UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

HAND-DELIVERED

February 11, 2020

35GL-20-1528
Speaker Tina Rose Muña Barnes
FEB 11 2020
Time 12:51 ( )AM ( )PM
Received By: alon

2020 FEB 11 PM 2:53 R.T.

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

RE: **Bill No. 182-35 (COR)** – ***An Act to Add New §§ 90.41, 90.42, and 90.43 to Article 1 of Chapter 90, Title 9, Guam Code Annotated, Relative to Creating an Inmate Commissary at the Department of Corrections***

Bill No. 183-35 (COR) – ***An Act to Add a New Article 6 to Chapter 90 of Title 9, Guam Code Annotated, Relative to the Creation of a Civilian Corrections Reserve Program at the Department of Corrections***

Dear Madame Speaker:

I am thankful that the Legislature has taken action on Bills 182-35 and 183-35. Governor Leon Guerrero and I have advocated for the creation of both the Inmate Commissary and a Civilian Corrections Reserve since early last year.

Bill No. 182-35, *An Act to Add New §§ 90.41, 90.42, and 90.43 to Article 1 of Chapter 90, Title 9, Guam Code Annotated, Relative to Creating an Inmate Commissary at the Department of Corrections*, which I have signed into law as **Public Law No. 35-63**, will allow inmates and detainees access to amenities without compromising the safety and security of the prison. Our hard-working corrections officers can now spend more time tending to the needs of the prison inhabitants.

Bill No. 183-35, *An Act to Add a New Article 6 to Chapter 90 of Title 9, Guam Code Annotated, Relative to the Creation of a Civilian Corrections Reserve Program at the Department of Corrections*, which I have signed into law as **Public Law No. 35-64**, provides the Department of

1528

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Corrections with support similar to the other public safety agencies. This Reserve force will help alleviate the resource strains that have historically plagued the department.

This Administration, together with the Legislature, has made great strides towards addressing the issues at the Department of Corrections. Both these laws are sure signs that the department remains a high priority. They demonstrate our commitment to the protection of the public, safety of our staff, and the security of offenders.

Senseremente,

JOSHUA F. TENORIO
Åkto Maga'låhen Guahan
Acting Governor of Guam

Enclosure(s): Bill No. 182-35 (COR) *nka Public Law 35-63*
Bill No. 183-35 (COR) *nka Public Law 35-64*

cc via email: *Maga'hågan Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Bill No. 182-35 (COR), "AN ACT TO *ADD* NEW §§ 90.41, 90.42, AND 90.43 TO ARTICLE 1 OF CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING AN INMATE COMMISSARY AT THE DEPARTMENT OF CORRECTIONS,"** was on the 4th day of February 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 4th day of Feb., 2020, at 4:15 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:
FOR
Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 02-11-20

Public Law No. 35-63

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 182-35 (COR)
As amended on the Floor.

Introduced by: Jose "Pedo" Terlaje
Tina Rose Muña Barnes
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* NEW §§ 90.41, 90.42, AND 90.43 TO ARTICLE 1 OF CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING AN INMATE COMMISSARY AT THE DEPARTMENT OF CORRECTIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new § 90.41 is hereby *added* to Article 1 of Chapter 90, Title 9, Guam Code Annotated, to read:

"**§ 90.41. Inmate Commissary.**

Notwithstanding any other provision of law, the Department of Corrections (DOC) is authorized to operate or outsource the operation of an inmate commissary within the confines of DOC. This Section *shall* exempt DOC from the provisions of 21 GCA § 60112 in order to provide DOC the authority to lease property to an approved vendor to operate the commissary facility without first seeking legislative approval."

Section 2. A new § 90.42 is hereby *added* to Article 1 of Chapter 90, Title 9, Guam Code Annotated, to read:

"**§ 90.42. Operation of Inmate Commissary.**

(a) The Director of DOC may operate, or contract with another person or entity to operate, a commissary for the use of the inmates confined at DOC.

(b) In accordance with 5 GCA Chapter 5 (Guam Procurement Law), the Department of Corrections is authorized to enter into a contract for the lease of up to three hundred (300) square feet of its property for an inmate commissary. Procurement of said contract *shall* be done by a DOC staff member who is qualified under 5 GCA § 5141.

