist of nine (9) members and shall be constituted  
15 as follows:

16 (1) the Chief Justice of the Supreme Court of Guam may appoint  
17 himself or herself, or one (1) associate justice of the Supreme  
18 Court to serve ex officio as a trustee or, in the event a justice

1 chooses not to so serve, he shall appoint a law clerk in the  
2 employ of the Court or a member of the Guam Bar to serve as  
3 trustee for a term of three (3) years;

4 (2) the judge of the District Court may appoint himself or herself  
5 to serve ex officio as a trustee or, in the event he chooses not to  
6 serve, he may appoint a law clerk in the employ of the District  
7 Court or a member of the Guam Bar to serve as trustee;  
8 provided, that if there be more than one (1) judge of the  
9 District Court, such judges may appoint one (1) of their  
10 number to so serve, they may appoint a law clerk in the  
11 employ of the District Court or a member of the Guam Bar to  
12 serve as trustee to a term of four (4) years;

13 (3) the Presiding Judge of the Superior Court may appoint himself  
14 or herself, or one (1) judge of the Superior Court to serve ex  
15 officio as a trustee or, in the event a judge chooses not to serve,  
16 the Presiding Judge shall appoint a law clerk in the employ of  
17 the Superior Court or a member of the Guam Bar to serve as  
18 trustee for a term of three (3) years;

1 (4) the Judicial Council shall appoint one (1) trustee who is a  
2 member of the Guam Bar for a term of (4) years;

3 (5) the Chairman of the committee that has oversight of the  
4 judiciary of the Guam Legislature shall appoint one (1) trustee  
5 who is a member of the Guam Bar for a term of two (2) years  
6 expiring no later than the last day of the legislative term in  
7 which the appointment occurred;

8 (6) the Territorial Librarian shall be a trustee ex officio;

9 (7) the Governor shall appoint one (1) trustee who is a member of  
10 the Guam Bar for a term of four (4) years expiring no later than  
11 the last day of the Governor's term in which the appointment  
12 occurred; and

13 (8) the President of the Guam Bar Association shall appoint two  
14 (2) trustees who are members of the Guam Bar for a term of  
15 two (2) years.

16 **Section 36.** Section 9204 of Article 2, Chapter 9, Division 1 of Title 7 of  
17 the Guam Code Annotated is hereby repealed and reenacted as follows:

18 **§9204. board vacancies.** in the event that any member of the Board of

1 Law Library Trustees shall die, resign, or otherwise be removed from  
2 the Board prior to the expiration of his term as set forth in §9203 of this  
3 Chapter, the vacancy so created shall be filled for the remainder of such  
4 member's term in the same manner in which the member whose death,  
5 resignation or removal that created such vacancy was appointed.

6 **Section 37.** Section 9203(e) of Article 2, Chapter 9, Appendix A,  
7 Division 1 of Title 7 of the Guam Code Annotated is hereby repealed as  
8 follows:

9 ~~§9203. Discipline of Attorneys. (e) Upon receipt of a recommendation~~  
10 ~~for discipline, the Presiding Judge of the Superior Court shall promptly~~  
11 ~~set the matter for a hearing. The hearing shall be conducted by a panel~~  
12 ~~composed of three judges of the Superior Court and any decision shall~~  
13 ~~require the concurrence of at least two of such judges. If any of the~~  
14 ~~judges of the Superior Court shall disqualify themselves in the matter so~~  
15 ~~that there are not three judges remaining to sit on the panel, the~~  
16 ~~Presiding Judge shall appoint as judges pro tempore from attorneys as~~  
17 ~~are admitted to the Bar of Guam and who are in good standing before it~~  
18 ~~and who have not previously been subject of an order imposing~~



1 ~~discipline in Guam so as to make up a total of three judges to hear the~~  
2 ~~discipline matter.~~

3 ~~At the hearing, the disciplinary case shall be prosecuted by such counsel~~  
4 ~~as the Chairman of the Ethics Committee shall designate, or by himself.~~

5 ~~The evidence, if otherwise admissible, found in the record of the hearing~~  
6 ~~of the Ethics Committee and presented to the Superior Court shall be~~  
7 ~~admitted. The person who is the subject of the complaint may rebut~~  
8 ~~such evidence or mitigate it, through witnesses, argument, or both, as he~~  
9 ~~deems proper, subject to the Rules of Court for Disciplinary Procedure.~~

10 ~~The prosecuting counsel may introduce additional evidence.~~

11 **Section 38.** Section 5502(b) of Chapter 5A, Division 1 of Title 19 of the  
12 Guam Code Annotated is amended as follows:

13 **§5502. Principle Purpose of the Division; Expedited Process.** (b) The  
14 Presiding Judge of the Superior Court may assign such other pre-  
15 adjudication matters as he considers proper, and in conformance with  
16 rules and regulations promulgated by the Supreme Court, to the  
17 Division, courts established under the Superior Court, including, the  
18 family Division matters as provided in §5113 of Title 19 of the Guam

1 Code Annotated, provided such assignments do not impair the  
2 principal purpose of the Division as set out in Subsection (a) of §5502.

3 **Section 39.** Section 8121(a) of Chapter 8, Article 1, of Title 4 of the Guam

4 Code Annotated is hereby amended to read as follows:

5 “(a) A retired member who subsequently becomes an employee  
6 eligible for membership under §8106 of this Title prior to January 1,  
7 1999 shall, upon becoming so employed, have that member’s right to  
8 receive payment of that member’s annuity suspended for the duration  
9 of that member’s employment, but all other rights pertaining to that  
10 member’s annuity provided by this Article, including automatic  
11 increases therein, shall be retained by that member. The provisions of  
12 this Section shall not be applicable to any retired Judge or Justice  
13 designated and assigned by the Chief Justice to perform judicial duties  
14 in the Courts of Guam as provided for in §6115 of 7 GCA, or any person  
15 employed by the Department of Education in Guam schools, such as a  
16 substitute teacher; classroom teacher; guidance counselor; health  
17 counselor; or certified, registered and/or licensed health professional,  
18 including, but not limited to, physical therapists, occupational

1 therapists, speech therapists, audiologists, speech pathologists, speech  
2 clinicians, physicians, physician assistants, nurses or psychologists;  
3 when such when such critical need arises; provided, that such person(s)  
4 occupies a position for which no other qualified/certified applicant was  
5 available, and that such employment shall be on a school-year basis,  
6 subject to the provisions of Items (d) and (e) of this Section.

7 The provisions of this Section shall not be applicable to any certified,  
8 registered or licensed health care professional, or ancillary service  
9 personnel employed by the Guam Memorial Hospital Authority, the  
10 Department of Mental Health and Substance Abuse and the Department  
11 of Public Health and Social Services; provided, that such person  
12 occupies a position for which no other qualified applicants were  
13 available, and provided that such employment is procured on an annual  
14 basis, subject to the provisions of Item (d) of this Section."

15 **Section 40. Severability.** If any provision of this Law or its application  
16 to any person or circumstance is found to be invalid or contrary to law, such  
17 invalidity shall not affect other provisions or applications of this Law which  
18 can be given effect without the invalid provisions or application, and to this

1. All the provisions of this Law are severable.

# COMMITTEE ON JUDICIARY & TRANSPORTATION

SENATOR F. RANDALL A. CUNLIFFE, CHAIRMAN

## Public Hearing

9:00 a.m., March 19, 2003

Public Hearing Room, Guam Legislature

**Bill 48 (COR): "AN ACT TO RE-ORGANIZE THE JUDICIARY AS THE THIRD CO-EQUAL AND INDEPENDENT BRANCH OF THE GOVERNMENT; TO DESIGNATE THE JUDICIAL COUNCIL AS HEAD OF A UNIFIED JUDICIARY; AND TO AMEND TITLE 7 AND 19 OF THE 5CA RELATIVE TO THE JUDICIARY AND ITS OPERATIONS" (Cunliffe)**

| NAME (PLEASE PRINT)           | AGENCY/ORGANIZATION   | CONTACT # | Oral Testimony                      | Written Testimony                   | In Favor                            | Not In Favor |
|-------------------------------|-----------------------|-----------|-------------------------------------|-------------------------------------|-------------------------------------|--------------|
| 1 <i>Charles H. Jorichman</i> | <i>AG</i>             |           |                                     | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |              |
| 2 <i>Tony Sanchez</i>         | <i>Superior Court</i> |           | <input checked="" type="checkbox"/> |                                     |                                     |              |
| 3                             |                       |           |                                     |                                     |                                     |              |
| 4                             |                       |           |                                     |                                     |                                     |              |
| 5                             |                       |           |                                     |                                     |                                     |              |
| 6                             |                       |           |                                     |                                     |                                     |              |
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| 10                            |                       |           |                                     |                                     |                                     |              |
| 11                            |                       |           |                                     |                                     |                                     |              |
| 12                            |                       |           |                                     |                                     |                                     |              |
| 13                            |                       |           |                                     |                                     |                                     |              |

