

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	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	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				



**COPY**

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*  
Thirty-Sixth Guam Legislature

October 28, 2022

The Honorable Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*  
*Ufisinan I Maga'håga*  
*Hagåtña, Guam 96910*

Dear *Maga'håga* Leon Guerrero:

Transmitted herewith are **Bill Nos. 248-36 (COR), 262-36 (LS), 297-36 (LS), 311-36 (COR), 319-36 (COR), 335-36 (COR), and 340-36 (LS)** which were passed by *I Mina'trentai Sais Na Liheslaturan Guåhan* on October 28, 2022.

Sincerely,

AMANDA L. SHELTON  
Legislative Secretary

Enclosure (7)

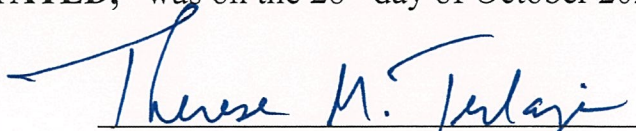
10/28/22 6:19 p.m.  
POB CC Chang



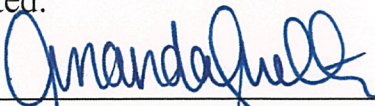
*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*  
2022 (SECOND) Regular Session

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

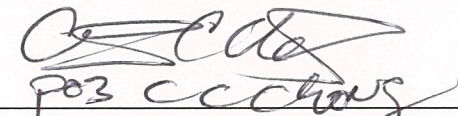
This is to certify that **Bill No. 311-36 (COR), "AN ACT TO ADD A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED,"** was on the 28<sup>th</sup> day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

  
Therese M. Terlaje  
Speaker

Attested:

  
Amanda L. Shelton  
Legislative Secretary

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

  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

\_\_\_\_\_  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***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 “Pedro” 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

1 Commission resulted in the enactment of Public Law 13-185, which established the  
2 Criminal and Correctional Code (1976); Public Law 13-186, which established the  
3 Criminal Procedure Code (1976); and Public Law 13-187, which amended existing  
4 Guam laws to conform with the terminology of the two (2) newly-adopted codes  
5 (1976). In 1980, the Fifteenth (15<sup>th</sup>) Guam Legislature adopted the new Guam Code  
6 Annotated (GCA) as Guam's statutory code, establishing Title 8 of the GCA as the  
7 Criminal Procedure Code, and Title 9 of the GCA as the Criminal and Correctional  
8 Code.

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

15 Since this review, there have been amendments to 48 U.S.C. § 1421 et seq. of  
16 the Organic Act of Guam to recognize the authority of the Supreme Court of Guam  
17 as a separate and co-equal branch of the government of Guam, and to give the  
18 Supreme Court the authority to “make and promulgate rules governing the  
19 administration of the judiciary and the practice and procedure in the courts of the  
20 judicial branch of Guam[.]” [48 U.S.C.A. § 1424-1(a)(6)].

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

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

27 **“CHAPTER 25**

1       **GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION**

2           § 25.01.     Short Title.

3           § 25.02.     Establishment; No Derogation of Organic Act Authority.

4           § 25.03.     Duties and Responsibilities.

5           § 25.04.     Composition.

6           § 25.05.     Executive Director.

7           § 25.06.     Meetings.

8           § 25.07.     Reporting Requirements.

9           § 25.08.     Administrative Support.

10          **§ 25.01.     Short Title.**

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

13          **§ 25.02.     Establishment; No Derogation of Organic Act Authority.**

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

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

23          **§ 25.03.     Duties and Responsibilities.**

24           (a)    The Commission shall conduct a comprehensive and systematic review  
25 of Guam laws, including the Guam Criminal Procedure Code codified in Title 8 of  
26 the Guam Code Annotated (GCA), the Guam Criminal and Correctional Code  
27 codified in Title 9 of the GCA, and other provisions in the statutory code and session

1 laws of Guam relating to criminal law or procedure.

2 (b) In preparing the criminal code reform recommendations required by  
3 Subsection (a) of this Section, the Commission may:

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

7 (2) consult with other Guam, federal, and state departments and  
8 agencies, conduct community outreach, and engage in other activities to  
9 advance the Commission's statutory duties; and

10 (3) prioritize the review of Title 9.