(c) Funds directed as a result of revenue received from the contract under Subsection (b) of this Section *shall* be subject to an annual audit by the Office of Public Accountability.

(d) When entering into a contract under Subsection (a) of this Section, the Director or the Director's designee *shall* consider the following:

(1) whether the contract should provide for a fixed rate of return combined with a sales growth incentive;

(2) the menu items offered by the provider and the price of those items;

(3) the value, as measured by a best value standard, and benefits to inmates and the commissary, as offered by the provider;

(4) safety and security procedures to be performed by the provider; and

(5) the performance record of the provider, including service availability, reliability, and efficiency.

(e) The Department of Corrections *shall* establish policy and procedures for the administration of this Section. Such policy and procedures *shall* be transmitted to *I Liheslaturan Guåhan* prior to operation of the inmate commissary.

(f) The Department of Corrections *shall* establish rules and regulations for the administration of this Section prior to operation of the inmate commissary."

Section 3. A new § 90.43 is hereby *added* to Article 1 of Chapter 90, Title 9, Guam Code Annotated, to read:

"**§ 90.43. Corrections Commissary Fund.**

(a) There is hereby established a Fund to be known as the Corrections Commissary Fund (CCF), which *shall* be maintained separate and apart from other funds of the government of Guam. All funds collected by the government of Guam from the operations of a commissary *shall* be deposited in the CCF; and, interest and investment earnings *shall* be credited to the assets of the CCF and *shall* become part of the CCF. Any remaining balance in the CCF at the end of the fiscal year *shall* be carried over to the next fiscal year.

(b) Inmate Improvement. The Director may use up to fifty percent (50%) of the net proceeds of the CCF to develop or enhance inmate welfare; and the other fifty percent (50%) *shall* be used for rehabilitation programs within the Department of Corrections."

Section 4. Effective Date. This Act *shall* be effective upon enactment.

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

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Bill No. 183-35 (COR), "AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 90 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A CIVILIAN CORRECTIONS RESERVE PROGRAM AT THE DEPARTMENT OF CORRECTIONS,"** was on the 4th day of February 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 4th day of Feb., 2020, at 4:16 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

FOR
Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 02-11-20

Public Law No. 35-64

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 183-35 (COR)

Introduced by: Jose "Pedo" Terlaje
Tina Rose Muña Barnes
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 90 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A CIVILIAN CORRECTIONS RESERVE PROGRAM AT THE DEPARTMENT OF CORRECTIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 6 is hereby *added* to Chapter 90 of Title 9, Guam Code Annotated, to read:

"**ARTICLE 6**

CIVILIAN CORRECTIONS RESERVE PROGRAM

§ 90.200. Creation.

§ 90.201. Functions and Duties.
§ 90.202. Recruitment.
§ 90.203. Training, Equipping, and Maintenance of Records.
§ 90.204. Reservist: Authority.
§ 90.204.1. Same: Allowance.
§ 90.204.2. Authorization for Full-Time CCRP Officers.
§ 90.205. Same: Eligibility and Oath.
§ 90.206. Rules and Regulations: Recommendations.

§ 90.200. Creation.

(a) There is hereby created within the Department of Corrections (DOC) the Civilian Corrections Reserve Program (CCRP), which *shall* be headed by the Director of DOC (Director).

(b) The Director, subject to the advice and control of the Governor, *shall* be responsible for carrying out the purposes of this Article, and shall have such additional duties and responsibilities as are authorized herein, or as may be prescribed by the Governor.

§ 90.201. Functions and Duties.

(a) The general functions and duties of the CCRP *shall* be to provide backup manpower to protect the public from the destructive actions of law offenders through control and rehabilitation. It *may* provide staff services to the Judiciary, the Parole Board, probation officers, and interested agencies of the Executive Branch.

(b) The Director *shall* formulate a program whereby the CCRP *shall* adhere to the functions and duties herein prescribed. From time to time, the Director *shall* review and revise the functions and duties of the CCRP to ensure an amicable discharge of responsibilities and duties acknowledging the fact that their roles are an extension of the duties of the regular personnel.

§ 90.202. Recruitment.

(a) The Director *shall* recruit, on an entirely volunteer basis, local residents who desire to make available their services to assist the Department of Corrections in carrying out the function of protecting the public from the destructive actions of law offenders through control and rehabilitation.