# COMMITTEE ON JUDICIARY & TRANSPORTATION

SENATOR F. RANDALL A. CUNLIFFE, CHAIRMAN

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| NO. | NAME (PLEASE PRINT)             | AGENCY/ORGANIZATION  | CONTACT # | Oral Testimony | Written Testimony | In Favor | Not In Favor |
|-----|---------------------------------|----------------------|-----------|----------------|-------------------|----------|--------------|
| 1   | Justice Carbullido<br>by Arrida | Guam Bar Association | 477-9730  | ✓              |                   | ✓        |              |
| 2   | MICHAEL BORDAZZO                | JUDGES               | 475-3384  | ✓              |                   | ✓        |              |
| 3   | Justice Tydingco-Gatewood       |                      |           | ✓              |                   | ✓        |              |
| 4   |                                 |                      |           |                |                   |          |              |
| 5   |                                 |                      |           |                |                   |          |              |
| 6   |                                 |                      |           |                |                   |          |              |
| 7   |                                 |                      |           |                |                   |          |              |
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| 9   |                                 |                      |           |                |                   |          |              |
| 10  |                                 |                      |           |                |                   |          |              |
| 11  |                                 |                      |           |                |                   |          |              |
| 12  |                                 |                      |           |                |                   |          |              |
| 13  |                                 |                      |           |                |                   |          |              |

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN  
COMMITTEE ON JUDICIARY & TRANSPORTATION  
SENATOR F. RANDALL CUNLIFFE, CHAIRMAN

**NOTICE OF PUBLIC HEARING**

9:00am, Wednesday, March 19, 2003  
Guam Legislature, Public Hearing Room

**AGENDA**

**Bill 6 (COR):** THE "CRIME AGAINST THE COMMUNITY ACT" (Tenorio)

**Bill 11 (COR):** "RELATIVE TO ASSISTING MILITARY PERSONNEL AND THEIR DEPENDENTS STATIONED ON GUAM IN THE ACQUISITION OF A GUAM DRIVER'S LICENSE" (Aguon)

**Bill 25 (COR):** "RELATIVE TO AUTHORIZING THE APPOINTMENT OF ANY RETIRED JUDGE OR RETIRED JUSTICE OF A COURT OF RECORD IN THE COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS, THE REPUBLIC OF BELAU, OR THE FEDERATED STATES OF MICRONESIA TO SIT AS AN ACTING ASSOCIATE JUSTICE, OF THE SUPREME COURT OF GUAM" (Pangelinan)

**Bill 48 (COR):** "AN ACT TO RE-ORGANIZE THE JUDICIARY AS THE THIRD CO-EQUAL AND INDEPENDENT BRANCH OF THE GOVERNMENT; TO DESIGNATE THE JUDICIAL COUNCIL AS HEAD OF A UNIFIED JUDICIARY; AND TO AMEND TITLE 7 AND 19 OF THE GCA RELATIVE TO THE JUDICIARY AND ITS OPERATIONS" (Cunliffe)

**Bill 49 (COR):** "TO UPDATE AND MODERNIZE THE PUBLICATION OF THE LAWS OF GUAM AND TO ESTABLISH THE COMPILER OF LAWS WITHIN THE SUPREME COURT OF GUAM" (Cunliffe)

**BILL 50 (COR):** "RELATIVE TO ALTERNATIVE SENTENCING FOR FIRST TIME OFFENDERS OF THIRD-DEGREE FELONY CHARGES FOR THE POSSESSION OF METHAMPHETAMINE AND TO EXPUNGE SUCH CHARGES UPON COMPLETION OF THE SUPERIOR COURT OF GUAM DRUG COURT PROGRAM" (Cunliffe)

**CONFIRMATION HEARINGS:** TO SERVE ON THE BOARD OF DIRECTORS, A.B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY:

- Hon. Frank F. Blas
- Mr. Martin J. Gerber
- Mr. Joseph J. Perez
- Mrs. Mariquita R. Couch
- Mr. Marion S. Lujan
- Ms. Shirley Esperitu Olaya

Written testimonies may be submitted prior to the hearing date via facsimile (477.5300) or e-mail (senatorcunliffe@email.com).

Individuals requiring special accommodations or services should contact the Office of Senator F. Randall Cunliffe at 477.5310.

**DATES PUBLISHED:**

- Friday, March 14, 2003
- Tuesday, March 18, 2003

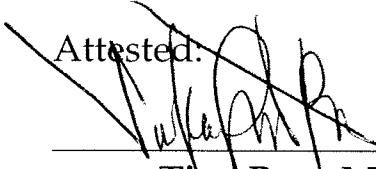
**Pacific Daily News**

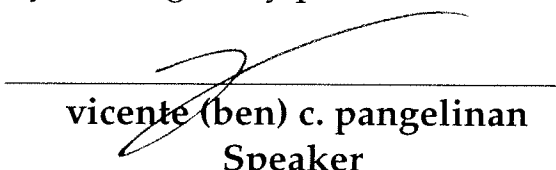
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session

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

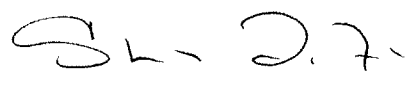
This is to certify that Substitute Bill No. 48 (COR), "AN ACT TO RE-ORGANIZE THE JUDICIARY AS THE THIRD CO-EQUAL AND INDEPENDENT BRANCH OF THE GOVERNMENT OF GUAM; TO DESIGNATE THE JUDICIAL COUNCIL AS HEAD OF A UNIFIED JUDICIARY; AND TO AMEND TITLE 7 AND 19 OF THE GUAM CODE ANNOTATED RELATIVE TO THE JUDICIARY AND ITS OPERATIONS," was on the 11<sup>th</sup> day of April, 2003, duly and regularly passed.

Attested:

  
Tina Rose Muña-Barnes  
Senator and Legislative Secretary

  
vicente (ben) c. pangelinan  
Speaker

.....  
This Act was received by *I Maga'lahaen Guahan* this 15 day of April, 2003, at 5:30 o'clock  
P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guahan*

Date: \_\_\_\_\_

Public Law No. VETO





Office of the Governor of Guam

Adelup, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: gov@guam.gu

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

APR 25 2003

Recd

11:03

April 25, 2003

The Honorable Vicente C. Pangelinan  
Speaker  
*I Mina' Bente Siete Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

I would like to thank you, your fellow Senators, and especially the author of Bill 48, Senator and Chairman of the Committee on Judiciary and Transportation, F. Randall Cunliffe, for your hard work and deliberation on Bill No. 48. Bill No. 48 seeks to reorganize Guam's Judiciary, a noble goal we all share. Senator Cunliffe should be commended for his efforts. As a practicing attorney, an officer of the Guam courts, and a Senator, he continues to demonstrate an understanding of the salient issues long debated and discussed. Clearly, he has progressed the furthest in the shortest period of time in crafting legislation that, with some modifications, can put to rest the issue of reorganizing the courts for years to come. It was a difficult decision in the end, but I have chosen to veto Bill No. 48. My concerns fall into four major areas, as set forth below:

**A. Role of the Judicial Council**

A fundamental tenet of the American judicial system is the right to a fair and impartial tribunal. We accord litigants access to our judicial system first through the trial courts. In Guam, the Superior Court and its divisions serve this purpose. Litigants are afforded an opportunity to present their claims and have their causes heard by an impartial jurist, and every judge is obligated to see every case through to final judgment. But the process does not end there. Our judicial system affords further access to our courts by permitting losing parties to appeal an adverse decision. This is the function that our Supreme Court serves. It provides a further check on the judicial process by affording parties another level of judicial review. In this way, the system ensures that errors of law or fact, as the case may be, occurring at the trial court level are corrected at the Supreme Court level. In this manner, there can be no doubt that the Supreme Court is the head of Guam's judiciary. It has the final word on the interpretation and exposition of Guam law.

But to fulfill its role of impartial appellate review, the appellate function of the Supreme Court demands distance and independence from the Superior Court. This is both a requirement of a properly functioning judiciary and matter of judicial ethics. Losing parties at the trial court level have a right to have their cause reviewed by the higher court, and judges have a corresponding duty to not only be impartial, but to maintain the appearance of impartiality.

My concern with Bill No. 48 is that it blurs the lines of impartiality and insulation for the Supreme Court. Bill No. 48 re-establishes a Judicial Council composed of all three Supreme Court Justices and two Superior Court judges. The Bill vests the Judicial Council with various powers and responsibilities, the end result of which is to cause the Council to become involved in the day-to-day operations and management of both the Superior Court and the Supreme Court. I refer here primarily to Sections 4 and 16. The entirety of the Supreme Court (all three Justices, which constitutes majority of the Council) will inevitably become involved in the daily management of the Superior Court – the court from which separation and distance is required for effective judicial review. The Justices would have appointing authority over the Administrator the Courts (Section 22(c)) and key middle managers of the Superior Court. With the authority to hire usually comes accountability for the actions of the appointed employees and their respective subordinates. The lines of separation are blurred, and assurances of access to a truly independent appellate tribunal no longer exist. Ideally, administration of the Courts should be kept separate. A Judicial Council can exist, but the Justices should be responsible for the administration and operations of the Supreme Court, and the Superior Court should be responsible for the administration and operations of the Superior Court. I therefore urge *I Liheslaturan Guåhan* to establish a mechanism for keeping the administration of the courts separate to the greatest extent possible. I believe that with appropriate measures this can still result in streamlining the functions of both courts by combining functions and eliminating a duplication of services. The Superior Court, in part, has reduced its costs by 20% while still accommodating an increased level of services and programs. By the same token, I agree with sentiments expressed in the media that the integrity of our judicial system should not be compromised merely for the sole purpose of reducing costs. This could result in litigation and thus increased court costs that will eliminate any savings achieved through streamlining and consolidation.

