

NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 553, "An Act to amend Section 4106, Government Code of Guam, add a new Section 5112 to the Government Code of Guam, add a new Title LVIII to the Government Code of Guam, repeal Chapter 9 of Title IX, Government Code of Guam, amend Sections 8822 and 8824, Government Code of Guam, repeal Sections 274, 275, and 276 of the Code of Civil Procedure, and amend Sections 851, 875, 877, 1152, 1213, 1217, 1221, 1226, 1228, 1230, 1234.1, 1234.2, 1234.3 and 1234.4 of the Penal Code of Guam, relative to establishing a Department of Corrections and to amend Section 9130 of the Government Code of Guam to prohibit the Public Defender from taking elective office", was on the 9th day of July, 1968, duly and regularly passed.

W. D. L. Flores
W. D. L. FLORES
Vice Speaker

ATTESTED:

F. T. Ramirez
F. T. RAMIREZ
Legislative Secretary

This Act was received by the Governor this 12th day of July, 1968 at 2:10 o'clock P. M.

/s/ David D. L. Flores

Acting Secretary of Guam

APPROVED:

/s/ Rudolph G. Sablan
Acting Governor of Guam
DATED: July 18, 1968
4:35 P.M.



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NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

Bill No. 553
Substitute Bill by Committee
on Health, Education and
Welfare

Introduced by _____

F. G. Lujan
P. D. Palting

AN ACT TO AMEND SECTION 4106, GOVERNMENT CODE OF GUAM, ADD A NEW SECTION 5112 TO THE GOVERNMENT CODE OF GUAM, ADD A NEW TITLE LVIII TO THE GOVERNMENT CODE OF GUAM, REPEAL CHAPTER 9 OF TITLE IX, GOVERNMENT CODE OF GUAM, AMEND SECTIONS 8822 AND 8824, GOVERNMENT CODE OF GUAM, REPEAL SECTIONS 274, 275, AND 276 OF THE CODE OF CIVIL PROCEDURE, AND AMEND SECTIONS 851, 875, 877, 1152, 1213, 1217, 1221, 1226, 1228, 1230, 1234.1, 1234.2, 1234.3 AND 1234.4 OF THE PENAL CODE OF GUAM, RELATIVE TO ESTABLISHING A DEPARTMENT OF CORRECTIONS AND TO AMEND SECTION 9130 OF THE GOVERNMENT CODE OF GUAM TO PROHIBIT THE PUBLIC DEFENDER FROM TAKING ELECTIVE OFFICE.

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

2 Section 1. Section 4106 of Chapter 2, Title V, Govern-
3 ment Code of Guam, is hereby amended by adding an item to read
4 as follows:

5 "Section 4106. Executive Branch.

6 Director of Corrections \$15,750"

7 Section 2. A new Section 5112 is hereby added to Chapter
8 2, Title VI, Government Code of Guam, to read as follows:

9 "Section 5112. Department of Corrections. There
10 is within the Executive Branch of the government of
11 Guam a Department of Corrections. The Director of
12 Corrections is the head of the Department of Corrections.
13 The Director of Corrections is appointed by the Governor
14 with the consent of the Legislature."

15 Section 3. A new Title LVIII is hereby added to the
16 Government Code of Guam to read as follows:

17 "TITLE LVIII

18 DEPARTMENT OF CORRECTIONS

19 Chapter 1

20 Administration

21 Section 55000. Title. This Act may be cited as the

1 Department of Corrections.

2 Section 55001. Definitions. As used in this title:

3 (a) 'Director' means the Director of Corrections.

4 (b) 'Department' means the Department of
5 Corrections.

6 Section 55002. Purpose of Department. The Department
7 shall protect the public from the destructive action of law
8 offenders, both juvenile and adults, through control and
9 rehabilitation. It shall provide staff services for the
10 judiciary, the Parole Board, probation officials and interested
11 agencies of the Executive Branch.

