

I MINA'TRENTAI UNO NA LIHESLATURÁN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 53-31 (COR)

Introduced by:

Adolpho B. Palacios, Sr. 

2011 JAN 26 PM 4:08

AN ACT RELATIVE TO AUTHORIZING FOR THE
EXPUNGEMENT OF CRIME RECORDS FOLLOWING AN
EXECUTIVE PARDON OF A CRIME BY AMENDING
SECTION 11.10 OF CHAPTER 11, TITLE 8, GUAM CODE
ANNOTATED.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that Section
3 1422 of the Organic Act gives the Governor of Guam the authority to “grant pardons and
4 reprieves and remit fines and forfeitures for offenses against local laws.” Through Executive
5 Order 97-03, the Governor promulgated a pardon review process, where the Pardon Review
6 Board conducts proceedings which mirror the process for granting parole. Executive Order 97-
7 12 further refined the methods and functions of the Pardon Review Board. Under these
8 Executive Orders, a pardon is earned, not given.

9 Public Law 16-68, the law governing expungement of records, was enacted on March 11,
10 1983. There have been no amendments to that law, which narrowly defined when expungement
11 may occur. The only cases which are authorized are when the alleged criminal is acquitted, the
12 prosecutor decides not to prosecute or when the statute of limitations has expired on the alleged
13 crime.

14 *I Liheslaturan Guåhan* further finds that the purpose of a pardon is to remove the legal
15 penalties and the effects of a criminal conviction. Since an executive pardon does not result in
16 an automatic expungement of a crime record, the pardon does not realize the full benefit that is
17 intended. Two of the recipients of a pardon by Governor Camacho last December attempted to
18 have their crime records expunged, but were told that no authority exists by which their records
19 may be expunged even by the presentation of a valid pardon.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize for the expungement of
2 crime records by presentation of a valid pardon to the custodian of record, by amending Section
3 11.10 of Chapter 11, Title 8, Guam Code Annotated.

4 **Section 2. Expungement: When.** Section 11.10 of Chapter 11, Title 8, Guam Code
5 Annotated, is hereby amended, to read:

6 **§11.10. Expungement: When.**

7 The official records of the court, Attorney General and the police reports in connection
8 therewith dealing with a violation or attempted violation by an adult of territorial law or a
9 regulation having the force and effect of law shall be expunged when the subject of the report is
10 acquitted of the offense charged, when the prosecuting attorney decides not to prosecute the
11 offense, ~~or~~ when the time for commencing the criminal action as prescribed by Chapter ~~10~~ X of
12 this Title has passed, or when a pardon is granted pursuant to §1422 of the Organic Act of Guam.
13 The presentation to the custodian of record of a valid pardon for a recorded crime shall result in
14 the expungement of the records relative to the crime, pursuant to this Chapter.

15 **Section 3. Effective Date.** This act shall be effective upon enactment and shall apply to
16 all persons who are or have been pardoned by the Governor of Guam.