

MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 21-33 (WR)

Introduced by:


Brant T. McCreadie

**AN ACT TO AMEND § 5106 (a) OF CHAPTER 5,
TITLE 19 GUAM CODE ANNOTATED RELATIVE
TO PROVIDING DISCRETION TO THE OFFICE OF
THE ATTORNEY GENERAL WITH REGARDS TO
THE AUTOMATIC CERTIFICATION OF MINORS
AS ADULTS FOR CERTAIN CRIMES, WHICH MAY
BE CITED AS THE “JUVENILE JUSTICE REFORM
ACT OF 2015”.**

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

2 **Section 1. Short Title.** This act shall be cited as the “*Juvenile Justice Reform*
3 *Act of 2015.*”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
5 current Guam law provides that any child of the age of sixteen (16) years and older,
6 who is charged with a second or first degree felony is automatically certified as an
7 adult. Although many times appropriate, there are instances where the Office of the
8 Attorney General has seen that the charged minor would greatly benefit from being
9 charged with the respective second or first degree felony, but have their criminal
10 proceedings be adjudicated in Family Court. Unfortunately, no mechanism currently
11 exists in Guam law to provide Family Court jurisdiction for minors aged sixteen and
12 older who are charged with second and first degree felonies.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* to establish prosecutorial
2 discretion to provide Family Court the jurisdiction of children aged sixteen (16) years
3 and older who are charged with second or first degree felonies by amending § 5106
4 (a) of Chapter 5, Title 19 Guam Code Annotated.

5 **Section 3.** § 5106 (a) of Chapter 5, Title 19 Guam Code Annotated is hereby
6 *amended* to read:

7 **“§ 5106. Certification for Criminal Proceedings.**

8 (a) If a child is sixteen (16) years of age or older at the time he committed the
9 offense for which he is charged, and if the conduct is a misdemeanor or a felony of the
10 third degree, and if the court after full investigation deems it contrary to the best
11 interest of such child or of the public to retain jurisdiction, the court may, in its
12 discretion, certify such child for proper criminal proceedings to any court which
13 would have trial jurisdiction of such offense if committed by an adult. A child who is
14 sixteen (16) years of age or older at the time he committed the offense for which he is
15 charged shall automatically be charged as an adult for any act which would constitute
16 a felony of the first or second degree along with any acts which are misdemeanors or
17 felonies of the third degree which are part of the same scheme of criminal activity as
18 the felony, unless, if after full investigation, the adult prosecution division of the
19 Office of the Attorney General deems it contrary to the best interest of such child, or
20 of the public, to automatically certify the child as an adult. In those cases the
21 automatic certification requirement shall be waived and the child shall be transferred
22 to the Family Division of the Office of the Attorney General for prosecution of the
23 first or second degree felony, along with any acts which are part of the same scheme
24 of criminal activity as the felony for appropriate criminal proceedings to be brought
25 before the Family Court. If a child is under sixteen years of age at the time he
26 committed the offense for which he is charged, and if the conduct would constitute an

1 offense under 9 GCA Chapter 16 (Homicides), and if the court after full investigation
2 deems it contrary to the best interest of such child or of the public to retain
3 jurisdiction, the court may, in its discretion, certify such child for proper criminal
4 proceedings to any court which would have trial jurisdiction of such offense if
5 committed by an adult. If a child is certified as an adult, the same judge shall not, in
6 turn preside over the criminal proceedings against such child.”

7 **Section 4. Effective Date.** This act shall be effective immediately upon
8 enactment.

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

14