(b) The Director *shall* further promulgate rules and regulations for recruitment regarding the age, health, and other requirements.

(c) Nothing in this Section shall prohibit the Director from recruiting a resident who is a non-immigrant alien admitted into Guam under the Compacts of Free Association between the United States and the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

§ 90.203. Training, Equipping, and Maintenance of Records.

(a) Training for the CCRP members *shall* be conducted pursuant to the provisions of the Peace Officer Standards and Training (POST) Commission in 17 GCA Chapter 51. Initial training requirements *shall* be identical to those required of DOC cadets.

(b) The Director *shall* maintain a roster of reservists who have received the training prescribed by 17 GCA Chapter 51. In order to maintain membership in the CCRP, each member must keep up with his scheduled training, and no reservist may remain in the CCRP if he or she is unable to keep up with or otherwise absorb the training. Additionally, basic supplies and equipment *shall* be provided to ensure a constant operability of the CCRP, including a continuing program for replacement.

(c) Any member of the CCRP who has *not* met the minimum qualifications/certifications for firearms safety and proficiency, physical fitness, recruitment clearances, and background checks *shall not* be allowed to serve in the CCRP.

§ 90.204. Reservist: Authority.

Whenever members of the CCRP are rendering assistance to DOC, such volunteers *shall* have the same powers, duties, rights (including coverage under the Worker's Compensation Act), privileges and immunities, as if they were paid, full-time members of the Department of Corrections, except that they *shall* earn recruitment credit for services performed as volunteers.

§ 90.204.1. Same: Allowance.

Each member of the CCRP who successfully completes probationary requirements as established by the Director, and who serves a minimum of twenty (20) hours to maintain good standing as a CCRP officer, and forty-two (42) hours per month, *shall* receive an allowance of Five Hundred Dollars ($500) per month to defray the cost of maintenance of their equipment and uniforms. The Department of Corrections *shall* identify funds within their department appropriations to satisfy the intent of this Section.

§ 90.204.2. Authorization for Full-Time CCRP Officers.

(a) The Department of Corrections (DOC) may employ a CCRP officer on a temporary, full-time basis, if such officer is an active member and has attained at least two thousand eighty (2,080) cumulative service hours when a critical need arises due to military activation of DOC officers or absence due to long-term disability status that has been certified by a medical doctor. DOC may exercise this authority provided its authorized budget for personnel is *not* exceeded. The CCRP officer *shall* return to reservist status pursuant to this Article when the incumbent returns from military service or long-term disability or at the discretion of the Director.

(b) When employed by DOC, a CCRP officer may only serve as an equivalent of Corrections Officer I and be compensated as a Corrections Officer I,

Step I. Said CCRP officer *shall* be eligible to receive sick leave, be eligible for the Government of Guam Health Insurance Program, and *shall not* be eligible for a stipend as a Reserve officer for the duration of their temporary employment with DOC.

(c) A CCRP reservist *shall* be offered permanent employment in the event a permanent position becomes available at DOC; provided, that the reservist meets all of the qualifications as prescribed in this Article. The Director *shall* promulgate rules and regulations that determine the order in which reservists are selected for permanent service.

(d) Notwithstanding 10 GCA § 77114(a)(1), a CCRP officer who serves as a Corrections Officer I, Step I under this Section may be a non-immigrant alien admitted into Guam under the Compacts of Free Association between the United States and the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

§ 90.205. Same: Eligibility and Oath.

(a) No person shall be a volunteer member of the CCRP established under this Article who advocates a change by force or violence in the constitutional form of the Government of the United States or of Guam, or the overthrow of any government in the United States by force, or who has been convicted of or is under indictment or information charging any subversive act against the United States.

(b) Every volunteer *shall*, entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in Guam, which oath *shall* be substantially as follows:

"I _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the laws of Guam, against all enemies, foreign or domestic; that I will bear

true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter and I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of Guam by force or violence; and that during such time as I am a member of the Civilian Corrections Reserve Program I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or Guam by force or violence."

§ 90.206. Rules and Regulations: Recommendations.

The Director is authorized and empowered to recommend to the Governor for issuance as executive orders the making, amendment, and rescission of such orders, rules and regulations as may be necessary to carry out the provisions of this Article."

Section 2. Effective Date. This Act *shall* be effective upon enactment.

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.