I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 53-31 (COR), "AN ACT TO *AMEND* §11.10 OF CHAPTER 11, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING FOR THE EXPUNGEMENT OF CRIME RECORDS FOLLOWING AN EXECUTIVE PARDON OF A CRIME",** was on the 4th day of April, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 7th day of April, 2011, at 09:50 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURÅN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 53-31 (COR)
As amended by the Committee on Public Safety, Law Enforcement and Judiciary, and further amended on the Floor.

Introduced by: Adolpho B. Palacios, Sr.
T .C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Duenas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §11.10 OF CHAPTER 11, TITLE 8, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING FOR THE EXPUNGEMENT OF CRIME RECORDS FOLLOWING AN EXECUTIVE PARDON OF A CRIME.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Section 1422 of the Organic Act gives *I Maga'lahen Guåhan* (the Governor of Guam) the authority to "grant pardons and reprieves and remit fines and forfeitures for offenses against local laws." Through Executive Order 97-03, *I Maga'lahi* (the

Governor) promulgated a pardon review process, where the Pardon Review Board conducts proceedings which mirror the process for granting parole. Executive Order 97-12 further refined the methods and functions of the Pardon Review Board. Under these Executive Orders, a pardon is earned, not given.

Public Law 16-68, the law governing expungement of records, was enacted into law on March 11, 1982. There have been no amendments to that law, which narrowly defined when expungement may occur. The only cases which are authorized are when the alleged criminal is acquitted, the prosecutor decides not to prosecute or when the statute of limitations has expired on the alleged crime.

I Liheslaturan Guåhan further finds that the purpose of a pardon is to remove the legal penalties and the effects of a criminal conviction. Since an executive pardon does *not* result in an automatic expungement of a crime record, the pardon does *not* realize the full benefit that is intended. Two (2) of the recipients of a pardon by Governor Camacho last December attempted to have their crime records expunged, but were told that *no* authority exists by which their records may be expunged by the presentation of a valid pardon.

I Liheslaturan Guåhan finds that the Sex Offender Registry serves a valid purpose, the importance of which should *not* be overridden by the sincere desire to help sincerely reformed pardon recipients. Sex offenders pose a risk to members of the community, toward which the community must be vigilant so that the potential for recidivism will be minimized.

Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize for the expungement of crime records for certain crimes by presentation of a valid pardon to the custodian of record, by amending §11.10 of Chapter 11, Title 8, Guam Code Annotated.

Section 2. §11.10 of Chapter 11, Title 8, Guam Code Annotated, is hereby *amended* to read:

"**§11.10. Expungement: When.**

The official records of the court, the Attorney General, and the police reports in connection therewith dealing with a violation or attempted violation by an adult of territorial law or a regulation having the force and effect of law *shall* be expunged when the subject of the report is acquitted of the offense charged, when the prosecuting attorney decides *not* to prosecute the offense, when the time for commencing the criminal action as prescribed by Chapter 10 of this Title has passed, or on approval of the Pardon Review Board when a pardon is granted pursuant to §1422 of the Organic Act of Guam, *except* for the pardon of a felony offense involving violence. Expungement *shall not* occur for an offense which requires a person to register as a sex offender, as defined in §89.03 of Title 9, Guam Code Annotated, until the defender's name is removed from the registry.

The presentation to the custodian of record of a valid pardon for the recorded offense, *except* for the pardon of a felony offense involving violence *or* of an offense which requires a person to register as a sex offender, as defined in §89.03 of Title 9, Guam Code Annotated, *shall* result in the expungement of the records relative to the offense, for which the pardon is granted pursuant to this Chapter."

Section 3. Effective Date. This Act *shall* be effective upon enactment and *shall* apply to all persons who receive or have received a pardon by *I Maga'lahen Guåhan* (the Governor of Guam).