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

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

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

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

26 **§ 25.04. Composition.**

27 (a) The Commission shall be composed as follows:

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

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

9           (3)   three (3) members appointed by the Speaker of *I Liheslaturan*  
10          *Guåhan*, of whom one (1) shall be a member of the general public with  
11          experience and interest in the services provided by community-based and  
12          public interest organizations relating to the criminal justice system, and may  
13          hold a degree in Human Services or a related field, including the Social  
14          Sciences;

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

16          (5)   the Executive Director of the Public Defender Service  
17          Corporation, or his or her designee;

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

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

21          (8)   the Compiler of Laws, who shall serve as an ex-officio non-  
22          voting member; and

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

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

27          (b)   As a result of their participation in the Commission, members shall not

1 be subject to legislative confirmation, and shall not be subject to the public official  
2 reporting requirements in 4 GCA, Chapter 13.

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

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

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

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

19 **§ 25.05. Executive Director.**

20 (a) There is created the position of Executive Director of the Commission,  
21 who shall be responsible for and oversee the operations of the Commission; develop  
22 and institute internal policies, procedures, and processes to ensure efficient  
23 operations; and assume such duties and responsibilities as delegated and assigned by  
24 the Commission.

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

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

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

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

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

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

16 (4) conduct meetings, formal or informal, with attorneys,  
17 representatives from government entities, private sector businesses,  
18 community-based organizations, and others interested in the results and work  
19 of the Commission.

20 **§ 25.06. Meetings.**

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

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

27 (1) A majority of all Commission members shall constitute a quorum

1 for a plenary meeting.

2 (2) A formal vote on the recommendations in the final report under  
3 § 25.07(b) of this Chapter shall be conducted only during plenary meetings.

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

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

8 (5) Plenary meetings shall be scheduled by the Chair of the  
9 Commission.

10 (c) Subcommittee Meetings. Members of subcommissions shall meet  
11 regularly to fulfill the statutory duties of the Commission.

12 (1) Subcommittee meetings shall serve as working sessions for  
13 members to conduct discussions to further the Commission's duties and  
14 responsibilities under § 25.03 of this Chapter. A subcommission shall prepare  
15 its findings and recommendations, and present them to the entire Commission  
16 for consideration.

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

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

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

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

24 **§ 25.07. Reporting Requirements.**

25 (a) Progress Reports. The Commission shall submit progress reports to the  
26 Chief Justice, *I Maga'hågan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*  
27 each quarter; and these reports shall be a summary of Commission activities during

1 the prior quarter.

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

- 7 (1) use clear and plain language;
- 8 (2) apply consistent definitions;
- 9 (3) describe all elements, including mental states, that must be  
10 proven;
- 11 (4) reduce unnecessary overlap and gaps between criminal offenses;
- 12 (5) eliminate archaic and unused offenses;
- 13 (6) adjust penalties, fines, and the gradation of offenses to provide  
14 for proportionate penalties;
- 15 (7) organize existing criminal statutes in a logical order;
- 16 (8) identify any crimes defined in common law that should be  
17 codified, and propose recommended language for codification;
- 18 (9) identify criminal statutes held to be unconstitutional and  
19 recommend their removal or amendment;
- 20 (10) propose such other amendments as the Commission believes are  
21 necessary; and
- 22 (11) articulate specific steps for implementing the recommendations.

23 **§ 25.08. Administrative Support.**

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

27 (b) The Judiciary shall provide technical, clerical, and administrative

1 support to the Commission. In exercising the responsibilities in this Chapter, the  
2 Judiciary may:

- 3 (1) accept grants, contributions, and appropriations;
- 4 (2) employ such professional or clerical staff as necessary for the  
5 operations of the Commission, under the Personnel Rules and Regulations of  
6 the Judicial Branch promulgated by the Judicial Council; and
- 7 (3) enter into contracts as necessary for the operations of the  
8 Commission, under the law and the rules and regulations promulgated by the  
9 Judicial Council.

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

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

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

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