12 Section 55003. Adult Offenders. The Director shall
13 establish and operate correctional institutions, and other
14 places of confinement, for prisoners serving sentences of
15 imprisonment imposed by the Courts of Guam and other authorized
16 prisoners, (persons charged with offenses, and other persons
17 placed in the custody of the Director or held by him or
18 arrested, pursuant to the laws of Guam.

19 Section 55004. Juvenile Detention. The Director
20 shall establish and operate facilities for the temporary or
21 continuing care, custody, detentions or commitment of children
22 pursuant to the orders of the Juvenile Court under Title V
23 of the Code of Civil Procedure.

24 Section 55005. Rules and Regulations. The Director
25 subject to the approval of the Governor by Executive Order, is
26 authorized to make rules and regulations for the administration
27 of correctional institutions and other places of confinement,
28 including, but not limited to, necessary disciplinary measures
29 for inmates thereof and for their treatment, care, labor,

1 rehabilitation and reformation.

2 Section 55006. Corrections Advisory Council. There is
3 hereby established the Corrections Advisory Council composed of
4 the Chairman of the Governor's Committee on Children and Youth,
5 the Chairman of the Territorial Parole Board, the Judge of the
6 Juvenile Court, the Administrator of Social Services or his re-
7 presentative, the Principal of the Trade and Technical School or
8 his representative, the United States Attorney or his represen-
9 tative and, in addition, one representative from the business
10 community and one member from the general public, who shall be
11 appointed by the Governor with the advice and consent of the
12 Legislature. The Director of the Department shall be ex officio
13 secretary of the Council and the Department shall furnish
14 necessary logistic support. The Council shall advise the
15 Director and the Department as to the policies and procedures
16 to carry out the intent and purposes of this title.

17 Section 55007. Transfer of Functions. The Department
18 does hereby assume all the powers, duties and responsibilities
19 of the Department of Public Safety for the confinement of
20 prisoners. The Department also does hereby assume all the
21 powers, duties and responsibilities of the Department of Public
22 Health and Social Services for the operation of the Juvenile
23 Detention Home.

24 Section 55008. References. Whenever the Department
25 of Public Safety or the Department of Public Health and Social
26 Services is referred to by law, contract, Executive Order, rule
27 or regulation or document concerning a function transferred by
28 Section 55007 such reference shall be deemed to mean the Depart-
29 ment of Corrections. All references to the Director of Public
30 Safety or the Director of Public Health and Social Services in
31 law, contract, rule or regulation, Executive Order or document
32 concerning a function transferred by Section 55007 shall be
33 deemed to mean the Director of Corrections.

1 Section 55009. Organization and Personnel.

2 (a) The Director may establish such divisions or other
3 organizational units as he may determine to be necessary for the
4 efficient and effective administration and operation of the
5 Department. Each such division or organizational unit shall
6 be subject to the supervision and direction of the Director
7 and shall have jurisdiction of such matters, exercise such
8 powers and perform such duties as may be assigned to it by
9 the Director or otherwise by applicable laws.

10 (b) The Director may appoint and rename officers and
11 other employees within the Department in accordance with the
12 provisions of the Personnel and Compensation Law, Title V,
13 Government Code of Guam.

14 (c) The Director may delegate authority for the per-
15 formance of any of his powers or duties to any officer or
16 employee under his direction and supervision.

17 Section 55010. General Powers and Duties of Director:
18 As head of the Department, the Director:

19 (a) Shall administer the Department.

20 (b) Shall exercise and discharge the powers
21 and duties of the Department through such divisions,
22 or other organizational units as he may establish
23 pursuant to this Title or as otherwise provided
24 by law.

25 (c) May formulate and adopt rules necessary
26 or proper for the internal administration of the
27 Department, subject to the approval of the Governor.

