

I Mina'trentai Siette 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
33-37 (COR)	Roy Anthony Benavente Quinata William A. Parkinson	AN ACT TO ADD A NEW SECTION 54 TO CHAPTER XII OF PUBLIC LAW 36-107, THE FISCAL YEAR 2023 GENERAL APPROPRIATIONS ACT, RELATIVE TO ACHIEVING SALARY PARITY FOR ATTORNEYS SERVING AS CRIMINAL DEFENSE ATTORNEYS AT THE PUBLIC DEFENDER SERVICE CORPORATION AND THE ALTERNATE PUBLIC DEFENDER.	2/7/23 1:56 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 33-37 (COR)

Introduced by:

Roy A. B. Quinata 
William A. Parkinson 

**AN ACT TO *ADD* A NEW SECTION 54 TO
CHAPTER XII OF PUBLIC LAW 36-107, THE
FISCAL YEAR 2023 GENERAL
APPROPRIATIONS ACT, RELATIVE TO
ACHIEVING SALARY PARITY FOR
ATTORNEYS SERVING AS CRIMINAL
DEFENSE ATTORNEYS AT THE PUBLIC
DEFENDER SERVICE CORPORATION AND
THE ALTERNATE PUBLIC DEFENDER.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 a well-functioning and equitable criminal justice system is a foundational principle of
4 the Organic Act of Guam and therefore is a matter of profound importance for the
5 Territory of Guam. Qualified and devoted advocates, whether prosecutors or members
6 of the defense bar, are essential to such a system.

7 Nearly sixty years ago the U.S. Supreme Court held in *Gideon v. Wainwright*
8 (1963) that the Sixth and Fourteenth Amendments of the U.S. Constitution provide a
9 citizen accused of a serious crime the right to effective representation at all critical
10 stages of his criminal case. Later extended to all proceedings in which there is a
11 potential loss of liberty, the right to counsel has been revered as fundamental to a fair
12 criminal trial. The daily advocacy of public defenders and prosecutors in courts
13 throughout the Territory is the lynchpin of our criminal justice system. Accordingly,

1 *I Liheslaturan Guåhan* finds that the ability of the Office of the Attorney General
2 (“OAG”) and the Public Defender Service Corporation (“PDSC”) to recruit and retain
3 such advocates is contingent upon their respective ability to compensate them
4 reasonably.

5 The American Bar Association’s (“ABA”) *Ten Principles of a Public Defense*
6 *Delivery System* requires “parity between defense counsel and the prosecution” with
7 respect to salaries, workload, access to investigators and experts; and the inclusion of
8 defense counsel “as an equal partner in the justice system.” Underscoring the
9 importance of resource parity to an effective and ethical criminal justice system, the
10 ABA thus proscribes expansion of any part of the justice system or an increase of
11 workload absent the “consideration of the impact that expansion [or increase] will have
12 on the balance and on the other components of the justice system.” Moreover, despite
13 various defense counsel funding litigation based on comparisons of defense resources
14 available in one jurisdiction and those elsewhere, the ABA instructs that the principle
15 of parity must be premised on the adequate funding and support of the prosecutor’s
16 office so that obtaining parity will mean that defense counsel is able to provide quality
17 legal representation.

18 Enacted on September 12, 2022, Public Law 36-107 (“FY 2023 General
19 Appropriations Act”) in part appropriates funding for the implementation of pay raises
20 to help the PDSC and the OAG improve recruitment and retention of qualified criminal
21 attorneys. However, whereas the FY 2023 General Appropriations Act provided the
22 public defenders a six percent (6%) salary increase, the budget bill was further amended
23 on the floor to give prosecutors a fifteen percent (15%) differential pay upon enactment.

24 *I Liheslaturan Guåhan* finds that the ensuing pay disparity between public
25 defenders and prosecutors not only reflects inequality in compensation for comparable
26 work, but also detrimentally impacts the PDSC’s ability to hire and retain attorneys
27 willing to represent those charged with criminal offenses.

1 It is therefore the intent of *I Liheslaturan Guåhan* to provide salary parity to
2 attorneys serving as criminal defense attorneys for the PDSC and the Alternate Public
3 Defender by amending the FY 2023 General Appropriations Act with the addition of a
4 new miscellaneous provision under Chapter XII for a special pay for public defenders
5 calculated at the same rate as the recently enacted special pay for prosecutors codified
6 under § 30104.1, Article 1, Chapter 30, Title 5, Guam Code Annotated.

7 **Section 2.** A *new* Section 54 shall be *added* to Chapter XII of Public Law 36-
8 107, to read as follows:

9 **“Section 54. Special Pay for Public Defenders. A new § 11111.1 shall**
10 **be added to Chapter 11, Title 12, Guam Code Annotated, to read as follows:**

11 **“§ 1111.1. Special Pay for Public Defenders. Notwithstanding any other**
12 **provision of law, attorneys serving as criminal defense attorneys shall be entitled**
13 **to special pay, calculated at the rate of their regular wage plus fifteen percent**
14 **(15%). The Corporation shall provide special pay to all attorneys serving as**
15 **criminal defense attorneys for the Public Defender Service Corporation and the**
16 **Alternate Public Defender.**

17 **For Fiscal Year 2023, the special pay pursuant to this Section shall be paid**
18 **utilizing existing appropriation in the FY 2023 General Appropriations Act and**
19 **other funds available from prior years.”**

20 **Section 3. Effective Date.** This Act shall be effective at the beginning of the next
21 calendar year following enactment.

22 **Section 4. Severability.** If any provision of this Act or its application to any person or
23 circumstance is found to be invalid or contrary to law, such invalidity shall not affect other
24 provisions or applications of this Act which can be given effect without the invalid provision or
25 application, and to this end the provisions of this Act are severable.