#### **B. Composition of the Judicial Council**

As stated above, there can be no doubt that the Supreme Court is the head of Guam's judiciary from the perspective of judicial review. However, if the Judicial Council is to be tasked with administrative responsibility of the courts, then at the least there should be equal representation of Supreme Court Justices and Superior Court Judges on the Council. I support this principle of parity and believe that the Justices and Judges on the Council will be able to work together to make such a structure functional in practice. At the same time, I realize that a risk of deadlock is inherent in such an arrangement. Accordingly, *I Liheslaturan Guåhan* may wish to consider alternative structures to minimize this risk. By way of example, one way of addressing the problem

is to require the three Justices and three Judges to elect a seventh member of the Council by a majority vote. This mechanism has worked and is currently working in the case of the current Guam Election Commission. I am confident that the Justices and Judges on the Council will have no problem forming the necessary consensus to elect a qualified seventh member to sit on the Council. This seventh member need not necessarily hold judicial office.

The other concern I have with Section 15 is the requirement that a Superior Court judge be removed from the Council when a Supreme Court Justice leaves office. I believe this particular requirement should be revisited.

### **C. Assignment of Cases By Presiding Judge**

With respect to Section 13 of the Bill, I am concerned about amendments requiring the Presiding Judge to “randomly” assign cases. At this time, the judges have more of a specialized caseload because of the complexities of modern times and the interrelation that may occur among several cases. For example, a family may come before the court in a domestic case, a Persons In Need of Services (“PINS”) case and a criminal case – all related to one incident. At present, the Presiding Judge attempts to assign all these cases to one judge for consistency in judicial decision making. Furthermore, in order for the two new drug courts to be effective, one judge must hear all of the cases. The Presiding Judge must have the flexibility to manage and accommodate case loads. For example, a judge may be involved in a lengthy and time-consuming trial that may last the entire day and take place over the span of several weeks. Under such circumstances, the Presiding Judge must have the flexibility to make the necessary accommodations, which may include not assigning any new cases to that judge for the duration of trial. Thus, Section 13 may hamper the efficient operations of the trial court.

### **D. Marshals Division and Probation Functions**

Probation is wholly a trial court function. With the exception of limited security for Supreme Court sessions and for the individual Justices, Marshal services fall in this same general category. The amendments require the Marshal of the Court to be appointed by the Judicial Council, with its majority of Justices. The Council also has an appointment role in the selection of the Chief Probation Officer. Because these areas lie almost entirely within the realm of the Superior Court, provisions are necessary to make these two areas directly accountable to that court. Marshal services for the Supreme Court can be carved out so that portion is likewise held accountable to the Supreme Court.

In conclusion, Guam’s judicial system belongs neither to Justices, Judges, nor to any particular court, but to Guam’s people. It does not serve the interests of the people to consolidate power in one court; instead those duties must be shared.

I ask *I Liheslaturan Guåhan* to reconsider the few aspects of Bill No. 48 discussed above. Together let us take the final step to reorganize the judiciary. Indeed, the judicial branch has been characterized by many, both inside and outside government, as the most progressive of all three branches of government over the past decade. For these reasons, I am vetoing Bill No. 48 to give you and your colleagues the opportunity to take into consideration some of the concerns that I have cited.

Sincerely yours,



FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*  
Governor of Guam

cc: Hon. Tina Muña-Barnes,  
Senator and Legislative Secretary

# I MINA' BENTE SIETE NA LIHESLATURAN GUAHAN

2003 (FIRST) Regular Session

Date: 5/16/03

## VOTING SHEET

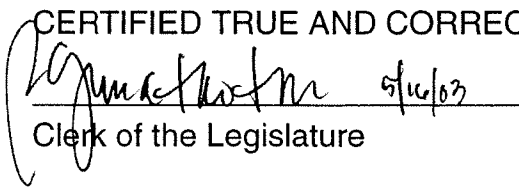
S Bill No. 48(COR)

Resolution No. \_\_\_\_\_

Question: Notwithstanding the objection of I Maga'Lahen Guahan, should the Legislature override Vetoed Substitute Bill 48(COR)?

| NAME                          | YEAS | NAYS | NOT VOTING/<br>ABSTAINED | OUT DURING<br>ROLL CALL | ABSENT |
|-------------------------------|------|------|--------------------------|-------------------------|--------|
| AGUON, Frank B., Jr.          |      | ✓    |                          |                         |        |
| BROWN, Joanne M. S.           |      | ✓    |                          |                         |        |
| CUNLIFFE, F. Randall          | ✓    |      |                          |                         |        |
| FERNANDEZ, Dr. Carmen         | ✓    |      |                          |                         |        |
| FORBES, Mark                  |      | ✓    |                          |                         |        |
| KASPERBAUER, Lawrence F.      |      | ✓    |                          |                         |        |
| KLITZKIE, Robert              | ✓    |      |                          |                         |        |
| LEON GUERRERO, Lourdes A.     | ✓    |      |                          |                         |        |
| LUJAN, Jesse A.               |      | ✓    |                          |                         |        |
| MUÑA-BARNES, Tina Rose        | ✓    |      |                          |                         |        |
| pangelinan, vicente "ben" C.  | ✓    |      |                          |                         |        |
| QUINATA, John "JQ" M.         | ✓    |      |                          |                         |        |
| RESPICIO, Rory J.             | ✓    |      |                          |                         |        |
| SANFORD, Antoinette "Toni" D. | ✓    |      |                          |                         |        |
| TENORIO, Ray                  |      | ✓    |                          |                         |        |

TOTAL 9 6 0 0 0

CERTIFIED TRUE AND CORRECT:  
  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence

*Sustained*  
*\* Reconsider next Reg. Session*

*Le Brindley*

# I MINA' BENTE SIETE NA LIHESLATURAN GUAHAN

2003 (FIRST) Regular Session

Date: October 31, 2003

## VOTING SHEET

Vetoed

Bill No. 48 (COR)

Resolution No. \_\_\_\_\_

Question: Notwithstanding the objection of I Maga'Lahen Guahan, should the Legislature override Vetoed Bill No. 48(COR)?

| <u>NAME</u>                   | <u>YEAS</u> | <u>NAYS</u> | <u>NOT VOTING/<br/>ABSTAINED</u> | <u>OUT DURING<br/>ROLL CALL</u> | <u>ABSENT</u> |
|-------------------------------|-------------|-------------|----------------------------------|---------------------------------|---------------|
| AGUON, Frank B., Jr.          |             | ✓           |                                  |                                 |               |
| BROWN, Joanne M. S.           |             | ✓           |                                  |                                 |               |
| CUNLIFFE, F. Randall          | ✓           |             |                                  |                                 |               |
| FERNANDEZ, Dr. Carmen         | ✓           |             |                                  |                                 |               |
| FORBES, Mark                  |             | ✓           |                                  |                                 |               |
| KASPERBAUER, Lawrence F.      |             | ✓           |                                  |                                 |               |
| KLITZKIE, Robert              | ✓           |             |                                  |                                 |               |
| LEON GUERRERO, Lourdes A.     | ✓           |             |                                  |                                 |               |
| LUJAN, Jesse A.               | ✓           |             |                                  |                                 |               |
| MUÑA-BARNES, Tina Rose        | ✓           |             |                                  |                                 |               |
| pangelinan, vicente "ben" C.  | ✓           |             |                                  |                                 |               |
| QUINATA, John "JQ" M.         | ✓           |             |                                  |                                 |               |
| RESPICIO, Rory J.             | ✓           |             |                                  |                                 |               |
| SANFORD, Antoinette "Toni" D. | ✓           |             |                                  |                                 |               |
| TENORIO, Ray                  |             | ✓           |                                  |                                 |               |

TOTAL                      10      5      0      0      0

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session 2003 MAR -7 PM 4: 26

Bill No. 48(COR)

Introduced by:

F.R. Cunliffe   
J.M. Quinata 

---

AN ACT TO RE-ORGANIZE THE JUDICIARY AS THE  
THIRD CO-EQUAL AND INDEPENDENT BRANCH OF THE  
GOVERNMENT OF THE TERRITORY OF GUAM; TO  
DESIGNATE THE JUDICIAL COUNCIL AS HEAD OF A  
UNIFIED JUDICIARY; AND TO AMEND TITLE 7 AND 19 OF  
THE GUAM CODE ANNOTATED RELATIVE TO THE  
JUDICIARY AND ITS OPERATIONS

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

2           **Section 1.     Legislative Intent.** The provisions contained in this Act hereby unify and  
3 reorganize the judiciary of Guam as the third co-equal and independent branch of government. This  
4 Act contains significant amendments to Title 7 of the Guam Code Annotated relative to the Judicial  
5 Council, the Supreme Court of Guam, the Superior Court of Guam and the appointment and  
6 consolidation of the officers of the court.