28 Section 55011. Transfer of records, equipment and
29 facilities. Upon the transfer of functions as provided in this
30 Act all contracts, books, records, papers, maps, plans, documents,
31 facilities and pending business heretofore made, used and ac-
32 quired or conducted by the Departments of Public Safety and
33 Public Health and Social Services in the exercise of the

1 functions transferred shall be transferred to the Department
20 of Corrections.

3 Section 55012. Transfer of officers and employees.
4 All officers and employees of the Department of Public Safety
5 and Public Health and Social Services covered herein, upon the
6 transfer of functions, shall be transferred to the Department
7 of Corrections.

8 Section 55013. Effective date. This Act shall take
9 effect upon its passage and approval, but in order that there
10 be no interruption of the administrative business of the govern-
11 ment, the Governor may, for a period not to exceed six months,
12 postpone the actual transfer of all or a portion of the functions
13 herein considered until such time as the organization herein
14 provided for can be put in full force and effect. Except as
15 otherwise provided all officers, their subordinates and employees
16 whose functions are covered by this Act, shall continue to per-
17 form the same from the time this Act takes effect in like manner
18 as though they had been appointed or employed after the passage
19 of this Act until successors to said functions and duties are
20 appointed and qualified."

21 Section 4. All unexpended appropriations heretofore
22 made for the operation of the Departments of Public Safety and
23 Public Health and Social Services for the functions herein
24 considered are transferred to the Department of Corrections as
25 this Act is implemented by the Governor.

26 Section 5. Chapter 9 of Title IX, Government Code of
27 Guam, is hereby repealed in its entirety.

28 Section 6. Section 8822, Chapter 9.1 of Title IX,
29 Government Code of Guam, is hereby amended to read as follows:

30 "Section 8822. Authority of Director of Corrections.
31 The Director of Corrections may commit or transfer any inmate
32 of a penal institution under his responsibility to any

1 institution without Guam if the territory of Guam has entered
2 into a contract or contracts for the confinement of inmates
3 in such institution pursuant to Article III of the compact."

4 Section 7. Section 8824, Chapter 9.1 of Title IX,
5 Government Code of Guam, is hereby amended to read as follows:

6 "Section 8824. Hearings. The Director of Corrections
7 is hereby authorized and directed to hold such hearings as may
8 be requested by any party state pursuant to Article IV(f) of
9 the compact."

10 Section 8. Sections 274, 275 and 276 all of Chapter 1,
11 Title V, Code of Civil Procedure, are hereby repealed in their
12 entirety.

13 Section 9. Section 851, Chapter V of Title III, Part
14 II, Penal Code of Guam, is hereby amended to read as follows:

15 "Section 851. Peace Officers. The following are
16 peace officers:

17 (a) All other magistrates.

18 (b) All commissioners.

19 (c) All deputy commissioners.

20 (d) All members of the police force.

21 (e) All officers of the Department of Corrections."

22 Section 10. Section 875, Chapter VII of Title III, Part
23 II, Penal Code of Guam, is hereby amended to read as follows:

24 "Section 875. Order for bail on commitment. If the
24 offense is bailable, and the defendant is admitted to bail, the
25 following words must be added to the order, 'And that he be
26 admitted to bail in the sum of _____ dollars, and is
27 committed to the Director of Corrections until he gives such
28 bail'."

29 Section 11. Section 877, Chapter VII of Title III, Part
30 II, Penal Code of Guam, is hereby amended to read as follows:

31 "Section 877. Form of commitment. The commitment
32 must be to the following effect:

33 The Territory of Guam to the Director of
34 Corrections:

1 An order having been this day made by me,
2 that A. B. be held to answer upon a charge of
3 (stating briefly the nature of the offense, and
4 giving as near as may be the time when and the
5 place where the same was committed), you are
6 commanded to receive him into your custody and
7 detain him until he is legally discharged.

