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) As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended in the Committee of the Whole.	Frank Blas Jr. Joe S. San Agustin Therese M. Terlaje Joanne Brown Telo T. Taitague Tina Rose Muna Barnes Sabina Flores Perez Clynton E. Ridgell Mary Camacho Torres	AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING 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.	6/6/22	Committee on General Government Operations, Appropriations, and Housing	7/11/22 1:30 p.m.	9/27/22 2:24 p.m. As amended by the Committee on General Government Operations, Appropriations, and Housing.	Request: 6/9/22 6/15/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
10/21/22	AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED.	10/28/22	10/28/22	11/9/22	36-119	11/9/22	Received: 11/10/22 Mess and Comm. Doc. No. 36GL-22-2796

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

November 9, 2022

Doc Type: 36GL-22-2796
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
-11- 09 2022
Time: 4:19pm
Received:

HONORABLE THERESE M. TERLAJE
Speaker
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: BILL NO. 311-36 (COR) - AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED

Hafa Adai Madame Speaker,

A person is not excused from complying with the law simply because they are not aware of the law. This near-universal principle of jurisprudence is captured in the ancient Latin maxim, "ignorantia legis neminem excusat," translated as "ignorance of law excuses no one." It imputes knowledge of all laws to all persons within the jurisdiction in which such laws apply. A natural corollary to this principle is that laws must be issued and accessible by ordinary means, that they are effectuated and enforced with a sufficient notice period, and that they are clear, consistent and complete.

In recognition of the government's obligation to regularly update, modernize, and reconcile its laws, legislatures across the country have engaged in efforts to comprehensively rewrite their criminal code. Last year, the State of Hawaii passed a bill to modernize its criminal justice system, citing concerns such as mass incarcerations and a burgeoning pretrial detained population. In recent months, the District of Columbia began conducting hearings on the proposed revision of its 120-year-old criminal code, a draft that took sixteen (16) years to complete.

Like much of Guam law, our criminal code originated during the Naval Government. In the fifty (50) or so intervening years, specific statutes within the code have been amended or repealed,

resulting in a patchwork of laws that are not always clearly stated or internally consistent. Other laws are simply antiquated, and do not reflect the mores and conventions of modern Guam society.

Bill No. 311-36 authorizes the formation and seed funding of the Guam Criminal Law and Procedure Review Commission, which will be tasked with comprehensive review of Guam's substantive criminal law scheme. Led by the Judiciary of Guam, the Commission will be composed of key stakeholders including the Office of the Attorney General, the Public Defender Service Corporation, law enforcement agencies, and public members, and will ultimately provide substantive recommendations to the Legislature for substantial revisions to the criminal code. The Bill further contemplates periodic reviews moving forward, ensuring more consistent reconciliation of these laws and preventing the need for substantial upheaval.

Without question, this bill is long overdue. I thank Chief Justice F. Philip Carbullido for his leadership in this significant endeavor, and I look forward to the Commission's recommendations. I hereby sign Bill No. 311-36 into law as ***Public Law No. 36-119***.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

RECEIVED
NOV 10 2022
8:00 A.M.
COMMITTEE ON RULES

Enclosure: Bill No. 311-36 (COR) - nka *P.L. No. 36-119*

cc via email: *Honorable* Lourdes A. Leon Guerrero, *Governor of Guam*
Compiler of Laws

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

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

This is to certify that **Bill No. 311-36 (COR), "AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED,"** was on the 28th day of October 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28TH day of Oct., 2022, at 6:19 o'clock P.M.

P03 CCChaws

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/09/2022

Public Law No. 36-119

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

Bill No. 311-36 (COR)
As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended in the Committee of the Whole.

Introduced by: Frank Blas Jr.
Joe S. San Agustin
Therese M. Terlaje
Joanne Brown
Telo T. Taitague
Tina Rose Muna Barnes
Sabina Flores Perez
Clynton E. Ridgell
Mary Camacho Torres
V. Anthony Ada
Christopher M. Dueñas
James C. Moylan
Telena Cruz Nelson
Amanda L. Shelton
Jose "Pedo" Terlaje

AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING 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 fifty (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 (1974). The work of the Law Revision

Commission resulted in the enactment of Public Law 13-185, which established the Criminal and Correctional Code (1976); Public Law 13-186, which established the Criminal Procedure Code (1976); and Public Law 13-187, which amended existing Guam laws to conform with the terminology of the two (2) newly-adopted codes (1976). In 1980, the Fifteenth (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 48 U.S.C. § 1421 et seq. of the Organic Act of Guam 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-l(a)(6)].

Therefore, it is the intent of this legislation to create a commission composed 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;

(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; and

(3) prioritize the review of Title 9.

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

(d) The Commission may contract for any professional services if such services cannot be satisfactorily performed by its employees.

(e) The Commission shall study and report on any relevant topic which *I Liheslaturan Guåhan*, by resolution, shall refer to the Commission for action.

(f) After completion of the review and submission of the recommendations required in this Section, the Commission shall, subject to additional appropriations by *I Liheslaturan Guåhan*, conduct periodic reviews, but not less than every five (5) years, of Guam's criminal laws under the provisions set forth in this Chapter to recommend amendments or repeals to bring the criminal laws of Guam into harmony with modern conditions.

§ 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 by *I Maga'hågan 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, and may hold a degree in Human Services or a related field, including the Social Sciences;

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

(5) the Executive Director of the Public Defender Service Corporation, 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 as an ex-officio non-voting member; and

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

(10) two (2) members of the Guam Bar Association appointed by the President of the Guam Bar Association.

(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 Chapter, and shall serve until the submission of the report described in § 25.07 of this Chapter, 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 in this Section 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 Commission.

§ 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 the recommendations in the final report under § 25.07(b) of this Chapter shall be conducted only during plenary meetings.

(3) A recommendation must receive at least eight (8) votes in favor in a plenary meeting to be included in the final report under § 25.07(b).

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

(5) 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 of this Chapter. A subcommission shall prepare its findings and recommendations, and present them to the 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 progress reports to the Chief Justice, *I Maga'hågan Guåhan*, and the Speaker of *I Liheslaturan Guåhan* each quarter; and 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(c) of this Chapter, 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 of Laws as set forth in 1 GCA, Chapter 16 and Judiciary of Guam Personnel Rules and Regulations. The Compiler of Laws 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, Chapter 16, § 1611."

Section 3. Funding. There is appropriated Two Hundred Fifty Thousand Dollars ($250,000) from the Audited Fiscal Year 2022 General Fund surplus balance to carry out the purposes of this Act.

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.