7           *I Mina' Bente Siete Na Liheslaturan Guåhan* finds that other legislation may be necessary to  
8 address the further reorganization of the Court and the separation of powers relative to the Parole  
9 Board, the Pardon Review Board, the Probation Office, Court Administration and Client Support  
10 Services in an effort to further enhance the rights of those being served with or by the legal process  
11 of Guam.

12           With the passage of this Act, the Judicial Council of Guam shall serve as head of the Judicial  
13 Branch of government for the Territory of Guam. *I Liheslaturan Guåhan* further recognizes that  
14 there remains a need to protect the integrity of the Judiciary from infraction by the other branches of

1 government that must be resolved either through the establishment of the Judiciary by virtue of an  
2 amendment to the Organic Act of Guam by the United States Congress in behalf of the government  
3 of Guam; or preferably through an act of self-government by virtue of the adoption of a Constitution  
4 by the people of Guam.

5 **Section 2.** A new Section 1100.01 is added to Chapter 1, Division 1 of Title 7 of the Guam  
6 Code Annotated as follows:

7 **§1100.01. Legislative Intent.** The legislature intends herein to recognize and empower the  
8 Supreme Court of Guam as the highest court of our Territory with oversight over the judicial  
9 branch.

10 **Section 3.** Section 2101(a) of Chapter 2, Division 1 of Title 7 of the Guam Code Annotated  
11 is hereby amended as follows:

12 **§2101 Courts of Justice in General.** (a) The courts of justice of the territory of Guam *shall*  
13 consist of the Supreme Court of Guam and the Superior Court of Guam. *The Supreme Court*  
14 *of Guam shall be the highest Court of Guam and shall have supervisory, but not*  
15 *administrative, authority over the Superior Court of Guam and all other local courts in*  
16 *Guam in accordance with rules and regulations promulgated by the Supreme Court.* The  
17 Supreme Court may, by rules of court, create such divisions of the Supreme and Superior  
18 Courts as may be desirable, and may designate which of the divisions of the Superior Court  
19 are to be courts of record and which shall be courts not of record; **provided**, however, that  
20 four (4) such divisions of the Superior Court shall continue, one being the Traffic Division,  
21 not a court of record, one being the Small Claims Division, not a court of record, a third  
22 being the Family Division, a court of record, and the fourth, being the Drug Court, a court of  
23 record. The Supreme Court of Guam and the Superior Court of Guam, **except** for the Traffic  
24 and Small Claims Divisions of the Superior Court, are courts of record.



1           **Section 4.** A new Section 2102 is added to Chapter 2, Division 1 of Title 7 of the Guam  
2 Code Annotated as follows:

3           **§2102. Administration of the Courts of Guam.** The Judicial Council shall administer the  
4 operations of the Supreme Court and Superior Court and shall promulgate rules, regulation  
5 and policy governing personnel, procurement, finance and travel for the Judicial Branch.  
6 The Judicial Council shall adopt a unified pay schedule for the employees of the Judicial  
7 Branch. The Judicial Council shall recommend and submit, under the signature of its  
8 Chairperson, the annual budget of the Judicial Branch to the Guam Legislature by the first  
9 day of May of each year.

10          **Section 5.** Subsections 3103 (a), (e), (f), (l), and (m) of Chapter 3, Division 1 of Title 7 of  
11 the Guam Code Annotated, are hereby amended to read as follows:

12          **§3103. Supreme Court; Composition.** (a) The Supreme Court of Guam is established  
13 pursuant to 22A of the Organic Act of Guam and has such appellate jurisdiction as is  
14 prescribed by the Organic Act of Guam and by this Title. The Supreme Court shall consist  
15 of three (3) full-time Justices who shall be appointed by I Maga 'lahen Guåhan, the Governor  
16 of Guam, subject to the advice and consent of the Legislature. Two (2) of the full-time  
17 Justices shall be Associate Justices and one (1) shall be Chief Justice, who shall be selected  
18 as provided herein. ~~The Supreme Court shall consist of a full-time Chief Justice selected as~~  
19 ~~herein provided, two (2) full-time Associate Justices, and up to four (4) part-time Associate~~  
20 ~~Justices, in such numbers as are determined by the Judicial Council, in addition to Superior~~  
21 ~~Court Judges as assigned by the Presiding Judge of the Superior Court upon request of the~~  
22 ~~Chief Justice. Initially, the Governor shall appoint four (4) part-time Associate Justices. All~~  
23 ~~such appointments are subject to the advice and consent of the Legislature.~~

24          (e) The term *designated justice* refers to a judge or justice who is qualified by this Title

1 ~~to sit any Judge of the Superior Court or other Judge from some other jurisdiction~~  
2 ~~who is qualified by this Title to sit.~~

3 (f) A Superior Court judge who is elevated to the Supreme Court of Guam, may sit as a  
4 designated judge of the Superior Court at the direction of the Chief Justice as  
5 requested by the Presiding Judge of the Superior Court for the purpose of hearing  
6 matters, which were pending before the justice, immediately prior to his or her  
7 elevation from the Superior Court to the Supreme Court. ~~In addition to the Supreme~~  
8 ~~Court Justices, a Superior Court Judge may sit as a designated Justice at the direction~~  
9 ~~of the Presiding Judge of the Superior Court as requested by the Chief Justice if no~~  
10 ~~conflict exists and the designated Superior Court Judge did not hear the matter under~~  
11 ~~appeal in the court below. While so sitting as a designated Justice, the Judge shall~~  
12 ~~have the same powers as an Associate Justice. A Superior Court Judge so sitting~~  
13 ~~shall receive no additional compensation.~~

14 (l) In the event of the absence or disqualification of the Chief Justice, the senior full-  
15 time Associate Justice, who is the Justice with the longest years of service in the  
16 Supreme Court of Guam, shall act as Chief Justice. ~~If no full time Justice is~~  
17 ~~available, then one (1) of the part-time Associate Justices shall act as Chief Justice, in~~  
18 ~~order of seniority. If no full-time or part-time Justice is available, then one (1) of the~~  
19 ~~Superior Court Judges sitting as a designated Justice shall act as Chief Justice, in~~  
20 ~~order of seniority.~~

21 (m) In the event of a disqualification, conflict, or recusal, of the Chief Justice in a given  
22 matter, the senior full-time Associate Justice shall act as Chief Justice as to that  
23 matter in making assignments of Justices ~~or Judges~~ and in other procedural matters.  
24 If no ~~full-time~~ Justice is available, then one (1) designated Justice shall act as Chief

1 ~~Justice, of the part-time Associate Justices shall act as Chief Justice in the matter, in~~  
2 ~~order of seniority. If no full-time or part-time Justice is available, then one (1) of the~~  
3 ~~Superior Court Judges sitting as a designated Justice shall act as Chief Justice, in~~  
4 ~~order of seniority.~~

5 **Section 6.** Subsections 3103(d) and (g), of Chapter 3, Division 1 of Title 7 of the Guam  
6 Code Annotated are hereby repealed and all existing sub-items shall be renumbered accordingly:

7 ~~§3103 (d) The term en banc refers to all Justices (both full-time and part-time)~~  
8 ~~sitting together. If any Justice is unavailable or disqualified, the Chief Justice~~  
9 ~~shall fill the position with a designated Justice; and~~

10 ~~(g) A part-time Justice or a designated Justice may sit as a designated Judge~~  
11 ~~of the Superior Court at the direction of the Chief Justice as requested by the~~  
12 ~~Presiding Judge of the Superior Court. While so sitting, the Justice shall~~  
13 ~~have all the powers of a judge of the Superior Court.~~

14 **Section 7.** Subsection 3104 (a) of Chapter 3, Division 1 of Title 7 of the Guam Code  
15 Annotated, is hereby amended as follows:

16 **§3104. Internal organization of the Supreme Court. (a) Decisions concerning**  
17 **substantive matters.** In hearings and determining the merits of cases before it, the Supreme  
18 Court shall normally sit in a three-Justice panel, but as authorized by the Court's Rules, it  
19 may sit en banc, and all members of the panel or the en banc court, as the case may be, shall  
20 participate in the decision of each case heard by it.

21 **Section 8.** Section 3106(1)(i)(ii) and (iii) of Chapter 3, Division 1, Title 7 of the Guam Code  
22 Annotated, is amended as follows:

23 **§3106 Compensation.** Until a specific salary is set for the Justices by another statute, the  
24 annual salary of the Chief Justice shall be Three Thousand Dollars (\$3,000) higher than the

1 annual salary of the Presiding Judge of the Superior Court, and the annual salary of each of  
2 the full-time Associate Justices shall be Two Thousand Dollars (\$2,000) less than the annual  
3 salary of the Chief Justice.