8 Dated this _____ day of _____ 19____."

9 Section 12. Section 1152, Chapter II, Title VI, Part
10 II, Penal Code of Guam, is hereby amended to read as follows:

11 "Section 1152. Proceedings upon conviction. If the
12 court finds the defendant guilty, he must be remanded, if in
13 custody, or if on bail he may be committed to the Director of
14 Corrections to await the judgment of the court upon the find-
15 ing. When committed his bail is exonerated or if money is
16 deposited instead of bail, it must be refunded to the defendant."

17 Section 13. Section 1213, Chapter V, Title VII, Part
18 II, Penal Code of Guam, is hereby amended to read as follows:

19 "Section 1213. Authority for the execution of a
20 judgment other than death. When a judgment other than death
21 has been pronounced, a copy of entry thereof upon the minutes,
22 certified to by the judge and clerk of the court, must be forth-
23 with furnished to the Director of Corrections whose duty it is
24 to execute the judgment, and no other warrant or authority is
25 necessary to justify or require its execution. When an appeal
26 is taken, Section 1243 of this code shall govern."

27 Section 14. Section 1217, Chapter V, Title VII, Part
28 II, Penal Code of Guam, is hereby amended to read as follows:

29 "Section 1217. Warrant of death. When a judgment of
30 death is rendered, and the judgment has become final, a warrant
31 signed by the judge and attested by the clerk, under the seal
32 of the court, must be drawn and delivered to the Director of

1 Corrections. The warrant must state the conviction, and judg-
2 ment, and must appoint a day on which the judgment is to be
3 executed, which must be not less than 20 nor more than 60 days
4 from the time of final judgment. The warrant shall direct the
5 Director of Corrections to execute the death penalty between
6 the hours of 6 o'clock in the morning and 6 o'clock in the
7 evening of the day appointed. The warrant shall further direct
8 the place of execution of the death penalty which shall ordi-
9 narily be in or adjacent to the prison of the district in which
10 the crime was committed, but the court in its discretion may
11 fix the place of execution at any other place within Guam when
12 there are special reasons therefor. The penalty of death shall
13 not be executed on a legal holiday."

14 Section 15. Section 1221, Chapter V, Title VII, Part
15 II, Penal Code of Guam, is hereby amended to read as follows:

16 "Section 1221. Insanity of defendant, how determined.
17 If, after the final judgment of a sentence of death and at any
18 time prior to the execution of the death penalty, there is
19 good reason to believe that a defendant, under judgment of
20 death, has become insane, the Director of Corrections must
21 call such fact to the attention of the Island Attorney, Attorney
22 General and to the judge of the court having jurisdiction, and
23 ask that the question of his sanity be inquired into."

24 Section 16. Section 1226, Chapter V, Title VII, Part
25 II, Penal Code of Guam, is hereby amended to read as follows:

26 "Section 1226. If female is pregnant. Duty of the
27 Court. If it is found that the female is pregnant, the court
28 shall by proper orders suspend the execution of the sentence
29 until 40 days after she has been delivered, when the court
30 shall appoint a new day for the execution of the sentence.
31 If it is found that the female is not pregnant the court shall
32 by proper orders direct the Director of Corrections to execute

1 the judgment."

2 Section 17. Section 1228, Chapter V, Title VII, Part
3 II, Penal Code of Guam, is hereby amended to read as follows:

4 "Section 1228. Death penalty, who shall be present.
5 The Director of Corrections, the Attorney General, and the
6 Director of Medical Services must be present at the execution.
7 The Director of Corrections of Guam shall, at the request of the
8 defendant permit such ministers of the Gospel, not exceeding
9 two, as the defendant may name, and any persons, relatives, or
10 friends, not to exceed five, to be present at the execution.
11 The Director of Corrections shall require such peace officers
12 as he may think expedient, to be present at the execution."

