I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
311-36 (COR)	Frank Blas Jr. Joe S. San Agustin	AN ACT TO CREATE A NEW CHAPTER 25 OF TITLE 1 GUAM CODE ANNOTATED TO ESTABLISH A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED.	6/3/22 2:35 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 311-36 (COR)

Introduced by: Frank Blas Jr.
Joe S. San Agustin

AN ACT TO CREATE A NEW CHAPTER 25 OF TITLE 1 GUAM CODE ANNOTATED TO ESTABLISH A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that it has been nearly 50 years since the last comprehensive review of Guam's laws on crimes and criminal procedure, through the work of the Guam Law Revision Commission created by Public Law 12-93. The work of the Law Revision Commission resulted in the enactment of Public Law 13-185, establishing the Criminal and Correctional Code (1977); Public Law 13-186, establishing the Criminal Procedure Code (1977); and Public Law 13-187, which amended existing Guam laws to conform with the terminology of the two newly adopted codes. In 1980, the 15th Guam Legislature adopted the new Guam Code Annotated (GCA) as Guam's statutory code, establishing Title 8 of the GCA as the Criminal Procedure Code, and Title 9 of the GCA as the Criminal and Correctional Code.

I Liheslaturan Guåhan further finds that since the comprehensive review of the Guam Law Revision Commission, the amendments, additions, and repeals of Guam's criminal laws have been on a piecemeal basis, and as a result, the laws and procedures used to prosecute criminal behavior may, in some cases, be unnecessary, unclear, duplicative, overly broad, or otherwise insufficient to serve the purpose of the law.

Since this review, there have been amendments to the Organic Act of Guam, 48 U.S.C. § 1421 *et seq.*, to recognize the authority of the Supreme Court of Guam as a separate and co-equal branch of the government of Guam and to give the Supreme Court the authority to "make and

promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam[.]" 48 U.S.C.A. § 1424-1(a)(6).

Therefore, it is the intent of this legislation to create a commission made up of key stakeholders and experts to review the laws that address the criminal procedures and criminal laws of Guam and to recommend enactments, amendments and repeals to *I Liheslaturan Guåhan* for action.

Section 2. A new Chapter 25 is added to Title 1, Guam Code Annotated to read:

"CHAPTER 25

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

§ 25.01. Short Title.
§ 25.02. Establishment; No Derogation of Organic Act Authority.
§ 25.03. Duties and Responsibilities.
§ 25.04. Composition.
§ 25.05. Executive Director.
§ 25.06. Meetings.
§ 25.07. Reporting Requirements.
§ 25.08. Administrative Support.

§ 25.01. Short Title.

This Act shall be known as the Guam Criminal Law and Procedure Review Commission Act.

§ 25.02. Establishment; No Derogation of Organic Act Authority.

(a) There is created the Guam Criminal Law and Procedure Review Commission ("Commission") to review the laws that address the criminal procedures and criminal laws of Guam and to recommend enactments, amendments, and repeals to *I Liheslaturan Guåhan* for action.

(b) Neither this act, nor the duties and responsibilities of the Commission established here, shall derogate, limit, or circumvent the authority of the Supreme Court of Guam to make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam granted by 48 U.S.C.A. § 1424-1(a)(6).

§ 25.03. Duties and Responsibilities.

(a) The Commission shall conduct a comprehensive and systematic review of Guam laws, including the Guam Criminal Procedure Code codified in Title 8 of the Guam Code Annotated ("GCA"), the Guam Criminal and Correctional Code codified in Title 9 of the GCA, and other provisions in the statutory code and session laws of Guam relating to criminal law or procedure.

(b) In preparing the criminal code reform recommendations required by subsection (a) of this section, the Commission may:

(1) Review criminal codes and code reform efforts in other jurisdictions, the American Law Institute Model Penal Code, including recently proposed amendments, and other criminal law resources; and

(2) Consult with other Guam, federal, and state departments and agencies, conduct community outreach, and engage in other activities to advance the Commission's statutory duties.