4 (1) The hourly salary of a pro tempore ~~part-time~~ Justice shall be the same as the  
5 hourly salary of a full-time Associate Justice; provided, that:

6 (i) The total annual amount of salary may not exceed the annual salary of a full-  
7 time Justice.

8 (ii) No pro-tempore ~~part-time~~ Justice may be paid for more than (40) hours per  
9 week; and

10 (iii) No pro-tempore ~~part-time~~ Justice may be paid for more than eight (8) hours  
11 per day.

12 **Section 9.** Subsection 3107(b) of Chapter 3, Division 1 of Title 7 of the Guam Code  
13 Annotated is hereby amended as follows:

14 **§3107 (b) Additional Authority.** Its authority also includes jurisdiction of original  
15 proceedings for mandamus, prohibition, injunction, and similar remedies to protect its  
16 appellate jurisdiction ~~and to effectuate its supervisory authority over the courts below.~~ The  
17 Supreme Court shall have jurisdiction of all appeals arising from judgments, final decrees, or  
18 final orders of the Superior Court in criminal cases and in civil cases and proceedings. The  
19 Supreme Court has original and appellate jurisdiction over attorney disciplinary matters  
20 including but not limited to admissions, qualifications, and standards of practice; and  
21 supervisory jurisdiction over all inferior courts in Guam and may make and promulgate rules  
22 governing the practice and procedure in the courts.

23 **Section 10.** Subsection 3109 (b) of Article 1, Chapter 3, Division 1 of Title 7 of the Guam  
24 Code Annotated is hereby repealed as follows:

1        ~~§3109 (b) The Legislature finds that it is critical that positions on the Supreme Court be~~  
2        ~~filled promptly. Therefore, if the Governor fails to make any appointment within ninety (90)~~  
3        ~~days of any vacancy, or within ninety (90) days of the Legislature's rejection of any previous~~  
4        ~~appointment, the appointment shall be made by the Speaker of the Legislature of a nominee~~  
5        ~~who would be qualified for appointment by the Governor.~~

6        **Section 11.** Subsections 4101(b) and (c) of Article 1, Chapter 4, Division 1 of Title 7 of the  
7        Guam Code Annotated are hereby amended as follows:

8        **§4101. Superior Court: nature and composition.**

9        (b) If the Judicial Council ~~Chief Justice~~ determines that additional Judges are required  
10        for the proper dispatch of business, the Chief Justice ~~he or she~~ shall so notify the  
11        Governor, who, if he or she concurs, shall ~~declare the existence of the new position~~  
12        ~~and shall proceed to~~ appoint a new Judge as in the case of a vacancy; ~~provided, that~~  
13        ~~no such declaration nor appointment shall take effect until the Legislature has funded~~  
14        ~~the position and the personnel required to assist the new Judge.~~

15        (c) If, for any reason, a vacancy is created in the Superior Court and the Judicial  
16        Council ~~Chief Justice~~ determines that the business of the court is such that no new  
17        judge is required to fill the vacancy, the Chief Justice ~~he or she~~ shall so declare, and  
18        upon such declaration, no Judge shall be appointed to fill the vacancy until the  
19        Judicial Council ~~Chief Justice~~ again determines that a need exists and proceeds in the  
20        manner prescribed by Subsection (b) of this §4101.

21        **Section 12.** Section 4103 of Article 1, Chapter 4, Division 1 of Title 7 of the Guam Code  
22        Annotated is hereby amended as follows:

23        **§4103. Powers of the Presiding Judge.** The Presiding Judge of the Superior Court shall  
24        prescribe the order of business and assign the cases to the Judges, Referees, and Hearing

1 Officers of the Court in conformance with rules and regulations promulgated by the Supreme  
2 Court. The Presiding Judge may preside at any session of the Court, which he or she attends.

3 During the Presiding Judge's ~~his or her~~ temporary absence or temporary disability, his or  
4 her duties shall be performed by his or her designated appointee. Appointment shall be on a  
5 rotating basis among all the judges of the Superior Court. The Presiding Judge shall be  
6 responsible for preparing the annual budget of the Superior Court and its divisions for the  
7 review, recommendation and approval of the Judicial Council.

8 **Section 13.** Section 4205 of Article 2, Chapter 4, Division 1 of Title 7 of the Guam Code  
9 Annotated is amended as follows:

10 **§ 4205. Referees.** Small claims cases may be heard by any Judge of the Superior Court of  
11 Guam, ~~or the Presiding Judge of the Superior Court may appoint one or more small claims~~  
12 ~~referees from among member of the Guam Bar Association, with the concurrence of the~~  
13 ~~Judicial Council, to hear small claims cases pursuant to court rules, who shall have the power~~  
14 ~~of a Superior Court Judge in respect to such small claims matters. However, the Presiding~~  
15 ~~Judge of the Superior Court may nominate one or more small claims referees from among~~  
16 ~~the members of the Guam Bar Association, with the approval of the Judicial Council.~~  
17 ~~Referees shall hear small claims cases pursuant to court rules, and shall have the power of a~~  
18 ~~Superior Court Judge in respect to such small claims matters.~~ Such appointments for  
19 referees shall be for ~~six months~~ one year or less. ~~Incumbent referees may be reappointed by~~  
20 ~~the Judicial Council for additional terms of six months or less. The Judicial Council may~~  
21 ~~reappoint incumbent referees for additional terms of one year or less.~~ Referees may be  
22 disqualified from hearing a matter in the same manner as a Judge of the Superior Court may  
23 be disqualified.

24 **Section 14.** Section 5101 of Chapter 5, Division 1 of Title 7 of the Guam Code Annotated

1 is hereby amended as follows:

2 **§5101. Judicial Council.** (a) There shall be a Judicial Council (the “Council”). ~~that shall~~  
3 ~~consist of eight (8) members: the Attorney General of Guam, the Chairman of the Judiciary~~  
4 ~~and Criminal Justice Committee of the Legislature or its successor committee, or his or her~~  
5 ~~designee, the Presiding Judge of the Superior Court, two (2) additional judges of the Superior~~  
6 ~~Court appointed by the Presiding Judge, which shall rotate among the judges of the Superior~~  
7 ~~Court every three years, the Chief Justice of the Supreme Court, and the two full-time~~  
8 ~~Associate Justices of the Supreme Court. The chairperson of the Council shall be selected~~  
9 ~~from among the members of the Council on a three-year rotational basis, the chairperson~~  
10 ~~shall not succeed himself or herself~~ All full-time Justices of the Supreme Court shall sit on  
11 the Judicial Council. Two (2) Superior Court Judges shall also sit on the Judicial Council,  
12 which shall include the Presiding Judge who shall appoint the remaining judge. Should a  
13 Supreme Court member leave the bench, then the Presiding Judge shall remove one Superior  
14 Court member until such time as a new Supreme Court justice is nominated, confirmed and  
15 seated on the Supreme Court. The Chairperson of the Council shall be the Chief Justice. In  
16 the event of absence of the Chief Justice, the senior full-time Associate Justice shall act as  
17 Chairperson.

18 (b) ~~The Council shall operate in a wholly nonpartisan manner. The Chief Justice of the~~  
19 ~~Supreme Court, in the event of his or her absence, or absence of other justice, may~~  
20 ~~appoint from among the Justices an alternate to sit on the Judicial Council. The~~  
21 ~~Presiding Judge, in his or her absence, or absence of any other Superior Court Judge,~~  
22 ~~may appoint from among the Judges an alternate to sit on the Judicial Council. The~~  
23 Presiding Judge, in his or her absence, or the absence of the other Superior Court  
24 Judge, may appoint from among the Judges an alternate to sit on the Judicial Council to

1 ensure an adequate number of members from the Superior Court of Guam.