13 Section 18. Section 1230, Chapter V, Title VII, Part
14 II, Penal Code of Guam, is hereby amended to read as follows:

15 "Section 1230. Return of the Director of Corrections.
16 After the execution the Director of Corrections must make a
17 return of the death warrant to the court by which the judgment
18 was rendered, showing the time, mode, and manner in which it
19 was executed."

20 Section 19. Section 1234.1, Chapter IV, Title VII,
21 Part II, Penal Code of Guam, is hereby amended to read as
22 follows:

23 "Section 1234.1. Extension of Limits of Confinement.
24 The Director of Corrections may extend the limits of the place
25 of confinement of a prisoner entrusted to his custody as to
26 whom there is reasonable cause to believe he will honor his
27 trust, by authorizing him, under prescribed conditions, to visit
28 a specifically designated place or places for a period not to
29 extend twenty-four hours and return to the institution. An
30 extension of limits may be granted only, to permit a visit to
31 a dying relative, attendance at the funeral of a relative, the
32 obtaining of medical services not otherwise available, or for

1 any other compelling reason consistent with the public interest.

2 Section 20. Section 1234.2, Chapter IV, Title VII,
3 Part II, Penal Code of Guam, is hereby amended to read as
4 follows:

5 "Section 1234.2. Same: Work Furlough. The Director
6 of Corrections may also extend the limits of confinement of
7 such a prisoner as is described in Section 1234.1 by authorizing
8 him, under prescribed conditions, to visit a specifically de-
9 signated place or places for a period not to exceed nine hours
10 and return to the same. An extension of limits, under this
11 section may be granted only to permit the extension or con-
12 tinuance of a prisoner's education, to contact a prospective
13 employer, to work at paid employment while continuing as a
14 prisoner of the Guam Penitentiary; provided, that:

15 (a) Representatives of local union or
16 similar labor union organizations are consulted;

17 (b) Such paid employment will not result in
18 the displacement of employed workers, or be applied
19 in skills, crafts, or trades in which there is a
20 surplus of available gainful labor in the territory,
21 or impair existing contracts for services; and

22 (c) The rates of pay and other conditions of
23 employment will not be less than those paid or
24 provided for work of similar nature in the territory."

25 Section 21. Section 1234.3, Chapter IV, Title VII,
26 Part II, Penal Code of Guam, is hereby amended to read as
27 follows:

28 "Section 1234.3. Repayment of Costs of Confinement.
29 A prisoner authorized to work at paid employment in the territory
30 under Section 1234.2 may be required to pay, and the Director
31 of Corrections is authorized to collect, such costs incident to
32 the prisoner's confinement as the Director of Corrections deems

1 appropriate and reasonable. Collections shall be deposited
2 in the General Fund of the Treasury of Guam."

3 Section 22. Section 1234.4, Chapter IV, Title VII,
4 Part II, Penal Code of Guam, is hereby amended to read as
5 follows:

6 "Section 1234.4. Failure to Conform: Punishment.
7 The wilful failure of a prisoner to remain within the extended
8 limits of his confinement, as authorized by the provisions of
9 this Chapter, or to return within the time prescribed to the
10 institution shall be deemed as escape from the custody of the
11 Director of Corrections punishable under Section 105 of this
12 Code."

13 Section 23. Section 9130 of the Government Code of
14 Guam is hereby amended to read as follows:

15 "Section 9130. Public Defender. There is hereby
16 established within the Division of Public Welfare in the Depart-
17 ment of Public Health and Welfare, the office of the Public
18 Defender of Guam, which shall be filled by an attorney, duly
19 admitted and licensed to practice before the District Court of
20 Guam, who shall be appointed by the Governor and who shall be
21 a member of the Classified Service of the government of Guam
22 with pay range 35. For purposes of performing his official
23 duties, the Public Defender may practice before the courts of
24 Guam on the same basis as other government attorneys under
25 Section 28002.2, Government Code of Guam. No Public Defender
26 shall be eligible to any local elective office within two (2)
27 years of his relinquishment of the office of Public Defender."