(c) At the conclusion of its review, the Commission shall submit comprehensive criminal code reform recommendations to the Chief Justice, *I Maga'hagan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*, within twenty-four (24) months of the initial meeting described in § 25.06.

§ 25.04. Composition.

(a) The Commission shall be composed as follows:

(1) Three (3) members appointed by the Chief Justice, of whom one (1) shall be a member of the general public with experience and interest in the services provided by community-based and public interest organizations relating to the criminal justice system;

(2) Three (3) members appointed *I Maga'hagan Guåhan*, of whom one (1) shall be a member of the general public with experience and interest in the services provided by community-based and public interest organizations relating to the criminal justice system;

(3) three (3) members appointed by the Speaker of *I Liheslaturan Guåhan*, of whom one (1) shall be a member of the general public with experience and

interest in the services provided by community-based and public interest organizations relating to the criminal justice system;

(4) The Attorney General of Guam, or his or her designee;

(5) The Executive Director of the Public Defender Service Corp., or his or her designee;

(6) The Chief of the Guam Police Department, or his or her designee;

(7) The Director of the Department of Corrections, or his or her designee;

(8) The Compiler of Laws, who shall serve ex-officio as a non-voting member; and

(9) The Executive Director of the Commission, who shall serve ex-officio as a non-voting member.

(b) As a result of their participation in the Commission, members shall not be subject to legislative confirmation, and shall not be subject to the public official reporting requirements in 4 GCA, Chapter 13.

(c) Commission members shall be appointed or designated within sixty (60) days of enactment of this Act, and shall serve until the submission of the report described in § 25.07, unless replaced by the appointing or designating authority. Any vacancy in Commission membership shall be filled expeditiously by the appointing or designating authority, so as to not impede the work of the Commission.

(d) The Chair of the Commission shall be an appointee of the Chief Justice, and shall be a judicial officer.

(e) The Chair of the Commission shall have the authority to create different subcommissions from among its members to focus on different areas of law and to report back to the entire Commission on findings and recommendations, and the Chair of the Commission shall appoint a chairperson for each subcommission.

(f) The appointees above, who are employees of any branch of the government of Guam, may participate in the duties and responsibilities of the Commission if such participation is compatible with the ethical duties of their respective offices and positions.

§ 25.05. Executive Director.

(a) There is created the position of Executive Director of the Commission, who shall be responsible for and oversee the operations of the Commission; develop and

institute internal policies, procedures, and processes to ensure efficient operations; and assume such duties and responsibilities as delegated and assigned by the Commission.

(b) In addition to any other qualifications which may be established, the Executive Director shall be an attorney licensed to practice in Guam; and shall be in good standing in every jurisdiction where he or she is licensed to practice law.

(c) The Executive Director shall be appointed by the Chief Justice, and shall be a full-time, unclassified employee of the Judiciary compensated and subject to removal in accordance with Judiciary of Guam Personnel Rules and Regulations adopted and promulgated by the Judicial Council, and shall be administratively supported by the Judiciary.

(d) In the exercise of his or her responsibilities under this Chapter, the Executive Director may:

(1) Work closely with the Compiler of Laws in all aspects of searching and researching the GCA and the laws of Guam;

(2) Request and utilize the services of any bar association, legislative committee, legislative office, profession or other organization in any matter suitable for fulfilling the purposes of this Chapter;

(3) Have access to any legislative, executive or judicial reports, opinions, orders, or documents necessary to carry out the purposes of this Chapter; and

(4) Conduct meetings, formal or informal, with attorneys, representatives from government entities, private sector businesses, community-based organizations, and others interested in the results and work of the office.

§ 25.06. Meetings.

(a) Initial meeting. The Commission shall hold an initial planning and organizational meeting within thirty (30) days of the appointment of the Executive Director. Thereafter, the Commission shall hold regular meetings as necessary to fulfill the statutory responsibilities of the Commission.