2 (c) ~~The term of each the member of the Council shall be for the term of such member's~~  
3 ~~respective office. appointed by the Presiding Judge shall be for three (3) years. If a~~  
4 ~~member is replaced, the replacement member shall only serve out the remaining term of~~  
5 ~~the member replaced.~~

6 (d) ~~Each member of the Council shall be a resident of Guam and a citizen of the United~~  
7 ~~States. The quorum of the Council shall be a majority of the sitting members, whether~~  
8 ~~present or not. The vote of a majority of the sitting members shall be required for any~~  
9 ~~action by the Council.~~

10 (e) ~~No act of the Council shall be valid except with the concurrence of no less than the~~  
11 ~~majority of all of its members. The Council shall promulgate its own rules for its conduct~~  
12 ~~and operation. Said rules shall include provisions designed to comply with the spirit and~~  
13 ~~intent of 5 GCA Chapter 8, the Open Government Law of Guam.~~

14 (f) ~~The Council shall promulgate its own rules for its conduct and operation. Said rules~~  
15 ~~shall include provisions designed to comply with the spirit and intent of the Open~~  
16 ~~Government Law of Guam (5 GCA Chapter 8). The Council shall be attached to the~~  
17 ~~judicial branch of the government of Guam.~~

18 (g) ~~The council shall be attached to the judicial branch of the government of Guam for~~  
19 ~~purposes of administration.~~

20 **Section 15.** Section 5102 of Chapter 5, Division 1 of Title 7 of the Guam Code Annotated is  
21 hereby amended to read as follows:

22 **§5102. Powers of the Judicial Council.** The Council shall have the following powers:

23 (a) ~~To initiate, receive and consider charges concerning alleged misconduct or~~  
24 ~~incapacity of any Justice or Judge of the courts of Guam To initiate, receive and~~



1 consider charges concerning alleged misconduct or incapacity of any Justice or  
2 Judge of the Courts and to form subcommittees that will determine and make  
3 recommendations as to the removal of any Justice or Judge;

4 (b) To adopt polices for the court and make recommendations recommend such policies  
5 to the court and to the Legislature as may be deemed appropriate for the effective and  
6 expeditious administration of the judicial system;

7 (c) To make other recommendations regarding the administration of justice to the  
8 Supreme Court, to the Governor, or to the Legislature as it deems proper;

9 (d) To adopt a unified pay schedule for the employees of the Judiciary;

10 (e) To adopt policy and rules for the operations of the Courts, including but not limited  
11 to, personnel, procurement, facilities and property, financial and travel (the  
12 provisions of §6302(c), §6303 and §4105 of Title 4 of the Guam Code Annotated and  
13 §23104(b) and §23109 of Title 5 of the Guam Code Annotated are reaffirmed);

14 (f) To establish rules and regulations for appeals and grievances brought upon by  
15 classified employees of the Courts, who have exhausted administrative remedies.  
16 The Council is authorized to designate and delegate a hearing officer, to hear and  
17 decide personnel matters. The decision of the hearing officer shall be final and may  
18 be appealed to the Superior Court of Guam;

19 (g) To review the budget for the operation of the Courts and its divisions, and submit its  
20 recommendations to the Guam Legislature, under the signature of its Chairperson,  
21 by the first day of May of each year;

22 (h) To employ, retain or contract for the services of qualified specialists or experts, as  
23 individuals or as organizations, to advise and assist the Courts in the fulfillment of  
24 its duties;

- 1           (i)     To adopt filing fees and other court fees;  
2           (j)     To promulgate the Judicial Council's own rules for its conduct and operation;  
3           (k)     To sue on behalf of the Courts, including on behalf of the Court's employees, or itself  
4                   to enforce any rights granted to the Courts;  
5           (l)     Nothing contained in this Section shall be construed directly or by implication to be  
6                   in any way in derogation or limitation of the powers conferred upon the Judicial  
7                   Council or existing in the Supreme Court and the Superior Court or the Judiciary by  
8                   virtue of any provision of the Organic Act of Guam or any statutes of Guam;  
9           (m)     To have authority to act over all matters relating to the Judicial Building Fund and;  
10          (n)     To approve and/or appoint nominees to positions provided for by this Act.

11          **Section 16.** Section 5104 of Chapter 5, Division 1 of Title 7 of the Guam Code Annotated  
12 is hereby amended as follows:

13          **§5104. Removal of Justices or Judges.** A subcommittee ~~of the Council~~ judges and justices  
14 shall be formed composed of three (3) members ~~consisting of the Chairperson of the~~  
15 ~~Judiciary and Criminal Justice Committee of the Legislature or its successor committee, or~~  
16 ~~his or her designee, the Attorney General of Guam, and the President of the Guam Bar~~  
17 ~~Association~~ appointed by the Chairman. The subcommittee shall have the following powers

18 and duties with respect to the removal of Justices or Judges from the courts of Guam:

- 19          (a) It shall initiate, receive and consider charges concerning alleged misconduct or  
20               incapacity of any Chief Justice, Justice, Presiding Judge or Judge, of the courts of Guam;
- 21          (b) It may subpoena witnesses, administer oaths and take testimony relating to matters  
22               before it;
- 23          (c) It shall report its findings and make recommendations to the Judicial Council ~~Supreme~~  
24               ~~Court of Guam~~ for action.

1           **Section 17.** Subsection 6108(a) of Chapter 6, Division 1 of Title 7 of the Guam Code  
2 Annotated is hereby amended to read as follows:

3           **§6108** (a) When there is no judge qualified or available to hear a cause ~~or~~, action or hearing  
4 in the Superior Court, the Presiding Judge shall request the Chief Justice to appoint a judge  
5 pro tempore to hear the ~~action~~ matter. Such judge pro tempore shall meet the same  
6 qualifications as a regularly appointed judge of the Superior Court or be appointed in  
7 accordance with Guam law. When there is no justice qualified or available to hear a cause  
8 ~~or~~, action, or hearing in the Supreme Court, the Chief Justice shall appoint a justice pro  
9 tempore to participate in the ~~action or hearing~~ matter. Such justice pro tempore shall meet  
10 the same qualifications as a regularly appointed justice of the Supreme Court or be appointed  
11 in accordance with Guam law.

12           **Section 18.** Section 6109 of Chapter 6, Division 1 of Title 7 of the Guam Code Annotated  
13 is hereby repealed as follows:

14           ~~**§6109. Justice sitting in trial court.** In addition to the Judges **pro tempore** provided for in  
15 ~~§6108 of this Chapter, the Chief Justice of the Supreme Court may designate himself or  
16 herself or an Associate Justice to sit as a Judge in the Superior Court of Guam on cases or  
17 proceedings in which a Judge **pro tempore** may be appointed.~~~~

18           **Section 19.** Section 7102 of Chapter 7, Division 1 of Title 7 of the Guam Code Annotated  
19 is hereby amended to read as follows:

20           **§7102. Sessions of the Superior Court.** The Superior Court shall always be open on court  
21 days. It shall hold its regular sessions in Hagåtña Agaña at times determined by the rules of  
22 the court. Special sessions may be held at such places as the nature of the business may  
23 require and upon such notices as the court orders, pursuant to rules prescribed by the  
24 Supreme Court.

1           **Section 20.** Section 7103 of Chapter 7, Division 1 of Title 7 of the Guam Code Annotated is  
2 hereby amended to read as follows:

3           **§7103. (a) Superior Court Administrator.** The Presiding Judge shall appoint a Superior  
4 Court Administrator, who shall ~~be subject to removal by him or her~~ *serve at his or her*  
5 *pleasure*. The Court Administrator shall be responsible for the general supervision of all  
6 personnel of the Superior Court other than Judges, their immediate staff, *and Referees*, the  
7 buildings and grounds assigned to the Superior Court, property in the custody of the court  
8 used for the court's operation, and shall be responsible for other matters assigned to him or  
9 her by the Presiding Judge. The salary of the Court Administrator shall be fixed by the  
10 ~~Presiding Judge~~ *Judicial Council* pursuant to a general Personnel Rule covering  
11 compensation. The Court Administrator may appoint *and assign duties to*, ~~with the approval~~  
12 ~~of the Presiding Judge~~, necessary deputies and assistants in such number as may be *approved*  
13 *by the budget and necessary for* operations ~~approved by the Presiding Judge~~, whose salaries  
14 shall be fixed by the ~~Judicial Council~~ pursuant to a general Personnel Rule covering  
15 compensation. The appointment, *assignment*, removal and salaries of such deputies and  
16 assistants shall be governed by the applicable Personnel Rules and Regulations governing  
17 employment practices within the Judicial Branch *as promulgated by the Judicial Council*.

18           **(b) Supreme Court Administrator.** The Chief Justice shall appoint a Supreme Court  
19 Administrator, who shall ~~be subject to removal by him or her~~ *serve at his or her pleasure*.  
20 The Court Administrator shall be responsible for the general supervision of all personnel of  
21 the Supreme Court other than Justices and their immediate staff; any property in the custody  
22 of the court used for the court's operation, and shall be responsible for other matters assigned  
23 to him or her by the Chief Justice. The salary of the Court Administrator shall be fixed by the  
24 ~~Chief Justice~~ *Judicial Council* pursuant to a general Personnel Rule covering compensation.

1 The Court Administrator may appoint, ~~with the approval of the Chief Justice necessary~~  
2 deputies and assistants in such number as may be approved by the budget and necessary for  
3 operations ~~approved by the Judicial Council, whose salaries shall be fixed pursuant to a~~  
4 ~~general Personnel Rule covering compensation.~~ The appointment, assignment, removal and  
5 salaries of such deputies and assistants shall be governed by the applicable Personnel Rules  
6 and Regulations governing employment practices within the Judicial Branch as promulgated  
7 by the Judicial Council.

8 **(c) Administrator of the Courts.** The Judicial Council shall have the authority to appoint an  
9 Administrator of the Courts, who shall be responsible for the general supervision of all  
10 personnel of the Superior Court of Guam and the Supreme Court of Guam and all its  
11 divisions except for Judges, Justices, Referees, and their immediate staff. The salary of the  
12 Administrator of the Courts shall be fixed by the Judicial Council pursuant to a general  
13 Personnel Rule covering compensation. The Administrator shall have all other authorities  
14 assigned to the Superior Court Administrator and the Supreme Court Administrator  
15 described in subsections (a) and (b) of this section and may be assigned other duties as  
16 necessary by the Judicial Council. Upon the appointment of the Administrator of the Courts  
17 by the Judicial Council, the legal authority for the Superior Court Administrator and the  
18 Supreme Court Administrator shall expire and cease to exist. The Administrator of the  
19 Courts may appoint deputies and assistants in such number as may be approved by the  
20 budget and necessary for operations. The appointment, removal and salaries of such  
21 deputies and assistants shall be governed by the applicable Personnel Rules and Regulations  
22 governing employment practices within the Judicial Branch as promulgated by the Judicial  
23 Council.

24 **Section 21.** Section 7104 of Chapter 7, Division 1 of Title 7 of the Guam Code Annotated is

1 hereby amended to read as follows:

2 §7104. Clerk of the Court~~Clerks.~~ The Judicial Council shall appoint a Clerk of the Court.  
3 The salary of the Clerk of the Court shall be fixed by the Judicial Council. The Clerk of the  
4 Court may designate deputies and assistants in such numbers as may be approved by the  
5 budget and necessary for the daily operations of the Supreme Court and the Superior Court.  
6 The Judicial Council may assign other duties as necessary to the Clerk of the Court. The  
7 salaries, assignment, appointment, and removal of such deputies and assistants shall be  
8 subject to the applicable Personnel Rules and Regulations governing employment practices  
9 within the Judicial Branch as promulgated by the Judicial Council. ~~(a) Superior Court~~  
10 ~~Clerk. The Presiding Judge shall appoint a Superior Court Clerk who shall be subject to~~  
11 ~~removal by him or her. The salary of the Superior Court Clerk shall be fixed by the Judicial~~  
12 ~~Council. The Superior Court Clerk may appoint, with the approval of the Presiding Judge,~~  
13 ~~such deputies and assistants in such numbers as are necessary for the daily operations of the~~  
14 ~~Superior Court. Such deputies and assistants shall be subject to removal by the Superior~~  
15 ~~Court Clerk, with the approval of the Presiding Judge. The salaries of such deputies and~~  
16 ~~assistants shall be fixed by the Judicial Council pursuant to a general Personnel Rule~~  
17 ~~covering compensation. The appointment and removal of such deputies and assistants shall~~  
18 ~~be subject to the applicable Personnel Rules and Regulations governing employment~~  
19 ~~practices within the Judicial Branch.~~

20 ~~(b) Supreme Court Clerk. The Chief Justice shall appoint a Supreme Court Clerk who~~  
21 ~~shall be subject to removal by him or her. The salary of the Supreme Court Clerk shall be~~  
22 ~~fixed by the Judicial Council. The Supreme Court Clerk may appoint, with the approval of~~  
23 ~~the Chief Justice, such deputies and assistants in such numbers as are necessary for the daily~~  
24 ~~operations of the Supreme Court. Such deputies and assistants shall be subject to removal by~~

1 the Supreme Court Clerk, with the approval of the Chief Justice. The salaries of the Supreme  
2 Court Clerk and his or her deputies and assistants shall be fixed pursuant to a general  
3 Personnel Rule covering compensation. The appointment and removal of such deputies and  
4 assistants shall be subject to the applicable Personnel Rules and Regulations governing  
5 employment practices within the Judicial Branch.

6 **Section 22.** Section 7119 of Chapter 7, Division 1 of Title 7 of the Guam Code Annotated  
7 is hereby amended as follows:

8 **§7119. Referees.** The Presiding Judge shall ~~appoint~~ *nominate* referees *for approval by the*  
9 *Judicial Council* as provided in this Title, the Probate Code (Title 15), Title 19 (Family  
10 Court Law) and the applicable rules of procedure, *which referees may hear cases in more*  
11 *than one division or court of the Superior Court of Guam* and such referees are judicial  
12 officers pursuant to this Chapter.”

13 **Section 23.** Section 8102 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
14 is hereby amended as follows:

15 **§8102. Official Reporters; Appointment; Qualifications.** The ~~Presiding Judge for the~~  
16 ~~Superior Court and the Chief Justice for the Supreme Court~~ *Judicial Council* may appoint  
17 official reporters for ~~the~~ *their* respective courts, or may share reporters, as the need is made  
18 known, in such number as the ~~Presiding Judge or the Chief Justice, respectively~~ *Judicial*  
19 *Council* may designate who shall be subject to removal as provided in the Personnel Rules  
20 *for the Judicial Branch* ~~of the Supreme Court~~. The qualifications of the reporters shall be  
21 determined by standards formulated by the *Judicial Council* ~~Supreme Court~~.

22 **Section 24.** Section 8104 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
23 is hereby amended as follows:

24 **§8104. Official Reporters; Compensation and Fee.** Each reporter shall *may* receive a

1 salary to be fixed by the Supreme Court pursuant to the Personnel Rules on compensation of  
2 the Judicial Council, and or may charge and collect fees, at rates fixed by the Supreme Court  
3 Judicial Council, for transcripts requested by the parties, but not for the certified copy filed  
4 with the clerk for the records of the court. No fee shall be assessed for transcripts for use by  
5 the court appointed attorney in such case, and the Office of the Attorney General. Each  
6 reporter shall make such reports as the Judicial Council may require as to the transcripts  
7 prepared and fees charged by him or her.

8 **Section 25.** Section 8105 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
9 is hereby amended to read as follows:

10 **§8105. Chief Marshal of the Court; Appointment; Salary.** The Judicial Council ~~Chief~~  
11 ~~Justice and Presiding Judge may each~~ shall appoint a Marshal of the Court who shall be  
12 subject to removal in accordance with the Personnel Rules and Regulations of the Judicial  
13 Branch as promulgated by the Judicial Council ~~appoint Chief marshals of their respective~~  
14 ~~courts who shall be subject to removal by such courts in compliance with the Personnel~~  
15 ~~Rules and Regulation. The Chief Marshal, with the approval of the Chief Justice of Presiding~~  
16 ~~Judge, for their respective court, may appoint deputies whose salaries shall be fixed by the~~  
17 ~~General Rule on compensation. The Marshal of the Court shall receive a salary to be fixed~~  
18 by a general Personnel Rule on compensation. The Judicial Council may assign other duties  
19 as necessary to the Chief Probation Officer. The Marshal of the Court may assign deputies  
20 and assistants in such number as may be approved by the budget. The appointment, removal  
21 and salaries of such deputies and assistants shall be governed by the applicable Personnel  
22 Rules and Regulations governing employment practices within the Judicial Branch as  
23 promulgated by the Judicial Council.

24 **Section 26.** Section 8106 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated



1 is hereby amended as follows:

2       **§8106. Marshal; Duties.** The Marshal or his or her deputies shall attend all sessions of the  
3 Supreme and Superior Courts, unless excused by a Judge or Justice at whose session the  
4 marshal or deputy should otherwise attend, and preserve order. He or she shall serve and  
5 execute process, writs and orders issued under the laws of Guam by a court of record when  
6 so directed by the court and for this purpose shall have all the powers conferred by law on  
7 the Police Chief of the Guam Police Department and on the Mayors of municipal districts.  
8 He or she shall perform such other duties as may be directed by the ~~Superior Court, by the~~  
9 ~~Supreme Court, Judicial Council~~, or by the rules and procedures adopted by the Judicial  
10 Council ~~Supreme Court~~.

11       **Section 27.** Section 8107 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
12 is hereby amended to read as follows:

13       **§8107. Marshal; Appointment of Special Deputies.** The Chief Justice, at the request of the  
14 Marshal of the Court, ~~The Superior Court and the Supreme Court~~ may appoint employees of  
15 the Department of Law and of the Department of Revenue & Taxation of the government of  
16 Guam as special deputy marshals of the Guam Judiciary ~~Superior Court Marshal~~. Such  
17 appointments shall be for a term of one (1) year, unless sooner revoked by the Chief Justice  
18 ~~Superior Court~~, or for as long as such employees remain in their employment with their  
19 respective departments, whichever is earlier.

20       **Section 28.** Section 8108 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated is  
21 hereby amended to read as follows:

22       **§8108. Special Deputy Marshal; Duties, Compensation.** The employees of the  
23 Department of Law who are appointed as deputies under §8107 of this Chapter shall exercise  
24 their office only in cases wherein the Government of Guam is a party. The employees of the

1 Department of Revenue & Taxation who are appointed as deputies under said §8107 shall  
2 exercise their office only in matters concerning the income tax laws and other tax and  
3 revenue laws of Guam. No deputies under said §8107 shall be entitled to compensation in  
4 addition to the compensation they are receiving as employees of the Government of Guam.