(b) Plenary meetings. The Commission shall hold a plenary meeting, consisting of all members of the Commission, at least once every six (6) months.

(1) A majority of all Commission members shall constitute a quorum for a plenary meeting.

(2) A formal vote on recommendations in the final report under § 25.07 (b) shall be conducted only during plenary meetings.

(3) Plenary meetings shall be subject to the Open Government Law, codified at 5 GCA Chapter 8.

(4) Plenary meetings shall be scheduled by the Chair of the Commission.

(c) Subcommission meetings. Members of subcommissions shall meet regularly to fulfill the statutory duties of the Commission.

(1) Subcommission meetings shall serve as working sessions for members to conduct discussions to further the Commission's duties and responsibilities under § 25.03. A subcommission shall prepare its findings and recommendations, and present them to entire Commission for consideration.

(2) Subcommission meetings shall not be subject to the Open Government Law, codified at 5 GCA, Chapter 8.

(3) There is no quorum requirement for subcommission meetings.

(4) Subcommission meetings may be scheduled by the Chair of the Commission, the Executive Director, or a subcommission chairperson.

(d) Commission meetings may be conducted in-person or virtually, and members may attend in-person, by videoconference, or by teleconference.

§ 25.07. Reporting Requirements.

(a) Progress reports. The Commission shall submit reports to the Chief Justice, *I Maga'hagan Guåhan*, and the Speaker of *I Liheslaturan Guåhan* each quarter. These reports shall be a summary of Commission activities during the prior quarter.

(b) Final report. The Commission shall submit comprehensive criminal code reform recommendations as required by § 25.03(a), which shall include proposed legislation for the revision of Title 8 and Title 9 of the GCA, and other provisions in the statutory code relating to criminal law and procedure. The report and proposed legislation should:

(1) use clear and plain language;

(2) apply consistent definitions;

(3) describe all elements, including mental states, that must be proven;

(4) reduce unnecessary overlap and gaps between criminal offenses;

(5) eliminate archaic and unused offenses;

(6) adjust penalties, fines, and the gradation of offenses to provide for proportionate penalties;

(7) organize existing criminal statutes in a logical order;

(8) identify any crimes defined in common law that should be codified, and propose recommended language for codification;

(9) identify criminal statutes held to be unconstitutional and recommend their removal or amendment;

(10) propose such other amendments as the Commission believes are necessary; and

(11) articulate specific steps for implementing the recommendations.

§ 25.08. Administrative Support.

(a) Administrative support for the Commission shall be provided through the Judiciary of Guam for any assistance required by the Commission, or hearing to be held under this Chapter.

(b) The Judiciary shall provide technical, clerical, and administrative support to the Commission. In exercising the responsibilities in this Chapter, the Judiciary may:

(1) Accept grants, contributions and appropriations;

(2) Employ such professional or clerical staff as necessary for the operations of the Commission, under the Personnel Rules and Regulations of the Judicial Branch promulgated by the Judicial Council; and

(3) Enter into contracts as necessary for the operations of the Commission, under the law and the Rules and Regulations promulgated by the Judicial Council.

(c) The Office of the Compiler of Laws shall provide technical and other assistance to the Commission, to the extent such assistance does not conflict with the duties of the Compiler set forth in 1 GCA, Chapter 16 and Judiciary of Guam Personnel Rules and Regulations. The Compiler shall ensure that assistance provided to the Commission does not conflict with his or her duties to the Guam Code Advisory Commission, under 1 GCA § 1611.

Section 3. Funding. There is appropriated from the General Fund to the Judiciary of Guam the sum of $250,000.00 to carry out the purposes of this Act. The sum appropriated shall be expended by the Judiciary to carry out the purposes of this Act.

Section 4. Effective Date. This Act shall be effective immediately 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.