5 ~~Deputy Marshals who are appointed as full time deputies of the Superior Court or the~~  
6 ~~Supreme Court may exercise the full power of a marshal of the Superior Court of the~~  
7 ~~Supreme Court in all matters of the Superior or Supreme Court, and shall be compensated by~~  
8 ~~a salary fixed by a the General Rule on compensation.~~

9 **Section 29.** Section 8109 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated is  
10 amended as follows:

11 **§8109. Chief Probation Officer; Appointment; Salary.** ~~The Judicial Council shall~~ ~~The~~  
12 ~~Superior Court may~~ appoint a Chief Probation Officer ~~probation officer~~ who shall be subject  
13 to removal in accordance with the Personnel Rules and Regulations of the Judicial Branch  
14 promulgated by the Judicial Council ~~the Court~~. ~~The salaries of the probation officer and his~~  
15 ~~or her assistants shall be~~ The Chief Probation Officer shall receive a salary to be fixed by a  
16 general Personnel Rule on compensation. The duties of the Chief Probation Officer shall be  
17 established in writing by the Superior Court Administrator and approved by the Judicial  
18 Council. The Judicial Council may assign other duties as necessary to the Chief Probation  
19 Officer. ~~Appointment and removal of assistant probation officers shall be subject to~~  
20 ~~applicable Personnel Rules and Regulations.~~ The Chief Probation Officer may appoint  
21 deputies and assistants in such numbers as may be necessary. The appointment, removal and  
22 salaries of such deputies and assistants shall be governed by the applicable Personnel Rules  
23 and Regulations governing employment practices within the Judicial Branch as promulgated  
24 by the Judicial Council.

1           **Section 30.** Section 8111(a) of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
2 is hereby amended to read as follows:

3           **§8111(a)** Each clerk of the Supreme and Superior Courts, before entering on the duties of his  
4 or her office, shall give a bond in the sum of not less than Ten Thousand Dollars  
5 (\$10,000.00), ~~or such greater sum as the Supreme Court may determine~~, for the faithful  
6 performance of duty by himself or herself, his or her deputies and assistant clerks during his  
7 or her continuance in office and by his or her deputies and assistant clerks after his or her  
8 death until his or her successor is appointed and qualified. The amount of the bond shall be  
9 set and approved by the ~~Supreme Court~~ Judicial Council and filed and recorded in the office  
10 of the Clerk of the Court.

11           **Section 31.** Section 8112(a) of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
12 is hereby amended as follows:

13           **§8112 (a)** The Marshal of the ~~Superior Court, and of the Supreme Court~~, before entering on  
14 the duties of his or her office, shall give a bond in the sum of not less than Ten Thousand  
15 Dollars (\$10,000.00) ~~or such greater sum as the Supreme Court may determine~~ for the  
16 faithful performance of duty by himself or herself and his or her deputies during his or her  
17 continuance in office and by his or her deputies after his or her death until his or her  
18 successor is appointed and qualified. The amount of the bond shall be set and approved by  
19 the ~~Supreme Court~~ Judicial Council and filed and recorded in the office of the clerk of the  
20 Supreme Court.

21           **Section 32.** Section 8113 of Chapter 8, Division 1 of Title 7 of the Guam Code Annotated  
22 is hereby amended as follows:

23           **§8113. Other Court Personnel.** The Presiding Judge for the Superior Court and the Chief  
24 Justice for the Supreme Court may appoint and may remove from their respective courts, p

1 pursuant to all applicable Personnel Rules and Regulations of the ~~Supreme Court and the~~  
2 ~~Superior Court~~ Judicial Branch as promulgated by the Judicial Council such other officers  
3 and personnel as are necessary to carry out the duties of the courts. If such officers and  
4 personnel are appointed to fill new positions or to have duties not already specified in law or  
5 in a plan approved by the ~~Chief Justice or Presiding Judge, respectively,~~ Judicial Council, no  
6 such appointments shall be made or new duties assigned until a ~~plan therefore has been~~  
7 ~~approved by the Chief Justice or Presiding Judge, respectively,~~ and adoption of such plan by  
8 the Judicial Council.

9 **Section 33.** Section 9203 of Article 2, Chapter 9, Division 1 of Title 7 of the Guam Code  
10 Annotated is hereby repealed and reenacted as follows:

11 **§9203. Membership of Board: Number of Members; Manner of Appointment, Term.**

12 The Board of Law Library established in §9202 of this Chapter shall consist of nine (9)  
13 members and shall be constituted as follows:

14 (1) the Chief Justice of the Supreme Court of Guam may appoint himself or herself,  
15 or one (1) associate justice of the Supreme Court to serve ex officio as a trustee  
16 or, in the event a justice chooses not to so serve, he shall appoint a law clerk in  
17 the employ of the Court or a member of the Guam Bar to serve as trustee for a  
18 term of three (3) years;

19 (2) the judge of the District Court may appoint himself or herself to serve ex officio  
20 as a trustee or, in the event he chooses not to serve, he may appoint a law clerk in  
21 the employ of the District Court or a member of the Guam Bar to serve as trustee;  
22 provided, that if there be more than one (1) judge of the District Court, such  
23 judges may appoint one (1) of their number to so serve, they may appoint a law  
24 clerk in the employ of the District Court or a member of the Guam Bar to serve

1 as trustee to a term of four (4) years;

2 (3) the Presiding Judge of the Superior Court may appoint himself or herself, or one  
3 (1) judge of the Superior Court to serve ex officio as a trustee or, in the event a  
4 judge chooses not to serve, the Presiding Judge shall appoint a law clerk in the  
5 employ of the Superior Court or a member of the Guam Bar to serve as trustee  
6 for a term of three (3) years;

7 (4) the Judicial Council shall appoint one (1) trustee who is a member of the Guam  
8 Bar for a term of (4) years;

9 (5) the Chairman of the committee that has oversight of the judiciary of the Guam  
10 Legislature shall appoint one (1) trustee who is a member of the Guam Bar for a  
11 term of two (2) years expiring no later than the last day of the legislative term in  
12 which the appointment occurred;

13 (6) the Territorial Librarian shall be a trustee ex officio;

14 (7) the Governor shall appoint one (1) trustee who is a member of the Guam Bar for  
15 a term of four (4) years expiring no later than the last day of the Governor's term  
16 in which the appointment occurred; and

17 (8) the President of the Guam Bar Association shall appoint two (2) trustees who are  
18 members of the Guam Bar for a term of two (2) years.

19 **Section 34.** Section 9204 of Article 2, Chapter 9, Division 1 of Title 7 of the Guam Code  
20 Annotated is hereby repealed and reenacted as follows:

21 **§9204. Board Vacancies.** In the event that any member of the Board of Law Library  
22 Trustees shall die, resign, or otherwise be removed from the Board prior to the expiration of  
23 his term as set forth in §9203 of this Chapter, the vacancy so created shall be filled for the  
24 remainder of such member's term in the same manner in which the member whose death,

1 resignation or removal that created such vacancy was appointed.

2 **Section 35.** Section 9203(e) of Article 2, Chapter 9, Appendix A, Division 1 of Title 7 of the  
3 Guam Code Annotated is hereby repealed as follows:

4 **§9203 Discipline of Attorneys.** ~~(e) Upon receipt of a recommendation for discipline, the~~  
5 ~~Presiding Judge of the Superior Court shall promptly set the matter for a hearing. The~~  
6 ~~hearing shall be conducted by a panel composed of three judges of the Superior Court and~~  
7 ~~any decision shall require the concurrence of at least two of such judges. If any of the judges~~  
8 ~~of the Superior Court shall disqualify themselves in the matter so that there are not three~~  
9 ~~judges remaining to sit on the panel, the Presiding Judge shall appoint as judges pro tempore~~  
10 ~~from attorneys as are admitted to the Bar of Guam and who are in good standing before it~~  
11 ~~and who have not previously been subject of an order imposing discipline in Guam so as to~~  
12 ~~make up a total of three judges to hear the discipline matter.~~

13 ~~At the hearing, the disciplinary case shall be prosecuted by such counsel as the Chairman of~~  
14 ~~the Ethics Committee shall designate, or by himself. The evidence, if otherwise admissible,~~  
15 ~~found in the record of the hearing of the Ethics Committee and presented to the Superior~~  
16 ~~Court shall be admitted. The person who is the subject of the complaint may rebut such~~  
17 ~~evidence or mitigate it, through witnesses, argument, or both, as he deems proper, subject to~~  
18 ~~the Rules of Court for Disciplinary Procedure. The prosecuting counsel may introduce~~  
19 ~~additional evidence.~~

20 **Section 36.** Section 5502(b) of Chapter 5A, Division 1 of Title 19 of the Guam Code  
21 Annotated is amended as follows:

22 **§5502 Principle Purpose of the Division; Expedited Process.** (b) The Presiding Judge of  
23 the Superior Court may assign such other pre-adjudication matters as he considers proper,  
24 and in conformance with rules and regulations promulgated by the Supreme Court, to the

1 ~~Division,~~ courts established under the Superior Court, including, the Family Division  
2 matters as provided in §5113 of Title 19 of the Guam Code Annotated, provided such  
3 assignments do not impair the principal purpose of the Division as set out in Subsection (a)  
4 of §5502.

5 **Section 37. Severability.** If any provision of this Law or its application to any person or  
6 circumstance is found to be invalid or contrary to law, such invalidity shall not affect other  
7 provisions or applications of this Law which can be given effect without the invalid provisions or  
8 application, and to this end the provisions of this Law are severable.